The original documents are located in Box 51, folder "1976/07/26 S586 Coastal Zone Management Act Amendments of 1976 (3)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-987

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

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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 deepwater port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be 'in close proximity to' the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

"(5) The term 'energy facilities' means any equipment or facility which is or will be used primarily—

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

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

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

(5) by striking out "(d) 'estuary' " and inserting in lieu thereof "(6) The term 'estuary' ";

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

(A) by striking out "'Estuarine" and inserting in lieu thereof "The term 'estuarine", and

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

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

"(8) The term 'Fund' means the Coastal Energy Impact Fund established by section 308(h).

"(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 A2Q, 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 occuring, 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 leasings, 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 terms 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 66⅔ 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 conditions 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 authorization 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 Wel are 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.

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94TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
No. 94-878

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1975

REPORT

TOGETHER WITH

ADDITIONAL VIEWS

ON

H.R. 3981

A BILL 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 RESOURCE DEVELOPMENT AND PRODUCTION WHICH AFFECTS THE COASTAL ZONE, AND FOR OTHER PURPOSES

MARCH 4, 1976.—Committed to the Committee of the Whole House on the the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
67-050 WASHINGTON : 1976

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-878

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1975

MARCH 4, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3981]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 3981) 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 resource development and production which affects the coastal zone, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Coastal Zone Management Act Amendments of 1975".

SEC. 2. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational,".

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting "islands," immediately after "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and by inserting "and islands," immediately after "uplands,".

(4) Section 304 of such Act (16 U.S.C. 1453) is further amended by adding at the end thereof the following new subsections:

"(j) 'Outer Continental Shelf energy activity' means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

"(k) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities for offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

"(l) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

"(m) 'local government' means any political subdivision of any coastal state if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

"(n) 'Net adverse impacts' means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state's coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

"(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

"(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

"(o) 'Coastal energy activity' means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

"(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems; marine service and supply bases for rigs, drill ships, and supply vessels; pipelines, pipelaying vessels and pipeline terminals, tanks receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable;

"(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or

"(3) the location, construction, expansion, or operation of deepwater ports and directly associated facilities, as defined in the Deepwater Port Act (33 U.S.C. 1501–1524; Public Law 93–627).".

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(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, and cultural value;

"(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and

"(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions.".

(6) Section 305(c) of such Act (16 U.S.C. 1454(c)) is amended by deleting "66⅔" and inserting in lieu thereof "80"; by deleting in the first sentence thereof "three" and inserting in lieu thereof "four"; and by deleting the second sentence thereof.

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended—

(A) by deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following ": *Provided*, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state's failure to comply with any regulations that are issued by the Secretary to implement subsection (b)(7), (b)(8), or (b)(9) of this section."; and

(B) by deleting the period at the end thereof and inserting in lieu thereof the following ": *Provided*, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b)(7), (b)(8), and (b)(9) of this section.".

(8) Section 305 of such Act (16 U.S.C. 1454 et seq.) is amended—

(A) by striking out the period at the end of subsection (e) thereof and inserting in lieu thereof the following ": *And provided further*, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section.".

(B) by redesignating subsection (h) thereof as subsection (i), and by inserting immediately after subsection (g) the following:

"(h)(1) The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.

"(2) Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—

"(A) developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title.

"(B) in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity,

"(C) has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and

"(D) has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.

"(3) The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.

"(4) Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title.".

(9) Section 305(1) of such Act (as redesignated by paragraph (8)(B) of this section) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979".

(10) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66⅔" and inserting in lieu thereof "80"; and by deleting the last sentence thereof.

(11) Section 306(c)(2)(B) of such Act (16 U.S.C. 1455(c)(2)(B)) is amended by adding at the end thereof the following flush sentences:

"No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which:

"(i) the management agency designated pursuant to paragraph (5) of this subsection is required, before implementing any decision made by it to carry out the management program, to send notice of such decision to any local government which has land use or water use control powers within the area to which such decision may apply;

"(ii) any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decision;

"(iii) the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government; and

"(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it.".

(12) Section 306(c)(8) of such Act (16 U.S.C. 1455(c)(8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title.".

(13) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a state's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b)(8) of this title, and approved by the Secretary; and (3) a shoreline erosion planning process, which is developed pursuant to section 305(b)(9) of this title, and approved by the Secretary.".

(14) Section 307(c) of such Act (16 U.S.C. 1456(c)) is amended by adding at the end thereof the following new paragraph:

"(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.".

(15) Section 307(c)(3) of such Act (16 U.S.C. 1456(c)(3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(16) Sections 308 through 314 of such Act (16 U.S.C. 1457 through 1463) are redesignated as sections 311 through 317, respectively.

(17) Such Act is amended by inserting immediately after section 307 the following new sections:

"COASTAL ENERGY ACTIVITY IMPACT PROGRAM

"SEC. 308. (a)(1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—

"(A) the proportion which the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;

"(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and development wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;

"(C) the proportion which the volume of oil and natural gas produced in that year from 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 that year from outer Continental Shelf lands under Federal lease in that year;

"(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;

"(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf energy activities by outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and

"(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.

"(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, 'the outer Continental Shelf lands which are adjacent to such state' shall be the portion of the outer Continental Shelf lying on that state's side of extended seaward boundaries determined as follows: (A) In the absence of seaward lateral boundaries, or any portion thereof, clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state's side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.

"(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the

transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

"(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

"(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activity; execpt that, if the amount of such payments 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 or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

"(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

"(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

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

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

"(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed $50,000,000 for the fiscal year ending September 30, 1977; $50,000,000 for the fiscal year ending September 30, 1978; $75,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; and $125,000,000 for the fiscal year ending September 30, 1981.

"(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate all or a portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to any local government or other agency shall be applied in furtherance of the purposes of this subsection.

"(b)(1) The Secretary may make grants to any coastal state if he determines that such state's coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affect its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

"(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state's coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

"(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—

"(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b)(1) of this section:

"(2) specify the means and criteria by which the Secretary shall determine whether a state's coastal zone has, or will suffer, net adverse impacts;

"(3) include criteria for calculating the amount of a grant under subsection (b)(2) of this section, which criteria shall include consideration of—

"(A) offsetting benefits to the state's coastal zone or a political subdivision thereof, including but not limited to increased revenues,

"(B) the state's overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state's effort to insure that persons whose coastal energy activity is directly responsible for net adverse impacts in the state's coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts,

"(C) the state's consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts; and

"(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity;

In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis; with representatives of appropriate state and local governments; with commercial, industrial, and environmental organizations; with public and private groups; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.

"(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest to the United States.

"(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed $125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.

"(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsections (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.

"(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—

"(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title; and

"(2) has demonstrated to the satisfaction of, and has provided adequate assurances to, the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.

"INTERSTATE COORDINATION GRANTS TO STATES

"SEC. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

"(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in 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 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

"(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish 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, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

"(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—

"(1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas;

"(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

"(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

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) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.

"COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of state coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.

"(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal state to assist such state in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.

(c) (1) The Secretary is authorized to—

"(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;

"(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;

"(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;

"(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and

"(E) evaluate the effectiveness of the national shellfish sanitation program.

"(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.

"(d) Notwithstanding any other provisions of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2).".

(18) Section 313 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting the words "or payments" after the word "grant" wherever the word "grant" appears; (B) inserting ", for up to three years after the termination of any grant or payment program under this title," after the word "access" in subsection (b) thereof; and (C) inserting the words "or paid" after "granted" in subsection (b) thereof.

(19) Section 315 of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) inserting "AND BEACH ACCESS" immediately after "ESTUARINE SANCTUARIES" in the section heading thereof; (B) deleting the last sentence thereof; (C) inserting "(a)" immediately before "The Secretary" in the first sentence thereof; and (D) inserting at the end thereof the following new subsection:

"(b) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value.".

(20) Section 316(a) of such Act (as redesignated by paragraph (16) of this Act) is amended by (A) deleting "and" at the end of subdivision (8) thereof immediately after the semicolon; (B) redesignating subdivision (9) as subdivision (11); and (C) inserting after subdivision (8) the following two new subdivisions: "(9) a general description of the economic, environmental, and social impacts of energy activity affecting the coastal zone; (10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal states; and".

(21) Section 315 of such Act (16 U.S.C. 1464) is redesignated as section 320 and amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 320. (a) There are authorized to be appropriated—

"(1) the sum of $24,000,000 for the fiscal year ending September 30, 1977, and $24,000,000 for each of the two succeeding fiscal years, for grants under section 305 of this title to remain available until expended;

"(2) such sums, not to exceed $50,000,000 for the fiscal year ending September 30, 1977, and $50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;

"(3) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years as

may be necessary, for grants under section 309 of this title, to remain available until expended;

"(4) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;

"(5) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;

"(6) such sums, not to exceed $6,000,000 for the fiscal year ending September 30, 1977, and $6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and

"(7) such sums, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.

"(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title.".

(22) Such Act is further amended by inserting immediately after section 317 (as redesignated by paragraph (16) of this Act) the following new sections:

"LIMITATIONS

"SEC. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.

"STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"SEC. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.

"(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.

"(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

"(1) no guarantees shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficient revenues on reasonable terms and conditions without the guarantee;

"(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;

"(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed $20,000,000;

"(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed $200,000,000;

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

"(A) be issued only to investors approved by. or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

"(B) bear interest at a rate satisfactory to the Secretary;

"(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

"(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;

"(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

"(7) the Secretary determines that there is reasonable assurance that the issuer of the evidence of indebetedness will be able to make the payments of the principal of and interest on such evidence of indebtedness; and

"(8) no guarantee shall be made after September 30, 1981.

"(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidences will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

"(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

"(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and any redemption premiums. 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 guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

"(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

"(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treasury and deposited in such revolving fund pursuant to subsection (i) (2).

"(2) 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 this section, 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 him, unless the Secretary finds that there was no default by the coastal state or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement 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 any revenue becomes due to such coastal state or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal state or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

"(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

"(i)(1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

"(A) receipts from fees collected under this section;

"(B) recoveries under security, subrogation, and other rights;

"(C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section;

"(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and

"(E) such sums as may be appropriated to carry out the provisions of this section.

Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

"(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).

"(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.

"(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.

"(k) For purposes of this section, the term 'unit of general purpose local government' shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of the coastal state, if such general purpose political subdivision possesses taxing powers and has responsibility for providing public facilities or public services to the community, as determined by the Secretary.".

SEC. 3. (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 a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. 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:

"(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.".

SEC. 4. Nothing in this Act shall be construed to modify or abrogate the consistency requirements of section 307 of the Coastal Zone Management Act of 1972.

PURPOSE OF THE LEGISLATION

The basic purpose of H.R. 3981 is to strengthen and augment the Coastal Zone Management Act of 1972 to better enable it to meet today's pressures and demands, particularly those related to energy.

The Committee believes the coastal zone management program to be of great importance to the country. Under it, states, together with local units of government, are preparing comprehensive programs to guide future uses of the nation's valuable coastal areas.

When Congress enacted the program in 1972, the energy crisis had not yet emerged. That crisis and the resulting need for both increased domestic petroleum production and increased imports of fuel has dramatically added to the great stresses which already exist in our coastal areas.

To enable the states to cope with an accelerated offshore oil and gas leasing program, deepwater ports and similar energy facilities, H.R. 3981 adds several significant forms of assistance. Two types of direct assistance to states are provided, including funds for planning, as well as guarantees for bonds issued to provide public services and facilities made necessary by Outer Continental Shelf oil and gas operations.

In addition to the direct energy-related provisions of H.R. 3981, there are several major additions to the provisions of the original coastal zone program. These have been added by the Committee based on its examination of the conduct of the program since 1973, the testimony of state officials charged with carrying out the provisions of the Act, and the experience of the Office of Coastal Zone Management in the National Oceanic and Atmospheric Administration which has responsibility for administering the Act.

Among these additions are three new requirements for state coastal zone management programs; provision of a new preliminary approval phase which would come between the program development work under section 305 now being conducted in the states and the program administration stage under section 306; new incentives for interstate coordination and research and training programs, and a new authorization to provide matching grants to enable states to acquire access to public beaches and other public amenities in the coasts to help meet the rapidly growing need for more coastal recreation outlets.

SUMMARY OF KEY PROVISIONS OF H.R. 3981

I. ADDITIONAL REQUIREMENTS FOR STATE COASTAL ZONE PROGRAMS IN SECTION 305/NEW PROGRAM IMPLEMENTATION PHASE

Section 305 authorizing coastal management program development was amended by the Committee to include three additional elements

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in the programs being developed by the States. The three new requirements specifically included in the bill deal with planning processes relating to protection of and access to public beaches and other public areas, an evaluation of the adverse effects caused by shoreline erosion and remedial actions necessary to correct such actions, and the development of an energy facility planning process within the coastal zone.

Due to the fact that land prices have been escalating steadily over the past years, it has become increasingly difficult for State and local governments to provide access ways to public areas such as beaches, historical areas, and other similar sites which the public has come to enjoy. Some States can utilize their condemnation rights under eminent domain provisions in state laws, but the ability to provide such access ways using techniques of less than fee-simple acquisition or condemnation are generally not provided for by most States surveyed. The requirement in the bill would have states develop a planning process to evaluate various options particularly suitable for each State, including methods of preserving public coastal areas from excessive or unsuitable uses.

The second planning process included in the bill is one which would require each coastal State to develop a comprehensive process dealing with both the planning and the impacts of the siting of energy facilities. Because of the unique nature of the coastal zone, it is anticipated that a substantial portion of the new energy facilities the nation needs may be located in coastal areas. Any federal energy program will be dependent upon the cooperation and the individual actions of State and local governments. The Coastal Zone Management Act of 1972 encourages a cooperative working relationship between Federal, State, and local governments in the decision-making process involved with land and water uses. Since the framework is already established, the inclusion of an energy facility planning process seemed to the Committee to be a necessary and appropriate addition to the present Act.

The third addition to section 305 planning elements would require that the States develop a plan to assess the effects of shoreline erosion, whether caused by natural or man-induced reasons. This particular amendment was introduced by Mr. Ruppe in an attempt to encourage a comprehensive and coordinated planning effort to deal with the significant erosion problems incurred in the Great Lakes as well as in other areas.

In a report entitled, "National Shoreline Study," by the U.S. Army Corps of Engineers in 1971, it was stated that almost one-fourth of our nation's 84,240 miles of coastline is eroding, with approximately 2,700 miles, or 3.2 percent, critically eroding.

The Committee realizes that the addition of these three program elements will require additional funding as well as time for the States to properly evaluate and develop their prospective plans. Therefore, the authorized level of funding for section 305 planning grants was increased from $12 million to $24 million annually, and the States would be permitted to receive developmental grants for four years, rather than the three-year period which was originally authorized in the 1972 Act.

The Committee has introduced an important new phase in the coastal zone management program. Between the program development

work in the states, carried out under section 305 funding, and the administration phase for completed state programs, funded under section 306, the Committee has introduced an interim "preliminary approval" phase. During this period states could continue to receive matching grants under section 305 while they are taking steps to put into place the elements of their program not in effect. An example is where state legislation is needed. The program design could include an outline of the legislation a state needs in order to qualify for program approval; upon receiving the "preliminary approval" designation, the state would work to enact that bill into law. Upon so doing, the program would meet the requirements for final federal approval and entry into the administration or operational phase under section 306.

This new interim phase is felt to be an important modification in the two-step process envisioned in the original Act which will prove to be most helpful to a number of states.

Under this interim phase, the Committee notes that it is permissible for states to put into operation portions of the state program which are complete and ready to be administered. Matching funds under section 305 could be used for this purpose in states whose programs meet the requirements established in section 305(h) for "preliminary approval."

II. COASTAL ENERGY ACTIVITY IMPACT PROGRAM

Soon after it became clear that this nation had to develop a long-range energy policy to attain self sufficiency as rapidly as possible, the Administration announced that one of the major programs designed to obtain needed energy resources would be the accelerated Outer Continental Shelf oil and gas leasing plan. It was recognized that the coastal states would bear the onshore burdens of such offshore exploration and development.

In addition to the expansion of the OCS leasing program, the nation's energy requirements will result in a variety of other pressures on the coasts. One estimate prepared for the Subcommittee on Oceanography by the National Ocean Policy Study of the U.S. Senate estimated that the total investment in all types of energy facilities over the next decade in the coastal zone will amount to 40 percent of a projected national total of $600 billion.

This legislation provides for planning assistance to enable the states and local communities to prepare for this massive investment. At the same time, H.R. 3981 provides direct financial assistance only for those types of energy facilities which, by their nature, must be situated in the coasts. The Committee did not want to provide assistance which would amount to an inducement to locate in the coasts facilities which could as readily be placed inland.

H.R. 3981 deals with the potential impacts resulting from offshore oil and gas activities and other energy activities in section 308 of the bill which establishes a "Coastal Energy Activity Impact Program."

The impact program is essentially a four-step assistance scheme incorporating an automatic payment plan for Outer Continental Shelf energy impacts, energy facility planning grants, a discretionary grant

program based on a determination of "net adverse impacts", and a federal bond guarantee program.

The first federal assistance scheme included in the program is in the form of an automatic payment plan. The Secretary of Commerce shall make payments to each coastal state in each fiscal year based on the average of six proportions relating to the level of Outer Continental Shelf energy activity. The six proportions would each represent a ratio of the level of state activity to the level of national activity. The average of the six ratios would determine the proportion of the total fund allocated to each coastal state.

By setting forth the six criteria in the first assistance program, the Committee intended to reflect the level of Outer Continental Shelf activity occurring adjacent to or within a coastal state based on the premise that the level of activity would be closely proportional to the level of impact which would result as a consequence of such activity.

Each coastal state receiving payments under this scheme must expend the funds for specific purposes and in a specific order of priority. First, the state shall retire any bonds which were issued and guaranteed under section 319 of the bill. First priority for retiring these bonds is to be given to the retirement of local bonds. If there are no state or local bonds issued and guaranteed, the state can then use the funds for purposes of planing for and carrying out projects which are required as a result of Outer Continental Shelf energy activities. The third and final purpose for which the state could expend the funds is to reduce or ameliorate any loss of ecological or recreational resources which were caused by Outer Continental Shelf energy activities.

Any money provided to a state and not spent or not committed for purposes authorized is to be returned to the Treasury. The Secretary of Commerce shall be responsible for determining this each year by utilizing the auditing provisions of section 313 (as redesignated) of the Coastal Zone Management Act of 1972.

The authorized level of funding for the automatic grant section 308 (a) commences with $50 million in fiscal year 1977 and escalates incrementally to $125 million in fiscal year 1981. The Committee adopted the escalating authorizations approach since the fund is intended to be one which will benefit *all* of the affected coastal states. As new "frontier" areas such as Alaska and the Atlantic Coast States begin to enter into the exploration and development phases of OCS activity, the fund will increase to permit a more equitable distribution of funds to such states.

In the version of H.R. 3981 originally approved by the Subcommittee on Oceanography, direct assistance was restricted to OCS impacts only. The Senate version of this bill, S. 586, on the other hand, provides coverage for a broad range of energy facilities which might have impacts on the coasts.

The Committee after much deliberation came to the conclusion that a middle position between these two approaches was the most equitable. Direct assistance is provided for a limited number of energy facilities in addition to those associated with the offshore petroleum industry in the "net adverse impact" portion of section 308.

The second assistance program (section 308(b)) in the bill deals with "coastal energy activities." The primary criterion on which the concept of "coastal energy activity" is based is whether the state may be serving the national interest by locating and permitting to operate those energy-related facilities which, by their very nature or technical requirements, must be in the coastal zone. In other words, those facilities which could conceivably be located inland from a state's coast would not be included. While the first assistance program (section 308 (a)) would allow compensation for OCS-related activities only, the second approach would include deepwater ports, liquefied natural gas storage and conversion facilities, and non-OCS oil or coal loading docks, terminals, and storage facilities.

The concept of "net adverse impacts" is defined in the bill, and several factors which the Secretary of Commerce is to consider in determining the amount of a grant are specified. Among the latter are benefits which directly offset adverse impacts; efforts made by state and local governments to minimize impacts and to internalize the costs associated with the activity; the availability of alternative sites for energy activity which would minimize impacts; and the receipt of other federal funds (including the annual automatic OCS payments) which could be used to reduce adverse impacts. The task of determining the appropriate level of funding is not unmanageable if these guidelines are used, and adherence to these guidelines will prevent any possible over-compensation to individual states. The impact fund as provided in 308(b) would, in a sense, be a supplementary grant program, not a substitute or duplicative grant scheme.

Any grant allocated to a state under section 308(b) shall be used for providing up to 80 percent of the cost of carrying out projects or programs designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity. A separate provision in 308 (b)(1) would permit the Secretary to allocate 80 percent matching grants to enable states to study and plan for the economic, social, and environmental consequences of energy facilities which are impacting or likely to impact the coastal zone.

Funds authorized for appropriation in the second assistance program would be $125 million for five fiscal years commencing with fiscal year 1977.

A provision in the bill which is applicable to both grant programs in section 308 would have each coastal state receiving funds give serious consideration to the allocation of such funds to any local government in the proportion which such local government has suffered net adverse impacts resulting from OCS or coastal energy activities.

The bill would further require that impact grants could be made only to those coastal states which are either receiving development grants under section 305 or are making satisfactory progress towards the development of a coastal zone management program. Any funds received under section 308 would have to be expended in a manner which is consistent with the coastal zone management program of the respective state. By inclusion of this important provision, the Committee is convinced that the necessary coordinated approach will take place using the comprehensive coastal zone management programs being developed by the respective states.

Coastal Zone Management Advisory Committee Resolution

Pursuant to section 311 of the Coastal Zone Management Act of 1972 (Public Law 92–583), a Coastal Zone Management Advisory Committee was established to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone.

The Committee membership possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

The Merchant Marine and Fisheries Committee proposal to consolidate the OCS annual payments provision with the net adverse impact grant concept in the Coastal Energy Activity program, co-sponsored by Mr. Murphy of New York and Mr. du Pont of Delaware, was on the agenda of the Advisory Committee's most recent meeting in St. Thomas, the Virgin Islands from January 14 to 16, 1976. After 2 days of intense discussions and deliberations, the following resolution was unanimously adopted in support of Mr. Murphy and Mr. du Pont's provision and other technical changes in H.R. 3981.

RESOLUTION

Be it resolved by the Coastal Zone Management Advisory Committee, established pursuant to the Coastal Zone Management Act of 1972 (Public Law 92–583), that the Committee urges the Congress to adopt certain amendments to the Coastal Zone Management Act, namely:

A. A Coastal Energy Impact Fund be established, and that such be used to assist the coastal states in planning for and ameliorating adverse impacts (provision of public facilities and services) resulting from the development of energy resources and facilities in the coastal zone. Such a fund should cover coastal dependent energy facilities. Allocation of monies from the fund should be based on demonstrable net adverse impact, or a combination of such net adverse impact and a formula based on OCS petroleum development activities.

B. Extend the allowable time for program development (Section 305) and the related authorizations for appropriations for two additional years and allow for partial funding of management programs receiving preliminary approval on an interim basis through Fiscal Year 1979; include Federal leases under the consistency clause (Section 307(c)(3)); and specifically, add energy facilities and erosion to those items that must be considered in a state's plan.

Further, be it resolved that this resolution be transmitted to the Secretary of Commerce through the Administrator of NOAA with copies to the appropriate Committee of Congress.

Submitted by:

MEMBERS, COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Janet Adams, president, California Coastal Alliance, P.O. Box 4161, Woodside, Calif.

Don Allen, vice president, New England Electric System, 20 Turnpike Road, Westboro, Mass.

Emmanuel Bertrand, general manager, Lagoon Marine, St. Thomas, V.I.

Robert Cahn, writer-in-residence, Conservation Foundation, 1717 Massachusetts Avenue NW., Washington, D.C.

Dr. Charles Herdendorf, Center for Lake Erie Area Research, Ohio State University, Columbus, Ohio.

Ann Jennings, conservation chairman, South Carolina LeConte Chapter, Sierra Club, 25 Grandville Road, Columbia, S.C.

Hon. Thomas McCall, professor, Linfield College, 2300 Broadway Drive S.W., Portland, Oreg.

O. William Moody, administrator, Maritime Trades Department, AFL–CIO, Washington, D.C.

Dr. Joe Mosley, executive director, Texas Coastal & Marine Council, P.O. Box 13407, Austin, Tex.

Dr. Y. R. Nayudu, marine and coastal zone resources management consultant, Box 323, Mile 2½ Glacier Highway, Junea, Alaska.

Carl Savit, senior vice president, technology, Western Geophysical Co., P.O. Box 2469, Austin, Tex.

John Spellman, county executive, King County Courthouse, Seattle, Wash.

Scott Whitney, professor of law, College of William & Mary, Williamsburg, Va.

January 15, 1976.

III. INTERSTATE COORDINATION

Many of the problems facing the coastal zone are regional and multi-state in nature. Coastal zone activities in one State may have pervasive effects on the coastal region of an adjoining State. The northeastern coastal states, for example, are faced with the need for closely coordinating the development and implementation of their coastal zone management programs because of the compactness and interdependence of the region.

An improved system of regional coordination should also facilitate communication with Federal agencies and will provide a forum for resolving the collective issues dealing with Federal-State administration.

The Subcommittee hearings on H.R. 3981 revealed that interstate planning and coordination have been ineffective under the present coastal zone management act because the Act does not provide incentive funding to establish interstate entities, and requires that the States use their own funds to support such activities. The States have found it necessary to devote their resources to internal coastal zone problems.

Separate funding is provided in the bill for support of interstate planning arrangements and compacts. If States decide to enter into interstate planning arrangements, 90 percent funding assistance would be available from the Federal goverment. Advance consent by the Congress is given to States to negotiate interstate coastal zone planning and coordinating compacts. Provision is also made for States to establish ad-hoc coordinating agencies immediately while formal interstate arrangements are pending approval. In order to carry out the provisions of this section, $5 million is authorized to be appropriated annually for a five-year period commencing with the year in which the bill is enacted.

IV. RESEARCH AND TRAINING ASSISTANCE

In its 1974 annual report submitted to the Congress and to the President, the National Advisory Committee on Oceans and Atmosphere recommended that:

> The National Coastal Zone Management Act of 1972 be amended to include the encouragement and support of the research, development, and advisory services by the States needed to provide a basis for careful, long-enduring decisions on coastal zone matters.

To make the rational decisions required in the formulation of comprehensive coastal zone management programs, a certain amount of research is essential. There is no specific provision for research grants in the present coastal zone Act, and the Committee believes this oversight should be remedied.

The need for these additional research funds is particularly critical now that coastal States are being called upon to accelerate development of their programs in preparation for increased Federal energy activities in the coastal zone.

H.R. 3981 contains the necessary provisions which would permit the Office of Coastal Zone Management to allocate research grants to States for purposes of assisting in the development and implementation of coastal zone management programs.

There are also funds authorized in the bill which would permit OCZM to conduct research at the Federal level and, thereby, complement State efforts. The Committee expects that NOAA will make every effort to avoid any duplicative research efforts and to coordinate this research program with other relevant Federal, State, and local programs.

Research grants to States would involve a Federal contribution not to exceed 80 percent of the costs of such study. The bill would authorize $5 million for Federal research and $5 million for State and local research programs for a period of five fiscal years.

Included in the research section 310 is a provision which would authorize the Secretary to undertake a comprehensive review of the shellfish industry with a report due June 30, 1977. Prior to the time which such report is submitted to the Congress, no Federal agency would be permitted to promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce.

Background of the Coastal Zone Management Program

Major impetus for the Coastal Zone Management Act of 1972 came from a two-year study of ocean issues conducted by a Presidential Commission and published in 1969.

The Commission on Marine Science, Engineering and Resources in its report, *Our Nation and the Sea*, gave prominence to the value of coastal resources. The report states that the coasts were endangered from excessive uses, some of which were incompatible with the continued health of the coastal region. It pointed out that the coastal area was less than 10 percent of the total land area of the country but already had over 40 percent of the population and was growing at a faster rate than the rest of the country. A three-year study in the Nation's most populous state—a study mandated by the voters by referendum in 1972—determined that 85 percent of California's 20 million people live within 30 miles of the coast.

Publication of the Presidential Commission report was the first time major national attention had been focused on the value of coastal resources and the danger represented by continuation of the unwise and unplanned developmental and population trends of the time. One of the Commission's major program recommendations in the ocean field was that coastal authorities be established in each state, funded by a matching program of federal and state dollars, to design and operate comprehensive management programs of future coastal activity to conserve the resources and promote sound development. The Commission recommended that the Federal role be restricted to providing financial assistance and general guidelines to the States.

In October 1969 both Congress and the Administration responded to the findings and recommendation of the Commission. The House Subcommittee on Oceanography conducted a two-day conference on Coastal Zone Management instead of the customary hearing format, to encourage greater participation by attendees. Representatives of federal, state and local levels of government, industry, marine laboratories and research centers, interested citizens and members of the Commission took part. The conference was organized into seven panel sessions to consider various aspects of coastal zone management.

There was general agreement among the participants that states should take the leadership role in preparing coastal programs and establishing the organizational structure to implement them. This concensus was in keeping with the recommendation of the Commission that the states be the focus of responsibility relying, of course, on affected local units of government.

Also in October, the Vice President, in his capacity as the Chairman of the National Council on Marine Resources and Engineering Development, announced a five-point program in marine science. The first-named initiative was the endorsement of the concept of state coastal zone management programs.

As a consequence of this attention, legislation was introduced in the House to establish a federal-state-local partnership to develop comprehensive coastal management programs. Bills proposed in November 1969, by Congressman Alton Lennon, Chairman of the Oceanography Subcommittee, became the forerunners of the eventual coastal zone act.

Action came next in the Senate where seven days of hearings were conducted during the spring of 1970 on four bills which provided for coastal management planning. The hearings, conducted by the Subcommittee on Oceanography of the Senate Commerce Committee, also produced concensus that the type of program recommended by the Commission, discussed by the House Oceanography Subcommittee and

advocated by the Administration was desirable. One key finding was that national legislation had to provide flexibility in order to take into account the wide range of coastal areas and the different approaches that states and local governments would take in the various sections of the country.

