

which can be effectively managed and protected and which have significant ecological value: *Provided further*, That grants funded under this program shall require a 100 percent match from other sources.

(Pub. L. 107-77, title II, Nov. 28, 2001, 115 Stat. 776.)

CODIFICATION

Section was enacted as part of the Department of Commerce and Related Agencies Appropriations Act, 2002, and also as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, and not as part of the Coastal Zone Management Act of 1972 which comprises this chapter.

SIMILAR PROVISIONS

Pub. L. 108-7, div. B, title II, Feb. 20, 2003, 117 Stat. 75, provided in part: “That the Secretary shall establish a Coastal and Estuarine Land Conservation Program, for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses”.

§ 1457. Public hearings

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

(Pub. L. 89-454, title III, §311, formerly §308, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287; renumbered §311, Pub. L. 94-370, §7, July 26, 1976, 90 Stat. 1019.)

§ 1458. Review of performance

(a) Evaluation of adherence with terms of grants

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 1452(2)(A) through (K) of this title, and adhered to the terms of any grant, loan, or cooperative agreement funded under this chapter.

(b) Public participation; notice of meetings; reports

In evaluating a coastal state’s performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days’ notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general

circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.

(c) Suspension of financial assistance for non-compliance; notification of Governor; length of suspension

(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal state under this chapter, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 1461 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this chapter.

(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.

(d) Withdrawal of approval of program

The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A).

(e) Notice and hearing

Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(Pub. L. 89-454, title III, §312, formerly §309, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287, renumbered §312 and amended Pub. L. 94-370, §§7, 10, July 26, 1976, 90 Stat. 1019, 1029; Pub. L. 96-464, §9(a), Oct. 17, 1980, 94 Stat. 2065; Pub. L.

99-272, title VI, § 6043(a), Apr. 7, 1986, 100 Stat. 124; Pub. L. 101-508, title VI, §§ 6212, 6216(b), Nov. 5, 1990, 104 Stat. 1388-311, 1388-314; Pub. L. 102-587, title II, § 2205(b)(1)(A), (C), Nov. 4, 1992, 106 Stat. 5050.)

AMENDMENTS

1992—Subsecs. (b), (c)(1). Pub. L. 102-587 substituted “coastal state’s” for “coastal State’s” in subsec. (b) and “coastal state” for “coastal State” after “any” in subsec. (c)(1).

1990—Subsec. (a). Pub. L. 101-508, § 6216(b), substituted “through (K)” for “through (I)”.

Subsec. (b). Pub. L. 101-508, § 6212(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “For the purpose of making the evaluation of a coastal state’s performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.”

Subsec. (c). Pub. L. 101-508, § 6212(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary shall reduce any financial assistance extended to any coastal state under section 1455 of this title (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

“(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 1452(2)(A) through (I) of this title; or

“(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 1455(i)(A) and (B) of this title.”

Subsec. (d). Pub. L. 101-508, § 6212(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this chapter as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 1455 of this title, and refuses to remedy the deviation.”

Subsec. (f). Pub. L. 101-508, § 6212(d), struck out subsec. (f) which read as follows: “The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.”

1986—Subsec. (c). Pub. L. 99-272 designated existing provisions relating to failure to achieve objectives specified in section 1452(2)(A) through (I) as par. (1), and added par. (2).

1980—Subsec. (a). Pub. L. 96-464 substituted provisions relating to continuing review of coastal states performance with respect to coastal management for provisions relating to continuing review of management programs of coastal states, the performance of such states with respect to coastal zone management, and coastal energy impact program.

Subsec. (b). Pub. L. 96-464 substituted provisions relating to public meeting and comments for provisions relating to termination of financial assistance.

Subsecs. (c) to (f). Pub. L. 96-464 added subsecs. (c) to (f).

1976—Subsec. (a). Pub. L. 94-370, § 10, designated existing provisions as par. (1), substituted “such states with respect to coastal zone management; and” for “each state.”, and added par. (2).

REGULATIONS

Pub. L. 96-464, § 9(b), Oct. 17, 1980, 94 Stat. 2066, provided that: “Within two hundred and seventy days after

the date of the enactment of this Act [Oct. 17, 1980], the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section) [this section].”

§ 1459. Records and audit

(a) Maintenance of records by recipients of grants or financial assistance

Each recipient of a grant under this chapter or of financial assistance under section 1456a of this title, as in effect before November 5, 1990, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) Access by Secretary and Comptroller General to records, books, etc., of recipients of grants or financial assistance for audit and examination

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall—

(1) after any grant is made under this chapter or any financial assistance is provided under section 1456a of this title, as in effect before November 5, 1990; and

(2) until the expiration of 3 years after—

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this chapter.

(Pub. L. 89-454, title III, § 313, formerly § 310, as added Pub. L. 92-583, Oct. 27, 1972, 86 Stat. 1287; renumbered § 313 and amended Pub. L. 94-370, §§ 7, 11, July 26, 1976, 90 Stat. 1019, 1030; Pub. L. 102-587, title II, § 2205(b)(19), Nov. 4, 1992, 106 Stat. 5052.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-587, § 2205(b)(19)(A), substituted “section 1456a of this title, as in effect before November 5, 1990,” for “section 1456a of this title”.

Subsec. (b)(1). Pub. L. 102-587, § 2205(b)(19)(B), substituted “section 1456a of this title, as in effect before November 5, 1990; and” for “section 1456a(d) of this title; and”.

1976—Subsec. (a). Pub. L. 94-370, § 11(2), inserted “or of financial assistance under section 1456a of this title” after “grant under this chapter” and “and of the proceeds of such assistance” after “received under the grant”.

Subsec. (b). Pub. L. 94-370, § 11(3), inserted provisions limiting duration of authority to 3 years after completion of project or repayment of loan and enlarged scope