

section files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1) of this subsection, the Secretary shall submit to the chief executive officer a written justification for the failure to make modifications consistent with such comments or proposals.

“(c) ELECTIONS TO ADD TO SYSTEM.—

“(1) PROVISION OF MAPS BY SECRETARY.—Not later than 180 days after the date of the enactment of this Act [Nov. 16, 1990], the Secretary shall provide—

“(A) to each local government in which is located an undeveloped coastal barrier not included within the System; and

“(B) to the Governor of each State in which such an area is located;

maps depicting those undeveloped coastal barriers not included within the System located in that local government or State, respectively.

“(2) ELECTIONS.—Not later than 18 months after the date of the enactment of this Act, a local government and the Governor of any State referred to in paragraph (1), and any qualified organization—

“(A) may each elect to add to the System, as a new unit or as an addition to an existing unit, any area of qualified coastal barrier (or any portion thereof) which is owned or held by the local government, State, or qualified organization, respectively;

“(B) shall notify the Secretary of that election; and

“(C) shall submit to the Secretary a map depicting the area, if—

“(i) the area (or portion) is not depicted on a map provided by the Secretary under paragraph (1); or

“(ii) the local government, State, or qualified organization was not provided maps under paragraph (1).

“(3) EFFECTIVE DATE OF ELECTION.—An area elected by a local government, Governor of a State, or qualified organization to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under subsection (e)(1)(C) with respect to that election.

“[(d) Redesignated section 3503(e) of this title.]

“(e) MODIFICATION OF BOUNDARIES, REVISION OF MAPS, AND PUBLICATION OF NOTICE.—

“(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act [Nov. 16, 1990], the Secretary—

“(A) based on recommendations submitted by local governments and State coastal zone management agencies under subsection (b), may make such minor and technical modifications to the boundaries of existing units of the System as are consistent with the purposes of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) and are necessary to clarify the boundaries of those units;

“(B) shall revise the maps referred to in section 4(a) of the Act [16 U.S.C. 3503(a)] (as amended by section 3 of this Act)—

“(i) to reflect those modifications; and

“(ii) to reflect each election of a local government, Governor of a State, or qualified organization to add an area to the System pursuant to subsection (c); and

“(C) shall publish in the Federal Register notice of each such modification or election.

“(2) EFFECTIVE DATE OF MODIFICATIONS.—A modification of the boundaries of a unit of the System under paragraph (1)(A) shall take effect on the date on which the Secretary published notice in the Federal Register under paragraph (1)(C) with respect to that modification.”

#### PACIFIC COASTAL BARRIER PROTECTION STUDY AND MAPS

Section 6 of Pub. L. 101-591 directed Secretary of the Interior, not later than 6 months after Nov. 16, 1990, to prepare and submit to Congress a study examining the need for protecting undeveloped coastal barriers along the Pacific coast of the United States south of 49 degrees north latitude through inclusion in the System; as soon as practicable after Nov. 16, 1990, to prepare maps identifying the boundaries of those undeveloped coastal barriers (as that term is defined in 16 U.S.C. 3502(1)) of the United States bordering the Pacific Ocean south of 49 degrees north latitude; and, not later than 12 months after Nov. 16, 1990, to submit to Congress maps identifying the boundaries of those undeveloped coastal barriers of the United States bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System.

#### REPORT REGARDING COASTAL BARRIER MANAGEMENT

Pub. L. 101-591, §8, Nov. 16, 1990, 104 Stat. 2937, which established the Coastal Barriers Task Force, provided for its membership, required the Task Force to submit a report to Congress regarding the Coastal Barrier Resources System not later than the expiration of the 2-year period beginning on Nov. 16, 1990, and required the Task Force to terminate 90 days after submission of the report, was repealed by Pub. L. 106-514, §4(b), Nov. 13, 2000, 114 Stat. 2396.

