

**(4) Source of matching cost share**

For purposes of paragraph (2)(A), the non-Federal cost share for a project may be determined by taking into account the following:

(A) The value of land or a conservation easement may be used by a project applicant as non-Federal match, if the Secretary determines that—

(i) the land meets the criteria set forth in section 2(b)<sup>1</sup> and is acquired in the period beginning 3 years before the date of the submission of the grant application and ending 3 years after the date of the award of the grant;

(ii) the value of the land or easement is held by a non-governmental organization included in the grant application in perpetuity for conservation purposes of the program; and

(iii) the land or easement is connected either physically or through a conservation planning process to the land or easement that would be acquired.

(B) The appraised value of the land or conservation easement at the time of the grant closing will be considered and applied as the non-Federal cost share.

(C) Costs associated with land acquisition, land management planning, remediation, restoration, and enhancement may be used as non-Federal match if the activities are identified in the plan and expenses are incurred within the period of the grant award, or, for lands described in<sup>2</sup> (A), within the same time limits described therein. These costs may include either cash or in-kind contributions.

**(g) Reservation of funds for National Estuarine Research Reserve sites**

No less than 15 percent of funds made available under this section shall be available for acquisitions benefitting National Estuarine Research Reserves.

**(h) Limit on administrative costs**

No more than 5 percent of the funds made available to the Secretary under this section shall be used by the Secretary for planning or administration of the program. The Secretary shall provide a report to Congress with an account of all expenditures under this section for fiscal year 2009 and triennially thereafter.

**(i) Title and management of acquired property**

If any property is acquired in whole or in part with funds made available through a grant under this section, the grant recipient shall provide—

(1) such assurances as the Secretary may require that—

(A) the title to the property will be held by the grant recipient or another appropriate public agency designated by the recipient in perpetuity;

(B) the property will be managed in a manner that is consistent with the purposes for

which the land entered into the program and shall not convert such property to other uses; and

(C) if the property or interest in land is sold, exchanged, or divested, funds equal to the current value will be returned to the Secretary in accordance with applicable Federal law for redistribution in the grant process; and

(2) certification that the property (including any interest in land) will be acquired from a willing seller.

**(j) Requirement for property used for non-Federal match**

If the grant recipient elects to use any land or interest in land held by a non-governmental organization as a non-Federal match under subsection (g), the grant recipient must to the Secretary's satisfaction demonstrate in the grant application that such land or interest will satisfy the same requirements as the lands or interests in lands acquired under the program.

**(k) Definitions**

In this section:

**(1) Conservation easement**

The term “conservation easement” includes an easement or restriction, recorded deed, or a reserve interest deed where the grantee acquires all rights, title, and interest in a property, that do not conflict with the goals of this section except those rights, title, and interests that may run with the land that are expressly reserved by a grantor and are agreed to at the time of purchase.

**(2) Interest in property**

The term “interest in property” includes a conservation easement.

**(l) Authorization of appropriations**

There are authorized to be appropriated to the Secretary to carry out this section \$60,000,000 for each of fiscal years 2009 through 2013.

(Pub. L. 89-454, title III, §307A, as added Pub. L. 111-11, title XII, §12502, Mar. 30, 2009, 123 Stat. 1442.)

**§ 1456a. Coastal Zone Management Fund**

(a)(1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before November 5, 1990, and any repayment schedule established pursuant to this chapter as in effect before November 5, 1990, are not altered by any provision of this chapter. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection 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 in-

<sup>1</sup> So in original. Probably should be “subsection (b)”.

<sup>2</sup> So in original. Probably should be followed by “subparagraph”.

formation submitted by such State or unit, take any of the following actions:

- (A) Modify the terms and conditions of such loan.
- (B) Refinance the loan.
- (C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).

(b)(1) The Secretary shall establish and maintain a fund, to be known as the "Coastal Zone Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 1456(i)(3) of this title.

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

(A) Expenses incident to the administration of this chapter, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

- (i) \$4,000,000; or
- (ii) 8 percent of the total amount appropriated under this chapter for the fiscal year.

(B) After use under subparagraph (A)—

(i) projects to address management issues which are regional in scope, including interstate projects;

(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 1460 of this title; and

(v) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 1455 of this title.