One major difference voiced dealt with the location of the federal responsibility. The administration favored the Department of the Interior while others expressed preference for the Marine Sciences Council or the proposed National Oceanic and Atmospheric Agency (NOAA) which would succeed it. Toward the end of 1970 the Administration also let it be known that it was considering a national land use bill which would, in its view, supplant the need for a separate coastal zone bill. The Subcommittee on Oceanography approved a revised version of the coastal zone bill introduced earlier in the year by the Administration, but Congress adjourned sine die before the full Senate Commerce Committee could take action.

The House Subcommittee on Oceanography took up the topic of coastal zone management during eight days of hearings in 1971, beginning in June and ending in November. The Senate Subcommittee on Oceans and Atmosphere (successor to the Oceanography Subcommittee) held additional hearings in May 1971, and approved a measure, S. 582, which had been proposed earlier in the year by the Subcommittee Chairman, Senator Ernest F. Hollings. Objections to the measure were voiced from a number of sources, which persuaded Senator Hollings to request recommital to the Subcommittee and the preparation of a new bill, S. 3507, which was reported favorably April 11, 1972.

The bill was passed by a vote of 68 to 0 on April 25, indicating the broad base of support for better management of our coastal resources.

Parallel action took place in the House where a bill was reported favorably by the Oceanography Subcommittee on May 2, 1972. This measure, H.R. 14146, named the National Oceanic and Atmospheric Administration, formed in 1970 as a component of the Commerce Department, as the administering agency at the federal level.

During consideration on the floor in August, opposition was expressed on the grounds that the program should be administered by the Department of the Interior in view of the pending national land use legislation which would be assigned that Department. Oceanography Subcommittee Members argued that NOAA was better equipped to deal with coastal zone problems than Interior, that the coasts were unique and warranted special and separate attention and that passage of national land use legislation was speculative. A motion to transfer the proposed coastal zone management program to the Interior Department, supported by the Administration, succeeded.

In conference between the House and Senate in the fall of 1972, a compromise was worked out. The Senate insisted that the coastal zone program remain assigned to NOAA. In exchange, it was agreed that any land-use elements in a state coastal zone program would have to receive the concurrence of the Secretary of the Interior or whoever might administer a national land use program.

With this dispute settled, the Coastal Zone Management Act of 1972 went on to final passage in both House and Senate and acceptance by the Administration. The measure was signed on October 27, 1972, and became Public Law 92–583.

Because a disposition for a nationwide land use planning measure continued among Administration leaders, initial funding of the coastal zone program was held up. A task force was set up within NOAA after passage of the coastal zone law using existing funds to begin preparation for administering the program, but the first actual appropriation was not forthcoming until December 1973.

The first matching grants to states to begin development of coastal zone programs were made in March 1974. By the end of the fiscal year, 27 states and one territory had voluntarily submitted applications for funding. Also during the initial period of operation, the nation's first estuarine sanctuary grant was made under section 312 of the coastal zone act to the state of Oregon to set aside a portion of a bay and surrounding lands to serve as a natural laboratory for scientists.

The 93rd Congress considered and passed the only amendments to the coastal zone program to date, essentially technical changes to provide needed flexibility in administering the program and to extend the authorization for the estuarine sanctuary program to fiscal year 1977 to make it conform with the other funding authorizations in the program.

Because of the success in its initial operation, Congress also acted to increase the amount of money available for program development from $9 million a year to $12 million. President Ford signed the bill on January 2, 1975 (Public Law 93–612).

The coastal zone program in 1975 provided funding to 33 of the 34 eligible states and territories. For most states, work entered the second year of the three-year development phase authorized under section 305.

One state, Washington, submitted its management program during the year in an attempt to become the first to receive final approval from the Secretary of Commerce and thereby be made eligible for program management assistance under section 306 of this act. The program was found to have certain elements to be incomplete. Nonetheless, the overall design of the program, its treatment of areas of special concern, its administrative setup and legal authorities and all other major elements necessary for approval, were found to be acceptable. The Washington program received "preliminary approval" in May 1975, by which was meant that as soon as all of the elements in the program were actually implemented, the state would in fact receive final approval. This is anticipated to take place in mid-1976.

The Office of Coastal Zone Management has received several other completed programs and expects to be able to process one or more to final approval soon.

In November 1974, with the national energy crisis requiring new initiatives, President Ford endorsed the coastal zone program as the vehicle to plan for the onshore impacts that will come from the Administration's program to expand Outer Continental Shelf oil and gas operations. Speaking to the coastal state governors on November 13, the President said:

Concern has been expressed that we should not lease any new areas of the U.S. continental shelf until the coastal States have completed detailed plans to accommodate the onshore impact of offshore production.

Coastal states have only begun to establish the mechanisms for coastal zone planning, and that activity must proceed rapidly. But the steps needed now to prepare for a leasing program need not await completion of these detailed plans by the states.

In order to facilitate coastal State participation in this effort, I plan to request an additional $3 million in the current fiscal year for the coastal zone management program to accelerate these planning efforts. I have also directed Secretary Morton and Secretary Dent to consult with coastal state Governors regarding any additional steps that might be required to plan adequately for onshore development associated with offshore leases that are actually issued.

In summary, the resources of the outer continental shelf represent a potential contribution of major proportions to the solution of our energy problem. I am confident that concerns about leasing exploration and development on the outer continental shelf can be addressed openly and fairly, that planning can proceed in an orderly, cooperative way and the problems confronting us in opening the new areas can be resolved.

I pledge the cooperation of my Administration in the task.

The $3 million supplemental appropriation was subsequently adopted by Congress as part of the overall supplemental appropriation measure for fiscal year 1975 and made available to the coastal zone program at the end of June. As of the beginning of 1976, the Office of Coastal Zone Management had processed applications from nine states totalling $1,309,374. In addition, nine additional states had applications for OCS supplemental funding pending.

The Committee has followed closely the first stages of the effort by NOAA to carry out the program initiated by Congress to arrest the destruction of valuable coastal resources. We have been impressed to date with the effective administration of the program by the Office of Coastal Zone Management and its cooperative attitude in working with state and local governments. It is our belief that the changes and additions contained in H.R. 3981 will provide major additional incentives to the states to carry out the aim of the original act.

The total disbursements as of early 1976 to the states under the program are shown in the attached table 1.

TABLE 1.—TOTAL COASTAL ZONE MANAGEMENT SEC. 305, FUNDS AWARDED TO DATE

Grantee	Federal share	Grantee matching share
Alabama	$220,000.00	$110,000.00
Alaska	1,800,000.00	900,000.00
California	1,620,000.00	821,946.00
Connecticut	586,285.00	326,359.00
Delaware	511,666.00	255,834.00
Florida	1,146,000.00	573,000.00
Georgia	537,250.00	307,145.00
Guam [1]	143,000.00	71,500.00
Hawaii	650,000.00	325,000.00
Illinois	590,000.00	310,000.00
Indiana [1]	220,000.00	110,000.00
Louisiana	602,000.00	305,090.00
Maine	558,870.00	279,435.00
Maryland	840,000.00	420,000.00
Massachusetts	592,000.00	309,812.00
Michigan	730,486.00	365,243.00
Minnesota	249,500.00	124,750.00
Mississippi	308,620.00	159,371.00
New Hampshire	198,000.00	99,000.00
New Jersey	745,750.00	372,875.00
New York [1]	550,000.00	275,000.00
North Carolina	927,544.00	543,961.00
Ohio [1]	200,000.00	166,300.00
Oregon	548,943.00	295,620.00
Pennsylvania	375,000.00	187,500.00
Puerto Rico	600,000.00	300,000.00
Rhode Island	458,855.00	234,082.00
South Carolina	480,149.82	242,924.77
Texas	1,280,000.00	649,003.00
Virgin Islands	210,000.00	105,000.00
Virginia	654,564.00	327,282.00
Washington	1,013,820.00	506,910.00
Wisconsin	548,600.00	316,915.00
Total	20,696,884.82	10,696,857.77

[1] Received 1 grant to date. All other grantees have been awarded 2 grants to date.

NEED FOR H.R. 3981

I. ENERGY-RELATED PRESSURES ON THE COASTAL ZONE

The energy crisis of the mid-1970's has served to bring into focus more sharply than in the past the tremendous pressures that fall upon the coastal zone.

Coming after broad recognition in the late 1960's of the unique values of coastal areas, the new pressures have served to heighten appreciation of the coastal zone management program as a means of coping with conflicting and sometimes incompatible interests.

An immediate result of the sharp rise since 1973 in petroleum prices from overseas sources has been an increase in the desirability of locating new domestic sources of fuel. The best prospects for major new discoveries in this country lie offshore, particularly in such previously unexplored areas as off the coast of Alaska.

Meanwhile, since development of a new offshore petroluem field can take up to 10 years, the nation's dependence on overseas supplies will continue. This has served to set up another source of pressure on coastal areas, namely from the desirability of having offshore terminals to serve the increasingly large supertankers which can cut the per-barrel cost of fuel transportation.

Still another new pressure brought on by the energy crisis has been the requirement to establish new facilities to handle liquefied natural gas imports, another cost-effective method of meeting the country's needs from overseas sources.

These three examples of new or expanded energy-related developments have one thing in common: they each require intensive use of the coasts. There are already numerous other energy installations in the coasts—California's Coastal Zone Conservation Commission found that 90 percent of the state's petroleum refining capacity is located within 10 miles of the coast, for instance.

The impacts which will stem from a greatly expanded offshore oil and gas program, from deepwater port installations or added LNG facilities, will take place in an area already bearing a disproportionate share of the nation's energy facilities.

A study released in December 1975, by the Congressional Research Service working with the National Ocean Policy Study of the U.S. Senate entitled "Energy Facility Siting in Coastal Areas" [1] declared that 85 percent of 243 nuclear power plants in operation, under construction or planned were in coastal states and that many, if not most, were on the coasts or Great Lakes shores. With the prospective development of floating nuclear power plants, this concentration will increase in the future, the study found.

The Committee's recommended solution is to provide amelioration assistance to states tailored specifically to the types of energy facilities which, by their nature, must be located in the coast. As is explained in the section-by-section analysis which follows, the bill also provides for planning assistance to deal with all of the various types of major energy facilities which might be found in the coasts.

It was felt desirable to restrict the coverage of the amelioration assistance to the impacts stemming from OCS operations, LNG facilities, deepwater port and coal and oil shipping facilities because they clearly must, by definition, be located along the ocean or Great Lakes shores.[2] To provide assistance to a broader range of energy-related plants runs the risk, the Committee felt, of providing inducement to locate such facilities in the coasts.

If it is a close decision between an inland location and a coastal site for a nuclear power plant, for example, the existence of an assistance program to the local governments involved could provide the difference in choosing where the plant should go. The Committee did not want to run the risk of possibly encouraging the siting of additional energy facilities in the coasts not absolutely necessary to be located in this already burdened region.

It is the Outer Continental Shelf oil and gas program that has caused the most widespread concern in coastal areas. Entire

[1] U.S. Senate Committee on Commerce and the National Ocean Policy Study, 94th Congress, 1st Session, December 1975, Page 17.

[2] For a detailed discussion of the projected impact of coal transportation on the Great Lakes, see Appendix I.

regions will feel impacts from the introduction of this activity when it occurs in relatively undeveloped areas. LNG or deepwater port impacts, on the other hand, are likely to be localized in nature.

Because most of this country's offshore experience has so far been concentrated off one state—Louisiana—and drilling has taken place only off two other states—Texas and California—one of the difficulties the states and the Committee face is in knowing what new resources actually lie offshore and where. While much evidence of promising new areas has been collected by private oil firms and the U.S. Geological Survey, the existence of commercially productive fields can only be determined by drilling. Oil firms feel fairly confident that major reserves lie off the coast of Alaska, and in fact have placed that area at the top of its list of preferred new lease areas despite the major environmental risks. Yet it is also true that the same firms felt confident that oil and gas would be found off the coast of Florida to the extent that they bid $1.5 billion in 1973 and have yet to find any recoverable material.

While, therefore, it is not possible to detail specifically the exact extent and location of the offshore impacts which an expanded OCS leasing program will bring, there is enough evidence to convince the states and the Committee that major help is needed.

Major confirmation of this viewpoint came the day after the Committee approved H.R. 3981 by a vote of 35 to 0. On February 4, the Secretary of the Interior, the Honorable Thomas Kleppe, submitted legislation which he described in part as follows:

> The purpose of the bill is to establish the Federal Energy Development Impact Assistance Fund from which planning grants, loans and loan guarantees can be made to assist affected states and local governments in providing public facilities.

This represents a recognition on the part of the Administration, after more than a year's delay, that federal support is warranted to state and local communities which must bear the costs of providing services and facilities made necessary by federally-approved energy projects conducted in the broad, national interest. This principle lies at the heart of the forms of assistance proposed in H.R. 3981. There are significant differences in the approaches contained in the legislation produced by the Committee after its five hearings and several days of mark-up sessions this year and the measure put forth at the last minute by the Department of the Interior.

The most glaring omission, in the opinion of the Chairman of the Merchant Marine and Fisheries Committee and the Oceanography Subcommittee and the ranking minority members of each body (and the preponderance of the membership of each) is that the Interior Department bill totally ignores the existence of the coastal zone management effort. For reasons which are detailed below, the Committee feels strongly that H.R. 3981 is a far superior approach to the problem of how to deal with onshore impacts from major energy activities in the coasts, is more equitable to the regions involved and will be more likely to encourage an early and orderly expansion of needed energy sources.

The evidence is clear that some sort of assistance to states and localities faced with the sudden introduction of a major new industrial activity such as offshore petroleum is warranted. While some urban areas with high unemployment and an existing base of municipal services can readily absorb the arrival of a major new industry such as offshore petroleum—indeed, may welcome it—other areas are not so situated. Isolated rural areas such as Yakutat and Cordova, Alaska, with populations of 500 and 4,000 respectively, will likely be altered fundamentally by the introduction of the offshore industry. Furthermore, they fill be unable to provide the services and facilities which the sudden flux of workers will require. Additionally, areas such as these are near prime fishing grounds and the fear of offshore oil spills or other damage from the offshore exploration and development activity runs high.

It is not only small Alaskan villages which could be uprooted. A study done for the Council on Environmental Quality, for instance, taking the high case estimate of the reserves which might be found off the Charleston, South Carolina coast produced an estimate that the population of that area will double in a decade as a result of OCS operations.

There have been studies prepared for the states of Texas and Louisiana that likewise indicate those areas have suffered net losses (income generated vs. expenses required) as a result of their OCS experiences. The studies have been criticized for their methodology, but serve as indications that the introduction of the offshore industry is not an automatic boon.

Just as the coastal zone program itself contains a balanced approach to future use of resources, providing for development where appropriate and conservation where necessary, H.R. 3981 represents a balance between state and local rights and national needs.

It contains in part of the proposed Coastal Energy Activity Impact Program an automatic grant formula to compensate for OCS impacts. The money is to be apportioned according to the extent of the offshore activity adjacent to a particular state.

Beyond this, the Committee provides that if a state or locality can demonstrate that it has had to bear expenses or has suffered damages not covered by the automatic fund for OCS operations, a second part of the program will come into play. On a finding that a net adverse impact beyond the compensation already provided and other available federal programs has taken place, additional grants would be authorized. Also, this fund would be available for the limited types of coastal energy facilities beyond those associated with OCS operations mentioned above, namely deepwater port, LNG, and coal and oil loading facilities.

While $125 million anually is provided for the second portion of the fund, it may well be that only a portion will be found necessary. The Committee feels this approach is fiscally responsible and is responsive to the stated requirements of the affected coastal states and localities.

The preponderance of the testimony from the states during the five hearings conducted this year by the Subcommittee on Oceanography was not flat opposition to expanded offshore drilling. Rather, the testimony was to the effect that states wanted to be involved in the

decision-making process from the beginning and did not want to see all of the revenues from OCS operations go to the federal treasury when they might reasonably expect to face expenses in excess of the revenues which might be generated. The states also said that they needed to be sure that they had time to prepare for onshore impacts through their coastal zone management efforts.

With these and other changes in the system by which federal offshore lands are leased, the state testimony was to the effect that they were willing to see an expanded offshore leasing program proceed.

For example, the director of the Massachusetts Energy Policy Office told the Oceanography Subcommittee:

> We realize the decline in domestic oil production must be slowed, but I must also advocate that in the public interest, offshore oil and gas development must proceed in a more orderly and equitable manner than has been exhibited in the past.

The Coastal States Organization (CSO), an alliance formed under the auspices of the National Governors' Conference, submitted a statement which said in part:

> CSO supports expedient development of oil and gas resources on the Outer Continental Shelf by private industry. The coastal states insist that they be involved in a substantive way early in development of leasing plans and in environmental and coastal management studies which would preceed leasing. The states should also receive a portion of the revenues of OCS development to offset the costs of providing services needed to support offshore activity.

(The organization subsequently has come to support the Committee's approach of using general revenues rather than OCS proceeds as the source of financial assistance to the states.)

The National Governors' Conference in a policy statement adopted on February 20, 1975, by an almost unanimous vote, states the following:

> The Governors believe it is in the public interest to promptly explore the OCS to determine the extent of energy resources that exist.
>
> Development, production, transportation and onshore facility plans should be submitted for approval to the Department of the Interior, but only after the potentially impacted states have reviewed such plans in order to ensure consistency with state coastal zone management plans and other applicable state statutes and regulations.
>
> The Governors believe than any OCS program will have substantial financial impact on affected states. Anticipated onshore development will require States to plan for and eventually finance public facilities to cope with the impact of that development. Since the OCS program is a national one, we believe there is a clear federal responsibility to assume the necessary related costs of that development. Adequate federal funds should be made available now to States to enable them to stay ahead of the program and plan for onshore impact.

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> Once the program commences, provisions should be made for federal assistance such as the application of federal royalty revenues to affected coastal and adjacent states in compensation for any net adverse budgetary impacts and for the costs of fulfilling state responsibilities in the regulation of off and onshore development.

Confirmation of the Governors' statement that they will face net revenue losses as a consequence of offshore energy activity has come from a variety of sources, including the Office of Management and Budget. While its estimates are markedly lower than other surveys, it conceded that state and local governments will have to invest $100 to $300 million in Alaska and along the Atlantic Coast due to OCS operations. A private consulting firm, Energy and Environmental Analysis, Inc., put the total public investment costs at $5.2 billion by 1985 for all types of energy developments. The maintenance costs were estimated at an additional $4.2 billion for the same period.

Testimony from both industry spokesmen and environmental organizations agreed with the basic aim of H.R. 3981 in providing assistance to affected state and local governments.

Robert Bybee, operations manager of the Exploration Department of Exxon, Inc., told the Oceanography Subcommittee:

> Exxon believes that adjacent coastal states and areas will be impacted by OCS activities but that the impact is not necessarily adverse. Nevertheless, these areas should rightfully share in the revenues resulting from OCS activities. The concept of "OCS impact" is difficult to translate into practical terms. Exxon believes it is more appropriate that citizens in adjoining states participate in the benefits of OCS development through revenue-sharing on the basis of dividing with the coastal states a part of that income derived from the OCS opposite that state.

Although not revenue-sharing, essentially this is what the Committee has provided in the automatic grant portion of the Coastal Energy Impact Program (section 308(a)).

Testimony from the Environmental Policy Center of Washington, D.C., stated in part:

> We support the approach taken in H.R. 3981 which provides for grants through the existing coastal zone management program. The money is needed for both planning for the impacts of OCS development and for direct compensation for the impacts which state and local communities must suffer, as a result of the development.

The Center gave basic support to a tailored impact program where the compensation would be related to the actual impacts felt. This is the approach contained in the second part of the impact program contained in H.R. 3981 in section 308(b).

H.R. 3981 contains a third type of assistance for states and coastal areas directly affected by OCS operations. Under section 319, local and state bonds issued to provide public services and public facilities made necessary by OCS activity will be backed by the federal government.

The provisions of this portion of the bill were strengthened measurably through the efforts of Mr. Dingell of Michigan. By his amendment, which as adopted, the Committee added specific dollar limits to the bond guarantee program which makes it a more fiscally responsible vehicle for aiding affected local and state governments.

It is the judgment of the Committee that the program developed in this bill—annual OCS payments, planning grants for all types of energy facilities, impact grants for coastal-related energy activities and federally guaranteed state and local bonds—is clearly in the national interest because it goes a long way to meeting legitimate state and local government concerns.

With the assistance provided in H.R. 3981, the country's effort to develop the petroleum resources off our coasts should proceed more smoothly. The Committee notes that law suits and restrictive state permit controls on such necessary facilities as pipelines have been threatened. The Committee views these threats in part as expressions of frustration on the part of the state and local governments—frustration over not having their views accorded what they regard as proper attention.

By providing the assistance which H.R. 3981 contains, the federal government will be making the kind of response the states and local communities have requested. In so doing, this legislation will be a major aid in permitting an accelerated program of offshore oil and gas resource development to move ahead cooperatively and responsibly.

We view this as a significant contribution to the Administration's overall energy program and hope that the Administration will support this measure.

We cannot insist too strongly our view that an energy impact program dealing with coastal areas must be tied to the coastal zone management programs being prepared now by the states, together with affected local governments. OCS impact planning, for example, is already proceeding as a result of the initiative of the President to provide special OCS planning grants.

To undercut this most promising cooperative program among the three basic levels of government by administering an energy impact program in the coasts through another department or agency will be inimical to the public interest. If we, working together, can see to it that the coastal zone management program succeeds, we may well be setting the pattern for how this country manages its resources in the future.

In the Committee's view, that is what is at stake in the consideration of H.R. 3981.

II. OTHER PROVISIONS OF H.R. 3981

The Committee has concluded, based on the extensive hearings and consultations conducted by the Oceanography Subcommittee, that the time is appropriate for major changes and additions to the basic Coastal Zone Management Act passed in 1972.

We have been aided in this work by the hearings held around the country by the Ad Hoc Select Committee on (the) Outer Continental Shelf. The focus of many of the presentations made to that group by public officials and various interest groups was on the importance of state coastal zone management efforts. Since many of the members of that select body serve on the Merchant Marine and Fisheries Com-

mittee, as do a number of the staff personnel, the work of the two bodies has been closely coordinated and mutually beneficial.

a. The Committee has made extensive alterations to the basic funding mechanism of the Coastal Zone Management Act, section 305. Under this provision, 33 of the 34 eligible states and territories are now developing their coastal programs. The federal government provides two-thirds matching money for up to three years under the present law.

Based on the testimony of a number of state representatives, the Office of Coastal Zone Management, and such outside groups as the Coastal Zone Management Advisory Committee, the Committee has made a number of changes to section 305.

Because the present authorization expires at the end of fiscal year 1977, the authorization was extended to September 30, 1979, and states are given a fourth year in which to do program development work.

This two-part extension of the section 305 authority is necessary for three reasons. First, the present program development work has been found by the states to be challenging and time-consuming. One of the problems coastal zone state program managers experienced was a lack of readily available qualified personnel. This served to delay a number of states in getting their programs underway immediately. (This problem is dealt with directly in the new section 310.)

For this reason alone, a fourth year seemed to the Committee to be warranted, particularly when the present Act requires a state to have completed its program development within that time period.

The Committee has added three new planning requirements to the six elements which states now must include (see section 305(b) of the Act). Because of the major impact which energy facilities will have on the coasts, as discussed in the previous section of this Report, the Committee has added an energy facility planning component. States are required to develop a planning process for energy facilities (broadly defined) and a process for planning and managing the impacts from such facilities.

Together with the impact fund, this requirement insures that energy siting in the coastal areas will be considered as part of an overall assessment of coastal resources and not in isolation. The Committee feels that this combination of a planning process with the impact program in H.R. 3981 is a key element in the bill.

The other two new 305 program requirements are to provide a planning process to provide access to and protection for public beaches and other public coastal areas, and to control the effects of shoreline erosion in states where this is a major problem.

Access to public beaches and other attractions in public ownership in the coasts has come to be identified as one of the critical problems facing local and state governments. As William Marks, Chief, Water Development Services Division, Bureau of Water Management, Department of Natural Resources, State of Michigan, stated to the Committee:

> The inclusion of a greater emphasis on the importance of islands and beaches, and the concomitant availability of additional funding for such purposes, is commendable.

> In Michigan, where nearly 80 percent of the shoreland is in private ownership, the establishment of adequate public access to beaches, and the preservation of island and beach areas of environmental, recreational, and esthetic value, is an ever-increasing problem.

The Committee position is that action is needed now to help provide the needed access, especially in urban areas, and that to wait will only mean additional expense to the taxpayers. The key again is that the purchase of such access, as is provided in the addition to section 315 (redesignated) be tied to a comprehensive plan. That is the intent of this new requirement under 305 program development—that all such purchases fit into an overall program for each state.

The erosion provision, introduced by Congressman Philip Ruppe of Michigan, is particularly important to the Great Lakes States where the issue has been demonstrated to be one of if not the most pressing questions facing the area.[3] Nationwide, the annual damage estimate from shoreline erosion is $300 million. What H.R. 3981 does is to damage estimate from shoreline erosion is $300 million. What H.R. 3981 does is to require states to come to grips with the problem and establish a strategy for dealing with it. And once again, H.R. 3981 would fit whatever course is chosen by a given state into the overall program it devises for its coastal resources in general.

A major addition to section 305 adopted by the Committee and introduced by the Chairman of the Oceanography Subcommittee, Mr. Murphy, contains the recommendation of the Office of Coastal Zone Management in NOAA that a "preliminary approval" phase be provided between the section 305 program development phase and the section 306 management phase which follows federal approval of a state program. The principal reason for introducing this interim phase is to allow states time to implement or fully perfect programs. For instance, a state may submit a program with proposed legislation which will be necessary to meet the requirements of the Act that sufficient authority to implement be demonstrated. The state's legislature might meet only in alternate years and the next session could be a year off. Therefore, this particularly state program cannot receive final approval and funding under the 306 portion of the Act. At the same time it may have exhausted its time under 305 (extended by H.R. 3981 to four years).

The solution is the "preliminary approval" provision in section 305 (h). This will allow the Secretary of Commerce to approve the state programs where the state has developed a fully approvable program and action is underway to bring the program into being. Funding could continue so there is no interruption in the state coastal zone management effort through September 30, 1979. This is accomplished by removing the four-year limitation on a state which has achieved the "preliminary approval" stage.

States, in effect, are given four years to come up with a program design that meets the requirements of the Coastal Zone Management Act. Most states, since they began their program development in fiscal year 1974, would then have another year or two to fully implement their programs and, hence, merit final approval and passage to the 306 management funding phase.

[3] For a more complete discussion of this problem, see Appendix II.

Because of the increased demands which this portion of H.R. 3981 presents to the states, the Committee has agreed with the suggestion that the federal percentage be increased to 80 percent. This brings the matching ratio in line with other federal planning assistance programs such as the 701 program of the Department of Housing and Urban Development. Many states testified to the increasing difficulty of coming up with the one-third matching share, given the extreme financial hardships facing many states. Since a program such as the coastal zone management effort may not appear to bring immediate results, it unfortunately is the type of activity susceptible of cuts in budget curtailments. The Committee feels that the ultimate importance of coastal zone management cannot be underestimated and wants to demonstrate its belief by providing this higher federal share.

As an aside, the increased percentage may well allow the one missing entity to participate. American Samoa has told officials at NOAA that it is not taking part now because it is unable to raise the one-third matching sum.

It is because of the new requirements under section 305 that the Committee has raised the authorization from $12 million per year to $24 million. In the original version of the bill, the sum recommended was $20 million. The Oceanography Subcommittee accepted Congressman Ruppe's suggestion that erosion planning be added to section 305 requirements. The Committee therefore increased the sum available to $24 million; while there is no "earmarking" intended of this last increase of $4 million, it does give some measure of the seriousness with which the Committee regards the erosion problem, particularly in the Great Lakes.

b. As stated above, the experience in a number of states in the coastal zone program has been that the managers were unable to locate readily qualified personnel. They found a lack of persons with the training in both planning processes and the marine field.

The Committee has remedied this situation by the Coastal Research and Technical Assistance provision (new section 310). Under it, $5 million per year is authorized for direct 80 percent grants to the states for short-term research needs and for the training needed to obtain the necessary personnel.

Another $5 million is authorized for the same basic purposes to be spent by the Office of Coastal Zone Management directly. The idea here is that there may be national or regional research or training needs which NOAA can support, while the states would have assistance in meeting their own particular needs.

In the research area, state programs have found their needs to be immediate, in view of the short time schedule they are on. For example, states need answers right away to identify areas of particular concern or to determine uses that directly affect the coastal waters (as required by section 305). In order to obtain this information through a university research program might require considerable lead time for such a project to fit into the ongoing research activities.

Therefore, the Committee concluded state program managers need an independent authority to acquire the data they need on a short-term basis to help them meet the requirements of the Act. This need will remain even with the addition of a year and the new "preliminary approval" phase in section 305.

As is pointed out in the Key Provisions section, the National Advisory Committee on Oceans and Atmosphere identified research needs as critical to the formulation of sound coastal management programs. The existing Act has no specific provision for the funding of needed research which has forced state program managers to use their grants and matching state funds as best as they have been able in this area.

The Chairman of the Coastal States Organization, Texas State Senator A. R. Schwartz, testified as follows:

> I support (section 310) and am familiar with Sea Grant, the RANN (Research Applied to National Needs) program of the National Science Foundation and the mission-oriented research programs and various federal agencies. However, none of this was developed for the purpose of providing very quick turnaround applied coastal research. Such a program is needed to complement and not compete with or attempt to replace other existing research programs.

Stated a representative of the Center for Law and Social Policy:

> The provisions of the proposed section 310 appear to be altogether constructive. Federal research, study, and training to support the development and implementation of state coastal zone management programs should enhance their quality and maximize their effectiveness. Similarly, grants to states to assist them in carrying out research, study, and training would be valuable.

