

each of fiscal years 2006 through 2010 to carry out this subsection.

(Pub. L. 101-380, title VII, § 7002, as added Pub. L. 109-241, title VI, § 605(a)(2), July 11, 2006, 120 Stat. 555.)

**CHAPTER 41—NATIONAL COASTAL MONITORING**

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**§ 2801. Purposes**

The purposes of this chapter are to—

- (1) establish a comprehensive national program for consistent monitoring of the Nation's coastal ecosystems;
- (2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;
- (3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;
- (4) establish methods for identifying uniform indicators of coastal ecosystem quality;
- (5) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;
- (6) establish a coastal environment information program to distribute coastal monitoring information;
- (7) provide state<sup>1</sup> programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and
- (8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

(Pub. L. 92-532, title V, § 501, as added Pub. L. 102-567, title V, § 501, Oct. 29, 1992, 106 Stat. 4293.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in par. (7), 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 Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

The Federal Water Pollution Control Act, referred to in par. (8), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of this title. For complete classification of this Act to

<sup>1</sup> So in original. Probably should be capitalized.

the Code, see Short Title note set out under section 1251 of this title and Tables.

SHORT TITLE

Title V of Pub. L. 92-532, which comprises this chapter, is popularly known as the "National Coastal Monitoring Act".

**§ 2802. Definitions**

For the purposes of this chapter, the term—

- (1) "Administrator" means the Administrator of the Environmental Protection Agency;
- (2) "coastal ecosystem" means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;
- (3) "coastal water quality" means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;
- (4) "coastal water quality monitoring" means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;
- (5) "coastal waters" means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, including waters of the territorial sea of the United States and the contiguous zone<sup>1</sup>; and
- (6) "Under Secretary" means Under Secretary of Commerce for Oceans and Atmosphere.

(Pub. L. 92-532, title V, § 502, as added Pub. L. 102-567, title V, § 501, Oct. 29, 1992, 106 Stat. 4294.)

TERRITORIAL SEA AND CONTIGUOUS ZONE OF UNITED STATES

For extension of territorial sea and contiguous zone of United States, see Proc. No. 5928 and Proc. No. 7219, respectively, set out as notes under section 1331 of Title 43, Public Lands.

**§ 2803. Comprehensive Coastal Water Quality Monitoring Program**

**(a) Authority; joint implementation**

(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall

<sup>1</sup> So in original. The closing quotation marks preceding the semicolon probably should not appear.

be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

**(b) Program elements**

The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or<sup>1</sup> the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

(C) health and quality of living resources.<sup>2</sup>

(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

(4) assessment of the accumulation of floatables along coastal shorelines;

(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d) of this section.

**(c) Monitoring guidelines and protocols**

**(1) Guidelines**

Not later than 18 months after October 29, 1992, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

(B) establish scientifically valid monitoring methods that will—

(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and

(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

**(2) Technical protocols**

Guidelines issued under paragraph (1) shall include protocols for—

(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.<sup>2</sup>

(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

(C) quality control, quality assessment, and data consistency and management.

**(3) Periodic review**

The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

**(4) Discharge permit data**

The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

**(d) Intensive coastal water quality monitoring programs**

**(1) In general**

The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

**(2) Designation of intensive monitoring areas**

Not later than 24 months after October 29, 1992, and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

**(3) Identification of suitable coastal areas**

(A) The Administrator and the Under Secretary shall contract with the National Re-

<sup>1</sup> So in original. Probably should be "of".

<sup>2</sup> So in original. The period probably should be a semicolon.

search Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

- (i) are representatives of coastal ecosystems throughout the United States;
- (ii) will provide information to assess the status and trends of coastal water quality nation-wide; and
- (iii) would benefit from intensive water quality monitoring because of local management needs.

(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act [16 U.S.C. 1447 et seq.].

(C) The National Research Council shall, within 18 months of October 29, 1992, submit a report to the Administrator and the Under Secretary listing areas suitable for intensive monitoring.

