

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period beginning on Nov. 16, 1990, and required the Task Force to terminate 90 days after submission of the report, was repealed by Pub.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 expenditures 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 Water-

way) 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), a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date on which the relevant System unit or portion of the System unit was included within the System.

#### **(c) Expansion of highways in Michigan**

The limitations on the use of Federal expenditures or financial assistance within the System under subsection (a)(3) shall not apply to a highway—

- (1) located in a unit of the System in Michigan; and
- (2) in existence on November 16, 1990.

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

#### **(d) Services and facilities outside System**

##### **(1) In general**

Except as provided in paragraphs (2) and (3) of this subsection, limitations on the use of Federal expenditures or financial assistance within the System under section 3504 of this title shall not apply to expenditures or assistance provided for services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System (as depicted on the maps referred to in section 3503(a) of this title) which relate to an activity within that unit.

##### **(2) Prohibition of flood insurance coverage**

No new flood insurance coverage may be provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) for any new construction or substantial improvements relating to services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this chapter.

##### **(3) Prohibition of HUD assistance**

###### **(A) In general**

No financial assistance for acquisition, construction, or improvement purposes may be provided under any program administered by the Secretary of Housing and Urban Development for any services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this chapter.

###### **(B) “Financial assistance” defined**

For purposes of this paragraph, the term “financial assistance” includes any contract, loan, grant, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.

(Pub. L. 97-348, §6, Oct. 18, 1982, 96 Stat. 1656; Pub. L. 100-707, title I, §109(h), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-591, §5(a), Nov. 16, 1990, 104 Stat. 2934; Pub. L. 113-287, §5(d)(34), Dec. 19, 2014, 128 Stat. 3267.)

#### REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsec. (a)(6)(C), is title III of Pub. L. 89-454, as added by Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§1451 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of this title and Tables.

Section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103), referred to in subsec. (a)(6)(E), was repealed by Pub. L. 103-325, title V, §51(a), Sept. 23, 1994, 108 Stat. 2269.

The National Flood Insurance Act of 1968, referred to in subsec. (d)(2), is title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to chapter 50 (§4001 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 4001 of Title 42 and Tables.

#### AMENDMENTS

2014—Subsec. (a)(6)(C). Pub. L. 113-287, which directed the substitution of “chapter 2003 of title 54” for “the

Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11)” in section 6(a)(6)(C) of the Coastal Barrier Act of 1968, was executed by making the substitution for “the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11)” in this section, which is section 6 of the Coastal Barrier Resources Act, to reflect the probable intent of Congress.

1990—Pub. L. 101-591 amended section generally, substituting substantially similar provisions in subsec. (a), substituting “a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date on which the relevant System unit or portion of the System unit was included within the System” for “a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before October 18, 1982” in subsec. (b), and adding subsections (c) and (d).

1988—Subsec. (a)(6)(E). Pub. L. 100-707 substituted reference to sections 5170a, 5170b, and 5192 of title 42 for reference to sections 5145 and 5146 of title 42.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### EXPANSION OF HIGHWAYS IN MICHIGAN

Pub. L. 100-707, title II, §204(d), Nov. 23, 1988, 102 Stat. 4715, exempted existing highways in Michigan from limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under 16 U.S.C. 3505(a)(3) if the Congress added new units to the Coastal Barrier Resources System under 16 U.S.C. 3503, and those units included portions of United States or State highways in the State of Michigan, prior to repeal by Pub. L. 101-591, §5(b), Nov. 16, 1990, 104 Stat. 2936. See section 3505(c) of this title.

### § 3506. Certification of compliance

#### (a) Regulations

Not later than 12 months after November 16, 1990, the head of each Federal agency affected by this chapter shall promulgate regulations to assure compliance with the provisions of this chapter.

#### (b) Certification

The head of each Federal agency affected by this chapter shall report and certify that each such agency is in compliance with the provisions of this chapter. Such reports and certifications shall be submitted annually to the Committees and the Secretary.

(Pub. L. 97-348, §7, Oct. 18, 1982, 96 Stat. 1657; Pub. L. 101-591, §14, Nov. 16, 1990, 104 Stat. 2941.)

#### AMENDMENTS

1990—Pub. L. 101-591 amended section generally. Prior to amendment, section read as follows: “The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this chapter during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to annually submitting reports and certifications to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 42 of House Document No. 103-7.

### § 3507. Priority of laws

Nothing contained in this chapter shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this chapter shall be construed to invalidate any provision of State or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This chapter shall in no way be interpreted to interfere with a State’s right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(Pub. L. 97-348, §8, Oct. 18, 1982, 96 Stat. 1658.)

### § 3508. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 97-348, §9, Oct. 18, 1982, 96 Stat. 1658.)

### § 3509. Repealed. Pub. L. 106-514, §4(a)(3), Nov. 13, 2000, 114 Stat. 2396

Section, Pub. L. 97-348, §10, Oct. 18, 1982, 96 Stat. 1658; Pub. L. 106-167, §3(c)(4), Dec. 9, 1999, 113 Stat. 1804, required report to Congress before the close of the 3-year period beginning on Oct. 18, 1982.

### § 3510. Authorization of appropriations

There is authorized to be appropriated to the Secretary to carry out this chapter \$2,000,000 for each of fiscal years 2006 through 2010.

(Pub. L. 97-348, §10, formerly §12, Oct. 18, 1982, 96 Stat. 1659; Pub. L. 101-591, §13(a), Nov. 16, 1990, 104 Stat. 2941; Pub. L. 103-461, §1(c), Nov. 2, 1994, 108 Stat. 4804; renumbered §10 and amended Pub. L. 106-514, §5, Nov. 13, 2000, 114 Stat. 2396; Pub. L. 109-226, §5, May 25, 2006, 120 Stat. 384.)

#### PRIOR PROVISIONS

A prior section 10 of Pub. L. 97-348 was classified to section 3509 of this title prior to repeal by Pub. L. 106-514.

#### AMENDMENTS

2006—Pub. L. 109-226 substituted “2006 through 2010” for “2001, 2002, 2003, 2004, and 2005”.

2000—Pub. L. 106-514 amended section generally. Prior to amendment, section read as follows: “There are authorized to be appropriated to the Secretary for carrying out this chapter \$2,000,000 for each of fiscal years 1995 to 1998.”