The Committee has added a special feature to the research and training authorization at the suggestion of Congressmen Robert Bauman and Thomas Downing. This section, 310(c), authorizes a review of the shellfish industry. Included would be an evaluation of water quality regulations, the effectiveness of the existing shellfish sanitation program, existing sanitation standards and ways of preserving and upgrading shellfish harvesting areas.

While this report is in preparation, with a deadline of June 30, 1977, no federal regulations dealing with shellfish are permitted. The impact of this provision is to forestall the Food and Drug Administration from promulgating proposed shellfish industry regulations which it has under consideration. The Committee was persuaded that, because of the potential impact of these proposed rules, a detailed study of the shellfish industry and the impact of the new rules was in order. The public is no way threatened in the meantime because the voluntary sanitation program which has a successful record for many years in protecting public health remains in effect.

c. Another new provision which the Committee has added to the Coastal Zone Management Act provides incentive funding for interstate cooperation and advance approval by Congress for states or regions to enter into compact arrangements to deal with coastal zone issues.

The basis for this provision, contained in new section 309, is found in the experience to date with the state programs. Because the problems facing each state in developing its own comprehensive approach to its coastal zone is such a formidable task, all the resources made available through the coastal zone program have been put to use within

state borders. As was noted above, states have also found they could use additional money with which to finance necessary research or with which to train personnel.

For this reason, there has not been as much interstate or regional cooperation as the Committee or the states themselves would like to see. Despite the authorization in section 305(g) that interstate bodies, among others, be used to prepare programs, this basically has not occurred. Some instances of regional cooperation among independent state programs have occurred, it should be noted, as in the Great Lakes where workshops have been held, regional problems examined and visits by state program personnel conducted.

Because many of the most important coastal problems in areas such as New England, the mid-Atlantic and the Great Lakes are so obviously interrelated and do not respect state boundary lines, the Committee provides a specific authorization for interstate funding.

Under this provision, 90 percent grants may be made to support interstate coordination, study, planning or for actual implementation. The permission of Congress for the states to form compacts for these purposes is expressly given, with the requirement that the activities be pursuant to sections 305 and 306 of the Act.

Additionally, the Committee feels strongly that Federal agencies must be a party to effective interstate or regional cooperative efforts among state and local units of government. Therefore, in section 309(c) the Committee encourages specified federal agencies to cooperate with any interstate bodies established under this new section when requested to do so. The Committee would add that it feels it essential that the interstate programs involve the relevant Federal agencies and trusts that this cooperation will be sought early in the development of programs crossing state lines.

Because it may take time to negotiate formal interstate compacts or agreements, the Secretary is authorized to make grants to temporary coordinating bodies. A five-year limit is placed on this provision so that the "temporary" bodies do not tend to become permanent.

d. The Committee has made three major changes in the 306 or the administrative grant portion of the Act. First, the federal matching share is raised to 80 percent to bring it into conformity with the increase authorized for section 305 funding. The authorized amount of funding in this all-important phase of the program is raised from the present $30 million level to $50 million.

The latter increase is a reflection of inflation in part, but also recognition by the Committee that implementation of coastal management programs is going to be a complicated matter requiring skilled personnel in the responsible state and local offices. In addition to the technical aspects of administering a complex program, these persons will be required to deal effectively with affected local units of governments, other state agencies, federal officials, the general public and the media, for instance, to explain the purposes and functioning of the program. Therefore, the Committee felt a larger authorization is required. By this increase, the Committee further underscores the importance with which it regards the operational phase of this program.

A new provision adopted by the Committee at the suggestion of Mr. Lent of New York, appearing at the end of the section, is intended to protect the interests of local units of government. The coastal zone

program places basic responsibility with the state level of government. To preclude a state coastal zone agency from arbitrarily overturning local government land or water use decisions, the Committee has provided for a public hearing process to be made available to local governments.

The specific provision is that a state coastal zone management agency must notify an affected local unit of government (defined for this purpose as a unit with land or water use control powers) of any decision it makes. The local unit may call for a public hearing to be held on the decision, which the state is then obliged to conduct. Also, no decision is to be implemented until the hearing is held.

The intent here is to provide a balance between state and local prerogatives in the sensitive area of land and water use decisions. On the one hand the Act gives the state level of government the lead, working closely with the local governments in the coastal zone. This new provision allows local units a chance to have a public airing of any particular state decisions which impact its development pattern or other operations.

It is not the intent of the Committee that this provision is to be used capriciously in order to stymie a state coastal zone program. On seeing evidence that such is the case, the Committee will clearly want to reconsider this subsection or to build in restraints on the use of the public hearing provision.

What the Committee feels is essential is for state and local units of government to work together and to deal jointly with federal agencies involved so that the public interest is served by a united, coordinated governmental approach to the pressing problems of the coastal areas of this country.

e. The Committee has made an addition to section 307, the "federal consistency" provision, with the intent of clarifying the original intent of the Act. In view of the great concern in the states lacking experience with the offshore petroleum industry and which are now faced with same in various parts of the country, the Committee felt it desirable to clarify the coverage of this section to specifically include Outer Continental Shelf leasing.

This clarification is accomplished by the addition of the word "lease" to section 307(c)(3) making it read as follows: "After final approval by the Secretary of a state's management program, any applicant for a required Federal license, lease or permit. * * *" The section goes on to require that the applicant certify that the activity complies with the state's approved management program.

By so doing the Committee wants to assure coastal states in frontier areas that the OCS leasing process is indeed a federal action that undoubtedly has the potential for affecting a state's coastal zone and, hence, must conform with approved state coastal management programs.

f. The Committee has made two alterations to the newly designated section 315 (former 312).

First, the title and coverage of the section is enlarged to become "Estuarine Sanctuaries and Beach Access," the latter provisions being new. The new subsection (b) authorizes the Secretary to make grants up to 50 percent to acquire access to such public areas in the coastal

zone as beaches, plus areas of environmental, historic, esthetic, ecological or cultural value.

This authorization complements the new requirement the Committee has added to section 305 for a beach protection and access planning process. Because time is of the essence in acquiring access, particularly in urban coastal areas, it was felt advisable at this time to accompany the planning requirement with the funds to carry out the plans.

The Committee does not intend to authorize purchase of lands for beaches or other public uses. The concern is that there are areas already in public ownership on the short which, for one reason or another, are not readily accessible to the public.

The Committee's further concern is that in providing the means of opening up this access, we do not overburden the resource. That is why the authorization for funds is tied to the planning requirement of section 305—the intent is to see to it that this expanded means of access fits into an overall recreational plan and that due care is given to protect areas susceptible of damage from excess use. The Committee believes that incorporating the expanded access authorization with a comprehensive program that includes designation of areas of critical concern offers this assurance.

The second change involving this section is an extension of the authorization for funding for the estuarine sanctuary program at $6 million per year, the present level, through fiscal year 1980. This program, administered by the Office of Coastal Zone Management, has begun slowly—with just two designations of sanctuaries in two years—but hopefully will expand more rapidly in the coming months. In fact, NOAA reports that as of early winter, 1976, five additional applications for sanctuaries were pending and five additional proposals were anticipated. To date, just $4 million has been appropriated for this program; the first two sanctuary grants have involved in excess of $2.7 million, with an additional sum requested for the sanctuary in Oregon in the amount of $610,000.

g. The Committee has added two requirements to the annual report on the conduct of the coastal zone program now required of the Secretary of Commerce. The new coverage would include a discussion of the impacts, social, economic and environmental, as a consequence of energy activity in the coasts and a description of the Interstate and regional mechanisms developed under section 309.

The Committee takes this occasion to express its dismay at the inability of the Department of Commerce and the White House to comply with the November 1 deadline for issuing its annual report. The first two such reports were not cleared by the White House until the spring following the November deadline. The same pattern is holding true for the fiscal year 1975 report.

The Committee and Congress are not interested in ancient history. A timely discussion of the coastal zone management program, issued on November 1, 1975, on schedule, would have helped this Committee in its deliberations this fall and winter on the coastal zone program. It is our understanding that the report has been ready since September but has failed to gain the necessary clearance.

h. The final major provision of H.R. 3981 provides an authorization of $5 million instead of the current $3 million for the administration of the Act. With the added responsibility given the program

through this bill, the additional sum seems modest. It reflects the Committee's desire to keep Washington bureaucracy to the minimum necessary to assist the states and local governments to carry out this Act.

The bill also raises the stature of the administrator of the program within the structure of NOAA to become the fourth associate administrator of that agency. At present, the coastal zone program is run by an assistant administrator under the civil service schedule. The new position requires a Presidential appointment and Senate clearance, thus providing the visibility and attention which is felt this activity deserves within NOAA and the Executive Branch. The Committee has high regard for the competence of the current operation of the Office of Coastal Zone Management and would urge that this new executive level position be filled with the present manager of the program.

Section-by-Section Analysis

SHORT TITLE

This Act may be cited as the "Coastal Zone Management Act Amendments of 1975."

Section 2: Amendments to the Coastal Zone Management Act

This section amends the Coastal Zone Management Act of 1972 as amended as follows:

Amendment to "Congressional findings"

(1) Subsection (b) of the "Congressional Findings" provision (section 302) is amended to provide that the coastal zone is rich in ecological as well as the other resources listed in the subsection. The addition is also consistent with one of the purposes of the energy facility impact grants or payments provided in section 308, specifically that such grants or payments are to be used, in part, to ameliorate the unavoidable loss of ecological resources.

Amendment to definition of "coastal zone"

(2) The definition of "coastal zone" in section 304(a) is amended to add the word "islands" as an explicit component of its enumerated parts. This technical change is consistent with the original intent of the Act and simply makes explicit what is now implicit in the administration of the program.

Amendment to definition of "estuarine sanctuary"

(3) The definition of "estuarine sanctuary" (section 304(e)) is amended by adding the word "islands" to those research areas which are included within its boundaries. This is also a technical change which is consistent with the intent of the Act, but which was not made explicit in the original definition.

New definitions added to Coastal Zone Management Act

(4) Six new terms are added to the "definitions" section of the Act (section 304), five of which are directly related to the new section 308 providing for a Coastal Energy Activity Impact Program.

New subsection (j) defines "Outer Continental Shelf Energy Activity" and is used in three subsections of H.R. 3981. Section 308(a)(1) stipulates the six criteria on which the OCS payment proportions will

be based for each coastal state; the last two involve the number of persons directly employed in and the amount of onshore capital investment made necessary by "outer continental shelf energy activities." Section 308(a)(4) specifies the purposes for which the OCS payments may be used by the recipient states and, in this regard, makes reference to the provision of public services and public facilities or the amelioration of the unavoidable loss of ecological or recreational resources resulting from "Outer Continental Shelf Energy Activity." Section 319(b) stipulates that the Federal government may guarantee bonds or other evidences of indebtedness issued by state or local governments when the revenues which accrue from such issuance are to be used for public services and public facilities made necessary by "outer continental shelf energy activity."

The first part of the definition makes reference to the exploration, development or production of oil and gas resources from the Outer Continental Shelf. "Outer Continental Shelf" refers to those lands lying beyond state territorial waters owned and managed by the Federal government as defined in the Outer Continental Shelf Lands Act of 1953 [4] and reaffirmed by *United States* vs. *Maine, et al.*[5]

The term "exploration" refers to the process of searching for OCS oil and gas, including geophysical surveys and the drilling of exploratory and delineation wells. "Development" means those activities which take place following the discovery of oil and natural gas and are designed to produce such resources. "Production" refers to those activities which take place after the successful completion of a development well and are designed to transfer the resources to shore for commercial use.

Energy facilities made necessary by outer continental shelf exploration or development are also included within the definition. The types of facilities involved are specified in the next definition (k) with the qualification in (j) that they be "made necessary" by OCS activity. In other words, a refinery which may be located or operated in the coastal zone and which does not process oil or gas from the outer continental shelf would not be included within this definition. The criteria for determining whether a particular facility is "made necessary by OCS exploration or development should be specified by the Secretary of Commerce when he promulgates regulations for the administration of the amendments to the Coastal Zone Management Act. It is the intent of the Committee that the main purpose of the location, construction, expansion, or operation of the facility should be to support or facilitate OCS exploration or development. If a facility specified in subsection (k) is only partially used for OCS activity, grant payments should be made on the basis of proportional calculations to the extent such facility engages in operations made necessary by OCS activity.

New subsection (k) defines "energy facilities." This definition is applicable to four subsections of H.R. 3981. Section 305(b)(8) adds an energy facility planning process of the program development work

[4] Section 2(a) of the Outer Continental Shelf Lands Act (Chapter 345, U.S. Code, Public Law 212) defines "outer continental shelf" as all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, 83rd Congress, first session, 43 U.S.C.A. 1301) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

[5] 420 U.S. 515 (1975).

of the states. Section 306(c)(8) of the Act is amended by adding the requirement that in considering the national interest in the planning for and siting of such facilities as energy facilities, a coastal state must give consideration to any energy plan or program developed by an interstate entity which is established by section 309. Section 308(b)(1) authorizes planning grants to the states to study and plan for the socio-economic and evironmental effects of energy facilities which are located or operated in or which will significantly affect the coastal zone. Finally, Section 318 (Limitations) restricts any Federal official from interceding in state land or water use decisions including but not limited to the siting of energy facilities.

Two types of energy facilities are contained within this new definition. First are those which are or will be directly used in activities designed to extract and produce oil and gas resources. Second are facilities which are or will be used "primarily for" the manufacture or production of facilities which will be "directly involved" in oil and gas extraction and development activities. A number of such facilities are enumerated in the definition but the enumeration is not exclusive.

Through the rules and regulations promulgated to carry out these amendments, the Secretary of Commerce should establish more specific criteria on how such terms as "used primarily" and "directly used" will be implemented. It is the intent of the Committee that the energy facilities included within the definition should be those which are actually engaged in oil and gas extraction, conversion, storage, transfer, processing, or transporting. Additionally, the facilities used for the manufacture production or assembly of equipment directly involved in energy resource extraction or production must affect a "substantial" geographical area or large numbers of people. Again, the precise determination of this must be made in the Commerce Department's regulations. If a facility is only partially used for the purposes stated in the definition, proportional calcuations about the impact of such a facility should be made in the determination of a grant under section 308(b).

New subsection (l) defines "public facilities and public services." Direct reference to public facilities and public services is found in the definition of "net adverse impacts" in section 304(n), the automatic OCS payments in section 308(a)(4) (A) and (B), and in the state and local bond guarantee provision in section 319(b). By reference, the provision of these facilities and services is included within the subparagraph authorizing the allocation of OCS payments to local governments in section 308(a)(7), the impact grants based on net adverse impacts authorized in section 308(b)(2), and the allocation of such impact grants to local governments in section 308(f).

The definition means any services or facilities financed either entirely or partially by state and local governments. A number of such facilities and services are enumerated but the list is not exclusive. Other facilities and services, for example those related to environmental consequences of energy activity, are to be included if they are necessitated by population increases resulting from energy resource extraction or production activity or required to facilitate energy resource development.

New subsection (m) defines "local government" as a political subdivision of a coastal state if the subdivision has the authority to levy its own taxes or if it provides any public service which is financed in whole or in part by taxes.

New subsection (n) defines "net adverse impacts" and was contained in a substitute amendment proposed by Representatives Murphy and du Pont and accepted by the full Committee during markup. This concept had not been defined in the Senate Bill (S. 586), nor in the original version or the September 29 or October 18 Committee Prints of H.R. 3981. Because of the importance to the administration of the impact grants under section 308(b) and some confusion which surrounded it, the Committee felt it appropriate to specify this concept.

Essentially, net adverse impacts occur when the beneficial consequences of a "coastal energy activity" (defined in subsection 304(o)) are outweighed by the economical or ecological costs of such an activity. This cost-benefit calculation is to be made only on activities which occur in or significantly affect a state's coastal zone, only on consequences which are directly related and in the same general location and according to the administrative criteria specified in section 308(c).

In terms of the comparability of the consequences, it is important to note that the phrase in the definition "when weighed against the benefits of a coastal energy activity which directly offset such costly consequences" is intended by the Committee to preclude the consideration of some distant benefit in the state as an offsetting variable against a localized cost.

Two examples of net adverse impact calculations are included in the definition. First, additional or expanded public services or public facilities which are required because of coastal energy activity- induced rapid and significant population changes or economic development would be the "costs" in the net adverse impact calculation. The generation of taxes through the state and local government's usual and reasonable revenue raising structure—taxes which will accrue from the population changes or economic development [6]—would be the "benefits." The availability of other Federal funds which could be used to offset the costs, including the OCS payments authorized in subsection 308(a), would also be considered benefits. The extent to which the "costs" exceeded the "benefits" would constitute a net adverse impact.

Second, another cost would be the unavoidable loss of unique or unusually valuable ecological or recreational resources as a result of coastal energy activity. This is intended to include not only existing resources of this nature but also those ecological or recreational areas of potentially unique value which could be endangered by the location and operation of energy facilities. In fact, it is hoped that existing ecological or recreational areas will, to the maximum extent possible,

[6] The Committee added the phrase "economic development" during markup to reflect its belief that no one economic indicator, such as population change, adequately measures the subtlety of impact. The Committee was concerned that the use of population as the sole criterion would overlook the considerable amount of governmental services rendered to industry itself; the fact that such services to industry and individuals might not take place in the state of the individual's residence; the relative governmental expense of serving capital intensive energy activities with roads and canals and port facilities; and the evidence from the Gulf of Mexico that the demand for governmental services is not diminished merely because population is not changing. Additionally, since the Committee did not intend that the Secretary engage in criticism of the tax structure adopted by any State, it has prefaced the terms "usual and reasonable means of generating state and local revenues" with the word "its".

be protected from the adverse effects of coastal energy activity and that comparable replacement areas will be provided for areas unavoidably damaged.

The "benefits" would be the same as those explicated above. It should be noted that additional state and local revenues which accrue from taxes because of coastal energy activity may not be sufficient to provide the funds necessary for restoration or replacement of ecological or recreational resources. In the absence of other federal funds, including the OCS payments, to cover these "costs" a net adverse impact would result. If only part of the restoration or replacement costs are covered by other federal programs or the OCS payments, the residual "costs" would also be considered net adverse impacts.

Finally, it should be noted that subsection (n) is the definition of a concept which has been included in H.R. 3981 to assist the Secretary of Commerce in drafting regulations pursuant to this bill. For purposes of administering the impact grants authorized in section 308 (b), however, the definition of net adverse impacts should be read only in conjunction with the administrative criteria specified in section 308(c).

The final new definition, subsection (o), defines "coastal energy activity". Coastal Energy Activity is distinct from "Outer Continental Shelf Energy Activity" (defined in subsection 304(j)) in that it is broader and contains most OCS-related activity within it. Subsection (o) is applicable to the impact grants authorized under subsection 308(b) and to other appropriate subsections providing the details for the administration of those grants.

"Coastal Energy Activity" means those activities and associated facilities that are necessarily located in or are likely to affect significantly the coastal zone of a state. They are limited to three particular types of energy activities and certain specified supporting equipment and facilities which are included. If a particular facility is not enumerated in the list, it is not to be included within the defintion unless the coastal state affected determines that the facility has to be located and operated in its coastal zone because of technical requirements which would make such a siting unavoidable.

The second type of energy facility included relates to the transportation of liquefied natural gas (LNG), coal, or oil (whether from the OCS or not). Specifically, vessel loading docks, terminals, and storage facilities required to transport these energy sources are contained within the definition as well as conversion facilities necessarily associated with LNG processing. Finally, deepwater ports and those facilities directly associated with such ports are included. The ports are defined in the Deepwater Ports Act of 1974 (P.L. 93-627); consequently, they include only those located beyond state waters. Associated facilities including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances located seaward of the high water mark are also included within the definition and would be located in a state's coastal zone.

It has been noted above [7] that the concept of "coastal energy activity" is based on the premise that the activity involved is in the national interest and that the state is facilitating that interest by permitting

[7] See Summary of Key Provisions, page 17.

certain activities and facilities to occur in its coastal zone, such activities being "coastal-dependent". In other words, the activities and associated facilities enumerated in the definition were considered by the Committee to be those which, by their very nature or technical requirements, mandate their location and operation in the coastal zone.

The development of this concept in conjunction with the definition of "net adverse impacts" represents the Committee's desire to achieve four difficult but essential goals in the impact program (as distinct from the OCS payments section): First, the provision of assistance to coastal states for their role in furthering the national interest in energy-related policy development; second, the provision of a level of such federal assistance which is commensurate only with those situations in which "costs" exceed "benefits"; third, the preservation of the comprehensive nature of the Coastal Zone Management program and the maintenance of the important planning groundwork already accomplished by the states in their program development work; and fourth, the avoidance of federal financial inducements to locate and operate unnecessary energy facilities in the fragile coastal zone.

The bill which passed out of the Oceanography Subcommittee on October 8, 1975, contained an impact fund which was OCS-specific. Although the authorization level was considerably different, the impact fund in the 2nd Committee print was essentially the same as section 308(a) in the bill which was approved by the full Merchant Marine and Fisheries Committee.

After intensive study and deliberation, however, the Committee concluded that to limit the types of energy activities for which federal assistance would be provided to only those related to OCS exploration and development would hinder the achievement of its four goals. An OCS-specific program based on a formula method of distribution, while possessing certain administrative advantages, would not provide federal assistance for all possible coastal related energy activities sanctioned by the federal government in the national interest and thus would deny aid to coastal states for their full contribution to energy-related policy development.

Such a restricted program, standing alone, would not address itself to non-OCS coastal-dependent energy activities which would be in the national interest and which would inevitably place severe pressures and perhaps incalculable costs on coastal states.

Additionally, the allocation of federal funds based on six levels of OCS activity, is simply not as precise a mechanism for providing only "necessary" assistance.

Thirdly, it was felt that to focus on only one type of energy activity would help to fragment what was intended to be a comprehensive management program for the states.

The fourth goal presented a more serious dilemma for the Committee. To reduce the encouragement of unnecessary energy facility siting in the coastal zone was clearly an advantage of the OCS payments approach. Structuring a program to provide assistance for all types of energy activities and facilities located in the zone raised difficult questions about its potential for inducing inefficient siting decisions.[8] To resolve this issue, the Committee developed the concept of "coastal energy activity."

[8] For a fuller discussion of "optimal" energy facility siting decisions, see "Energy Facility Siting in Coastal Areas," pp. 125–126.

Based on the premise of coastal-dependency, this definition excludes oil refineries, petrochemical plants, and electric generating plants since they do not have to be in the coastal zone and might better be located elsewhere in most cases. It also provides a detailed list of the Outer Continental Shelf-support activities which would be covered, to avoid possible absurd links in the supply chain that might result in impact aid being provided for a plant making items which are used for OCS development even though most of the company's business involves manufacturing these items for other purposes.

With this approach, then, the Committee feels that it has achieved the four goals for the impact fund section. Impact grants based on the concept of net adverse impacts and coastal energy activity in combination with the OCS formula method provides, in the judgment of the Committee, the most reasonable and efficient structure for a Coastal Energy Activity Impact program.

Three new planning processes for section 305

(5) This section adds three requirements to the program development authorization under section 305. To the six existing requirements in subsection (b) for state management programs, the following elements are added:

In subsection 305(b)(7), a definition of how each state defines "beach" is called for recognizing that different methods of measuring the beginning point of beaches varies in different sections of the country, and a planning process is required for the protection of such beaches and provision for public access thereto, as well as planning for access to and protection of other public attractions in the coasts such as areas of environmental, recreational, historic, esthetic, ecological or cultural value.

The Committee wants, by this requirement, for state coastal zone management programs to identify their publicly held coastal areas and to devise policies which will either provide for their protection, where that is appropriate as with ecologically significant wildlife areas, or for their ready access, as is appropriate with a public beach. Whereas the present management programs must include an inventory and designation of "areas of particular concern," this new requirement focuses particular attention on publicly held properties and directs that plans for their best management be included in the state program.

In subsection 305(b)(8), the Committee has added the requirement that an energy facility planning process be included in state management programs. This reflects the Committee's finding that increasing involvement of coastal areas in providing energy for the nation is likely, as can be seen in the need to expand Outer Continental Shelf petroleum development. State coastal zone programs should, therefore, specifically address how major energy facilities are to be located in the coastal zone if such siting is necessary. Second, the program shall include methods of handling the anticipated impacts of such facilities. The Committee in no way wishes to accelerate the location of energy facilities in the coasts; on the contrary, it feels a disproportionate share are there now. For those facilities which necessarily will be in the coasts, however, a specific planning process for siting such facilities and dealing with their socio-economic and environmental impacts is desired. There is no intent here whatever to involve

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the Secretary of Commerce in specific siting decisions. This process differs from the more site-specific planning for which assistance is authorized in section 308(b)(1). In fact, the latter activity should be carried out under the general guidelines developed in the section 305(b)(8) program development activity.

The third new program element is a planning process dealing with shoreline erosion. As assessment of the effects of erosion, whether natural or caused by human intervention, methods of controlling erosion, lessening its impact and, where possible, restoring eroded areas shall be evaluated. The Committee has found that shoreline and coastal erosion is one of the major problems facing many states and wants to insure the proper emphasis is placed on this area in development of state management programs.

In all three instances, the Committee is not bringing brand new considerations into state and local coastal zone program development. All of the elements involved in the new subsections 305(b)(7), (8), and (9) were implicit in the coverage of presently ongoing coastal planning efforts.

Rather, the new requirements represent a decision by the Committee to give specific emphasis and support for these areas in question. It is clear from the history of the original Coastal Zone Management Act that energy facilities were very much on the minds of the framers of the Act, for instance. With the development of the energy crisis, this focus has increased and the Committee's action with respect to subsection 305(b)(8) reflects this. Much the same can be said for the other two new requirements under the Management Program Development Grants authorization.

While these additional planning requirements do not involve totally new considerations for the states, they do require additional work to qualify for matching funding under this section of the Act. Therefore, subsequently in the bill the Committee recommends an increased authorization level for section 305.

Increase Federal share and number of annual grants under section 305

(6) Section 305(c) would increase the maximum federal share of development grants from the present 66⅔ percent to 80 percent. In addition, a coastal state would be eligible to receive four developmental grants rather than the three presently authorized in the Act. The increased federal support was considered necessary to provide the coastal states with adequate financial assistance to develop coastal zone management programs expediently. It was recognized that the accelerated outer continental shelf leasing program will place additional burdens upon the states which could be more adequately dealt with through the use of responsible and comprehensive coastal zone programs. It is in the national interest to avoid any further delays in the offshore leasing and development program and, at the same time, develop a plan which would effectively protect the affected coastal states. The Coastal Zone Management Act is designed to accomplish this objective in a rational manner, and increased financial participation by the federal government will serve to reiterate the basic intent as expressed in the Congressional Findings section.

The amendment would permit the states to receive four rather than three planning grants, recognizing that the development of comprehensive state program is a difficult process requiring a reasonable amount of time. Since the Administration delayed initial funding of the Coastal Zone Management Act of 1972 by one year, an additional year of development time is considered essential.

This amendment would also delete the second sentence of section 305(c) which pertains to the use of other Federal funds received by a state as part of a state's matching share. It should be noted that while this particular language is deleted from this section, an additional amendment (section 320(c)) would have the effect of applying this provision to the entire title. Therefore, section 305(c) was amended to avoid redundancy.

Schedule for completion of new section 305 requirements

(7) The Committee has recognized that the addition of three new requirements under section 305 funding comes when many states are well along in development of their coastal management programs and are already to submit them for approval and funding under section 306. In this section, it is provided that states in such situations, through September 30, 1978, may receive final approval of their programs even if development of the policies called for in subsection 305(b)(7), (8), and (9) are not complete.

Likewise, in subsection 305(d)(B), the Committee provides that funding for program development in these three specific new areas may continue, through September 30, 1978, even though a state may be receiving funds under section 306 to administer the other portions of a state program. The Committee feels that the time given between final enactment of this bill and September 30, 1978, should be sufficient to prepare the materials called for in the three new planning requirements and to submit them for final approval and inclusion in a management program administered under section 306.

To make clear its intent that the three new requirements mandated under the additions to section 305 are included in the administrative grants section of the Act, in section 13 the Committee added as new requirements for approval under section 306, subsection (i) that to be eligible for funding after fiscal year 1978 a state must include as an integral part of its program the plan for protecting and providing access to public attractions in the coasts, the plan for energy facility siting and for dealing with the impacts therefrom and the plan for shoreline erosion impacts.

In addition to requiring the three new elements in coastal management programs, the Committee has effectively set a deadline of September 30, 1978, for their completion and has provided the funding authorization to make this possible.

"Preliminary approval" amendment to section 305

(8) This section contains a major addition to the structure of the coastal zone management program. The language was adopted by the Committee after close consultation with the Office of Coastal Zone Management and directly reflects the experience of that office and the states in carrying out the intent of the Act passed in 1972.

That Act provided a two-step process. First, under section 305 funding, states were to develop their comprehensive coastal zone management programs for final approval by the Secretary of Com-

merce and upon receiving same, be eligible for funding under section 306, the "Administrative Grants" section.

Essentially, then, in the present Act there is a three-year development phase and then, immediately, an administrative phase.

Experience in the states indicates that it is unrealistic to think that many of the states can complete the required actions called for in their program within the three-year deadline. The Committee finds that the states can design a comprehensive program in three, or perhaps four, years—that is, they can describe in detail what their completed program will contain. It is not likely, however, that the states can accomplish, that is, fully implement the program that it has designed and developed, in just three years or even four.

Specific examples of what the Committee has found are as follows: states may be able to describe the legislative authority they need in order to meet the requirements under section 306 to have an appropriate program, and to draft a bill carrying this out, but not be able to enact same within the period specified. This could be because the legislature meets only every two years or that the process is simply too complicated to accomplish in a matter of months.

Another example is where a state program will call on local units of government to prepare their own coastal programs in accordance with the state guidelines. However, one or even two years may be required for these units to carry out their work. Still another example would be in a state where reorganization within the executive branch will be required before a program can gain approval and funding under section 306. Because of the controversial nature of such reorganizations, it is likely to require a considerable length of time to fully implement.