(Pub. L. 89-454, title III, § 308, as added Pub. L. 94-370, § 7, July 26, 1976, 90 Stat. 1019; amended Pub. L. 95-372, title V, §§ 501, 503(a)-(d), Sept. 18, 1978, 92 Stat. 690, 692, 693; Pub. L. 96-464, § 7, Oct. 17, 1980, 94 Stat. 2064; Pub. L. 99-272, title VI, § 6047, Apr. 7, 1986, 100 Stat. 128; Pub. L. 101-508, title VI, § 6209, Nov. 5, 1990, 104 Stat. 1388-308; Pub. L. 102-587, title II, § 2205(b)(1)(A), (B), (15)-(18), Nov. 4, 1992, 106 Stat. 5050, 5052; Pub. L. 104-150, §§ 2(b)(2), 5, June 3, 1996, 110 Stat. 1380, 1381.)

#### CODIFICATION

Subsec. (b)(3) of this section, which required the Secretary to transmit to Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 143 of House Document No. 103-7.

#### AMENDMENTS

1996—Subsec. (b)(2)(A). Pub. L. 104-150, § 5(a), amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: "Expenses incident to the administration of this chapter, in an amount not to exceed—

- "(i) \$5,000,000 for fiscal year 1991;
- "(ii) \$5,225,000 for fiscal year 1992;
- "(iii) \$5,460,125 for fiscal year 1993;
- "(iv) \$5,705,830 for fiscal year 1994; and
- "(v) \$5,962,593 for fiscal year 1995."

Subsec. (b)(2)(B)(iv) to (vi). Pub. L. 104-150, § 2(b)(2), inserted "and" at end of cl. (iv), redesignated cl. (vi) as (v), and struck out former cl. (v) which read as follows: "program development grants as authorized by section 1454 of this title, in an amount not to exceed \$200,000 for each of fiscal years 1997, 1998, and 1999; and".

Subsec. (b)(2)(B)(v). Pub. L. 104-150, § 5(b), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: "program development grants as authorized by section 1454 of this title; and".

1992—Pub. L. 102-587, § 2205(b)(15), made technical amendment to Pub. L. 101-508. See 1990 Amendment note below.

Subsec. (a)(1). Pub. L. 102-587, § 2205(b)(16), in first sentence, made technical amendment to reference to this chapter to reflect change in corresponding provision of original act.

Pub. L. 102-587, § 2205(b)(1)(A), substituted "coastal state" for "coastal State" in two places.

Subsec. (b)(1). Pub. L. 102-587, § 2205(b)(17), (18), struck out "(hereinafter in this section referred to as the 'Fund')" after "Management Fund" and inserted "and fees deposited into the Fund under section 1456(i)(3) of this title" after "subsection (a)".

Subsec. (b)(2)(B)(vi). Pub. L. 102-587, § 2205(b)(1)(B), substituted "coastal states" for "coastal States".

1990—Pub. L. 101-508, as amended by Pub. L. 102-587, § 2205(b)(15), amended section generally, substituting present provisions for provisions authorizing a coastal energy impact program, providing for administration of program, audit, financial assistance, rules and regulations and guarantees, establishing eligibility requirements for assistance, creating a Coastal Energy Impact Fund, prohibiting interference in any land or water use decision of any coastal state, requiring reports to Congress, and providing for definitions for the section.

1986—Subsec. (h). Pub. L. 99-272 substituted "subsections (c)" for "subsections (c)(1)" wherever appearing.

1980—Subsec. (c)(3). Pub. L. 96-464, § 7(1), added par. (3).

Subsec. (d)(4). Pub. L. 96-464, § 7(2), struck out par. (4) which provided that 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 subsec. (b) of this section which are sufficient to prevent, reduce, or ameliorate such loss.

1978—Subsec. (a)(1)(A). Pub. L. 95-372, § 501(b)(1), substituted "subsection (b)(5) of this section" for "subsection (b)(4) of this section".

Subsec. (a)(1)(B). Pub. L. 95-372, § 503(b)(1), substituted "subsection (c)(1) of this section" for "subsection (c) of this section".

