

1990—Pub. L. 101-508 amended section generally, substituting present provisions for provisions which authorized management program development grants, established program requirements, set limits on grants, provided for grants for completion of development and implementation of management programs, provided for allocation of grants, reversion of unobligated grants, and grants to other political subdivisions, required submission of program for review and approval, and set forth an expiration date of grant authority.

1976—Subsec. (a). Pub. L. 94-370 incorporated existing provisions into par. (1), limiting applicability of such provisions to subsec. (c), and added par. (2).

Subsec. (b). Pub. L. 94-370 added pars. (7) to (9) and effective date provisions of such paragraphs after par. (9).

Subsec. (c). Pub. L. 94-370 substituted provision that grant should not exceed 80 per centum of a coastal state's costs for purposes described in subsection (a)(1) of this section for provision that grant should not exceed 66% per centum of the costs of the program in any one year, expanded to four the number of grants a state is eligible to receive pursuant to this subsection, and struck out provision that Federal funds received from other sources shall not be used to match such grants.

Subsec. (d). Pub. L. 94-370 substituted provisions authorizing Secretary to make grants annually to any coastal state for purposes described in subsection (a)(2) and setting forth eligibility prerequisites for initial implementation grants for provisions, which were incorporated into subsec. (h), authorizing Secretary to review and approve the state's submitted management program which on final approval terminates state's eligibility under this section, but commences state's eligibility under section 1455 of this title.

Subsec. (e). Pub. L. 94-370 restructured existing provisions into pars. (1) and (2), and as so restructured, substituted in provisions preceding par. (1) reference to shall be made to, and allocated among, the coastal states for reference to shall be allocated to the states, and in par. (1) inserted proviso relating to the waiver at the option of the Secretary of the 10 per centum maximum requirement.

Subsec. (f). Pub. L. 94-370 substituted "The amount of any grant" for "Grant" and "the coastal state" for "a state".

Subsec. (g). Pub. L. 94-370 substituted "any coastal state" for "the state" and inserted "received by it" before "under this section".

Subsecs. (h), (i). Pub. L. 94-370 added subsec. (h) which incorporated provisions of former subsec. (d), redesignated former subsec. (h) as (i), and substituted "September 30, 1979" for "June 30, 1977".

1975—Subsec. (e). Pub. L. 93-612 inserted proviso relating to the waiver by the Secretary of the 1 per centum minimum requirement upon request by the coastal state.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-150, §2(b)(3), June 3, 1996, 110 Stat. 1380, provided that: "This subsection [amending this section and section 1456a of this title] shall take effect on October 1, 1999."

### § 1455. Administrative grants

#### (a) Authorization; matching funds

The Secretary may make grants to any coastal state for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

(1) For those States for which programs were approved prior to November 5, 1990, 1 to 1 for any fiscal year.

(2) For programs approved after November 5, 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fis-

cal year, and 1 to 1 for each fiscal year thereafter.

#### (b) Grants to coastal states; requirements

The Secretary may make a grant to a coastal state under subsection (a) of this section only if the Secretary finds that the management program of the coastal state meets all applicable requirements of this chapter and has been approved in accordance with subsection (d) of this section.

#### (c) Allocation of grants to coastal states

Grants under this section shall be allocated to coastal states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal states, maximum and minimum grants for any fiscal year to promote equity between coastal states and effective coastal management.

#### (d) Mandatory adoption of State management program for coastal zone

Before approving a management program submitted by a coastal state, the Secretary shall find the following:

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.

(2) The management program includes each of the following required program elements:

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

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

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

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

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

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, area-wide, State, regional, and interstate agencies in the management process.

(G) A definition of the term "beach" and a planning process for the protection of, and access to, public beaches and other public

coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

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

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this chapter; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

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

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

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

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(A) to administer land use and water use regulations to control development<sup>1</sup> to ensure compliance with the management program, and to resolve conflicts among competing uses; and

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

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

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

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

<sup>1</sup> So in original. Probably should be followed by a comma.

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title.

**(e) Amendment or modification of State management program for coastal zone**

A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal state that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

(3)(A) Except as provided in subparagraph (B), a coastal state may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 1456 of this title.

(Pub. L. 89-454, title III, §306, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1283; amended Pub. L. 93-612, §1(2), Jan. 2, 1975, 88 Stat. 1974; Pub. L. 94-370, §5, July 26, 1976, 90 Stat. 1017; Pub. L. 96-464, §5(a), Oct. 17, 1980, 94 Stat. 2062; Pub. L. 99-272, title VI, §6043(b)(1), (c), Apr. 7, 1986, 100 Stat. 124, 125; Pub. L. 101-508, title VI, §6206(a), Nov. 5, 1990, 104 Stat. 1388-303; Pub. L. 102-587, title II, §2205(b)(1)(A), (B), (8), Nov. 4, 1992, 106 Stat. 5050, 5051.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (e)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1992—Subsecs. (a) to (d), (e)(2), (3)(A). Pub. L. 102-587 substituted “coastal state” and “coastal states” for “coastal State” and “coastal States”, respectively, wherever appearing, and substituted period for semicolon at end of subsec. (b).