The solution proposed by the Committee is an interim phase between section 305 (program development) and section 306 (program administration) which is the implementation phase. New subsection 305(h) authorizes the Secretary to grant "preliminary approval" to state management programs which, in their design and description, are satisfactory; in other words, a state will be found to have complied with the existing requirement of section 305. By specific provision, this new subsection removes the new four-year limit on grants which states may receive under section 305 *if*, and only if, they meet the requirements stated in this subsection for "preliminary approval."

The Committee is persuaded that granting states "preliminary approval," which means that the program they have put together on paper is satisfactory once put into place, will provide far more encouragement to the states than a mere one-year extension of section 305 funding.

Furthermore, it will permit as many as two additional years of funding under section 305 after a program is developed. This is accomplished by allowing such funding through fiscal year 1979.

The Committee feels strongly about the 1979 deadline. In removing the four-year limitation for states which meet the "preliminary approval" criteria, the Committee has no intention of allowing states to come to the Office of Coastal Zone Management year after year for more funds with which to implement their program design. Therefore, it should be understood that the fiscal year 1979 deadline is final.

The reason for stating this emphatically is because the Committee

intends under this subsection to allow states to put into effect some completed portions of a program while the other portions are being brought into final form.

For example, if a state program requires additional work in one or another aspect of its program, the overall nature of which is found satisfactory, but some portions are ready for the administration stage, the "preliminary approval" phase will permit those completed portions to be acted on. This might include carrying out state's proposed method of issuing permits for any developments proposed in areas of particular concern during the "preliminary approval" phase where necessary legal authority and administrative apparatus exist to carry out this aspect of the overall program.

The Committee feels the value of this approach is, in the example given above, that controls over particularly valuable coastal areas are effective sooner than they would be otherwise if they could not be implemented until the entire package is brought into final, approvable form.

Because of this feature, the deadline for completing the entire program becomes critical. Without a firm deadline, states might be tempted to design a valid comprehensive coastal management program but implement only several portions thereof while continuing indefinitely to work on implementing other portions.

The Committee holds that the comprehensive nature of this program must not be diluted and that the new interim or "preliminary approval" phase will not be allowed to do so. That is why, in the Committee's view, the permission for states to begin administering portions of their programs during the interim phase does not constitute so-called "functional segmentation." Under this concept, parts of a program would be put into place before the remaining portions of the program were designed. Under the "preliminary approval" phase approved by the Committee, a state must have satisfactorily developed an entire state program. Section 305(h) requires, for instance, that the states have complied with all of the rules and regulations issued under the section and that the specific deficiencies making it ineligible for administrative funding under section 306 are specified.

The specific authorization for states receiving "preliminary approval" to put into effect portions of their program is contained in subsection 305(h)(2)(d). No new authorization of appropriation is required by this change.

Subsection 305(h) specifies the requirements necessary for receiving preliminary approval status. States failing to meet them will become ineligible for funding under the coastal zone management program after they have received four development grants or fiscal year 1978, whichever comes first. Also, the Committee notes that the three new requirements under section 305 must be completed by the end of fiscal year 1978 in order for a state to be completed by the end of fiscal year 1978 in order for a state to be eligible for continued funding under the "preliminary approval" phase.

This major addition to the program should advance the day when states have in operation completed, comprehensive state management programs which will protect and enhance as well as provide for the sound development of the nation's coastal resources.

Extension of section 305 authorization

(9) This section provides for an extension of the section 305 Management Program Development Grants authorization through September 30, 1979. Under the existing Act, the authorization expires on June 30, 1977.

This extension is recommended to make the companion addition to section 305, that contained in subsection (h) providing for the "preliminary approval" phase, meaningful. Otherwise the provision of a new, interim phase in the program would not occur for most states if section 305 funding expired in 1977.

Also, the Committee has provided in subsection 305(c) for an additional year for program development, allowing states to receive four annual grants if necessary.

Both the extension to fiscal year 1979 and the addition of a fourth year under 305 program development funding are recognition by the Committee that the task assigned to states by the Act is a complicated one and that the original three-year estimate of the time needed was probably optimistic for many states. Those states which, by the time of enactment in 1972, were already developing their own coastal zone programs are not hard-pressed to meet a 1977 deadline, but the majority of states are not so suited. Also, as is mentioned elsewhere, the difficulty of finding qualified personnel has served to slow the beginning of program development in some states and initial funding was delayed for a year.

Increase Federal share of section 306 grants

(10) Section 306(a) would be amended to increase the maximum Federal share of management implementation grants from the present 66⅔ percent to 80 percent. Due to the additional requirements placed upon the coastal states by emerging national energy policies and by the amendments to section 305 contained in this bill, it was recognized that the states will have a need for increased funding to properly implement a more complicated coastal zone program. Since the original Act was established in 1972, inflationary trends in the economy have created fiscal burdens on state as well as federal government. Since the Committee recognizes that it is in the national interest to develop and implement effective coastal zone management plans within the respective coastal states, and since it is also recognized that many of the additional burdens placed upon the coastal states are due, in great part, to federally initiated energy policy, it seems appropriate for the federal government to contribute a larger share of funds to the coastal states.

This amendment would also delete the last sentence of section 306 (a) which pertains to the use of other federal funds received by a state as part of a state's matching share. It should be noted that while this particular language is deleted from this section, an additional amendment (section 320(c)) would have the effect of applying this same provision to the entire title. Therefore, section 306(a) was amended to avoid redundancy.

Local government review of State coastal zone decisions

(11) This subsection amends section 306(c)(2)(B) to require a coastal state to establish an effective coordination and consultative mechanism between a designated state coastal zone agency and local governments within such state. The Coastal Zone Management Act of 1972 directed the Secretary of Commerce to find that a state had developed its management program with an opportunity for full participation by local governments prior to granting final approval of such management program. The intent of the original Act is clearly expressed in section 306(c)(1); 306(c)(2); and in section 303.

This amendment to section 306(c)(2)(B) would make that intent more specific by providing a mechanism by which certain local governments are allowed the option of contesting state decisions which affect them. No state could receive federal approval of its proposed coastal zone management program unless such program contained specific provisions.

The designated state coastal zone management agency would be required to inform any local government of any decision to be made by the state agency prior to the implementation of such a decision. The types of decisions referred to in this subsection would be those decisions made by a state agency to carry out the state's management program. When such decision would have direct application to a particular area within the coastal zone, then the state agency must notify the local governments which have land use or water use control powers within the area to which such decision may apply. This provision is intended to assure that local government will be kept fully informed of plans and ongoing policies of their respective state coastal zone agencies when such policies would have a direct effect upon such local governments. For the purpose of this subsection, the definition of local government in section 304(1) is further restricted in section 306(c)(2)(B)(i).

Section 306(c)(2)(B)(i) would require that the local government be permitted to request that the state agency hold a public hearing regarding such decision. The local government receiving such notice of decision would have to request the public hearing within thirty days after the date on which notice is received. If the local government requests a public hearing, the state management agency could not conduct the hearing sooner than ninety days after the date on which the notice of decision was received by the local government. This provision was intended to give the local government sufficient time to prepare for such hearing.

Section 306(c)(2)(B)(iv) would not permit the state agency to implement the decision referred to in 306(c)(2)(B)(i) until after the public hearing on such decision had been concluded. If a local government is properly notified of a pending decision, and does not request a public hearing within thirty days after receipt of such notification, the state agency would be permitted to implement the decision without further delay. Any funds allocated by a state to a local government under the provisions of section 306(f) could be used by such local government to defray expenses incurred in preparing for the public hearing referred to in this subsection.

Consideration of interstate energy plans

(12) This section recognizes that the interstate cooperation program authorized among state programs in section 309 may well produce interstate approaches to energy planning.

Therefore, to subsection 306(c)(8) which now directs a state to give consideration to the national interest in dealing with the siting of

facilities of more than local interest, such as energy plans, the Committee has added the requirement that any interstate plan or program which may be developed under the interstate and regional cooperation provision be considered also.

Provision of mediation process after program approval

(14) This amendment would add a new subparagraph (4) to section 307(c). Section 307 is the Interagency Coordination and Cooperation provision of the original Act, and it basically sets forth a method by which Federal actions which occur within a coastal zone of a coastal state must be consistent with a state's adopted coastal zone management program. This consistency provision in the original Act would apply to any Federally conducted or supported activity affecting the coastal zone, any Federal development project in the coastal zone, and any Federal licensing or permitting activity affecting land or water uses within the coastal zone.

Section 307(b) of the Coastal Zone Management Act provides a mediation process for any serious disagreements arising between Federal agencies and states in the coastal zone management program approval process, but the original Act is silent with respect to disagreements arising after a state management program is approved and in operation.

The new paragraph (4) added to section 307(c) would provide for an additional mediation process to deal with Federal-state disagreements arising during the implementation of an approved state program. In case there is serious disagreement between any Federal agency and the state in the implementation of an approved program, the Secretary of Commerce, in cooperation with the Executive Office of the President, shall seek to resolve such differences.

Adding "Leases" to Federal consistency requirement

(15) This section amends the so-called federal consistency portion of the Act to make explicit the Committee's original intent to include leases as actions which come under the purview of this section.

Specifically what the section does is to add the word "lease" to "licenses and permits" in section 307(c)(3). This clarifies the scope of the coverage of those federal actions which must be certified as complying with a state's approved coastal zone management program. The Committee felt, because of the intense interest in this matter on the part of a number of states, it would make explicit its view that federal leasing is an activity already covered by section 307 of the Act.

To argue otherwise would be to maintain that a federal permit for a wastewater discharge. for example, must be certified by the applicant to be in compliance with a state program, the state being given an opportunity to approve or disapprove of the proposal, while a federal lease for an Outer Continental Shelf tract does not have to so certify. Given the obvious impacts on coastal lands and waters which will result from the federal action to permit exploration and development of offshore petroleum resources, it is difficult to imagine that the original intent of the Act was not to include such a major federal coastal action within the coverage of "federal consistency."

However, because of the absence of the specific mention of the word "lease" in the language of section 307, doubts have arisen in the minds

of some as to the Committee's intent. It is to put these doubts at rest that this section has been included in H.R. 3981.

This provision of the orginial Act is one of the principal incentives for the states and local governments to take part in the Coastal Zone Management Program. One major encouragement has been the belief that in the future, the impacts which flow from federal Outer Continental Shelf leasing will have to conform to state and local prescriptions about the best location for energy support and industrial facilities.

The Committee believes it would break faith with the states not to state plainly its clear intent to include major federal actions as Outer Continental Shelf leasing under the "federal consistency" section.

Redesignation of existing sections

(16) This provision redesignates existing sections of the Act in order to accommodate the addition of three new sections contained in H.R. 3981, new sections 308 through 310.

Coastal energy activity impact program

(17) Section 308 establishes the Coastal Energy Activity Impact Program. The broad guidelines of this program and some of the background of the Committee's deliberations on this subject have been discussed in the summary section and in the treatment of the applicable definitions in this section.

This section contains two of the three provisions designed to provide federal assistance to coastal states for their role in the Nation's development of its increasingly important energy policy. The third section is the provision for the federal guarantee of state and local bonds issued for OCS-related projects and programs. This part, section 319, will be discussed later.

Subsection (a) of section 308 is a seven paragraph provision which establishes the bill's OCS program. In a somewhat different form, this subsection represents what the Oceanography Subcommittee approved as the bill's entire "Coastal States Impact Fund." This particular approach emerged from those Members who were concerned about the advisability and also the ability of the Secretary of Commerce to quantify "net adverse impacts" and from those who felt that a broader program could lead to the "inducement" of unnecessary energy facilities in the coastal zone. Full Committee action resulted in a combination of this OCS allocation formula approach with the impact grants provided in subsection (b) of this section.

Paragraph (1) of subsection (a) mandates the Secretary of Commerce to make annual payments to each coastal state which experiences at least one of six specified levels of OCS activity. These levels of OCS activity are, in effect, the ingredients of a six-part proportional formula based on each state's level of OCS activity compared to such activity nationwide in any given fiscal year. The average of these six ratios would determine the proportion of the total amount appropriated by Congress allocated to an individual coastal state in any one year. The six criteria are as follows:

(A) The proportion of outer continental shelf acreage leased adjacent to each state versus the total OCS acreage leased in each year.

(B) The proportion of the number of exploration and development wells drilled adjacent to each state versus the total of such wells drilled on the outer continental shelf in each year.

(C) The proportion of the volume of oil and gas produced adjacent to each state versus the total volume of oil and gas produced on the outer continental shelf in each year.

(D) The proportion of the volume of oil and gas produced and first landed in each state versus the total OCS oil and gas produced and first landed in the United States in each year.

(E) The proportion of the number of persons residing in each state who are employed directly in outer continental shelf activities versus the total of such persons employed in each year.

(F) The proportion of onshore capital investment made in each state and which is required to directly support OCS energy activities versus the total of such capital investment made in all coastal states in each year.

Strictly speaking, these criteria are not intended to be descriptions of "impacts" but rather levels of OCS activity adjacent to or occurring within the coastal states. They are based on the assumption that these levels of activity will correspond to impacts which result from outer continental shelf exploration and development activity.

It should be noted that the specific activity in each criteria is that which occurs in a given fiscal year. For example, criterion (A) means the acreage leased in the fiscal year for which the calculations are made and does not include acreage already under lease, (B) refers to exploration and development wells being drilled in the year under consideration—as well as new wells which are begun in that year. A well which is being drilled and which is shut down during the year should be counted during that year provided that the Secretary determines that such wells were shut down for normal reasons of production or maintenance and not to enhance the adjacent state's future proportion of this particular category. Criterion (C) means the volume of oil and gas produced adjacent to each coastal state in the fiscal year under consideration—past production levels are not to enter into the calculations. The same general premise applies to the volume of OCS oil or gas landed in each state in a particular year provided in criterion (D). Criterion (E) is a proportion of those residing in each coastal state who are directly employed in OCS activities. The number of such employees should be calculated for each fiscal year and should reflect those who are directly employed by the lessee or those persons who are either contractors or subcontractors of lessees. The final criterion, (F), refers to the amount of capital investment made in each fiscal year. Again, past investment required to support OCS activity should not be counted. The Committee is aware that this criterion will be the most difficult to calculate. The Secretary of Commerce should develop regulations which are designed to standardize these data as much as possible. Precise methods of determining OCS capital investment as well as definitive ways of acquiring accurate data must be established by the Secretary.

In promulgating the regulations for the administration of this OCS payment program, the Secretary is advised that it is the intent of the Committee that the listed criteria are to be measurements of activity levels resulting from outer continental shelf energy activity.

Additionally, the Committee has structured these criteria to represent levels of activity which would not have occurred were it not for the OCS exploration and development work.

Section 308(a)(2) defines the term adjacency for use by the Secretary in calculating the proportions set forth in section 308(a)(1)(A), (B), and (C). The Committee wished to avoid creating disputes as to which state was adjacent to oil and gas production, for purposes of section 308(a). It is intended by the Committee that the method by which adjacency is determined in this particular section be used solely for the purpose of calculating the proportions in paragraph (1) and not be construed to have application to any other law or treaty of the United States, either retrospectively or prospectively.

The definition which was adopted by the Committee recognizes the seaward lateral boundaries which have been previously determined to apply between coastal states within the territorial limits of such states. If any such boundary has been clearly defined by interstate compact, agreement, or by judicial decree, the Secretary of Commerce shall accept such boundaries as the effective lines of delimitation between such states for purposes of this section. The Secretary would then extend those boundaries seaward from the limit of the territorial sea to the limit of the outer continental shelf using the same principles of delimitation originally used to establish them. Any such boundaries would have had to have been entered into, agreed to, or issued before the effective date of this paragraph in order to be used by the Secretary as an effective boundary. If no seaward lateral boundaries have been established previously between coastal states (to the limit of their respective territorial sea), the Secretary shall extend seaward lateral boundaries between states by applying the principles of the Convention on the Territorial Sea and Contiguous Zone (15 UST 1606) which was entered into force on September 10, 1964. In this case, the Secretary would extend boundaries between the coastal states from the baselines of such states seaward to the limit of the outer continental shelf.

The Secretary is designated as the responsible official for determining the boundary extensions to be used for purposes of this subsection, and it is expected that he will consult with the necessary state and Federal officials for assistance in this determination.

Paragraph (3) of section 308(a) designates the Secretary of Commerce as the responsible official for purposes of compiling, evaluating, and calculating all relevant data pertaining to the six criteria and the determination of the amount of annual payments for each coastal state. In promulgating regulations to administer this section, it is expected that the Secretary will consult with relevant federal, state, or local agencies or governmental units to determine the most responsible method by which data collection and evaluation shall be made. It is also anticipated that the Secretary will allow input from interested persons, and representatives from industry, environmental and other organizations in this determination. In the opinion of the Committee, it is necessary for the Secretary to have absolute authority in the final evaluation and final computation of the data.

Payments to be made in any particular fiscal year are to be based on data from the immediately preceding fiscal year. Data from the

transitional quarter (July 1, 1976–September 30, 1976) are to be considered fiscal year 1976 data.

Section 308(a)(4) specifies and prioritizes the uses of OCS payment funds. First, the recipient coastal state must retire any bonds which were issued and guaranteed under section 319 of the bill. If the payment in a particular year is insufficient to retire both state and local bonds, priority is to be given to local bonds.

Bonds which are issued through normal revenue raising structure of state or local governments and not guaranteed pursuant to section 319 do not fall within this requirement.

If no state or local bonds were issued pursuant to section 319, or if some OCS funds remained after retiring such bonds, the state may then use the monies to plan and carry out projects or programs designed to provide public services or facilities made necessary by OCS energy activity.[9]

The third and final purpose for which the state could use the funds is to reduce or ameliorate any loss of ecological or recreational resources which resulted from OCS activity.

Paragraph (5) provides that any monies allocated to a coastal state under this subsection not spent or committed for the purposes authorized under paragraph (4) are to be returned to the Treasury of the United States. The Secretary is responsible for determining this each year by utilizing the auditing provisions of section 313 (as redesignated) of the Coastal Zone Management Act.

Section 308(a)(6) establishes the authorization levels for the next five years. The OCS payments are authorized at $50 million for fiscal years 1977 and 1978 and escalate to $125 million in fiscal year 1981. This accelerating level of authorization was adopted by the Committee to indicate that the OCS payments are to benefit all affected coastal states. As new "frontier" areas such as Alaska and the Atlantic coast states begin to enter into the exploration and development phases of OCS activity, the monies should increase to permit a more equitable distribution of funds to those states which may have a previously limited or non-existent onshore infrastructure for dealing with OCS oil and gas.

Paragraph (7) states that, to the maximum extent practicable, recipient coastal states should allocate all or a portion of the OCS payment funds to their local governments. The state should calculate how much of each of its affected local governments will experience the various levels of OCS activity and make their allocation based on a reasonable estimate of each unit's proportional share of these activities. With the approval of the Secretary, the coastal state may transfer all or some of the payments to areawide, regional, or interstate agencies. The state maintains the responsibility to see that their local governments utilize the money in accordance with the purposes specified in paragraph (4).

Energy facility planning and net adverse impact grants

Subsections (b) through (f) of section 308 authorize energy facility planning grants and impact grants and subsection (g) specifies the conditions under which coastal states are eligible for either OCS payments or impact grants.

[9] See Appendix III, "Location of Onshore Impacts of Outer Continental Shelf Oil and Gas Development."

Subsection (b)(1) authorizes the Secretary to make grants to coastal states for up to 80 percent of the cost of studying and planning for the social, economic and environmental consequences of energy facilities located in or which significantly affect the coastal zone. It is the intent of the Committee that these planning grants should supplement the states' section 305 efforts including those devoted to the development of an energy facility process which is required under a new provision in H.R. 3981. The Committee is aware that there is an important distinction between the development of an energy facility "planning process", as required under new section 305(b)(8), the application of that process for evaluation of specific energy facility proposals, and the formulation of a long-term energy facility siting plan. It is the latter two for which section 308(b)(1) funds are intended although such evaluation and long-term plans will result from the "process" provided for earlier. Also, these planning efforts are to be addressed to all the facilities specified in the definition of "energy facilities" under section 304(k) and are not to be restricted to those facilities enumerated in the definition of Outer Continental Shelf energy activity (section 304(j)) or Coastal Energy Activity (section 304(o)).

Paragraph (2) of section 308(b) authorizes the Secretary to make 80 percent grants to a coastal state whose coastal zone has suffered, or will suffer, net adverse impacts resulting from coastal energy activity. Reference should be made to the discussions of these key definitions (304(n) and (o)) above. The grants are to be used to reduce or ameliorate such net adverse impacts.

The phrase "has suffered" implies that coastal states which have experienced net adverse impacts in their coastal zones as a result of coastal energy activity prior to the date of enactment of this section are entitled to receive section 308(b) grants for those past impacts. Although this was the intent of the Committee, it was also felt that the Secretary should, in the regulations governing this subsection, establish an equitable retroactive time limit for such grants. It is recommended, that a reasonable timeframe would be in the range of three-five years and would correspond to an applicable provision in the Senate bill, S. 586. The difficulty in obtaining accurate data beyond such a period would appear to make these net adverse impact calculations suspect.

Section 308(c) includes a specification of some of the factors which are to be included in the Department of Commerce's regulations.

Paragraphs (3) (A) and (D) of subsection (c) are factors essentially corresponding to two dimensions of the net adverse impact definition. Subparagraph (A) requires the Secretary to consider the offsetting benefits to a state's coastal zone from a coastal energy activity. "Offsetting benefits", it should be recalled, mean benefits directly offsetting costs.

Subparagraph (D) requires, in the calculation of net adverse impacts, the consideration of other federal funds which are available for the reduction or amelioration of net adverse impacts. Thus any funds available to coastal states or their local governments under other federal assistance statutes, as well as monies received under the OCS payments provision in section 308(a), are to be considered in determining the amount of an impact grant. Clearly, a state cannot

receive monies both under the impact fund and other federal statutes for the same projects unless the funds from the other federal program or programs are insufficient to accomplish the purposes set forth in section 308(b)(2). In this event, a net adverse impact could remain, in part, and thus the Secretary could provide a grant pursuant to this subsection. However, it should be noted that funds from other federal programs may not be used as the state's matching share for these 80 percent impact grants (see section 320(c)), as redesignated, of H.R. 3981). Consequently, the inadequacy of other federal programs to accomplish the purposes of this subsection does not include the portion attributable to the coastal state's 20 percent matching share.

The implementation of this particular subparagraph will require very precise rule-making on the part of the Secretary. A key word in (D) is "availability." This word was used by the Committee to indicate that the coastal state which may be making an application for a net adverse impact grant should have pursued, or at least be pursuing, other federal programs such as highway funds, Environmental Protection Agency sewage treatment grants, school construction funds, and the like. As part of the regulations, the Secretary should enumerate all "available" federal programs which may be used, in whole or in part, to ameliorate the adverse effects of coastal energy activity. It is recognized, of course, that these other federal programs will not utilize such specifically defined phrases as "net adverse impacts" and "coastal energy activity" as they are used in the Coastal Zone Management Act. Consequently, the Secretary will be required to inventory all programs which, if applicable, may provide funds for public facilities and public services or the reduction of ecological or recreational resources losses.

"Available", in this context, implies that other appropriate federal funds are obtainable. If, through no fault of the applicant coastal state, other federal monies are not forthcoming although the state made reasonable efforts to obtain them, they should not be considered "benefits" in the net adverse impact calculation. The burden of documenting these efforts, as well as the general obligation of demonstrating a net adverse impact, remains with the state.

Paragraphs (3)(B) and (3)(C) specify additional criteria which are to be taken into account in determining whether a net adverse impact from a coastal energy activity has occurred.

Subparagraph (B) requires the Secretary to consider the applicant state's overall efforts to reduce or ameliorate net adverse impacts. The Secretary should determine what form these efforts could take including the particular state and local tax structure and environmental laws and ordinances. Clearly, the types of protections inherent in the state's coastal zone management program are to be considered. Additionally, the Secretary is to consider the state's effort to insure that those who are responsible for the net adverse impacts are required, to the maximum extent practicable, to ameliorate these impacts themselves. Again, the state's efforts to encourage this "internalization of costs" by those responsible may be exerted in a number of ways, including tax incentives, strong environmental protection laws, and the withholding of siting permission until certain conditions are met.

Finally, the Committee considers subparagraph (C) an essential factor to be considered in the regulations governing this section. The coastal state must demonstrate that the site selected for a coastal energy activity is one in which there will be minimum social and environmental as well as economic "costs". Alternative sites for the locus of this activity must be investigated. A key dimension to interpreting this criterion in relation to net adverse impact determinations is one of "unavoidability".

The coastal zone location of potentially dangerous LNG facilities, for example, should be subject to strict environmental and safety considerations prior to site selection. This requirement should be fully integrated into the state's present program development efforts particularly with regard to the section 305 provisions which require a definition of permissible land and water uses and a designation of areas of particular concern within the coastal zone.

Additionally, it should be noted that the Committee was concerned about the residual governmental demands placed on state and local governments if anticipated coastal energy activity does not materialize, or should it do so, after it has ceased. Therefore, such grants may be used for the purpose of reducing or ameliorating the impact of coastal energy activity, including, but not limited to, the governmental services required for the orderly phasing out of energy activity and the transition from an energy-related to a nonenergy-related economy.

It is the intent of the Committee that the impact grants be distributed only on the basis of actual demonstrated coastal energy activity impact without regard to comparative state populations, miles of coastline or any other criteria used to determine eligibility for federal assistance in any other section of this or any other Act. The funds are to be distributed according to demonstrated impact without regard to the proportion of grants going to any single state or group of states. The criteria promulgated by the Secretary shall provide for the distribution of net adverse impact grants in proportion to the relative demands on government made by the various types and stages of energy activity.

Subsection (d) of section 308 establishes the Coastal Energy Activity Impact Fund which is to be used by the Secretary as a revolving fund. Administrative expenses for carrying out the OCS payments subsection and/or the impact fund subsection may be charged to the fund. $125 million for each fiscal year from 1977 through 1981 are authorized to be appropriated to the fund by subsection (e).

Section 308(f) authorizes coastal states which have received planning or impact grants to allocate all or a portion of those funds to their affected local governments and, with the approval of the Secretary, to areawide, regional, or interstate agencies.

Finally, subsection (g) establishes the conditions under which a coastal state is eligible for OCS payments or impact grants. The state must be receiving a program development grant under section 305, an administrative grant under section 306, or be making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program. It is not necessary, therefore, that a state be receiving a section 305 or 306 grant to be eligible for section 308 funds. It is necessary, however, that the state be making progress toward the development of a coastal zone management program and that the section 308 funds received be used in a manner consistent with such program. It is the intent of the Committee that the

Coastal Energy Activity Impact program be fully integrated into the states' mangement programs. The important work accomplished by the Nation's coastal states to date should form a sound structure on which the energy program can be built and the comprehensive nature of the coastal zone management structure maintained and strengthened.

Interstate coordination

A section 309 of the coastal zone program is designed to encourage the state coastal zone programs to actively participate in interstate and regional cooperative efforts. The Committee's intent is that this cooperation begin during the program development phase, under section 305, and extend into the administrative phase under section 306.

The states and the Office of Coastal Zone Management are in accord in acknowledging the necessity of dealing with coastal problems across state lines. The purpose of providing matching funds for this purpose at 90 percent federal funding, instead of the recommended rate of 80 percent in other portions of the basic program, is to provide incentive needed to bring about this cooperation.

States readily acknowledge the need to work together on such things as energy facility siting policies, provision of recreational resources or accommodation of second-home demands. If one state unilaterally acts in one of these areas with a restrictive policy, for instance, the immediate result may be to increase pressures on neighboring states.

The section also provides advance consent by Congress for states to enter into interstate compacts for studying coastal problems or administering agreed upon programs.

In both subsections 309(a) and (b) it is specified that the purposes to which the matching grant funds are used must be consistent with the provisions of the basic sections of the Act, section 305 and 306.

Another important aspect of interstate and regional cooperation on coastal matters is addressed in subsection 309(c). In order to facilitate active federal agency participation in any interstate or regional bodies set up under this section, the Committee directs the interstate bodies to establish a consultation procedure with involved federal agencies. Specifically cited are the Secretary of Commerce, the Secretary of the Interior, the Chairman of the Environmental Quality Council, the Administrator of the Environmental Policy Agency, and the Administrator of the Federal Energy Administration, or their representatives, as officers who should participate in such deliberations whenever requested to do so by an interstate or regional body established under this section.

In subsection (d) authorization is given for making grants to ad hoc or temporary bodies set up in advance of the signing of an official compact or agreement. This authority is limited to five years to prevent temporary bodies from becoming permanent. The temporary bodies are given a charter similar to that established in subsection 309(a) in that they are to coordinate planning, study or implement unified policies in coastal regions and provide a means of communication with involved federal agencies.

Coastal research and training grants

New section 310 authorizes a two-part program of research and training assistance focused on coastal management problems.

The purpose of the new authority is to support both the development of comprehensive and soundly-based state management programs and their eventual administration. The Committee envisions that approved programs, funded under section 306 of the Act, will have continuing research and personnel needs which this new provision will help meet.

Under 310(a), funds would be authorized for use by the Secretary to conduct needed research, study, or personnel training. Specific direction is given to all departments and agencies of the federal government to participate in this effort, on a reimbursable basis, so that the expertise developed within the federal apparatus can be focused on coastal issues.

It is the intent of the Committee that the funds in this subsection are to be used to deal with national or regional studies or training programs. Close coordination will be required within the Office of Coastal Zone Management with the work conducted by the states under the authorization in subsection (b) as well as with other components within the federal government conducting coastal-related research programs.

In section 310(b), direct aid to the states is provided. Matching grants up to 80 percent are authorized to the coastal states for research, study and training. The particular need seen in the states is for short-term research, by which is meant reports and investigations carried out over short periods of time, using existing knowledge to a large extent, in order to meet requirements of either section 305 program development or to deal later with problems that arise during administration of state programs under section 306.

