

CHAPTER 1

THE FEDERAL COASTAL ZONE MANAGEMENT ACT (CZMA)

Legislative History

The federal Coastal Zone Management Act of 1972 (CZMA) was passed in recognition of the importance of the coastal zone to the United States and the potentially adverse effects of intense development pressures upon this national resource. The Act authorized a voluntary program of financial assistance to states to manage their coasts and is administered by the Secretary of Commerce who, in turn, delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA), Office of Coast and Ocean Resource Management (OCRM).

Generally, the CZMA is reauthorized every five years. Usually, the modifications are of a housekeeping nature, though the 1990 Reauthorization significantly enhanced the ability of states to protect coastal resources by recognizing that the resources could be affected by activities such as fishing, taking of endangered species, dumping of contaminated dredged materials, and extraction of oil and gas resources that occur beyond a state's defined coastal boundary. The statute has enjoyed strong support in the Congress.

National Interests of the CZMA

The CZMA opens by stating "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone." The statement of Congressional findings goes on to describe how competition for the utilization of coastal resources, brought on by the increased demands of population growth and economic expansion, has led to the degradation of the coastal environment, including the "loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion." The CZMA then states, "the key to more effective protection and use of the land and water resources of the coastal zone is to encourage states to exercise their full authority over the land and waters in the coastal zone by assisting states... in developing land and water use programs... for dealing with coastal land and water use decisions of more than local significance."¹

State Implementation of the Coastal Program

The state level of government has prime responsibility for achieving "effective management, beneficial use, protection, and development of the coastal zone". States and territories along the coasts of the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes are eligible to participate in the Coastal Zone Management Program. Responsibility for administering the national program is with OCRM, in NOAA, which is in the U.S. Department

¹ Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

of Commerce. Participation in the CZM program by states and territories is voluntary.

In order to participate in the coastal zone management program, a state is required to prepare a program management plan for approval by OCRM. The core of an approved program plan is a suite of enforceable program policies, based on existing state environmental statutes and regulations, which articulate the participating state or territory's vision for implementing the Congressional intent of the Coastal Zone Management Act.

Once OCRM has approved a plan and its enforceable program policies, a state program gains "federal consistency" jurisdiction. This means that any federal action, including direct federal development activities, federally-issued licenses or permits, outer continental shelf oil and gas exploration, and federally funded projects, that takes place within a state's coastal zone must be found to be consistent with state coastal policies before the federal action can take place. The 1990 amendments to the CZMA broadened this authority to require that any federal activity that might reasonably be expected to affect the land or water resources or uses of a state's coastal zone must be found to be consistent with state coastal policy before the federal action can proceed. This authority is a powerful tool for states to use in implementing their vision of appropriate management of coastal resources.

Federal funding of coastal zone management programs allows states to develop a variety of implementation models. Some CZM programs, apart from federal consistency responsibilities, pass funding through to other state, municipal, and non-governmental organizations that support the goals of the coastal program. Other coastal programs are incorporated into the state's regulatory system and implement their program through environmental permits. Some, as in Massachusetts, provide a variety of technical and planning services directly to state, federal, and local agencies and to the general public, which encourages broad participation in achieving program goals.

Since passage of the CZMA, all eligible states and territories but one have developed approved program plans and are carrying out the Congressional interest in the effective management, beneficial use, protection, and development of the coastal zone.