1990—Pub. L. 101-508 amended section generally, substituting present provisions for provisions which authorized grants for administering a state management program, provided for a ratio of Federal to State contributions, allocation of grants, program requirements, required authority for management of coastal zone, required findings prior to approval of grants, allocation to other political subdivisions, program modification, segmental development, and inventory and designation of areas of national significance and standards for protection of coastal resources.

1986—Subsec. (a). Pub. L. 99-272, §6043(b)(1), amended introductory text generally, which prior to amendment read as follows: “The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state’s management program if the Secretary—”.

Subsec. (g). Pub. L. 99-272, §6043(c), inserted “, and subject to the following conditions:” in provisions preceding par. (1), added pars. (1) to (3), and struck out provision that except with respect to any management program amendment which was made before Oct. 1, 1978, for the purpose of complying with the requirements of section 1454(b)(7), (8) and (9) of this title, no grant was to be made under this section to any coastal state after the date of such amendment or modification, until the Secretary approved such amendment or modification.

1980—Subsec. (a). Pub. L. 96-464, §5(a)(1), in opening text, substituted “The Secretary may make grants” for “The Secretary may make a grant annually”, added par. (3), and provision following par. (3) which defined the costs of administering a management program.

Subsec. (b). Pub. L. 96-464, §5(2), struck out proviso 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, and in excess of \$3,000,000 for fiscal year 1977.

Subsec. (i). Pub. L. 96-464, §5(a)(3), added subsec. (i).

1976—Subsec. (a). Pub. L. 94-370, §5(1), raised the federal share of grants to 80 per centum from 66½ per centum of the cost of administering a state’s management program, substituted requirement that Secretary approve state’s management program in accordance with subsecs. (c), (d), and (e) and find that such programs meet requirements under section 1454(b) of this title for requirement that Secretary approve state’s management programs in accordance with subsec. (c), and struck out proviso that Federal funds from other sources shall not be used to pay the state’s share of costs.

Subsec. (c)(2)(B). Pub. L. 94-370, §5(2), inserted provisions that mechanism not be found to be effective by Secretary until management agency meets certain requirement such as notice to affected zoning authority, 30-day period for zoning authority to respond with recommendations, and action to be taken by management agency where zoning authority does submit recommendations.

Subsec. (c)(8). Pub. L. 94-370, §5(3), inserted “planning for, and” before “in the siting of” and reference to energy facilities in, or which significantly affect, such state’s coastal zone and inserted proviso that in the case of energy facilities, the Secretary shall find that

the state has given consideration to any applicable interstate energy plan or program.

Subsec. (g). Pub. L. 94-370, §5(4), inserted requirement that except for pre-Oct. 1, 1978 amendments of management programs, for purposes of complying with section 1454(b)(7), (8), and (9) of this title, no grant shall be made under this section to any coastal state after the date of an amendment until approved by Secretary.

1975—Subsec. (b). Pub. L. 93-612 substituted provisos establishing maximum amount of annual grant for fiscal years 1975, 1976, and 1977, establishing a minimum of 1 per centum of the total appropriated amount, and providing for waiver of the 1 per centum minimum upon request of the coastal State, for proviso limiting an annual administrative grant to a maximum of 10 per centum and a minimum of 1 per centum of the total appropriated amount.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-464, §5(b), Oct. 17, 1980, 94 Stat. 2062, provided that: "The amendments made by subsection (a)(1) and (2) of this section [amending this section] apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 [this section] and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1))."

#### ADDITIONAL PROGRAM REQUIREMENTS

Pub. L. 101-508, title VI, §6206(b), Nov. 5, 1990, 104 Stat. 1388-306, provided that: "Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972 [16 U.S.C. 1455], as amended by this subtitle (including a State which submitted a program before the date of enactment of this Act [Nov. 5, 1990]), shall demonstrate to the Secretary—

- "(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and
- "(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act [16 U.S.C. 1455b(g)]."

### § 1455a. Coastal resource improvement program

#### (a) Definitions

For purposes of this section—

(1) The term "eligible coastal state" means a coastal state that for any fiscal year for which a grant is applied for under this section—

(A) has a management program approved under section 1455 of this title; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (K) of this title.

(2) The term "urban waterfront and port" means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

#### (b) Resource management improvement grants

The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures re-

quired by section 1455(d)(9) of this title because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance, or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated in the state's management program pursuant to section 1455(d)(2)(C) of this title as areas of particular concern.

(3) The provision of access to public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 1455(d)(2)(G) of this title.

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

#### (c) Uses, terms and conditions of grants

(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2) of this section—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

#### (d) State matching contributions; ratio; maximum amount of grants

(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant ac-