What is intended here is to provide states, specifically the office in the state government administering the coastal program, with their own capability to develop the answers to some of the critical questions they will face. These questions can range from how to develop criteria for determining what are critical areas in a given state's coastal zone to a study of a particular site proposed for a major installation to help determine if the location is suitable.

(It is the intent of the Committee that the research provided by this section in no way conflicts with the long range research efforts of the Sea Grant program which is also administered by NOAA. The Secretary is expected to coordinate these two programs.)

The training portion of the authorization is intended to meet a present and presumably continuing need on the part of state coastal zone managers for qualified personnel. Dealing with coastal issues requires personnel from many disciplines and some persons with broad, interdisciplinary backgrounds. It has been the experience of the states, as is reflected in the earlier discussion in this report, that locating the needed people to help prepare coastal management programs has been a major administrative problem.

Section 310(c) would authorize the Secretary to undertake a comprehensive review of all aspects of the shellfish industry with particular emphasis on the harvesting, processing, and transportation aspects thereof. Such review process shall include an evaluation of the impact of Federal legislation affecting water quality upon the shellfish industry; an evaluation of present and proposed bacteriological, pesticide, and toxic metal standards which may be applied to

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determine the wholesomeness of shellfish; and an evaluation of the effectiveness of the National Shellfish Sanitation Program. The Secretary would be required to submit a report to the Congress on the various evaluations undertaken by him by June 30, 1977. The report should also include such recommendations and comments as the Secretary considers necessary and pertinent. The amendment further stipulates that no Federal agency could promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce during the period in which such report is being prepared. The term "promulgate" as used in this section refers to the act of publishing and making effective final regulations only. It should not be interpreted to preclude any Federal agency from proposing additional regulations during the moratorium period.

This particular amendment was proposed by Mr. Bauman and Mr. Downing, and it was adopted by the Subcommittee on Oceanography and the full Committee. It is the Committee's intent that this amendment would permit the Commerce Department (through NOAA) to conduct a thorough and independent review of the shellfish industry in an attempt to determine if additional regulations should be imposed upon such industry by the Food and Drug Administration.

The FDA proposed a number of new regulations in June of 1975 which, if promulgated, could have a serious impact upon the shellfish industry. Hearings which were conducted by the Subcommittee on Oceanography indicated that the implementation of the proposed regulations was not critical to the interests of public health since there is sufficient statutory authority within the Food and Drug Administration as well as within state agencies to adequately regulate the shellfish industry and to adequately protect consumers. In order to give absolute protection to the public, the amendment would allow the moratorium to be waived before the June 1977 submittal date if the Secretary determined that an emergency existed which could be dealt with most effectively by the promulgation of additional regulations. The Secretary of Commerce should consult with the Secretary of Health, Education, and Welfare to determine if such an emergency exists.

It should be noted that the language restricting the promulgation of new regulations shall not be construed to restrict the force and effect of any final regulations which are promulgated and published in the Federal Register prior to the date of enactment of this section, nor is the language intended to affect any statutory authority which a Federal agency was given (other than the promulgation of regulations specifically mentioned in the provision) by any previously enacted law.

Amendment to "Records" section

(18) The amendment in this subparagraph pertains to the Records section of the original Act. That section requires that any recipient of a grant under the Coastal Zone Management Act would be required to keep records relating to the amount and disposition of funds received, the total cost of the project or undertaking supplied by other sources, and other records which could be used to facilitate an effective audit by the Secretary of his designee. The new language included in this bill would add the term "or payments" after the term

"grant" so that the coastal state impact payments under section 308 (a) of the bill would be included in the auditing process. The amendatory language would also specifically permit the auditing process to be undertaken by the Secretary or the Comptroller General for up to three years after the termination of any grant or payment program authorized under the Act.

Beach access provision

(19) This section makes a major addition to the estuarine sanctuary provision of the original Act. This is accomplished first by renaming the section "Estuarine Sanctuaries and Beach Access" rather than referring only to the sanctuaries.

Subsection (b) authorizes the Secretary to make 50 percent matching grants, the same percentage as with grants to acquire estuarine sanctuaries, for the purchase of means of access to public beaches and other publicly-held attractions along the coast.

This provision is in response to the needs identified by a number of states for early action to protect the public's access to areas already in public ownership but in danger of being blocked from ready use by property development nearby.

In addition to beach properties for which access would be provided, access to other public areas of interest could be purchased. These areas include those of environmental, recreational, historical, esthetic, ecological, and cultural value. These are the identical areas which state programs must include in the new planning requirement added to the development of state management programs under section 305.

In the case of public areas of ecological or esthetic interest, for example, the access which would be permitted by the use of matching funds under this subsection would naturally be limited. The Committee understands that access to such precious areas will be strictly limited according to the sound management principles which state management programs are to include.

Although not stipulated in H.R. 3981, it is understood that states must have substantially completed the public area protection and access planning process required under section 305(b)(7) before being eligible to receive grants under subsection 315(b). This is to insure that purchases made pursuant to this subsection are in harmony with the overall state management program and that they are in keeping with the balanced approach contemplated in subsection 305(b)(7). The planning process mandated there is to provide both protection of and access to public areas; the purchase of means of access to these same public areas should conform to this process.

New sections for the annual report

(20) This section adds two new requirements for inclusion in the coverage of the annual report which the Act requires the Secretary to prepare. The purpose of the report is to provide Congress with an account of the administration of the coastal management program. The Secretary submits the report each year to the President who in turn transmits the document to Congress. At present, eight specific areas of coverage are specified for inclusion in the report.

H.R. 3981 specifies two additional areas for inclusion. One is a description of the socio-economic and environmental impacts from

energy activities in the coastal zone. The Committee would look for a description of present impacts as well as a discussion of the projected effects of prospective activity. As an example, a discussion of the present effects on the coast of Alaska stemming from the prospect of offshore oil discoveries would be in order as well as a report on what that state anticipates will result if and when production begins.

The second report requirement is for an evaluation of the mechanisms for interstate and regional planning that have been undertaken. This will be particularly pertinent to the Committee in assessing the effectiveness of the interstate cooperation incentive funding authorized by section 309 of this legislation.

It should also be noted that new section 310 on coastal research and training provides that the Secretary include a summary and evaluation of the research, study, and training conducted pursuant to that section in the annual report.

Authorization for appropriations

(21) Section 320, as redesignated, provides authorizations for the coastal zone management program as follows:

(a)(1) The sum of $24 million is provided for fiscal years 1977 through 1979. This represents a doubling of the present level of authorization for the program development phase, reflecting the increased responsibility given the states in H.R. 3981 and the growing expense of preparing a complicated program as that mandated by the Act.

(a)(2) Authorizes $50 million annually from fiscal year 1977 to fiscal year 1980 for the administrative phase of the program under section 306. The increase from the present level of $30 million a year represents the Committee's recognition that the task of operating and administering state coastal zone management programs is going to be more costly than originally envisioned. This factor, plus inflations and the added complexity of state programs which H.R. 3981 represents, justifies the increase.

In both subsections (a)(1) and (a)(2), H.R. 3981 has increased the percentage of federal matching shares from two-thirds to 80 percent which naturally involves a greater total amount of federal funding.

(a)(3) Authorizes $5 million a year beginning in fiscal year 1977 for the interstate cooperation funding established in section 309. The federal share of this activity is 90 percent in order to encourage states to give this activity the high priority the Committee attaches to it.

(a)(4) This subsection makes available $5 million per year for four years, beginning in fiscal year 1977, for the research and training programs to be administered directly by the Secretary of Commerce under new section 310(a).

(a)(5) For matching funding at 80 percent federal participation under subsection 310(b), the sum of $5 million is authorized for four years beginning in fiscal year 1977. These funds are to enable states to establish their own coastal research capabilities and to operate personnel training programs to meet their program needs.

(a)(6) For the continuation of the estuarine sanctuary program authorized by subsection 315(a), the sum of $6 million per year for four years beginning in fiscal year 1977 is made available. This is the same level as is currently authorized under the Act as amended.

(a)(7) For the new subsection of the Estuarine Sanctuaries and Beach Access provision of H.R. 3981, $25 million is authorized under subsection 315(b) for use in acquiring access to public beaches and other publicly-held areas of interest in the coastal zones. This money is to be available for four years beginning in fiscal year 1977.

(b) This subsection increased the amount available for the administration of the program from $3 million annually to $5 million. In view of the greatly increased responsibilities which H.R. 3981 adds to the coastal zone program, this increase seems entirely justified and perhaps modest. Rather than authorize a larger amount at this time, however, the Committee desires to see how the Office of Coastal Zone Management responds to the new challenges given it through H.R. 3981. Experience with operation of the expanded program may suggest that a larger sum be provided for administrative purposes. If officials at NOAA can make this case successfully to the Committee, there will be no hesitation on its part to amend the Act to provide additional operating funds.

(c) This subsection carries that standard prohibition on the uses of funds received under this Act to pay a state's matching share of an authorized program or project.

Limitations section

(22) Section 318 ("Limitations") is included in the bill to ensure that federal agencies will not utilize the approval systems for the awarding of grants or bond guarantees to force a state to permit the siting of a specific facility in the coastal zone. The Coastal Zone Management Act is a process-oriented rather than substantive program. Federal agencies are not to judge the quality of decisions made by states on the substantive aspects of specific projects if such decisions are made within the guidelines and procedures of the Coastal Zone Management program.

It is the intent of the Committee that this section does not in any way affect section 306(c)(8) nor does it affect other federal agencies with programmatic authorities for land and water use responsibilities in the coastal zone. This section means that nothing in the Coastal Zone Management Act of 1972 gives the Secretary of Commerce or other federal agencies any additional powers to intercede in state land or water use programs. Such authorities under other existing and future statutes, however, are in no way abrogated by this section.

State and local bond guarantees

Section 319(a) of this section would authorize the Secretary of Commerce to make commitments to guarantee and to guarantee bonds or other evidences of indebtedness which are issued by a coastal state or unit of general purpose local government thereof. A bond could be guaranteed only if it is issued for the purpose of providing public services and public facilities which are made necessary by outer Continental Shelf energy activities. It should be noted that "public services and public facilities" and "Outer Continental Shelf energy activities" are defined terms in section 2, subparagraph (4) of this Act, and such terms would have application to this section. Reference should be made to the explanation of these terms within this section-by-section analysis.

Section 319(c) stipulates that no bond could be guaranteed unless the Secretary determines that:

(1) The state or local government could not borrow sufficient revenues on reasonable terms and conditions without the guarantee.

(2) The bond issued must provide for a complete amortization period within thirty years.

(3) The total principal amount of any individual bond to be guaranteed cannot exceed $20,000,000.

(4) The total principal amount of all bonds to be guaranteed under this program cannot exceed $200,000,000.

(5) The Secretary must determine that each bond to be guaranteed is:

(*a*) issued only to investors approved by or meeting the requirements of the Secretary.

(*b*) bonds must bear interest at a rate satisfactory to the Secretary.

(*c*) each bond must be subject to repayment and maturity terms satisfactory to the Secretary.

(*d*) each bond issued must contain provisions which would adequately protect the financial security interests of the United States.

(6) The approval of the Secretary of the Treasury is required for each guarantee made by the Secretary of Commerce. It is presumed by inclusion of this provision that the Secretary of Commerce will work closely with the Secretary of the Treasury in the formulation of the various rules, regulations, and provisions necessary for the implementation of this bond guarantee program.

(7) The Secretary must determine that there is a reasonable assurance of repayment between the issuer and the lender of such bonds.

(8) No guarantee could be made after September 30, 1981.

Section 319(d) would require that the Secretary publish proposed terms and conditions of the guarantee program prior to guaranteeing any obligation. A thirty day public comment period is provided following publication of the proposed terms. After the comment period, the Secretary would publish final conditions, but these would not become effective until thirty days after publication.

Section 319(e) would provide that the full faith and credit of the United States is pledged to the payment of all guarantees. This language is standard in recent Federal guarantee statutes, and would generally serve to assure that any bond so guaranteed would enjoy a priority rating within the bond market.

Subsection (f) of section 319 would direct the Secretary to prescribe and collect a reasonable guarantee fee from the states and local governments. The amount of such fees should be sufficient to cover necessary administrative costs of the bond guarantee program. Subsection (g) would not permit the Secretary to guarantee any Federally tax-exempt bonds.

Section 319(h) sets forth the method by which payments shall be made in cases of defaults by the state and local governments. The United States shall have a full right of reimbursement for any such payments made, and the Secretary would be permitted to apply monies

received by the states or local governments pursuant to section 308(a) of the Act to repay the Federal Government in the event of a default. The Attorney General of the United States would be directed to take appropriate action to protect the rights of the United States if so requested by the Secretary of Commerce.

Section 319(i) establishes a revolving fund to provide for necessary payments and administrative costs required to be made pursuant to this section. Funds could either be appropriated directly to this fund or the Secretary of the Treasury could be authorized (in appropriation Acts) to purchase obligations issued by the Secretary of Commerce. Both options are subject to the usual appropriations process and are included for purposes of flexibility and consistency.

An auditing provision is included in section 319(j) which would permit the General Accounting Office to audit all financial transactions of issuers and holders of bonds or other evidences of indebtedness. Only those financial transactions which relate to such evidence of indebtedness would be subject to this provision.

The final subsection in section 319 defines "unit of general purpose local government" as used in this bond guarantee section.

This bond guarantee program was changed to its present form as a result of a substitute amendment offered by Mr. Dingell of Michigan. The original program as adopted by the Subcommittee was determined to give too much flexibility to the Secretary, and the Committee believes that the additional provisions which were adopted represent a more fiscally responsible approach.

Section 3—Associate Administrator for Coastal Zone Management

H.R. 3981 provides for an elevation of the status of the administrator of the coastal zone management program within the structure of the National Oceanic and Atmospheric Administration to better reflect the importance of this effort. This elevation will especially be necessary in view of the additional responsibilities given that office by this legislation and the greatly increased amount of funding authorized.

Within NOAA at present, there are three persons at the associate administrator level (executive level V). H.R. 3981 would add the fourth such person, with a specific assignment for coastal zone management. This action would raise the present status of the office from that of assistant administrator for coastal zone management, a position under the Civil Service System.

By becoming an executive level position, the associate administrator for coastal zone management would be a Presidential appointment and require Senate consent. This type of appointment will also serve to increase the visibility of the program in keeping with the Committee's view of its importance to the country.

Section 4—Consistency Requirements of Section 307

This section specifies that nothing in this Act (amending the Coastal Zone Act of 1972) shall be deemed to modify, or abrogate the consistency requirements contained in section 307 of the CZM Act of 1972. The Committee wanted to emphasize that it still regards the original consistency provisions as a very important element in the comprehensive coastal zone scheme. With the exception of the amendments to section 307(c) contained in this bill, no other amendments contained

in H.R. 3981 should be interpreted to change the original intent of the federal consistency section of the original Coastal Zone Management Act.

Cost of the Legislation

Pursuant to Clause 7 of Rule XIII of the Rules of the House of Representatives, the Committee's estimate of the costs of the legislation is represented in the following table:

AUTHORIZATION FOR APPROPRIATION FOR FISCAL YEAR ENDING
[In millions of dollars]

Section	Sept. 30, 1977	Sept. 30, 1978	Sept. 30, 1979	Sept. 30, 1980	Sept. 30, 1981	Section total
305 (development grants)	24	24	24	----------	----------	72
306 (administrative grants)	50	50	50	50	----------	200
308(a) (OCS payments)	50	50	75	100	125	400
308(b) (energy facility impact grants)	125	125	125	125	125	625
309 (interstate coordination)	5	5	5	5	----------	20
301(a) (Federal research)	5	5	5	5	----------	20
310(b) (State research)	5	5	5	5	----------	20
315(a) (estuarine sanctuaries)	6	6	6	6	----------	24
315(b) (beach access)	25	25	25	25	----------	100
320 (administrative expenses)	5	5	5	5	----------	20
Year total	300	300	325	326	250	1,501
New dollars over existing authorization	249	300	325	326	250	1,450

Compliance With Clause 2(l)(3) of Rule XI

With respect to the requirements of clause 2(l)(3) of House Rule XI of the Rules of the House of Representatives—

(A) No oversight hearings were held on the administration of this Act during this session of Congress. However, the Subcommittee on Oceanography held 5 days of hearings on H.R. 3981 and identical and similar bills during the first session of this Congress. The Subcommittee does plan to hold oversight hearings on the administration of this act early in the first session of the 95th Congress.

(B) In the opinion of the Congressional Budget Office, no new budget authority or increased tax expenditures, as required in Section 308(a) of the Congressional Budget Act of 1974 will result from the enactment of this Act.

(C) Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a cost estimate for H.R. 3981. (The cost estimate follows the Inflationary Impact Statement.)

(D) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 2(b)(92) of rule X.

Inflationary Impact Statement

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3981 would have no significant inflationary impact on the prices and costs in the national economy.

Congress of the United States,
Congressional Budget Office,
Washington, D.C., February 19, 1976.

Hon. Leonor K. Sullivan,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

Dear Madame Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3981, Coastal Zone Management Amendments Act of 1976.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

Alice M. Rivlin,
Director.

Congressional Budget Office
cost estimate

February 13, 1976.

1. Bill Number: H.R. 3981.
2. Bill Title: Coastal Zone Management Amendments Act of 1976.
3. Purpose of Bill: The bill makes several amendments to the Coastal Zone Management Act of 1972 (16 USC 1451–1464). The purpose of these amendments is to assist the coastal states in studying, planning for, managing, and controlling the effects of Outer Continental Shelf (OCS) resource development and production. The bill is for authorization, and therefore, subject to appropriation action.
4. Cost Estimate: The bill has no budget effects for fiscal year 1976 or the transition quarter. The overall budget impact for fiscal years 1977 to 1981 is as follows.

BUDGET EFFECTS

	Millions
Authorization levels:	
Fiscal year:	
1977	[1] $477
1978	300
1979	325
1980	326
1981	250
Costs:	
Fiscal year:	
1977	81
1978	259
1979	315
1980	347
1981	331

[1] This estimate includes an authorization for the guarantee of up to $200,000,000 in State and local bond obligations. The question of how the imposition of such a "contingent liability" on the Federal Government should be treated in a budget sense is unresolved at this time. The guarantees could be either an on or off-budget item, with appropriations required for any outlays resulting from the guarantee.

5. Basis for Estimate: For each of the sections described below, the authorization levels are stated in the bill. Where the bill authorizes an increased level for an on-going program, the estimates are shown net of these amounts (assumed to be equal to the President's budget request).

Section 305, Development Grants.—The increase in funding for this activity is required to cover the increased federal share of the funding and the expanded scope mandated for state coastal zone management program development. The annual funding is authorized to be increased to $24 million and to be extended through FY 1979. Obligations are assumed to equal authorization for each year, and a spend-out rate of 10 percent in the current year and 90 percent in the following year of the obligation is assumed. This yields the following budget impacts.

	Millions
Authorization levels:	
Fiscal year:	
1977	$14.6
1978	24.0
1979	24.0
1980	----
1981	----
Costs:	
Fiscal year:	
1977	1.5
1978	15.5
1979	24.0
1980	21.6
1981	----

Section 306, Program Administration Grants.—The rationale for increased funding of this activity is the same as for the program development grants. The annual funding level is authorized to be increased to $50 million and to be extended through FY 1980. Obligations are assumed to equal the authorization levels for each year, and a spend-out rate of 10 percent, 90 percent is assumed. This yields the following estimates.

	Millions
Authorization levels:	
Fiscal year:	
1977	$40
1978	50
1979	50
1980	50
1981	--
Costs	
Fiscal year:	
1977	4
1978	41
1979	50
1980	50
1981	45

Section 305 and 306, Tradeoff.—It is possible that the requirements for either Section 305 or Section 306 could reach the authorization levels. However, to a significant extent, these sections support complementary activities. The level at which either program is funded depends upon state level decisions about whether to expand and extend coastal zone management program development activity or to advance to the implementation of the programs developed. Therefore, it appears unlikely that both activities would require funding at the authorization levels in any one year.

Section 308(a), OCS Payments.—This section provides for a payment for each fiscal year to each coastal state as a share of the funding level. Each state's share is based on a formula aimed at approximating the relative level of OCS activity in each of the states. Since the formula is based on the previous fiscal year, authorizations and costs are assumed equal.

	Millions
Authorization levels:	
Fiscal year:	
1977	$50
1978	50
1979	75
1980	100
1981	125
Costs:	
Fiscal year:	
1977	50
1978	50
1979	75
1980	100
1981	125

Section 308(b), Energy Facility Impact Grants.—This section authorizes grants to coastal states when a state's coastal zone has been or is likely to be adversely affected by coastal energy facilities. Although grants will be a function of actual and anticipated adverse impacts, the entire authorization level is accepted. The unobligated balance of any year remains in the fund. A spend-out pattern of 10 percent, 90 percent is assumed for the cost estimate. For this new activity, budget impacts are projected to be:

	Millions
Authorization levels:	
Fiscal year:	
1977	$125.0
1978	125.0
1979	125.0
1980	125.0
1981	125.0
Costs:	
Fiscal year:	
1977	12.5
1978	125.0
1979	125.0
1980	125.0
1981	125.0

Section 309, Interstate Coordination.—This section encourages coastal states to coordinate coastal zone planning by authorizing grants for 90 percent funding of interstate coordination activity. The authorization level is stated in the bill, and a spend-out distribution of 10 percent, 90 percent is used to generate the cost estimates.

	Millions
Authorization levels:	
Fiscal year:	
1977	$5.0
1978	5.0
1979	5.0
1980	5.0
1981	——
Costs:	
Fiscal year:	
1977	0.5
1978	5.0
1979	5.0
1980	5.0
1981	4.5

Section 310, Research.—This section authorizes funding of a federal program of research, study, and training to support the development

and implementation of state coastal zone management programs, and federal sharing of the costs to a coastal state of developing its own capability for carrying out short-term studies, and training required in support of its coastal zone management program. The authorization levels are those given in the legislation, and a 75 percent, 25 percent spend-out pattern is assumed.

	Millions
Authorization levels:	
Fiscal year:	
1977	$10.0
1978	10.0
1979	10.0
1980	10.0
1981	——
Costs:	
Fiscal year:	
1977	7.6
1978	10.0
1979	10.0
1980	10.0
1981	2.4

Section 315(a), Estuarine Sanctuary.—This provision extends funding for the program of acquiring, developing, and operating estuarine sanctuaries through FY 1980. The authorization levels are those stated in the bill, and a spend-out pattern of 20 percent, 45 percent, 35 percent is assumed. This yields:

	Millions
Authorization levels:	
Fiscal year:	
1977	$3.0
1978	6.0
1979	6.0
1980	6.0
1981	——
Costs:	
Fiscal year:	
1977	0.6
1978	2.5
1979	5.0
1980	6.0
1981	3.9

Section 315(b), Beach Access.—This section requires that access to beaches and other coastal areas be included in state coastal zone management programs. Funds are authorized for the acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value. Authorization levels are those given in the legislation, and a spend-out pattern of 0 percent, 20 percent, 45 percent, 35 percent is used, yielding:

	Millions
Authorization levels:	
Fiscal year:	
1977	$25.0
1978	25.0
1979	25.0
1980	25.0
1981	——
Costs:	
Fiscal year:	
1977	——
1978	5.0
1979	16.2
1980	25.0
1981	25.0

Section 320, Program Administration.—The authorization level is that given in the legislation. Section 308 administrative expenses may be charged to the Coastal Energy Facility Impact Fund. This yields the following estimates.

	Millions
Authorization levels:	
Fiscal year:	
1977	$3.9
1978	5.0
1979	5.0
1980	5.0
1981	——
Costs:	
Fiscal year:	
1977	$3.9
1978	5.0
1979	5.0
1980	5.0
1981	——

Section 319, Bond Guarantees.—This provides the authority to guarantee the holders of bonds or other evidence of indebtedness issued by a state or local government for projects resulting from OCS energy activity against loss of principal or interest. The requirements to qualify for these guarantees and the provision that OCS payments be used first to pay back any default, indicate that negligible net outlays can be anticipated for defaults. Administrative costs are to be offset by guarantee fee receipts. The $200 million limit on outstanding guarantees may require a one-time approval of $200 million budget authority. This may be an on or off-budget item.

6. Estimate Comparison: None.
7. Previous CBO Estimate: None.
8. Estimate Prepared By: William F. Hederman, Jr. (225–5275).
9. Estimate Approved By:

C. G. Nuckols.

(For James L. Blum, Assistant Director for Budget Analysis.)

Departmental Reports

Eight departmental reports were received on H.R. 3981, as introduced, and follow herewith:

General Counsel of the Department of Commerce,
Washington, D.C., April 28, 1975.

Hon. Leonor K. Sullivan,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

Dear Madam Chairman: This is in response to your request for the comments of this Department regarding H.R. 3981, a bill "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 resource development and production which affects the coastal zone, and for other purposes."

This proposed legislation would amend the Coastal Zone Management Act of 1972: (a) by creating a coastal States impact fund of $200 million annually to assist the States to study, plan for, manage and control the impact of energy facility siting as well as energy resource

development and production, (b) by making more specific the application of the Federal consistency provision of the Coastal Zone Management Act to Outer Continental Shelf (OCS) oil and gas development activities, (c) by providing financial incentives to encourage interstate cooperation and coordination in coastal zone management, (d) by providing financial assistance for short-term research and the training of coastal zone personnel, and (e) by providing financial aid for increasing beach access as well as the preservation of beaches and islands.

The Department of Commerce recommends against enactment of H.R. 3981. The Department is concerned about the onshore impacts of OCS development and is currently awaiting Administration studies of the advisability of some kind of Federal assistance to enable States to ameliorate such impact. The Department believes that the beach access and beach and island preservation provisions are unnecessary at the present time.

We support the consideration the Administration is giving to the question of providing assistance to the states in ameliorating the adverse impact of the siting of energy related facilities, such as those connected with the development of OCS oil and gas resources. We recognize State concerns which lead to some of the proposals for coastal impact funds and the apprehension of State governments about impacts generated from OCS activity is quite understandable.

The Administration is currently studying proposals to assist States to plan for and ameliorate onshore effects of offshore oil and gas exploration and development. These proposals range from revenue-sharing plans to direct impact payments. Given the complexity of these issues and the various interrelationships involved, the Department feels that the Administration studies should be completed before any legislative changes are forthcoming. Consequently, we do not support such changes at this time.

The Department does not agree with Sections 6(a) of the proposed legislation, which would amend Section 305 of the Coastal Zone Management Act, in effect, making program development grants available to the States to 1980. We feel strongly that States must have adequate incentives to move from the planning to the implementation stage on a timely basis. Given the critical nature of coastal zone management problems today, and especially those associated with OCS development, it is not desirable to stretch out State program development activities to 1980.

The Department of Commerce questions at this time the necessity for including the provision calling for a plan for protecting the access to public beaches and the protection of islands.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's position.

Sincerely,

BERNARD V. BARRETTE,
Deputy General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT,
COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., May 1, 1975.

Hon. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MS. SULLIVAN: This is in response to inquiries from the Committee on Merchant Marine and Fisheries concerning the views of the Council on Environmental Quality with respect to several bills currently under consideration to assist coastal zone areas in handling the impacts of energy development. These include H.R. 3981, H.R. 1776, H.R. 3807, H.R. 3637, and H.R. 6090. As you are aware, the Administration is currently reviewing the laws applicable to this very complex subject area, and will be developing its position on new legislation in the near future. We therefore have no comment on these bills at this time.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 16, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request dated March 6, 1975, for our comments on H.R. 3981, 94th Congress, a bill which, if enacted, would be cited as the "Coastal Zone Environment Act of 1975" and which would 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 resource development and production which affects the coastal zone, and for other purposes.

Due to the general nature of the grant programs authorized under the proposed new sections 308 and 309, the Committee may want to consider establishing more specific criteria for grant eligibility and use of the grants.

The bill on page 5, lines 5 through 9, (section 308d) deals with the allocation of grants to coastal States in proportion to anticipated or actual impacts. This language is very broad and does not make clear how the amounts of grants to the States would be determined.

The provision on page 6, lines 13 through 18, (section 309b) authorizing annual interstate coordination grants to the coastal States is not clear as to how the cost of coordination, study, planning, or implementation is to be determined.

Also, we note that although sections 308, 309, and 310 authorize the Secretary of Commerce to make grants to the States in amounts up to 100 percent for certain types of grants, the bill does not specifically provide for evaluation of State programs by the Secretary of Commerce. It is our view that program evaluation is a fundamental part of effective program administration and that the responsibility for

evaluations should rest initially upon the responsible agencies. In line with this concept, we believe the Congress should attempt to specify the kinds of information and tests which will enable it to better assess how well programs are working and whether alternative approaches may offer better promise. We will be happy to work with the Committee in developing specific language if you wish.

Also, we note that this bill is a duplicate of S. 586, 94th Congress, concerning which general comments were made in a statement by Assistant Comptroller General Phillip S. Hughes, dated April 9, 1975, before joint Senate hearings conducted by the Committee on Internal and Insular Affairs and the Committee on Commerce. In this statement, a copy of which is enclosed for your information, we stressed timely consideration of S. 586 and other legislative proposals which would insure the protection of, or orderly development of the coastal zones.

Enclosed is a list of suggested technical and editorial changes to H.R. 3981 that the Committee may wish to consider.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Enclosures.

TECHNICAL AND EDITORIAL SUGGESTIONS TO H.R. 3981, 94TH CONGRESS

1. On page 1, line 8, the second "thereof" should be deleted and "of subsection (h)" should be inserted in its place.
2. On page 2, line 10, "16 U.S.C. 1455(c)(3)" should read "16 U.S.C. 1456(c)(3)".
3. On page 8, line 5, section 6(b)(1), which would amend 16 U.S.C. 1464(a) by deleting "three" in paragraph (1) thereof and inserting in lieu thereof "four" should be stricken from this bill because the word "three" does not appear in 16 U.S.C. 1466(a).
4. On page 9, line 6, we believe that section 7(a), which would amend 16 U.S.C. 1451(e) by inserting "ecological" immediately after "recreational" was intended to amend that section by inserting the word "recreational" after the word "ecological".
5. On page 10, line 1, "Section 306(c)(9)" should read "section 315"; also, in line 3 "after" preceding ", Beaches and Islands" should be deleted.
6. On page 10, line 16, "16 U.S.C. 1451" should read "16 U.S.C. 1453".
7. On page 10, line 17, "(l)" should read "(i)".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 6, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: This responds to your request for the views of this Department concerning several bills which deal with the energy resources of the Outer Continental Shelf, H.R. 3981, H.R. 3807, H.R. 1776, H.R. 3637 and H.R. 6090.