Subsec. (a)(1)(C) to (G). Pub. L. 95-372, § 503(b)(2), added subpar. (C) and redesignated former subpars. (C) to (F) as (D) to (G), respectively.

Subsec. (b)(2). Pub. L. 95-372, § 501(a), substituted in provisions preceding subpar. (A) "Subject to paragraph (3), the amounts payable" for "The amounts granted" and "subparagraphs (A), (B), and (C)" for "subparagraphs (A), (B), (C), and (D)", in subpar. (A) "one-half" for "one-third", and in subpars. (B) and (C) "one-quarter" for "one-sixth" and struck out subpar. (D), which related to a ratio involving the number of individuals who obtain new employment as a result of new or expanded outer Continental Shelf energy activities.

Subsec. (b)(3). Pub. L. 95-372, § 501(b)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95-372, § 501(b)(1), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 95-372, § 501(b)(1), (c), redesignated par. (4) as (5) and, in par. (5) as so redesignated, struck out in subpar. (B)(i) provisions relating to the unavailability of adequate financing under any other subsection and inserted provisions following subpar. (B)(ii) authorizing the Secretary to describe the geographic areas in which the public facilities and public services referred to in subpar. (B)(i) shall be presumed to be required as a result of outer Continental Shelf energy activities for purposes of disbursing the proceeds of grants under this subsection. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 95-372, § 501(b)(1), redesignated par. (5) as (6) and, in par. (6) as so redesignated, in provisions preceding subpar. (A) and in subpar. (B) substituted “paragraph (5)” for “paragraph (4)”.

Subsec. (c). Pub. L. 95-372, § 503(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 95-372, § 503(c), substituted “subsections (c)(1)” for “subsections (c)” wherever appearing.

Subsec. (k). Pub. L. 95-372, §§ 501(b)(1), 503(d), substituted in par. (1) “subsection (b)(5)(B) and (c)(1)” for “subsection (b)(4)(B) and (c)” and in par. (2) “subsection (b)(5)(B)” for “(b)(4)(B)”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2(b)(2) of Pub. L. 104-150 effective Oct. 1, 1999, see section 2(b)(3) of Pub. L. 104-150, set out as a note under section 1454 of this title.

#### RESCISSION OF BALANCES AND FUTURE PAYMENTS

Pub. L. 112-55, div. B, title I, § 109, Nov. 18, 2011, 125 Stat. 602, provided that: “All balances in the Coastal Zone Management Fund, whether unobligated or unavailable, are hereby permanently rescinded, and notwithstanding section 308(b) of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456a[b]), any future payments to the Fund made pursuant to sections 307 (16 U.S.C. 1456) and 308 (16 U.S.C. 1456a) of the Coastal Zone Management Act of 1972, as amended, shall, in this fiscal year and any future fiscal years, be treated in accordance with the Federal Credit Reform Act of 1990, as amended [2 U.S.C. 661 et seq.]”

#### EXTENSION OF AUTHORITY TO MAKE LOANS UNDER SUBSECTION (d)(1)

Pub. L. 99-626, § 6, Nov. 7, 1986, 100 Stat. 3506, provided that: “The authority of the Secretary of Commerce to make loans under paragraph (1) of subsection (d) of section 308 of the Coastal Zone Management Act of 1972 (Public Law 92-583, 16 U.S.C. 1451, et seq.) as amended [16 U.S.C. 1456a(d)(1)], shall extend to September 30, 1987, for loans made to eligible States or units pursuant to and in accord with agreements entered into between the Secretary and any State prior to September 30, 1986, that provided for a total sum of loans to be made to that State or its units, but such loan authority shall be limited to \$7,000,000.”

### § 1456b. Coastal zone enhancement grants

#### (a) “Coastal zone enhancement objective” defined

For purposes of this section, the term “coastal zone enhancement objective” means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation’s coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

#### (b) Limits on grants

(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 1455 of this title, and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 1455(e) of this title.

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

#### (c) Evaluation of State proposals by Secretary

The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

#### (d) Promulgation of regulations by Secretary

Within 12 months following November 5, 1990, and consistent with the notice and participation requirements established in section 1463 of this title, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—