(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

**(4) Intensive coastal water quality monitoring programs**

Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

- (A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;
- (B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;
- (C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;
- (D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c) of this section;
- (E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;
- (F) describe the data management and quality control components of the program;
- (G) specify the implementation requirements for the program, including—
  - (i) the lead Federal, State, or regional authority that will administer the program;
  - (ii) the public and private parties that will implement the program;

(iii) a detailed schedule for program implementation;

(iv) all Federal and State responsibilities for implementing the program; and

(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

**(5) Criteria for monitoring Massachusetts and Cape Cod Bays**

In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

**(6) Memorandum of Understanding**

Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum<sup>3</sup> of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

**(7) Implementation**

(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

**(e) Comprehensive Implementation Strategy**

**(1) In general**

Within 1 year after October 29, 1992, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

<sup>3</sup> So in original. Probably should be capitalized.

**(2) Consultation**

The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

**(3) Public comment**

Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

**(4) Memorandum of Understanding**

Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

(Pub. L. 92-532, title V, § 503, as added Pub. L. 102-567, title V, § 501, Oct. 29, 1992, 106 Stat. 4294.)

## REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (b)(1), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816. Title III of the Act is classified generally to subchapter III (§ 1311 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of this title and Tables.

Title IV of this Act, referred to in subsec. (d)(3)(B), is title IV of Pub. L. 92-532 which is classified generally to chapter 32A (§ 1447 et seq.) of Title 16, Conservation.

## TRANSFER OF FUNCTIONS

The Minerals Management Service was abolished and functions divided among the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. See Secretary of the Interior Orders No. 3299 of May 19, 2010, and No. 3302 of June 18, 2010, and chapters II, V, and XII of title 30, Code of Federal Regulations, as revised by final rules of the Department of the Interior at 75 F.R. 61051 and 76 F.R. 64432.

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.

**§ 2803a. Ocean and coastal resiliency****(a) In general**

The Secretary shall conduct studies to determine the feasibility of carrying out Corps of Engineers projects in coastal zones to enhance ocean and coastal ecosystem resiliency.

**(b) Study**

In carrying out the study under subsection (a), the Secretary shall—

(1) as appropriate, coordinate with the heads of other appropriate Federal agencies, the Governors and other chief executive officers of the coastal states, nonprofit organizations, and other interested parties;

(2) identify Corps of Engineers projects in coastal zones for enhancing ocean and coastal ecosystem resiliency based on an assessment of the need and opportunities for, and feasibility of, the projects;

(3) to the maximum extent practicable, use any existing Corps of Engineers plans and data; and

(4) not later than 365 days after initial appropriations for this section, and every five years thereafter subject to the availability of appropriations, complete a study authorized under subsection (a).

**(c) Disposition****(1) In general**

The Secretary may carry out a project identified in the study pursuant to subsection (a) in accordance with the criteria for projects carried out under one of the following authorities:

(A) Section 2330(a)–(d) of this title.

(B) Section 2309a(a)–(g) and (i) of this title.

(C) Section 426g(a)–(b) and (c)(1) of this title.

(D) Section 2326(a)–(f) of this title.

**(2) Report**

For each project that does not meet the criteria under paragraph (1), the Secretary shall include a recommendation relating to the project in the annual report submitted to Congress by the Secretary in accordance with section 2282d of this title.

**(d) Requests for projects**

The Secretary may carry out a project for a coastal state under this section only at the request of the Governor or chief executive officer of the coastal state, as appropriate.

**(e) Definition**

In this section, the terms “coastal zone” and “coastal state” have the meanings given such terms in section 1453 of title 16, as in effect on June 10, 2014.

(Pub. L. 113-121, title IV, § 4014, June 10, 2014, 128 Stat. 1321.)

## CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of title V of Pub. L. 92-532, popularly known as the National Coastal Monitoring Act, which comprises this chapter.

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113-121, set out as a note under section 2201 of this title.

**§ 2804. Report to Congress**

On September 30 of each other year beginning in 1993, the Administrator and the Under Sec-