We recommend that none of these bills be enacted, since appropriate action with respect to Outer Continental Shelf energy resources can be taken under existing law.

Our present energy needs require a strong program to develop the oil and gas resources of the Outer Continental Shelf, where this can be done with reasonable protection of environmental values and without other seriously undesirable impacts. More specifically, we must move ahead with exploration, leasing and production on those frontier areas of the OCS where the environmental risks are acceptable. In carrying out this program, we fully appreciate the need to meet the legitimate concerns of affected individuals and organizations. The program will be carried out in close cooperation with coastal States in their planning for possible increased local development.

I. THE BILLS

H.R. 3981, the Coastal Zone Environment Act of 1975, is a bill "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 resource development and production which affects the coastal zone, and for other purposes."

Its goal is to provide coastal States adequate assistance to study, manage, and ameliorate any adverse consequences of energy facilities siting and energy resource development or production which affects directly or indirectly the coastal zone; to coordinate planning; and to develop short term research capabilities in the coastal States.

H.R. 3981 would require a Commerce Department annual report to Congress which would include a description of economic, environmental, and social impacts of facility siting and energy development and production, and a description and evaluation of regional planning mechanisms developed by coastal States.

It also requires applicants for permits and leases to certify that their conduct is consistent with any approved State management program.

H.R. 3981 authorizes the Department to make 100 percent annual grants for planning and control of economic, environmental, and social harm to coastal States likely to be significantly and adversely impacted by facility siting or energy development and production. The Department is to establish eligibility regulations for such grants, and to coordinate grants with State coastal zone management programs. Allocation of such grants to the States is required to be in proportion to anticipated or actual adverse impacts of OCS leasing. States may allocate a portion of such grants to political subdivisions or interstate agencies. H.R. 3981 authorizes $200 million for fiscal year 1976 and each four succeeding fiscal years.

H.R. 3981 also provides for congressional authorization of binding interstate compacts, but provides for Federal and public participation in coordination. It authorizes grants up to 90 percent of such costs, in the amount of $5 million for fiscal year 1976 and each of the succeeding three fiscal years for the program.

H.R. 3981 also authorizes short-term research assistance to coastal States for research by: a. providing payment to Federal agencies; b. hiring of private contractors (consultants); c. direct grants of ⅔

the costs. Appropriations are authorized in the amount of $5 million for fiscal year 1976 and each succeeding 3 fiscal years.

Finally, H.R. 3981 extends the scope of the Coastal Zone Management Act of 1972 to cover beaches and islands, and extends dates with increased appropriations.

H.R. 3807, the "Coastal Zone Environment Act of 1975," is identical to H.R. 3981 except that it would not extend the scope of the Coastal Zone Management Act of 1972 to cover beaches and islands, nor would it extend the Act's existing authorization dates or authorize increased appropriations.

H.R. 1776, the "Coastal Zone Management Act Amendments of 1975," would establish in the Department of the Treasury a Coastal States Fund, from which the Secretary would be authorized to make grants to assist coastal States impacted by anticipated or actual oil and gas production and to ameliorate adverse environmental effects and control secondary social and economic impacts associated with the development of Federal OCS energy resources. The bill would require such grants to be used for planning, construction of facilities, and provision of public services and other activities which the Secretary may in regulations prescribe.

Ten per centum of the Federal revenues collected under the Outer Continental Shelf Lands Act, but not to exceed 200 million dollars per year for fiscal year 1976 and 1977, are to be used by the Fund. Grants are to be made in proportion to the effects and impacts of offshore oil and gas exploration, development, and production on affected coastal States. Grants do not require matching funds by the States.

H.R. 1776 requires all Federal agencies to apprise affected coastal States of information in their possession concerning the location and magnitude of potential resources in or on the OCS within 30 days of availability. It also requires those Federal agencies which have authority over exploration and development of OCS to make available to affected coastal States information, including long-term plans on any licensing, leasing or permitting activity.

All appropriate Federal agencies would also coordinate and consult, as an integral part of the agencies' license, lease, or permit processes, with all affected coastal States. H.R. 1776 establishes guidelines for Fund eligibility and authorizes the Secretary of Commerce with those guidelines to establish by regulations grant eligibility.

H.R. 1776 also provides for Congressional authorization of binding interstate compacts for planning, policies, and programs to contiguous interstate areas but provides for Federal and public participation in coordination. It provides for grants for up to 100 percent of such costs, and authoriezs $1 million for fiscal year 1976 and each of the succeeding 3 fiscal years for the program.

H.R. 3637 would amend the Coastal Zone Management Act of 1972 to define "affected coastal State" to mean any State bordering on the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico or Long Island Sound.

H.R. 3637 also would define "offshore energy facility" and "related onshore facility."

H.R. 3637 would specify that, for 1 year following the effective enactment of the bill, no Federal agency may take any action which

authorizes the commencing or the carrying out of any preproduction exploration (except geophysical exploration) with respect to any offshore energy facility within any area of the Outer Continental Shelf before the affected coastal State either develops a Secretarially approved segment of its State coastal zone management program concerning the impact of offshore energy facilities activity on such State's coastal zones or certifies to the Secretary that the prohibition on Federal action shall not apply with respect to such areas of the Outer Continental Shelf. Any other affected State which considers that such Federal action may have an impact on its coastal zone may petition the Secretary to suspend or to prohibit any such Federal action. If the Secretary determines after agency hearing that such Federal action will or may have an adverse effect he may suspend or prohibit the action in such area for such time as he deems appropriate.

H.R. 3637 also prohibits Federal action, until June 30, 1977, regarding production from or development of, any offshore facility within any area of the Outer Continental Shelf before the affected coastal State can also follow the procedures stated above.

H.R. 3637 requires each appropriate Federal agency to inform, within 15 days of receipt and on a continuing basis, all affected coastal States of the nature, location and magnitude of potential resources in or on the OCS; and requires lessees of any area of the OCS to share such information with the appropriate Federal agency within 30 days. H.R. 3637 also requires Federal agencies which have authority to approve exploration and development activity in or on the OCS to make available to the appropriate affected coastal States all information, including long-term plans, relating to the timing, location, and magnitude of any activity. Each appropriate Federal agency shall coordinate and consult, as an integral part of that agency's authorization process, with all affected States likely to be impacted.

H.R. 3637 authorizes the Secretary to make grants to any affected coastal State for collection and assessment of economic, environmental and social data, development of a process for the selection and designation of such sites, and construction of public facilities and works and provision of public services as necessary or appropriate for the integration of related onshore facilities into the community. H.R. 3637 also establishes eligibility requirements for such grants.

Finally, H.R. 3637 establishes within the Department of the Treasury a 100 million dollar Affected Coastal State Fund, for fiscal years 1976 and 1977, with such additional sums thereafter as necessary. Affected coastal States are individually limited to no more than 15 percent of the total fund for each year.

H.R. 6090 differs from H.R. 1776 in that it establishes the Marine Resources Conservation and Development Fund which, although similar to the Coastal States Fund in H.R. 1776, does not authorize regulations which would prescribe fundable activities other than planning, construction of public facilities, and provision of public services. Rather it provides funds for "such other activities as may be deemed by the State to be in its best interest". The bill appropriates 17½ percentum of the OCS revenues derived during the immediately preceding fiscal year to the Fund.

H.R. 6090 also requires the Secretary to apportion the Fund amount available for disbursement in any fiscal year among eligible coastal

States on the basis of actual or anticipated effects, or both, and impacts of offshore oil and gas exploration, development, and production on each such State. It also requires that in no case may the grant in any fiscal year be less than an amount equal to 10 percentum of the revenues derived during the immediately preceding year by the United States from acreage leased and from oil and gas production of the OCS adjacent to such State.

H.R. 6090 also authorizes grants from the "Marine Resources Conservation and Development Fund" to noncoastal States to ameliorate environmental, social, and economic impacts associated with the development of Federal energy resources in or on the OCS.

The bill expressly avoids limiting or modifying the right, claim, or interest of any State to funds received before the bill is enacted or altering or modifying the claim of any State to title or jurisdiction over any submerged lands.

Unlike H.R. 1776, H.R. 6090 does not contain a provision authorizing an interstate coordination grant program to coastal States.

II. DISCUSSION

Existing legislation provides a satisfactory framework for carrying out the essential objectives of most of these bills, and we are moving toward accomplishing them. The existing Outer Continental Shelf Lands Act and Coastal Zone Management Act of 1972 permits substantial latitude for adjustment to changing circumstances and our program for development of the OCS can be fully carried out under the present law. Significant changes in these laws could seriously delay achievement of the degree of national energy independence which we believe is vital.

Discussed more specifically below are some of the more important aspects in which we believe provisions of these bills are either unnecessary or undesirable.

Delay of OCS Oil and Gas Development

A principal effect of these bills would be the delay of Outer Continental Shelf oil and gas development until State coastal zone management plans were approved, in full or in part, or until some specified date. Three of the proposed bills, H.R. 3981, H.R. 3807, and H.R. 3637 would provide grants to States for the purpose of studies which could expedite or improve their coastal zone management plan programs. The object of all three of these proposed bills appears to be the delaying of OCS activity until the coastal States have sufficiently advanced their coastal zone management programs to protect State and local interests which may be adversely affected by either offshore or onshore developments.

Although some States may need both financial and technical assistance in developing coastal zone management plans, such assistance can largely be provided under existing programs without imposing delays unrelated to management problems.

Federal/State Planning and Control

The subject bills assume a present inadequacy in cooperative effort for OCS planning and control. States and localities which are most likely to be directly affected by the development of energy resources of

the OCS, should participate in decision making. Under current procedures, we believe that such States and localities are adequately apprised of the activities and hazards which might be involved in OCS development and are provided with ample opportunity for participation on OCS decisions. This participation in planning and control now includes:

(a) Environmental Study Program. Representaitves from the coastal States serve on the OCS Research Management Advisory Board which oversees the Bureau of Land Management's environmental study program.

(b) Development of OCS Orders. The Geological Survey consults with the States in the development of OCS Orders. These Orders provide industry with the rules and regulations to be followed in exploration and production activities on the OCS. The regulations that are in effect have been strengthened considerably since the Santa Barbara spill. Proposed orders have been published for the Gulf of Alaska and are soon to be published for the mid-Atlantic.

(c) Call for Nominations. Approximately 12 months prior to a sale date, the Department publishes a request for nominations in the Federal Register. All interested members of the public including the adjacent States are urged to nominate specific tracts which they would want to see studied further for possible inclusion in a sale. They are also asked to designate specific tracts which should be excluded from the leasing process because of environmental conflicts.

(d) Tract Selection. Subsequent to receipt of the nominations, the Department makes a tentative selection of tracts. States are consulted on the issues involved in the selection process. States are again consulted before any final decision is made on tracts to be offered in a sale.

(e) Draft Environmental Impact Statement. The DEIS contains a detailed environmental assessment on a tract by tract basis in addition to an analysis of the general environmental conditions in the area. The States are asked to designate representatives to participate in the actual preparation of this document. This request has been made to Atlantic coast Governors and to the Governor of the State of Alaska.

(f) Public Hearing and Comments. After publication of the DEIS, a public hearing is held and States are invited to comment either orally or in writing. These comments are used in preparation of the Final Environmental Impact Statement.

(g) Decision by the Secretary. After completion of the Final EIS and a Program Decision Option Document, a decision is made by the Secretary whether to proceed with the sale and if so the composition of the sale. The Governors of affected coastal States are consulted before a final decision is made on what tracts are to be included in a sale.

(h) Supervision of Leases. Geological Survey monitors adherence to the OCS Orders through review of applications and proposed plans. Consideration is being given to having State personnel participate with the Geological Survey in this endeavor.

(i) Review of Development Plan. Under the Coastal Zone Management Act, any State with a coastal zone management plan will have to review actions which may affect land and water uses in the coastal zone.

Onshore planning is already controlled by the States. State and local jurisdiction over pipeline rights-of-way and refinery siting should provide substantial leverage for State control of onshore development associated with offshore activity.

The opportunity for cooperative efforts in OCS planning, and control of onshore development protect the States now. Considering the lead time involved in OCS exploration and development programs, no additional delays are necessary to protect the States' future interests.

Grant Focus

Each of the various bills provides funds for and authority to make grants to the eligible coastal States (H.R. 6090 includes noncoastal States as well) to assist in studying, managing, and ameliorating the impacts associated with the development of Federal energy resources in or on the OCS. The specifics of the grants are, however, so broadly written that it is difficult to know with certainty what problems may have to be addressed or which activities may finally qualify for funding. For example, in H.R. 3981 and H.R. 3807 "direct and indirect" effects are included and awards made to States "likely" to be adversely affected in proportion to "anticipated" or actual adverse impacts, and in H.R. 6090 such grants are to be used for specific activities "and such other activities as may be deemed by the State to be in its best interest." In light of present economic and budget concerns and due to the considerable sums which these bills would make available, a more specific focus for grants is required than these bills provide.

Impacts on the Coastal States

All the bills, except H.R. 6090, assume that the major impact of OCS leasing will be on a coastal area. While the coastal area will undoubtedly undergo some degree of growth and economic or social change, there is no guarantee that refining and processing and major facilities associated therewith will be located in the coastal State. For example, a significant amount of OCS production off the State of Louisiana immediately enters a pipeline and is transported to the Chicago area. The bills do not take into consideration those situations in which the major and final impact is elsewhere. To this extent, the bills are discriminatory.

Federal Consistency With Coastal Zone Management Act of 1972

The sponsors of H.R. 3981 and H.R. 3807 indicate that one of the purposes of the bill is to make the "Federal consistency provision in the Coastal Zone Management Act more specific with regard to Federal oil and gas leasing, development, production, and energy facilities siting activities which directly or indirectly affect a State zone program." These bills broaden the applicability of existing Coastal Zone Management Act language to include activities authorized by lease, as well as permit or license, and would then add a new paragraph containing certification requirements applicable specifically to energy related activities which "directly or indirectly" affect the "coastal zone program". We do not believe this language modifies or improves the basic concept of the Federal consistency provision. Rather, it renders almost any activity potentially subject to the certification provisions because it is uncertain an indirect effect exists.

Distribution of OCS Revenues

The Administration recognizes the concerns about OCS generated fiscal impact problems which have led some coastal States to propose that OCS revenues be shared with the States. This concern is reflected in provisions of H.R. 1776 and H.R. 6090 which mandate that certain portions of OCS oil and a gas revenue be spent to grant assistance to potentially impacted or impacted coastal States to study and/or control the adverse effects of such impacts. The Administration currently is actively studying several alternative proposals to deal with such problems ranging from impact aid grants to formula-grant revenue sharing. However, we have no recommendation to make at this time.

To summarize, the bills before the Committee deal with the major issues relating to use of the energy resources of the Outer Continental Shelf. To meet our present energy needs, however, we believe that the present OCS Lands Act and the Coastal Zone Management Act of 1972 provide a satisfactory framework and that further legislation such as that before the Committee is undesirable or unnecessary.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ROYSTON C. HUGHES,
Assistant Secretary of the Interior.

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 1, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Repreesntatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Your request for comment on H.R. 3981, a bill "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 resource development and production which affects the coastal zone, and for other purposes," has been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

H.R. 3981 would assist coastal states in coping with problems related to energy production and resource development. In addition, sections 7(b) and 7(d) of the bill would amend the Coastal Zone Management Act so as to include islands within the coastal zone.

The Department of Defense has extensive operational responsibilities on various islands within the coastal zone. Of course, these responsibilities are subject to the policy that federal agencies will cooperate with state governments to effectuate the purposes of the act. 16 U.S.C. § 1456(c). At the same time, the Secretary of Commerce has authority to exempt federal activities from strictures of the act where necessary for national security. 16 U.S.C. § 1456(c)(3). In addition. Congress has specifically excluded from the coastal zone federal lands "the use of which is by law subject solely to the discretion of or

which is held in trust by the federal government . . .". 16 U.S.C. § 1453(a).

It should be noted that islands included in the zone will be subject to the exemption authority and statutory exclusion currently applicable to other federal areas and activities. Department of Defense lands, to the extent they fall under the statutory exclusion of 16 U.S.C. § 1453(a), would be excluded from the coastal zone and, therefore, exempt from state management plans and programs.

Due to the lack of clarifying litigation and the absence of actual experience with approved state plans, the effect of the Coastal Zone Management Act upon federal activities remains somewhat unclear. Accordingly, it is recommended that appropriate amendatory language be added to specifically exempt areas of the Coastal Zones required for military operations.

Subject to the foregoing, the Department of the Navy on behalf of the Department of Defense, defers to the views of the Department of Commerce and the Department of the Interior.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is not objection to the presentation of this report on H.R. 3981 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

N. R. Gooding, Jr.,
Captain, U.S. Navy, Deputy Chief.

Department of State,
Washington, D.C., May 1, 1975.

Hon. Leonor K. Sullivan,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

Dear Madam Chairman: The Secretary has asked me to reply to your letters of February 4 and 13 and March 6. In your correspondence you requested the Department's comments on H.R. 1776, H.R. 1676, H.R. 3637, and 3981.

The Department interposes no objection to the proposed legislation from the standpoint of foreign relations. We defer to the Department of Commerce in this matter. In addition, under the terms of the proposed legislation, the Department is not authorized to expend funds and would not incur any administrative expense.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

Robert J. McCloskey,
Assistant Secretary for Congressional Relations.

Office of the Secretary of Transportation,
Washington, D.C., June 23, 1975.

Hon. Leonor K. Sullivan,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

Dear Madam Chairman: This is in response to your request for the views of the Department of Transportation concerning a series of bills related to various aspects of oil and gas development on the Outer Continental Shelf.

H.R. 1363 would amend the Outer Continental Shelf Lands Act by establishing an Advisory Committee on the Marine Environment, an Inter-Agency Committee on Marine Environment, and a requirement that the Secretary of Interior develop a comprehensive management plan for the marine environment.

H.R. 1776 would amend the Coastal Zone Management Act by establishing in the Treasury of the United States the Coastal States Fund, to be administered by the Secretary of Interior in assisting States to ameliorate and control adverse effects of offshore oil and gas development.

H.R. 1777 would amend the Coastal Zone Management Act by deferring offshore leasing until the Secretary of Interior approves coastal zone management programs of adjacent coastal zone States, or until June 20, 1976, whichever date first occurs.

H.R. 2772 would amend the Coastal Zone Management Act to require that reliable information be obtained on the nature and extent of energy resources in the undeveloped areas of the Outer Continental Shelf and that the Secretary of Interior develop a 10-year leasing plan within the context of a national energy policy.

The bill would require, with few exceptions, strict liability for oil spills, and would establish an Impacted Coastal State Fund, from which grants to States could be made. Title III would direct the Secretaries of Transportation and Interior to report to the Congress on the adequacy of pipeline safety regulations and monitoring on the Outer Continental Shelf.

H.R. 3637 would amend the Coastal Zone Management Act to authorize financial assistance to coastal States to enable them to study, assess, and plan effectively with respect to the impact within their coastal zones of off-shore energy-related facilities and activities.

H.R. 3981 would amend the Coastal Zone Management Act to authorize financial assistance to coastal States for purposes similar to those of H.R. 3637.

H.R. 3982 would amend the Coastal Zone Management Act to direct that specific information be incorporated in environmental impact statements related to oil and gas exploration and that the Secretary of Interior develop and transmit a development plan to the Governor and State coastal zone management agencies in adjacent coastal States before invitations to bid on development tracts. The bill would also require a moratorium on leasing and termination of existing leases on tracts in certain locations designated as "Frontier areas."

The Department of Transportation concurs with the general objectives of those measures of the foregoing bills that are designed to minimize the risk of damage to the environment and to ensure the safety

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of life and property at sea. However, so far as these objectives are concerned, we believe that they can be accomplished under existing authority.

The Administration is presently drafting its own proposal in the area of oil spill liability and is studying the need for, and possible alternative approaches to providing, impact assistance for coastal jurisdictions affected by Outer Continental Shelf oil and gas activities. Therefore, we will defer our comments on those aspects of the bills until the Administration's positions are finalized.

This Department is concerned that any new legislation providing for the development of energy resources on the Outer Continental Shelf recognize the expertise of the Coast Guard and retain the responsibilities and authorities currently vested in this Department. These areas include the promulgation and enforcement of regulations for fire prevention on vessels and other maritime-related safety interests; casualty investigation and inspection of facilities; the investigation, reporting, containment, and removal of oil spills; the development and maintenance of aids to navigation and safe vessel traffic systems; and the research and development necessary to carry out these functions. We feel that the knowledge and expertise gained in these and related areas by the Coast Guard should be recognized and retained in any new legislation designed to expand these regulatory functions on the Outer Continental Shelf.

However, since the authority already exists for the safe development and regulation of energy resources on the Outer Continental Shelf, we see no need for additional detailed legislation at this time (as distinguished from liability and impact assistance legislation).

With respect to Title III of H.R. 2772, we note that the substance of proposed sections 301(a) and 301(b) has already been enacted as sections 21(b) and 21(c) of the Deepwater Port Act of 1974.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

RODNEY E. EYSTER,
General Counsel.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., July 18, 1975.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MADAM CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 1776, H.R. 3637, H.R. 3981, and H.R. 4413, bills to amend the Coastal Zone Management Act of 1972, in order to authorize financial assistance to coastal States.

The bills would authorize the Secretary of Commerce to make grants to coastal States out of a special Federal fund for planning, construction of public facilities, and provision of public services to ameliorate presumed adverse impacts from the development of offshore energy resources along the Outer Continental Shelf (OCS). The need for the

proposed Federal grants is not made clear in the bills. Although the exploitation of oil and gas along the OCS may indeed entail ecological and economic costs, it has not yet been shown that these would outweigh benefits, such as increased employment and increased availability of energy supplies, that would also accrue to coastal States. Until it is effectively demonstrated that OCS leasing will result in a net cost to coastal States, the creation of a new special Federal Fund to assist States in the development and implementation of programs to counteract the negative effects of OCS leasing would seem unjustified.

The broad new programs authorized by each of these bills would appear to largely overlap ongoing programs of a number of Federal agencies, including the Departments of Agriculture, Army, Commerce, Housing and Urban Development, Interior, the Environmental Protection Agency, and the Small Business Administration. These new programs could result in confusion of responsibilities and duplication of activities, and would make difficult the establishment of budget priorities for the ongoing programs of the above listed agencies.

The Department also has strong objections to the financing arrangements involved in H.R. 1776 and H.R. 4413. The special funds established by these bills are created by earmarking a certain percentage of Federal receipts from the leasing of OCS lands to the funds for conditional transfer to the coastal States affected by OCS activities. As a general principle of budgetary management, the Department believes that budget receipts should not be earmarked for particular expenditures, but should be available in the general fund of the Treasury for appropriation by the Congress for achievement of current programs and objectives. The Department believes that legislative enactments setting aside certain budgetary receipts for particular purposes tend to introduce undesirable rigidities into the budgetary process and thereby limit the flexibility of the President and the Congress in determining annual budgetary priorities. Earmarking also tends to promote unnecessary public spending.

The Department also questions the desirability of providing windfall revenues to States adjacent to the Outer Continental Shelf based solely on their geographical locations. The Department views these grants as windfalls in the absence of evidence that offshore exploration and production has a net unfavorable impact on the economies of adjacent coastal States.

The Administration is now reviewing the questions of whether there is a need for additional Federal assistance to coastal jurisdictions resulting from OCS activities and, if so, of what alternative means of delivering assistance would be most desirable. It is possible that the review will develop evidence that additional assistance is needed and that earmarking, although generally undesirable, may be appropriate in this instance for some unique reason. Until the review is completed, the Department believes that the above objections remain valid.

In light of the above, this Department opposes enactment of H.R. 1776, H.R. 3637, H.R. 3981, and H.R. 4413.

The Department has been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

DONALD L. E. RITGER,
Acting General Counsel.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, as amended, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED

(16 U.S.C. 1451 et seq.; Public Law 92–583)

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

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

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

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

CONGRESSIONAL FINDINGS

Sec. 302. The Congress finds that—

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

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

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

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

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

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

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

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

DECLARATION OF POLICY

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

DEFINITIONS

Sec. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes *islands*, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, [and] adjacent uplands, *and islands*, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

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

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

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

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 307(g).

(j) "Outer Continental Shelf energy activity" means exploration for, or the development or production of, oil and gas resources from the outer Continental Shelf, or the location, construction, expansion or operation of any energy facilities made necessary by such exploration or development.

(k) "Energy facilities" means new facilities, or additions to existing facilities—

(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The term includes, but is not limited to (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) outer Continental Shelf oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary for such exploration, development, or production; (E) facilities for offshore loading and marine transfer of petroleum; (F) pipelines and transmission facilities; and (G) terminals which are associated with any of the foregoing.

(l) "Public facilities and public service" means any services or facilities which are financed, in whole or in part, by state or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.

(m) "local government" means any political subdivision of any coastal State if such subdivision has taxing authority or provides any public service which is financed in whole or part by taxes, and such term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(n) "Net adverse impacts" means the consequences of a coastal energy activity which are determined by the Secretary to be economically or ecologically costly to a state's coastal zone when weighed against the benefits of a coastal energy activity which directly offset such costly consequences according to the criteria as determined in accordance with section 308(c) of this title. Such impacts may include, but are not limited to—

(1) rapid and significant population changes or economic development requiring expenditures for public facilities and public services which cannot be financed entirely through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title;

(2) unavoidable loss of unique or unusually valuable ecological or recreational resources when such loss cannot be replaced or restored through its usual and reasonable means of generating state and local revenues, or through availability of Federal funds including those authorized by this title.

(o) "Coastal energy activity" means any of the following activities if it is carried out in, or has a significant effect on, the coastal zone of any coastal state or coastal states—

(1) the exploration, development, production, or transportation of oil and gas resources from the outer Continental Shelf and the location, construction, expansion, or operation of supporting equipment and facilities limited to exploratory rigs and vessels; production platforms; subsea completion systems;

marine service and supply bases for rigs, drill ships, and supply vessels; pipelines, pipelaying vessels and pipeline terminals, tanks receiving oil or gas from the outer Continental Shelf for temporary storage; vessel loading docks and terminals used for the transportation of oil or gas from the outer Continental Shelf; and other facilities or equipment required for the removal of the foregoing or made necessary by the foregoing when such other facilities or equipment are determined by the coastal state affected to have technical requirements which would make their location, construction, expansion, or operation in the coastal zone unavoidable;

(2) the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of liquefied natural gas, coal, or oil or of conversion or treatment facilities necessarily associated with the processing of liquefied natural gas; or

(3) the location, construction, expansion, or operation of deepwater ports and directly associated facilities, as defined in the Deepwater Port Act (33 U.S.C. 1501–1524; Public Law 93–627).

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

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

(b) Such management program shall include:

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

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

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

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

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

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

(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, and cultural value;

(8) a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility; and

(9) a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or man-induced actions.

(c) The grants shall not exceed [66⅔] *80* per centum of the costs of the program in any one year and no state shall be eligible to receive more than [three] *four* annual grants pursuant to this section. [Federal funds received from other sources shall not be used to match such grants.] In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary[.]*: Provided, That notwithstanding any provision of this section or of section 306 no state management program submitted pursuant to this subsection before October 1, 1978, shall be considered incomplete, nor shall final approval thereof be delayed, on account of such state's failure to comply with any regulations that are issued by the Secretary to implement subsection (b)(7), (b)(8), or (b)(9) of this section.* On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title [.]*: Provided, That the state shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a public beach and public coastal area access planning process, an energy facility planning process, and a shoreline erosion planning process for its state management program, pursuant to regulations adopted by the Secretary to implement subsections (b)(7), (b)(8), and (b)(9) of this section.*

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver[.]*: And provided further, That the Secretary may waive the application of the 10 per centum maximum requirement as to any grant under this section when the coastal state is implementing a management program pursuant to subsection (h) of this section.*

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

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of

1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h)(1) The Secretary may make annual grants under this subsection to any coastal state for not more than 80 per centum of the cost of implementing the state's management program, if he preliminarily approves such program in accordance with paragraph (2) of this subsection. The limitation on the number of annual development grants pursuant to subsection (c) of this section is not applicable to this subsection. States shall remain eligible for implementation grants pursuant to this subsection until September 30, 1979.

(2) Before granting preliminary approval of a management program submitted by a coastal state pursuant to this subsection, the Secretary shall find that the coastal state has—

(A) developed a management program which is in compliance with the rules and regulations promulgated pursuant to this section but is not yet wholly in compliance with the requirements of section 306 of this title,

(B) in consultation with the Secretary, specifically identified the deficiencies in the program which would render the state ineligible for the Secretary's approval pursuant to section 306 of this title, and deficiencies such as the lack of an adequate organizational network or the lack of sufficient state authority to administer effectively the state's program have been set forth with particularity,

(C) has established a reasonable time schedule during which it can remedy the deficiencies identified under subparagraph (B) of this subsection; and

(D) has specifically identified the types of program management activities that it seeks to fund pursuant to this subsection.

(3) The Secretary shall determine allowable costs under this subsection and shall publish necessary and reasonable rules and regulations in this regard.

(4) Any state program funded under the provisions of this subsection shall not be considered an approved program for the purposes of section 307 of this title.

[(h)] *(i)* The authority to make grants under this section shall expire on [June 30, 1977.] *September 30, 1979.*

ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than [66⅔] *80* per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. [Federal funds received from other sources shall not be used to pay the state's share of costs.]