#### DEFINITIONS

Pub. L. 101-591, §12, Nov. 16, 1990, 104 Stat. 2940, as amended by Pub. L. 106-167, §3(c)(6), Dec. 9, 1999, 113 Stat. 1804, provided that: “For purposes of this Act [see Short Title of 1990 Amendment note set out under section 3501 of this title]—

“(1) the term ‘undeveloped coastal barrier’ means—

“(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

“(i) is subject to wave, tidal, and wind energies, and

“(ii) protects landward aquatic habitats from direct wave attack; and

“(B) all associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

but only if such features and associated habitats contain few manmade structures and these structures, and man’s activities on such features and within such habitats, do not significantly impede geomorphic and ecological processes.

“(2) the term ‘otherwise protected area’ means an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes;

“(3) the term ‘qualified organization’ means such an organization under section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3));

“(4) the term ‘Secretary’ means the Secretary of the Interior; and

“(5) the term ‘System’ means the John H. Chafee Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), as amended by this Act.”

#### § 3504. Limitations on Federal expenditures affecting the System

##### (a) Construction or purchase of structure, facility, road, airport, etc.; projects to prevent erosion; exceptions

Except as provided in section 3505 of this title, no new expenditures or new financial assistance may be made available under authority of any

Federal law for any purpose within the System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 3503 of this title on maps numbered S01 through S08 and LA07 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

**(b) New expenditures or new financial assistance**

An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this chapter, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date on which the relevant System unit or portion of the System unit was included within the System under this chapter or the Coastal Barrier Improvement Act of 1990; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date.

(Pub. L. 97-348, §5, Oct. 18, 1982, 96 Stat. 1656; Pub. L. 101-591, §§2(b)(2), 5(c), Nov. 16, 1990, 104 Stat. 2931, 2936.)

REFERENCES IN TEXT

The Coastal Barrier Improvement Act of 1990, referred to in subsec. (b)(1), is Pub. L. 101-591, Nov. 16, 1990, 104 Stat. 2931, which enacted section 1441a-3 of Title 12, Banks and Banking, amended sections 3502 to 3506 and 3510 of this title and section 4028 of Title 42, The Public Health and Welfare, enacted provisions set out as notes under section 3503 of this title, and repealed provisions set out as a note under section 3505 of this title. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 3501 of this title and Tables.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-591, §2(b)(2)(A), in introductory provisions substituted “the System” for “the Coastal Barrier Resources System”.

Subsec. (a)(3). Pub. L. 101-591, §5(c), substituted “through S08 and LA07” for “through S08”.

Subsec. (b)(1). Pub. L. 101-591, §2(b)(2)(B), substituted “on which the relevant System unit or portion of the System unit was included within the System under this chapter or the Coastal Barrier Improvement Act of 1990” for “of the enactment of this Act”.

Subsec. (b)(2). Pub. L. 101-591, §2(b)(2)(C), struck out “of enactment” after “before such date”.

**§ 3505. Exceptions to limitations on expenditures**

**(a) In general**

Notwithstanding section 3504 of this title, the appropriate Federal officer, after consultation with the Secretary, may make Federal expendi-

tures and may make financial assistance available within the System for the following:

(1) Any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to a coastal water area because the use or facility requires access to the coastal water body.

(2) The maintenance or construction of improvements of existing Federal navigation channels (including the Intracoastal Waterway) and related structures (such as jetties), including the disposal of dredge materials related to such maintenance or construction.

(3) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

(4) Military activities essential to national security.

(5) The construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto.

(6) Any of the following actions or projects, if a particular expenditure or the making available of particular assistance for the action or project is consistent with the purposes of this chapter:

(A) Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

(B) Establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(C) Projects under chapter 2003 of title 54 and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(D) Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 5170a, 5170b, and 5192 of title 42 and section 1362<sup>1</sup> of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

(F) Maintenance, replacement, reconstruction, or repair, but not the expansion (except with respect to United States route 1 in the Florida Keys), of publicly owned or publicly operated roads, structures, and facilities.

(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.

**(b) Existing Federal navigation channels**

For purposes of subsection (a)(2) of this section, a Federal navigation channel or a related structure is an existing channel or structure, re-

<sup>1</sup> See References in Text note below.