(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided*, That no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, nor in excess of $3,000,000 for fiscal year 1977: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

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

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary; which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

No mechanism referred to in this paragraph for continuing consultation and coordination shall be found by the Secretary to be effective unless such mechanism includes, in addition to such other provisions as may be appropriate, provisions under which:

(i) the management agency designed pursuant to paragraph (5) of this subsection is required, before implementing any decision made by it to carry out the management program, to send notice of such decision to any local government which has land use or water use control powers within the area to which such decision may apply;

(ii) any such local government may, within thirty days after the date on which such notice is received, request the management agency to hold a public hearing regarding such decision;

(iii) the management agency, upon receiving a request for a public hearing as provided for in clause (ii), is required to hold such public hearing not sooner than ninety days after the date on which notice of the decision is received by the local government; and

(iv) if a public hearing on any such decision is timely requested by any local government, the management agency may not implement the decision until after the public hearing is concluded.

Funds which may be allocated to any local government pursuant to subsection (f) of this section may be used, in part, to defray expenses incurred by the local government in preparing for any public hearing referred to in the preceding sentence which is requested by it.

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

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

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

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

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

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. *In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a state's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the state has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title.*

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

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

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

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

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

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

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

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

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

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

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

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

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

(i) As a condition of a state's continued eligibility for grants pursuant to this section, the management program of such state shall, after the fiscal year ending in 1978, include, as an integral part thereof (1) a planning process for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary; (2) an energy facility planning process, which is developed pursuant to section 305(b)(8) of this title, and approved by the Secretary; and (3) a shoreline erosion planning process, which is developed pursuant to section 305(b)(9) of this title, and approved by the Secretary.

INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately

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

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

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal [license or permit] *license, lease, or permit* to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the [licensing or permitting] *licensing, leasing, or permitting* agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No [license or permit] *license, lease, or permit* shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(4) In case of serious disagreement between any Federal agency and the state in the implementation of an approved state management program, the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the

Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed—

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

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

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

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

COASTAL ENERGY ACTIVITY IMPACT PROGRAM

SEC. 308. (a)(1) The Secretary shall make a payment for each fiscal year to each coastal state in an amount which bears to the amount appropriated for that fiscal year pursuant to paragraph (6) of this subsection the same ratio as the number representing the average of the following proportions (computed with regard to such state) bears to 100—

(A) the proportion which the outer Continental Shelf acreage is adjacent to such state and which is leased by the Federal Government in that year bears to the total outer Continental Shelf acreage which is leased by the Federal Government in that year;

(B) the proportion which the number of exploration and development wells adjacent to that state which are drilled in that year on outer Continental Shelf acreage leased by the Federal Government bears to the total number of exploration and de-

velopment wells drilled in that year on outer Continental Shelf acreage leased by the Federal Government;

(C) the proportion which the volume of oil and natural gas produced in that year from 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 that year from outer Continental Shelf lands under Federal lease in that year;

(D) the proportion which the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government and first landed in such state in that year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government and first landed in the United States in that year;

(E) the proportion which the number of individuals residing in such state in that year who are employed directly in outer Continental Shelf energy activities by outer Continental Shelf lessees and their contractors and subcontractors bears to the total number of individuals residing in all coastal states who are employed directly in outer Continental Shelf energy activities in that year by outer Continental Shelf lessees, and their contractors and subcontractors; and

(F) the proportion which the onshore capital investment which is made during that year in such state and which is required to directly support outer Continental Shelf energy activities bears to the total of all such onshore capital investment made in all coastal states during that year.

(2) For purposes of calculating the proportions set forth in paragraph (1) of this subsection, "the outer Continental Shelf lands which are adjacent to such state" shall be the portion of the outer Continental Shelf lying on that state's side of extended seaward boundaries determined as follows: (A) In the absence of seaward lateral boundaries, or any portion thereof, clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), the boundaries shall be that portion of the outer Continental Shelf which would lie on that state's side of lateral marine boundaries as determined by the application of the principles of the Convention on the Territorial Sea and the Contiguous Zone. (B) If seaward lateral boundaries have been clearly defined or fixed by interstate compacts, agreements, or judicial decree (if entered into, agreed to, or issued before the effective date of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to establish them.

(3) The Secretary shall have the responsibility for the compilation, evaluation, and calculation of all relevant data required to determine the amount of the payments authorized by this subsection and shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, set forth the method by which collection and evaluation of such data shall be made. In compiling and evaluating such data, the Secretary may require the assistance of any relevant Federal or State agency. In calculating the proportions set forth in

paragraph (1) of this subsection, payments made for any fiscal year shall be based on data from the immediately preceding fiscal year, and data from the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included in the data from the fiscal year ending June 30, 1976.

(4) Each coastal state receiving payments under this subsection shall use the moneys for the following purposes and in the following order of priority:

(A) The retirement of state and local bonds, if any, which are guaranteed under section 319 of this title which were issued for projects or programs designed to provide revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activity; except that, if the amount of such payments 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 or programs which are designed to provide new or additional public facilities or public services required as a direct result of outer Continental Shelf energy activity.

(C) the reduction or amelioration of any unavoidable loss of unique or unusually valuable ecological or recreational resources resulting from outer Continental Shelf activity.

(5) It shall be the responsibility of the Secretary to determine annually if such coastal state has expended or committed funds in accordance with the purposes authorized herein by utilizing procedures pursuant to section 313 of this title. The United States shall be entitled to recover from any coastal state that portion of any payment received by such state under this subsection which—

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

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

(6) For purposes of this subsection, there are hereby authorized to be appropriated funds not to exceed $50,000,000 for the fiscal year ending September 30, 1977: $50,000,000 for the fiscal year ending September 30, 1978; $75,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; and $125,000,000 for the fiscal year ending September 30, 1981.

(7) It is the intent of Congress that each state receiving payments under this subsection shall, to the maximum extent practicable, allocate all or a portion of such payments to local governments thereof and that such allocation shall be on a basis which is proportional to the extent to which local governments require assistance for purposes as provided in paragraph (4) of this subsection. In addition, any coastal state may, for the purposes of carrying out the provisions of this subsection and with the approval of the Secretary, allocate all or portion of any grant received under this subsection to (A) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (B) any regional agency, or (C) any interstate agency. No provision in this subsection shall relieve any state of the responsibility for insuring that any funds allocated to

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any local government or other agency shall be applied in furtherance of the purposes of this subsection.

(b)(1) The Secretary may make grants to any coastal state if he determines that such state's coastal zone is being, or is likely to be, impacted by the location, construction, expansion, or operation of energy facilities in, or which significantly affect its coastal zone. Such grants shall be for the purpose of enabling such coastal state to study and plan for the economic, social, and environmental consequences which are resulting or are likely to result in its coastal zone from such energy facilities. The amount of any such grant may equal up to 80 per centum of the cost of such study or plan, to the extent of available funds.

(2) The Secretary may make grants to any coastal state if he is satisfied, pursuant to regulations and criteria to be promulgated according to subsection (c) of this section, that such state's coastal zone has suffered, or will suffer, net adverse impacts from any coastal energy activity. Such grants shall be used for, and may equal up to 80 per centum of the cost of carrying out projects, programs, or other purposes which are designed to reduce or ameliorate any net adverse impacts resulting from coastal energy activity.

(c) Within one hundred and eighty days after the effective date of this section, the Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant eligibility under subsection (b) of this section. Such regulations shall—

(1) include appropriate criteria for determining the amount of a grant and the general range of studying and planning activities for which grants will be provided under subsection (b)(1) of this section;

(2) specify the means and criteria by which the Secretary shall determine whether a state's coastal zone has, or will suffer, net adverse impacts;

(3) include criteria for calculating the amount of a grant under subsection (b)(2) of this section, which criteria shall include consideration of—

(A) offsetting benefits to the state's coastal zone or a political subdivision thereof, including but not limited to increased revenues,

(B) the state's overall efforts to reduce or ameliorate net adverse impacts, including but not limited to, the state's effort to insure that persons whose coastal energy activity is directly responsible for net adverse impacts in the state's coastal zone are required, to the maximum extent practicable, to reduce or ameliorate such net adverse impacts,

(C) the state's consideration of alternative sites for the coastal energy activity which would minimize net adverse impacts; and

(D) the availability of Federal funds pursuant to other statutes, regulations, and programs, and under subsection (a) of this section, which may be used in whole or in part to reduce or ameliorate net adverse impacts of coastal energy activity;

In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, which upon request, shall assist the Secretary in the formulation of the regulations under this subsection on a nonreimbursable basis; with representatives of appropriate state and local governments; with commercial, industrial, and environmental organizations; with public and private groups; and with any other appropriate organizations and persons with knowledge or concerns regarding adverse impacts and benefits that may affect the coastal zone.

(d) All funds appropriated to carry out the purposes of subsection (b) of this section shall be deposited in a fund which shall be known as the Coastal Energy Activity Impact Fund. The fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to the fund. Moneys in the fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest to the United States.

(e) There are hereby authorized to be appropriated to the Coastal Energy Activity Impact Fund such sums not to exceed $125,000,000 for the fiscal year ending September 30, 1977, and for each of the next four succeeding fiscal years, as may be necessary, which shall remain available until expended.

(f) It is the intent of Congress that each state receiving any grant under paragraph (1) or (2) of subsection (b) of this section shall, to the maximum extent practicable, allocate all or a portion of such grant to any local government thereof which has suffered or may suffer net adverse impacts resulting from coastal energy activities and such allocation shall be on a basis which is proportional to the extent of such net adverse impact. In addition, any coastal state may, for the purpose of carrying out the provisions of subsection (b) of this section, with the approval of the Secretary, allocate all or a portion of any grant received to (1) any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (2) any regional agency, or (3) any interstate agency. No provision in subsection (b) of this section shall relieve a state of the responsibility for insuring that any funds so allocated to any local government or any other agency shall be applied in furtherance of the purposes of such subsection.

(g) No coastal state is eligible to receive any payment under subsection (a) of this section, or any grant under subsection (b) of this section unless such state—

(1) is receiving a program development grant under section 305 of this title or, is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or has such a program approved pursuant to section 306 of this title; and

(2) has demonstrated to the satisfaction of, and has provided adequate assurances to, the Secretary that the proceeds of any such payment or grant will be used in a manner consistent with the coastal zone management program being developed by it, or with its approved program, consistent with the goals and objectives of this title.

INTERSTATE COORDINATION GRANTS TO STATES

SEC. 309. (a) The states are encouraged to give high priority (1) to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, and implementation through interstate agreement or compact. The Secretary is authorized to make annual grants to the coastal states, not to exceed 90 per centum of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal state receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

(b) The consent of the Congress is hereby given to two or more states to negotiate and enter into agreements or compacts, not in 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 of this title, and (2) establishing such agencies, joint or otherwise, as the states may deem desirable for making effective such agreements and compacts. Such agreements or compacts shall be binding and obligatory upon any state or party thereto without further approval by Congress.

(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish 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, and the Administrator of the Environmental Protection Agency, the Administrator of the Federal Energy Administration, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of states for the purpose of creating temporary ad hoc planning and coordinating entities to—

(1) coordinate state coastal zone planning, policies, and programs in contiguous interstate areas;

(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

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) of this section, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall expire at the close of the five-year period beginning on the effective date of this section.

COASTAL RESEARCH AND TECHNICAL ASSISTANCE

SEC. 310. (a) The Secretary may conduct a program of research, study, and training to support the development and implementation of state coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Government shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this title, a summary and evaluation of the research, study, and training conducted under this section.

(b) The Secretary is authorized to make up to an 80 per centum grant to any coastal state to assist such state in developing its own capability for carrying out short-term research, studies, and training required in support of coastal zone management.

(c) (1) The Secretary is authorized to—

(A) undertake a comprehensive review of all aspects of the shellfish industry including but not limited to the harvesting, processing, and transportation of shellfish;

(B) evaluate the impact of Federal legislation affecting water quality on the shellfish industry;

(C) examine and evaluate methods of preserving and upgrading areas which would be suitable for the harvesting of shellfish, including the improvement of water quality in areas not presently suitable for the production of wholesome shellfish and other seafood;

(D) evaluate existing and pending bacteriological standards, pesticide standards, and toxic metal guidelines which may be utilized to determine the wholesomeness of shellfish, and

(E) evaluate the effectiveness of the national shellfish sanitation program.

(2) The Secretary shall submit a report to the Congress on the activities required to be undertaken by it under paragraph (1) together with such comments and recommendations as he may deem necessary, not later than June 30, 1977.

(d) Notwithstanding any other provisions of law, no Federal agency shall promulgate any additional regulations affecting the harvesting, processing, or transportation of shellfish in interstate commerce, unless an emergency occurs as determined by the Secretary, before the submission to the Congress of the report required under subsection (c) (2).

PUBLIC HEARINGS

SEC. [308.] *311.* All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time

of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

SEC. [309.] *312.* (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

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

RECORDS

SEC. [310.] *313.* (a) Each recipient of a grant *or payments* under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant *or payments*, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

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

ADVISORY COMMITTEE

SEC. [311.] *314.* (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

ESTUARINE SANCTUARIES AND BEACH ACCESS

SEC. [312.] *315.* (*a*) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purposes of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed $2,000,000. [No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section.]

(*b*) *The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition of access to public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological and cultural value.*

ANNUAL REPORT

SEC. [313.] *316.* (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; [and] (*9*) *a general description of the economic, environmental, and social impacts of energy activity affecting the coastal planning mechanisms developed by the coastal states;* and [(9)] (*11*) such other information as may be appropriate.

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

RULES AND REGULATIONS

SEC. [314.] *317.* The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and

opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

LIMITATIONS

SEC. 318. Nothing in this title shall be construed to authorize or direct the Secretary or any other Federal official to intercede in any state land or water use decision including, but not limited to the siting of energy facilities, as a prerequisite to such states eligibility for grants or bond guarantees under this title.

STATE AND LOCAL GOVERNMENT BOND GUARANTEES

SEC. 319. (a) The Secretary is authorized, in accordance with such rules as he shall prescribe, to make commitments to guarantee and to guarantee the payment of interest on and the principal balance of bonds or other evidences of indebtedness issued by a coastal state or unit of general purpose local government for the purposes specified in subsection (b) of this section.

(b) A bond or other evidence of indebtedness may be guaranteed under this section only if it is issued by a coastal state or unit of general purpose local government for the purpose of obtaining revenues which are to be used to provide public services and public facilities which are made necessary by outer Continental Shelf energy activities.

(c) Bonds or other evidences of indebtedness guaranteed under this section shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that—

(1) no guarantee shall be made unless the Secretary determines that the issuer of the evidence of indebtedness would not be able to borrow sufficent revenues on reasonable terms and conditions without the guarantee;

(2) the guarantees shall provide for complete amortization of the indebtedness within a period not to exceed thirty years;

(3) the aggregate principal amount of the obligations which may be guaranteed under this section on behalf of a coastal state or a unit of general purpose local government and outstanding at any one time may not exceed $20,000,000;

(4) the aggregate principal amount of all the obligations which may be guaranteed under this section and outstanding at any one time may not exceed $200,000,000;

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

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

(B) bear interest at a rate satisfactory to the Secretary;

(C) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(D) contain or be subject to provisions with respect to the protection of the security interest of the United States;

(6) the approval of the Secretary of the Treasury shall be required with respect to any guarantee made under this section, except that the Secretary of the Treasury may waive this requirement with respect to the issuing of any such obligation when he determines that such issuing does not have a significant impact on the market for Federal Government and Federal Government-guaranteed securities;

(7) the Secretary determines that there is reasonable assurance that the issuer of the evidence of indebtedness will be able to make the payments of the principal of and interest on such evidence of indebtedness; and

(8) no guarantee shall be made after September 30, 1981.

(d) (1) Prior to the time when the first bond or other evidence of indebtedness is guaranteed under this section, the Secretary shall publish in the Federal Register a list of the proposed terms and conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. For at least thirty days following such publication, the Secretary shall receive, and give consideration to, comments from the public concerning such terms and conditions. Following this period, the Secretary shall publish in the Federal Register a final list of the conditions under which bonds and other evidences of indebtedness will be guaranteed under this section. The initial guarantee made under this section may not be conducted until thirty days after the final list of terms and conditions is published.

(2) Prior to making any amendment to such final list of terms and conditions, the Secretary shall publish such amendment in the Federal Register and receive, and give consideration to, comments from the public for at least thirty days following such publication. Following this period, the Secretary shall publish in the Federal Register the final form of the amendment, and such amendment shall not become effective until thirty days after this publication.

(e) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to principal, interest, and day redemption premiums. Any such guarantee made by the Secrtary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(f) The Secretary shall prescribe and collect a fee in connection with guarantees made under this section. This fee may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs of carrying out this section. Fees collected under this subsection shall be deposited in the revolving fund established under subsection (i).

(g) With respect to any obligation guaranteed under this section, the interest payment paid on such obligation and received by the purchaser thereof (or his successor in interest) shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954.

(h) (1) Payments required to be made as a result of any guarantee made under this section shall be made by the Secretary from funds which may be appropriated to the revolving fund established by subsection (i) or from funds obtained from the Secretary of the Treas-

ury and deposited in such revolving fund pursuant to subsection (i)(2).

(2) 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 this section, 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 him, unless the Secretary finds that there was no default by the coastal state or unit of general purpose local government or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement 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 any revenue becomes due to such coastal state or unit of general purpose local government under section 308(a) of this title, the Secretary shall, in lieu of paying such coastal state or unit of general purpose local government such revenue, deposit such revenue in the revolving fund established under subsection (i) until the right of reimbursement has been satisfied.

(3) The Attorney General shall, upon request of the Secretary, take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section. Any sum recovered pursuant to this paragraph shall be paid into the revolving fund established by subsection (i).

(i)(1) The Secretary shall establish a revolving fund to provide for the timely payment of any liability incurred as a result of guarantees made under this section, for the payment of costs of administering this section, and for the payment of obligations issued to the Secretary of the Treasury under paragraph (2) of this subsection. This revolving fund shall be comprised of—

(A) receipts from fees collected under this section;

(B) recoveries under security, subrogation, and other rights;

(C) reimbursements, interest income, and any other receipts obtained in connection with guarantees made under this section;

(D) proceeds of the obligations issued to the Secretary of the Treasury pursuant to paragraph (2) of this subsection; and

(E) such sums as may be appropriated to carry out the provisions of this section.

Funds in the revolving fund not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States or guaranteed thereby or in obligations, participation, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(2) The Secretary may, for the purpose of carrying out the functions of this section, issue obligations to the Secretary of the Treasury only to such extent or in such amounts as may be provided in appropriation Acts. The obligations issued under this paragraph shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury shall purchase any obligation so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any security issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder. Proceeds obtained by the Secretary from the issuance of obligations under this paragraph shall be deposited in the revolving fund established in paragraph (1).

(3) There are authorized to be appropriated to the revolving fund such sums as may be necessary to carry out the provisions of this section.

(j) No bond or other evidence of indebtedness shall be guaranteed under this section unless the issuer of the evidence of indebtedness and the person holding the note with respect to such evidence of indebtedness permit the General Accounting Office to audit, under rules prescribed by the Comptroller General of the United States, all financial transactions of such issuer and holder which relate to such evidence of indebtedness. The representatives of the General Accounting Office shall have access to all books, accounts, reports, files, and other records of such issuer and such holder insofar as any such record pertains to financial transactions relating to the evidence of indebtedness guaranteed under this section.

(k) For purposes of this section, the term "unit of general purpose local government" shall mean any city, county, town, township, parish, village, or other general purpose political subdivision of a coastal state, if such general purpose political subdivision possesses taxing powers and has responibility for providing public facilities or public services to the community, as determined by the Secretary.

[AUTHORIZATION OF APPROPRIATIONS

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

[(1) the sum of $9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of $12,000,000 for each of the three succeeding fiscal years, for grants under section 305, to remain available until expended;

[(2) such sums, not to exceed $30.000.000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

[(3) such sums, not to exceed $6.000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 312, to remain available until expended.

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

AUTHORIZATION FOR APPROPRIATIONS

SEC. 320. (a) There are authorized to be appropriated—

(1) the sum of $24,000,000 for the fiscal year ending September 30, 1977, and $24,000,000 for each of the two succeeding fiscal

years, for grants under section 305 of this title to remain available until expended;

(2) such sums, not to exceed $50,000,000 for the fiscal year ending September 30, 1977, and $50,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 306 of this title, to remain available until expended;

(3) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years as may be necessary, for grants under section 309 of this title, to remain available until expended;

(4) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(a) of this title, to remain available until expended;

(5) such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for financial assistance under section 310(b) of this title, to remain available until expended;

(6) such sums, not to exceed $6,000,000 for the fiscal year ending September 30, 1977, and $6,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(a) of this title, to remain available until expended; and

(7) such sums, not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and $25,000,000 for each of the three succeeding fiscal years, as may be necessary, for grants under section 315(b) of this title, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and $5,000,000 for each of the three succeeding fiscal years, as may be necessary, for administrative expenses incident to the administration of this title.

(c) No Federal funds received by a state shall be used to pay the state's share of the costs of a program or project authorized under this title.

TITLE V, UNITED STATES CODE, AS AMENDED

* * * * * * *

§ 5316. Positions at level V.

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is $28,000:

* * * * * * *

(132) General Counsel of the Equal Employment Opportunity Commission.

(133) Director, National Cemetery System, Veterans' Administration.

(133) [1] Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

[1] Should have read "(134)".

APPENDIX I

Net Adverse Impacts From Coastal Energy Activity in the Great Lakes [1]

The Great Lakes region does not face the prospect of OCS activity (all waters are state controlled), deep water ports (the maximum depth of dredged navigation channels is currently 27'), or Liquified Natural Gas Activity (LNG is received in large supertankers too big for the Great Lakes navigation system and is then processed near the receiving ocean port because of its volatile nature). Thus the only "coastal energy activity" occurring or projected to occur in the Great Lakes region is, "the location, construction, expansion, or operation of vessel loading docks, terminals, and storage facilities used for the transportation of coal or oil." [2] There is currently much of this activity occurring, and increases are expected in the future.

In 1970, the US Great Lakes ports received 32.8 million tons of coal and shipped out 49.1 million tons (the remaining 17 went to Canada).[3] Also in 1970, the US ports shipped 7.5 million tons of petroleum and received 6.8 million tons.[4] By 1974, this amount had nearly doubled: 12.7 million tons of oil (95 million barrels or 1½ of US oil consumption) were received by US ports in a fleet of 39 tankers.[5] Most oil is shipped from Chicago to other ports along Lake Michigan while most coal is shipped out of Toledo (21 million tons in 1974) [6] to power plants and manufacturers in the Detroit area via Lakes Erie and St. Clair.[5]

The prospects of future coal activity increases on the Great Lakes are good. By 1990, coal production in the Northern Great Plains is expected to increase 500% under Business as Usual conditions and 1100% under accelerated development conditions, 3 to 5 times the rates of increases nationally.[7] Much of the coal will go to the Great Lakes region, especially Lake Superior. The Port of Superior currently receives one million tons annually and the Upper Great Lakes Regional Commission has estimated that this will increase to 8 million tons by 1980.[8] This Northern Great Plains coal will supplement the midwestern and appalachian coal activity that currently makes up the preponderance of Great Lakes coal activity.

[1] Prepared by the Office of Coastal Zone Management, NOAA, at the request of the Subcommittee on Oceanography.
[2] Proposed DuPont-Murphy Amendment to H.R. 3981; definition of "coastal energy activity."
[3] Great Lakes Basin Commission framework study; appendix C9 Commercial navigation; pages 48–55.
[4] Ibid.
[5] Telecommunication with Nick McCullough and staff, Great Lakes Commission, Jan. 21, 1976.
[6] Telecommunication with Jerry Kotes, Great Lakes Basin Commission Standing Committee on Coastal Management staff, Jan. 21, 1976.
[7] Project Independence Report, tables II–18 and II–21, pages 101 and 108.
[8] Telecommunication with Marian Cox, Wisconsin, State Planning Office, Jan. 21, 1976.

Net adverse impacts could be either public services and facilities from population influxes or loss of ecological or recreational resources.[9] While many Great Lakes ports are in large metropolitan areas and will incur few of these types of impacts, others like Sandusky, Lorain, and Ashtabula, Ohio; Saginaw and Muskegon, Michigan; and Green Bay and Superior, Wisconsin are in smaller urban settings and yet receive over one million tons of coal or oil annually.[10] Rapid expansion of port facilities in these areas could conceivably cause net adverse impacts in both ways.

Superior, Wisconsin is an excellent case in point. Superior has a population of 32 thousand and is located in the Duluth-Superior Standard metropolitan statistical area with a population of 150 thousand.(8) Coal traffic in Superior is projected to increase 8 fold by 1980 while oil traffic is projected to increase 30 thousand tons annually to a level of 500 thousand tons in 1980.(8) Fifty-one million dollars of expansion is on-going by Oretran, Inc. for new coal facilities financed by industrial bonds. The city is financing pollution control and abatement through $6 to $10 million worth of bonds.(8) Bond guarantees could aid the city. Detroit Edison is currently spending $40 million to construct a coal dock in nearby Duluth to handle coal incoming by unit train from Montana.(6) The utility is planning to transship the low sulfur coal by 700' Freighters to St. Clair, Michigan.(6) Lakehead Pipeline Company wants to spend $11 million on Superior Port facilities to receive oil products from an Edmonton, Alberta pipeline to store near the docks and hence ship to Canadian ports.(8) Environmentalists are preventing this from occurring thus far because of the fear of oilspills on both Lake Superior (covered by Federal Oil Spill legislation) and onshore (not covered).(5) Net Adverse Impact money might be useful here too.

[9] Proposed DuPont-Murphy Amendment to H.R. 3981; definition of "net adverse impact."
[10] Great Lakes Basin Commission framework study, pages 29–31.

APPENDIX II

A Discussion of the Erosion Problem in the United States [1]

BACKGROUND—STATEMENT OF THE PROBLEM

Erosion is a national coastal problem with implications for many U.S. citizens. Almost one-fourth of our nation's 84,240 miles of coastline is eroding, with approximately 2,700 miles, or 3.2% critically eroding.[2] Eighty-one percent of the 2,700 miles of critical erosion occurs along the Atlantic and Gulf Coasts; 10% along the Pacific, Hawaiian and Alaskan coasts; and 8% along the Great Lakes shores.[3] Estimates of damage erosion causes annually vary, but $300 million would appear to be a reasonable figure.

This nation does not yet have an effective process which consolidates the capital and technical expertise necessary to solve this problem: current Federal, state, and local, and private efforts are often disjointed, underfunded, and poorly engineered. It was estimated, in 1971, that it would cost almost $1 billion to prevent harm to life, public safety, property, wildlife habitats, and landmarks of historical or natural significance in the next five years from erosion by erecting structural controls.[4] Yet the magnitude of Federal effort has been relatively small: between 1970 and 1974, only $104 million was spent by the U.S. Army Corps of Engineers on reducing erosion.[5]

Critically eroded coastline had been separated into four categories by the Corps.

Those areas (A, B, C) where continued critical erosion is likely to endanger:

A. Life or public safety within five years.

B. Property, scarce wildlife habitats, or landmarks of historical or natural significance within five years.

C. Life, public safety, property, scarce wildlife habitats, or landmarks of historical natural significance within five to fifteen years.

D. All other critically eroding areas.

Our nation's coastline falls into those categories as follows:

[1] This report was prepared by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, at the request of the Subcommittee on Oceanography.
[2] Report on the National Shoreline Study, Army Corps of Engineers, August 1971, p. 18, table 1.
[3] Ibid., p. 27, table 2.
[4] Op. cit. National Shoreline Study, p. 24, table 2.
[5] GAO report on "National Efforts to Preserve the Nation's Beaches and Shorelines—A Continuing Problem," June 11, 1975, p. ii.

TABLE 1.—DATA ON CLASSIFICATION OF CRITICALLY ERODED COASTLINE [1]

	Number of miles	Percent	Cost of preventive action (millions of 1971 dollars)	Percent
Category:				
A	190	7	$240	13
B	1,030	38	660	36
C	690	25	390	21
D	780	29	520	29
Total	2,690	99	1,810	99

[1] Op. cit. National Shoreline Study, p. 27, table 2.

Note: There is also an annual cost of $73,000,000 associated with the cost of preventive action for beach nourishment

Some of the most serious problems occur along the 4% (3,600 miles) [6] of the nation's coastline comprising the Great Lakes. The Great Lakes have twice as great a share of the nation's critically eroded coastline [7] and three and one-half times as large a percentage of types A and B of this critically eroded shoreline as they do total shoreline.[8] Shoreline erosion causes an even greater proportion of damage in the Great Lakes, since there is more development per mile of shore there than along the ocean coasts. Furthermore, international and national interests regarding Lake level regulations and navigation cause actions which exacerbate the erosion problem.

Federal efforts by the Army Corps of Engineers are limited to protecting public interests: the Corps cannot take actions which benefit only private owners. The Corps also can only participate in projects where public access is guaranteed. A small demonstration program of 13 projects to be undertaken by the Corps has been authorized by Congress, although no funds have been appropriated yet. The new erosion insurance program under the Flood Insurance Act in HUD will probably operate in a manner analogous to the flood insurance program. Critical erosion prone areas will be designated and existing development thereupon will be insured while future development will have to meet certain requirements. Regulations have not been drawn up yet so that the program will not be effective for a few years.

ANALYSIS OF THE PROBLEM

The problem of erosion can be broken down in the following manner:

(1) Temporal nature of development; existing versus future

(2) Nature of ownership; public versus private

This yields four base cases:

TABLE 2.—BREAKDOWN OF EROSION PROBLEM

Case type	Temporal	Ownership	Solution approach
A	Future	Public	Management.
B	do	Private	Do.
C	Present	Public	Technical.
D	do	Private	Do.

[6] "A Strategy for Great Lakes Damage Reduction", the Joint FRC–GLBC Task Force for Great Lakes Shorelands Damage Reduction, March 1974, p. 2.

[7] From table 1.

[8] From table 1.

Types A and B require a preventive approach. Information concerning which areas are prone to future erosion must be readily available. Public monies to finance or insure development on such areas should be prohibited; this means that publicly owned projects should not be built on erosion prone areas. States and localities will have to develop their own position toward private projects through such mechanisms as zoning and setback ordinances. In any case, in order to implement policies regarding future public and private development on erosion prone areas, a process is needed which can identify those areas and which is capable of authorizing those actions the state determines are warranted. The coastal zone management process is the ideal mechanism to do this.

Existing development in erosion prone areas (cases C and D) poses different issues. There are three basic alternative actions:

1. Do nothing and let erosion take its toll.
2. Employ setbacks, i.e. move the development away from the erodible area.
3. Erect structural controls to prevent erosion from occurring.

It must be determined which alternative is optimal economically, and then a coordinated comprehensive approach must be taken. This will insure that structural erosion controls do not cause more problems than they solve. This type of planning effort also ties in well with the existing Federal coastal zone management process.

On public lands (case C) it is the responsibility of the proprietory government to take the appropriate actions. On a state or local level this can be done under the coastal zone management process and, when overriding national interests are not involved, Federal actions should be in line with state policy.

On private lands (case D) it is the owner's responsibility to bear the costs of the action he takes. There may be some national interests involved (steel mills, power plants, historical homes, etc.), but taking action is still a private responsibility. If a setback is chosen, then two options exist for the private owner:

1. Move the development and keep the land it was originally on.
2. Move the development and sell the land to the government (Federal, state or local) for public access.

In either case the owner should pay the cost of moving his development. The government might want to offer an incentive to make Option 2 more attractive if it deemed this is in its interest although government, especially state or local entities, may have problems raising the money.

If structural controls are opted for, then the owner must finance them. Great expenses are associated with this method: estimates run about $800,000 per mile, or $150 per foot, excluding operating, maintenance, and inspection costs.[9] Thus, many times, although the structural solution is cost-effective the owner may not be able to afford it. Since these are front-end cost problems essentially, loans or bond financing would be of great help. The Federal government, with its great resources, might offer help in order to insure that the best solution is implemented.

[9] Obtained by taking Corps figure of $1.8 billion for structurally protecting critical shoreline and dividing that by the 2,700 miles of critically eroded shore.

The three major steps which must be taken to resolve the problems of erosion threatening existing development are:

Identifying those areas where erosion controls should be implemented.

Developing a comprehensive, coordinated system of erosion controls in those areas.

Enabling the various property owners to fund the controls.

These three steps have not been taken in most cases.

A cost/benefit ratio has not been determined for each stretch of shoreline in order to identify those areas where erosion controls are economically warranted. This is because the technical and management options for erosion control have not been evaluated to give the best alternative and its cost for each locale. The value of erosion damage to the land and structures has not been calculated either.

It is difficult to assess the annual dollar cost of erosion to compare with the cost of preventing erosion in order to determine whether any action should be taken. The only comprehensive damage assessment of erosion done nationally was by the Corps in the Great Lakes during the period of high lake levels in 1951/1952 (similar to the present situation). It was found that $50 million worth of damage occurred.[10] Damage estimates today would be far greater due to the increased coastal development, the increased property values along the coast due to the high demand for coastal locations, and inflation. In 1980, potential Great Lakes damage is estimated to be $97 million.[11] Nationally, the cost of erosion has been estimated to be $300 million annually.[12]

A comprehensive coordinated approach has also not yet occurred since no one has taken charge of organizing the efforts of the different land owners, public and private. This coordination effort will be substantial since two-thirds of the critically eroding coast is privately controlled, while the ownership of the public sector is fairly evenly spread out among Federal, state and local governments.[13] This coordination is essential because individual attempts to protect eroding property frequently result in accelerated erosion for down-current riparian interests.

The final barrier to effective structural erosion control has been its high cost, estimated to be about $800,000 per mile.[14] This initial cost, and the continuous operating and maintenance costs also associated with the erosion controls, are difficult for local and state government to absorb, even when assisted by the Federal government. These costs are even more cumbersome to individual property owners, who are generally not eligible for any government assistance. Some of the resulting low-cost short-term remedies attempted do not relieve the problem and may even worsen it.

[10] Appendix 12, Shore Use and Erosion, Great Lakes Basin Framework Study, 1975, page 59.
[11] Ibid., p. 63, 68, 71, 76, and 78.
[12] Coastal Erosion Hazard in the U.S.: A Research Assessment, Sorensen Mitchell (part of Gilbert White's Univ. of Colorado program), 1975, p. 28.
[13] Op. Cit. National Shoreline Study, page 32, table 6.
[14] Obtained by taking Corps figure of $1.8 billion for structurally protecting critical shoreline and dividing that by the 2,700 miles of critically eroded shore.

APPENDIX III

Location of Onshore Impacts of Outer Continental Shelf Oil and Gas Development [1]

I. SUMMARY

The onshore impacts of Outer Continental Shelf oil and gas operations will be concentrated in the coastal zone. The location of these impacts can be approximated by a determination of the possible placement of various facilities necessitated by OCS development. These facilities can be broken down roughly into four categories, which include:

(i) Facilities which are highly coast dependent, and must have direct coastal access.

(ii) Facilities which are highly dependent, but do not require direct access (may be located up to five miles from shore).

(iii) Facilities which originate at the coast, but may stretch farther inland (up to 50 miles).

(iv) Facilities which are not inherently coast dependent, and thus may be located anywhere.

Defining the relationships between each of these categories and state coastal zones is difficult because of the diversity in possible coastal zone definition (most states' coastal zones are not yet finally delimited). All the states have begun defining planning areas which generally comprise the first tier or first two tiers of coastal counties. Management boundaries have more variety. One strategy is to delineate a narrow (100 feet to 1000 yards) strip of direct state permitting control, coupled with a larger area (from 5 to 100 miles) in which management is effected through local master plans.[2] [3] [4] This method appears to be the favored approach. Another alternative is to delete the direct state control area, and expand state powers somewhat over the larger zone.[5]

In any case, all facilities in the first two categories will be sited within states' coastal zones. These facilities are generally required for OCS development, and will be responsible for most of the construction and resulting environmental and infrastructure impacts. The third category of facilities is relatively minor; these will be included either within the states' management or planning zones.

The last category of facilities depends far less upon OCS production per se than upon oil production in general. Because of the wider range of available sites and the much diminished siting pressures, these

[1] This report was prepared by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration at the request of the Subcommittee on Oceanography.
[2] California Coastal Plan, p. 12.
[3] Washington State Coastal Zone Management Program, p. 29.
[4] San Francisco Bay Plan, p. 38.
[5] Oregon's Draft 306 Coastal Zone Management Submission, p. 57.

facilities may easily be located so as to result in a positive net impact. Indeed, possible economic benefits are quite substantial. An increase in associated manufacturing would primarily serve to promote economic activity in a given area. Similarly, refineries and gas processing plants bring significant economic benefits by lowering energy prices and attracting new industry. (A region can choose not to locate refineries—New England presently has no refining capacity).

To conclude, essentially all onshore impacts resulting from OCS development will occur within the coastal zone or planning area. Non-coastal areas of coastal states and interior states will suffer few impacts, and indeed may receive positive benefits.

II. OCS FACILITIES NEEDED AND SITING REQUIREMENTS

A. Onshore service and supply [6]

Offshore operations must be supplied and serviced from onshore locations. These bases provide the facilities—materials, transport, catering, etc.—necessary to keep rigs and supply vessels operational. During exploratory drilling, a single rig requires on the average 1,000 tons of supplies per month. Production drilling needs are even greater, averaging 25,000 tons per year.

The particular facilities involved include the following:

1. Berths, from 100 to 250 feet in length.
2. Quays, to accommodate both heavy and lengthy loads.
3. Storage for fuel oil, water, drilling cements and muds.
4. Open and warehouse storage.
5. Helicopter landing pad.

In addition to providing the preceding facilities, a supply base must have:

1. An all weather harbor, operable at all states of the tide.
2. Deep water wharves, at least 18 feet and preferably also rail access.
3. A nearby population center to provide labor, services, and supplies.

It is obvious that all these facilities will be located on or very near (within a mile) the shore. The physical extent of the impacts would include primarily the facility itself, the surrounding waters, and the adjacent population center.

B. Platform fabrication

An often neglected facet of OCS operation is that of platform construction. The Council on Environmental Quality estimated that by 1985 some 38 new offshore platforms may be required on the Atlantic coast and 19 on the Alaskan coast.[7]

In spite of this, the CEQ concluded that "platform fabrication is not expected to have a major impact on the east and west coasts." [8]

The platforms themselves are of two types; conventional steel, and the experimental concrete design. Although concrete platforms are initially more expensive, their manufacturers claim that they are easier to install, can withstand severe weather conditions, and can provide needed offshore storage.

[6] This section draws from Royal Scottish Geographical Society, 1973, "Scotland and Oil", pp. 40–52.
[7] Council on Environmental Quality, 1974, "OCS Oil and Gas and Environmental Assessment", pp. 7–1, 7–70.
[8] CEQ, pp. 7–12.

The site requirements for steel platform fabrications are as follows: [9]

1. Proximity to the oil fields.
2. Large flat land area, at least 200 acres, more commonly around 1,000 acres.[10] [11]
3. Access to water 30 to 60 feet deep.
4. Communication by land, sea, and air.
5. Access to a large labor force (up to 1,200 men per platform), including many skilled welders.[12]

If the proposed Brown and Root facility in Cape Charles, Virginia is indicative, capital investment per facility will run about 40 million dollars.[13]

Several requirements for concrete platform fabrication yards are somewhat different: [14]

1. The flat land required is much less (as little as 20 acres).
2. Deeper water is needed, from 30–120 feet inshore, and 180 feet and up for later stages of construction.

The impacts generated by platform fabrication will again be concentrated at the water's edge. Concrete platforms may not be acceptable on the Atlantic and Pacific continental shelves; also obtaining harbors with sufficient depth to construct them may be impossible. Therefore at least in the contiguous states, steel platform fabrication facilities will probably predominate. Their large land requirements may necessitate rural siting, whereupon the large labor force needed could cause severe dislocation and infrastructure problems for coastal communities. Indeed, Urban Pathfinders stated in their impact assessment of the proposed Brown and Root staging facility that potential disbenefits seeme to outweigh any economic benefits.[15]

C. Associated manufacturing [16]

In addition to platform fabricating, countless other construction tasks of varying sizes must occur to bring oil fields into production. Necessary tasks include the building of exploration rigs (jack-ups, semi-submersibles), supply vessels, deck modules, pumping equipment, generators, and pipe coating capacity.

These facilities fall primarily into two classes:

(i) Those whose physical requirements, especially the need for easy water access, are the deciding factors and essentially dictate coastal sites.

(ii) Those in which appropriate skills and experience are of overriding importance. Such facilities have a much greater range of possible sites and a much lesser coastal dependence.

"Whereas much of the expenditure necessary to bring oil fields into production is consumed by construction work, services and by wages and salaries of employees both on and offshore, there remains a considerable expenditure on equipment and materials of types which would be produced anywhere in the country." [17]

[9] Scotland and Oil, p. 47.
[10] Woodward-Clyde Consultants, 1975, "Mid-Atlantic Regional Study", p. 26.
[11] Pamela and Malcolm Baldwin, 1975, "Onshore Planning for Offshore Oil", p. 75.
[12] Baldwin, p. 72.
[13] Woodward-Clyde, p. 26.
[14] Scotland and Oil, p. 47.
[15] Urban Pathfinders Inc., 1975, "Brown and Root Impact Study", p. 56.
[16] This section draws from Scotland and Oil, pp. 47–8.
[17] Scotland and Oil, p. 48.

These considerable expenditures could prompt sizeable investment in facilities of the second type, thus incurring widespread negative impacts. However, while facilities of the first type must be located in certain areas, those of the second type have a greater range, thus enabling siting to occur in those areas which experience mostly positive impacts.

In actuality, there are many long-established suppliers to the oil industry, which operate on a world-wide basis.[18] The U.S. needs will comprise but part of their total production. As an illustration of the siting mechanism, Scotland is now experiencing the demand for associated manufacturing facilities. "Because of the present structure of the economy, these are most likely to be located (as has already happened) in the traditional manufacturing areas." [19]

Associated manufacturing in many cases will provide economic benefits and employment, rather than negative impacts, in existing industrial areas. In some instances where water access is needed, facilities may be built in more rural areas, causing infrastructure problems. These impacts will be relatively minor, and again will be limited to the coastal communities.

D. Transportation

Transportation of oil and gas involves the following dual problems:

(i) Getting oil from the platform to the refinery.

(ii) Getting gas from the platform to the onshore distribution system in gaseous form.

Oil

Oil may be piped ashore either directly to a refinery or via a tanker terminal, or stored at the well head and tankered to shore. Pipelines are generally used for larger fields, and within 50–150 miles from shore (assuming pipelines can be laid on the seabed).

"Socioeconomic effects of pipelines are minimal. Very few persons would be employed in operating and maintaining the facilities. Land use impacts of onshore pipelines would be similar to those for any pipeline." [20]

While offshore pipelines must generally run a beeline course to be economical, onshore pipelines have far greater flexibility. Proper planning, thus, can influence pipeline location and hence minimize impacts. The greatest damages occur placing pipelines through wetlands and marshes. In the Gulf of Mexico off Louisiana, some damage is unavoidable; on the East and West coasts, such placement is less excusable.

These OCS pipelines must necessarily link up with refineries. Necessary components in the system are pumping transfer facilities which gather production pipelines and then pump treated oil to the refinery. Each facility has a 4–5 day storage capacity, and may be located at various points along the pipeline.[21]

The inland extent of the pipelines themselves can be assumed to be the location of the nearest major refining center, or pipeline link. In the South Atlantic area, pipelines generally parallel the fall line, passing through Atlanta, which also houses several refineries.[22]

[18] Scotland and Oil, p. 48.
[19] Scotland and Oil, p. 48.
[20] Bureau of Land Management, 1975, "Programmatic FEIS on OCS Leasing", Vol. II, p. 192.
[21] BLM, 1974, "FEIS on OCS Leasing off Louisiana Sale No. 36", Vol. II, p. 196.
[22] American Petroleum Institute, 1975, "Products Pipeline Maps".

Atlanta is about the farthest inland point, and hence the limit of the inland influence of pipelines.

Tanker terminals are less innocuous. "The potential for change which tanker terminals and oil-related developments have is potentially enormous, and focuses attention upon the impact on coastal areas." [23]

Terminals are primarily of three types:

1. Transfer, in which oil from platforms is loaded to larger vessels for shipment.
2. Discharge, in which oil is received for refining.
3. Product, in which refined liquids are loaded for transfer to market centers.

Transfer terminals are located near the gathering center for the production field where tankers may safely berth. Discharge terminals require safe deepwater areas, and either proximity to or pipeline transportation to, refining areas. Product terminals must have convenient modes of transportation to the market centers.

Of the three, discharge terminals primarily will be induced by OCS development. Facilities which may be found in the terminal are: storage tanks, docks, tanker loading and ballast water treatment facilities, power plant and vapor control facilities, an office building, fire pump building and station, warehouse and shop building, and oil spill contingency equipment.[24]

An export terminal being constructed at Flotta Island in the Orkneys indicates the relative magnitude of investment. The terminal will be able to handle 500,000 BPD, and will require 900 men in construction and about 80 in operation. The estimated construction cost is $50 million with annual operating costs of about $5 million.[25]

Not all the facilities in the terminal complex must necessarily lie directly on the coast. BP operates a terminal on the First of Fourth near Edinburgh. The associated tank farm lies three miles inland at Dalmeny.[26] Presumably other facilities such as the power plant, ballast water treatment, and vapor control plant, could be located some distance inland as well. However, it is unlikely that terminal facilities will stretch much beyond three miles from the coast.

Gas

Gas transportation also involves several options: reinjection pipelines, and LNG tankering. Shipment of a small quantity of gas is not economical; such deposits will be reinjected. Larger fields will generally be piped ashore, unless the fields are a considerable distance from shore, or pipelines cannot be laid. In such cases LNG tankering may be economically viable.

Construction of gas pipelines will have essentially the same impacts as oil lines. The impact during operation will probably be less, as gas leaks are less environmentally damaging (although more hazardous).

LNG tankering involves liquification offshore and regasification onshore. The requirements for regasification facilities are as follows:

1. Proximity of fields.
2. Proximity of markets.

[23] Scotland and Oil, p. 22.
[24] Programmatic FEIS, Vol. II, p. 197.
[25] Programmatic FEIS, Vol. II, p. 191.
[26] Baldwin, p. 118.

3. Accessible harbor.
4. Moderate amount of flat land available.

Facilities cannot be expected to stray far from the coasts as piping liquid gas is prohibitively expensive.

A major regasification facility with a capacity of 4 billion cubic feet per day (compared to present world capacity of 2.8 billion)[27] is being planned for Los Angeles harbor. The terminal is estimated to cost $350 million, occupying 59 acres. Labor requirements are 1500 persons maximum during construction and approximately 90 persons in operation.[28] All impacts of this terminal, and LNG terminals in general, will be restricted to the immediate coastal areas.

E. Oil and gas treatment

At some point between production and distribution, both oil and gas must be treated. Oil is separated from its associated gas, and waste water is separated, treated, and disposed. The sludge and sand suspended in the oil are removed. Similarly, gas is separated from the waste water and liquid hydrocarbons; the familiar gas odor is injected at this time for safety purposes. A further (and optional) step in gas processing involves the stripping of butanes and propanes from the natural gas.

Oil

Crude oil is often treated aboard the production platform. In these cases, the crude can be tankered or piped directly. Otherwise the crude is pumped ashore as a two-phase mixture (both oil and gas). Such mixtures can be pumped only a limited distance; therefore the platforms involved must be relatively close to shore, and treatment facilities as near the coast as possible.

Facilities commonly gather several production pipelines for treatment (hence their common name, "pipeline terminals"). The usual capacity ranges from 30,000–100,000 BPD, coupled with a storage capacity of 2–3 days production. Total land use varies between 20 and 40 acres.[29] Because of their limited size and siting necessities, the impacts of these facilities will be limited to a strip several miles wide along the coast.

Gas

Two separate procedures exist: separation and stripping. If stripping is desired only one facility is needed for both operations. A separation facility alone requires about 8 acres.[30] The size of a joint facility (gas processing plant) is highly variable, having capacities ranging from under 150,000 to one or two billion cubic feet per day.[31] Two studies project slightly different sizes for a representative plant.[32]

Capacity (million cubic feet)	Employees	Land (acres)
500	55	20
300	21	75

[27] Stanford University, 1975, "Impact on California's Coastal Zone From Proposed Offshore Oil and Gas Development", p. 134.
[28] Stanford University, p. 241.
[29] Louisiana FEIS, Vol. II, p. 196.
[30] BLM 1974, "FEIS on OCE Leasing off Texas, Sale No. 34", Vol. I, p. 405.
[31] Programmatic FEIS, Vol. II, p. 207.
[32] Programmatic FEIS, Vol. II, p. 208.

Site requirements for both separation facilities and processing plants (GGP's) are somewhat similar. Separation facilities require proximity to the supply source, and must be located prior to the gas entering the distribution system. In addition, GPP's have the following requirements:

1. Proximity to market centers.
2. Available water and electricity.
3. Highway and rail access.

Of these requirements, proximity to market centers is of greatest importance. Because natural gas is in such short supply, the demand for butanes and propanes is high. Thus, on the East coast, OCS development will prompt the construction of GPP's near population centers. On the West coast and in the Gulf of Mexico, existing facilities with expansions and modernizations will probably suffice.[33]

Some GPP construction may result in interior states (including Great Lake States) through the piping of gas from Alaska. In all cases, induced GPP's will prompt relatively small infrastructure problems because of their location near market centers.

Overall air pollution may actually decrease because of substitution of gas for less clean fuels. Finally, the availability of gas will provide economic benefits to those areas with curtailed supplies.

F. Refining

The last stage in oil processing is refining. In contrast to many facilities needed for OCS development, the number of refineries required depends upon demand, and not on supply. OCS production will simply decrease the amount of oil imported. Location of refineries, however, may be influenced somewhat by the location of the supply.[34]

For example, New England has not active refining capacity presently. New England consumers pay a one to two cent per gallon premium on gasoline because refined products must be shipped to the demand centers.[35]

Refining OCS production off Georges Bank in New England would change the premium into a savings, because of the proximity of supply.

Another reason refineries may be located in New England stems from the lessening of opposition. No fewer than 3 major refinery proposals have been denied in New England in the past several years.[36] Accomodating necessary OCS onshore facilities, however, may soften public sentiment enough to enable a refinery to site.

Refineries are unquestionably major facilities. A new refinery requires at least 200,000 BPD capacity to be economically viable. Such a refinery has the following requirements:[37] [38]

1. Accessible products transportation, either shipping lanes or pipeline ties.
2. Proximity to market centers (within about 100 miles).
3. Available water supply—about 4 million gallons per day.
4. Available electric power supply—about 1.26 million KWH per day.
5. Available labor—about 500 persons during operation.
6. Low surrounding hydrocrabon emission levels.

[33] Programmatic FEIS, Vol. II, p. 206.
[34] Programmatic FEIS, Vol. II, p. 196.
[35] Conversation with Allen Mulliken, Refining Group, API.
[36] Programmatic FEIS, Vol. II, p. 201.
[37] Mulliken.
[38] Programmatic FEIS, Vol. II, p. 200.

The areas of impact for refineries can vary drastically, as refinery siting is highly dependent upon local considerations and cost factors. Because of the large water needs, refineries will tend to locate on water bodies. This trend is accentuated for those refineries which produce more fuel oil as opposed to gasoline. Less than half of the former's products can be transported by pipeline, while over 80% of the latter's products can be.[39] This dependence upon other transportation forms, mainly shipping, insures that many refineries will congregate in the coastal zone. While refineries cannot be linked directly to OCS production, their impacts cannot be discounted. CEQ, in analyzing the effects of OCS development on Bristol County, stated "the major contributor to economic output is the refining sector." [40]

[39] CEQ, pp. 6–7.
[40] CEQ, pp. 7–17.

APPENDIX IV

Organizations Offering Comments on H.R. 3981

Great Lakes Caucus of Governors:

Great Lakes Commission
Institute of Science and Technology Building
2200 Bonisteel Boulevard
Ann Arbor, Michigan 48105

California Coastal Zone Conservation Commission
1540 Market Street, 2nd Floor
San Francisco, California 94102

State of Michigan
Department of Natural Resources
Shorelands Management and Water Resources Planning Section

State of Rhode Island
Department of Administration
Statewide Planning Program
265 Melrose Street
Providence, Rhode Island 02907

State of Louisiana
Coastal Resources Program
State Planning Office
P.O. Box 44425
Baton Rouge, Louisiana 70804

State of Florida
Department of Natural Resources
Crown Building
202 Blount Street
Tallahassee, Florida 32304

Illinois Department of Transportation
Division of Water Resources
Illinois Coastal Zone Management Program
300 North State Street, Room 1010
Chicago, Illinois 60610

Texas Coastal and Marine Council
P.O. Box 13407
Austin, Texas 78711

National Conference of State Legislatures
Office of State Federal Relations
1150 17th Street, N.W.
Suite 602
Washington, D.C. 20036

National Association of Electric Companies
Suite 1010
1140 Connecticut Avenue, N.W.
Washington, D.C. 20036

The League for Conservation Legislation
Box 605
Teaneck, New Jersey 07666

Wildlife Management Institute
709 Wire Building
1000 Vermont Avenue
Washington, D.C. 20005

National Wildlife Federation
1410 16th Street, N.W.
Washington, D.C. 20515

National Governors Conference
1150 17th Street, N.W.
Suite 600
Washington, D.C. 20036

The League of Women Voters of the United States
1730 M Street, N.W.
Washington, D.C. 20036

North Carolina Department of Natural and Economic Resources
Box 27687
Raleigh, North Carolina 27611

Alabama Power Company
600 North 18th Street
P.O. Box 2641
Birmingham, Alabama 35291

League of Women Voters—Alabama
515 Auburn Drive
Auburn, Alabama 36830

League of Women Voters (Baldwin County, Alabama)
607 Hancock Road
Fairhope, Alabama 36532

Sierra Club
Peninsula Group, Potomac Chapter
239 Tyler Brooks Drive
Williamsburg, Virginia 23185

Commonwealth of Puerto Rico
Department of Natural Resources
Box 5887
Puerto de Tierra
Puerto Rico 00906

National Association of Counties
1735 New York Avenue, N.W.
Washington, D.C. 20006

State of Connecticut
Department of Environmental Protection
Coastal Area Management Program
71 Capitol Avenue
Hartford, Connecticut 06115

State of Hawaii
Department of Planning and Economic Development
P.O. Box 2359
Honolulu, Hawaii 96804

Mississippi Marine Resources Council
Post Office Drawer 959
Long Beach, Mississippi 39560

State of Maryland
Department of Natural Resources
Tawes State Office Building
Annapolis, Maryland 21401

State of Oregon
Department of Land Conservation and Development
1175 Court Street, N.W.
Salem, Oregon 97310

Commonwealth of Massachusetts
Executive Office of Environmental Affairs
100 Cambridge Street
Boston, Massachusetts 02202

National Coalition for Marine Conservation. Inc.
225 Franklin Street
Boston, Massachusetts 02110

Edison Electric Institute
90 Park Avenue
New York City, New York 10010

League of Women Voters of Larchmont
Larchmont, New York 10538

League of Women Voters of Michigan
202 Mill Street
Lansing, Michigan 48933

Symcon Marine Corporation
P.O. Box 1800
Berth 84
San Pedro, California 90733

American Petroleum Institute
2101 L Street, N.W.
Washington, D.C. 20037

Center for Law and Social Policy
1751 N Street, N.W.
Washington, D.C. 20036

Environmental Policy Center
324 C Street, S.E.
Washington, D.C. 20003

National Fisheries Institute
1730 Pennsylvania Avenue, N.W.
Washington, D.C.

American Institute of Professional Geologists
622 Gardenia
Golden, Colorado

ADDITIONAL VIEWS ON H.R. 3981

During consideration of H.R. 3981, I offered several amendments to correct what I feel to be an inequitable situation in the structure of the funding formula under this legislation.

Without my amendment we have two funding categories, the first which contains $50 million is distributed according to a tightly drawn formula written by this committee. The second category has $125 million in it to be given out for planning, not tied to any formula drawn by Congress, but to be distributed solely by a formula to be drawn by the Secretary of Commerce.

My amendment placed the largest part of the fund in the automatic grant category which is locked-in, to be distributed according to our formula written by our committee. To give the largest amount of money to the discretionary, or so-called supplementary fund with sole discretion with an appointed Secretary of Commerce is to create a slush fund which we cannot control.

If there is to be discretionary funding in the bill, the logical approach would be to switch the funding in the categories. The major funding now under discretionary should come under the direct grant section as we can clearly define, under the established set of proportions, the degree of impact. On the other hand, discretionary funding should take the appearance of that proposed for direct grant funding, which is during the five years on a sliding scale $50,000,000 (fiscal year 1977), $50,000,000 (fiscal year 1978), $75,000,000 (fiscal year 1979), $100,000,000 (fiscal year 1980), $125,000,000 (fiscal year 1981). It only makes sense that discretionary funding should be on a sliding scale as the degree of activity will likely be on a sliding scale in the next five to ten years. This way, should the degree of activity occur at a faster rate than the proportional direct grant section can cover, the Secretary can supplement the direct grant with additional funding after finding of adverse impact.

I certainly feel that this is a reasonable stand based on the facts of the situation and history of energy development in our country. I offer these additional views as to make my colleagues aware of what I feel to be the proper approach taken in this legislation.

JOHN BREAUX,
Member of Congress.

ADDITIONAL VIEWS RELATING TO THE PROHIBITION OF THE FOOD AND DRUG ADMINISTRATION FROM EXERTING ITS MANDATED AUTHORITY WITH RESPECT TO THE SHELLFISH SAFETY PROGRAM

Section 310(d) of H.R. 3981 is a provision prohibiting all Federal agencies from promulgating any regulations affecting the harvesting, processing, or transporting of shellfish in interstate commerce before

the submission to the Congress of a report of a Shellfish Advisory Committee established by the bill, except where the Secretary of Commerce determines that an emergency has occurred.

Should such a provision be enacted, a serious public health danger could result. In the first place, delegating authority to the Secretary of Commerce in an area where the Secretary of Department of Health, Education, and Welfare is clearly the official capable of determining health risks, would seem to be inadvisable. By prohibiting the Food and Drug Administration from "promulgating" regulations, this provision would not only limit the effective date of Food and Drug Administration regulations, but might also be interpreted as limiting their ability to conduct field hearings and other administrative proceedings during the period regulations are proposed. In view of the length of time necessary to promulgate regulations this could delay the effective date of final regulations for one to two years after the June 1977 date in the bill.

Second, if a public health emergency exists, the Food and Drug Administration cannot issue regulations on its own initiative to protect the public health, and so is prohibited from carrying out its responsibilities mandated by the Federal Food, Drug and Cosmetic Act and the Public Health Service Act.

Third, limiting regulations to emergencies may come too late since action must be taken before an emergency to adequately protect the public.

Finally, I believe it is inappropriate for the Congress to react on a case-by-case basis on such regulations.

The Committee has received repeated assurances from the Food and Drug Administration which confirm that the procedure already in effect and governed by the application of the Federal Food, Drug and Cosmetic Act and the Public Health Service Act, will allow for considerable input from industry and State and local governmental authorities in this vital area of shellfish safety.

It is important to note that the Food and Drug Administration published a notice in the *Federal Register* stating that their revised *proposed* regulations will not be published until mid-1976 and in view of the length of regulation promulgation procedures for hearings and revisions, final regulations cannot be published until March and take effect in April, 1977 at the earliest date. Since the bill limits promulgation until June 30, 1977, I believe there is no need for § 310 (d) and that the issue is now moot in view of Food and Drug Administration assurances.

While I share and support the need for effective and thoughtful approaches to the management of our coastal zones and protection of our marine resources, it is my strong belief that § 310(d) as proposed does not have a place in this legislation and is against the public interest.

PAUL G. ROGERS,
Member of Congress.

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