

PART II

THE COASTAL ZONE MANAGEMENT ACT

A. THE COASTAL ZONE MANAGEMENT ACT

In response to intense pressure on coastal resources, and because of the importance of coastal areas of the United States, Congress passed the Coastal Zone Management Act of 1972 (CZMA), (16 USC 1451-1464). The CZMA authorizes a state-federal program to encourage coastal states and territories to develop comprehensive coastal management programs. The CZMA has been reauthorized on several occasions, most recently with the enactment of the Coastal Zone Protection Act of 1996 (P.L. 104-150). The program is administered by the Secretary of Commerce, who in turn has delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA), Office of Ocean and Coastal Resource Management (OCRM). In addition to Minnesota, 32 states and territories have coastal programs approved by the Department of Commerce - a network representing 99 percent of the United States coastline.

The CZMA affirms the national interest in the effective protection and careful development of the coastal zone by providing assistance and encouragement to coastal states to voluntarily develop and implement management programs for their coastal areas. The CZMA authorizes financial assistance grants under Section 305 for program development and Section 306 for program implementation to provide coastal states and territories with the means for achieving these objectives. The Section 305 program development section was re-authorized by Congress in the 1990 amendments to the CZMA (P.L. 101-508, November 5, 1990) and in the 1996 amendments to the CZMA (P.L. 104-150, June 3, 1996).

Sections 305 and 306 of the CZMA and implementing regulations, 15 C.F.R. Part 923, provide the requirements and procedures for state management program development and federal approval. In summary, the requirements for program approval are that a state develop a management program that among other things:

1. Identifies and evaluates those coastal resources recognized in the act that require management or protection by the state or territorial government;
2. Re-examine existing policies or develops new policies to manage these resources. These policies must be specific, comprehensive, and enforceable, and must provide an adequate degree of predictability as to how coastal resources will be managed.
3. Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. Uses and areas subject to management should be based on resource capability and suitability analyses and socioeconomic considerations;
4. Identifies the inland and seaward areas subject to the management program;
5. Provides for consideration of the national interest in planning for the siting of facilities; and

6. Includes sufficient legal authorities and organizational structure to implement the program and to ensure conformance to it.

In arriving at these substantive aspects of the management program, states are obligated to follow an open process which involves providing information to and considering the interests of the general public, interest groups, local governments, and regional, state, interstate, and federal agencies.

Section 303 of the CZMA provides guidance on specific national objectives that warrant full consideration during the development and implementation of approved state coastal management programs.

Section 305 of the CZMA authorized four annual grants to states desiring to develop a coastal management program. After its management program receives federal approval, the state is then eligible for annual grants under Section 306 to implement the program. Section 306A of the CZMA also provides that states may use a portion of their Section 306 awards for, among other things, low cost construction projects that result in the preservation of important natural areas, improved public access, or renewal of urban waterfronts.

Section 307 contains the federal consistency provisions of the CZMA to ensure that federal actions are consistent with the state's federally approved management program. Paragraphs (1) and (2) of Section 307(c) require federal activities and development projects in or outside the coastal zone affecting the coastal zone be consistent to the maximum extent practicable with a federally approved state management program. Subparagraphs (A) and (B) of Section 307(c) require that federal license and permit activities affecting the coastal zone also are consistent with federally approved state management programs. Section 307(d) requires federal assistance to state and local governments for projects affecting the coastal zone to be consistent with federally approved state management programs. Federal regulations implementing Section 307 are found in 15 C.F.R. Part 930.

Section 309 establishes a coastal enhancement grant program. This section provides that a portion of Section 306 funds is available to states to develop program changes which strengthen their CZM program's ability to address particular coastal issues. State efforts to seek such improvements are meant to focus on priorities based on self-assessment of the nine objectives listed in Section 309. These objectives include, among others, stronger wetland protection, improved management of coastal hazards and additional public access.

Section 312 directs the secretary to evaluate the performance of the state coastal programs on a continuing basis. OCRM formally reviews the implementation of each state program on a three-year cycle.

Section 315 establishes a national estuarine research reserve system to preserve representative estuarine areas for long-term scientific and educational purposes. There are currently no estuarine research reserve sites designated in Minnesota.

The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) established a Coastal Nonpoint Pollution Control Program (CNPC), in addition to updating the CZMA. The State of Minnesota will submit a nonpoint source management program for the Lake Superior watershed as the basis for an approvable CNPC to NOAA and U.S. EPA (see Part VI). NOAA and EPA will make a final determination regarding its compliance with Section 6217.

B. CROSS REFERENCE TO PROGRAM REQUIREMENTS

CZMA Section	Requirement	CZMA Approval Regulations	Program Document
306(d)(1)	Minnesota's Lake Superior Coastal Program (MLSCP) contains policies to adequately manage all uses with direct and significant impacts on coastal waters and ensure protection of those resources and areas that make the Minnesota coast a unique, vulnerable or valuable area.	15 C.F.R. §923.3	Part V, Chapter 3 and 4
306(d)(1)	Minnesota's Lake Superior Coastal Program (MLSCP) was developed after notice and with the opportunity for full participation by federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private.	15 C.F.R. §923.3	Part V Chapter 2, Section A Chapter 6, Section A Part I, pages 2, 3 Part VII, Appendices B-E
306(d)(2)(A)	Minnesota's Lake Superior Coastal Program (MLSCP) includes sufficient inland, seaward, and interstate boundaries.	15 C.F.R. §923.31-34	Part V Chapter 1, Section B
306(d)(2)(B)	Minnesota's Lake Superior Coastal Program (MLSCP) identifies the land and water uses subject to the management program.	15 C.F.R. §923.11	Part V Chapter 3
306(d)(2)(C)	Minnesota's Lake Superior Coastal Program (MLSCP) designates Areas of Particular Concern.	15 C.F.R. §923.21-23	Part V Chapters 3 and 4
306(d)(2)(D)	Minnesota's Lake Superior Coastal Program (MLSCP) identifies the means by which the state will exert control over the defined land and water uses.	15 C.F.R. §923.40-43	Part V Chapters 3 and 4
306(d)(2)(E)	Minnesota's Lake Superior Coastal Program (MLSCP) contains broad guidelines on priorities of uses in particular areas, including those uses of lowest priority.	15 C.F.R. §923.3 (923.21)	Part V Chapters 3 and 4
306(d)(2)(F)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a description of the organizational structure proposed to implement the Minnesota's Lake Superior Coastal Program (MLSCP), including the responsibilities and interrelationships of local, area wide, state, regional, and interstate agencies in the management process.	15 C.F.R. §923.46	Part V Chapter 2, Section A, B

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CZMA Section	Requirement	CZMA Approval Regulations	Program Document
306(d)(2)(G)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a definition of the term beach, and a planning process for the protection of, and provision of access to, public beaches and other public coastal areas.	15 C.F.R. §923.24	Part V Chapter 4, Section C
306(d)(2)(H)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts from such facilities.	15 C.F.R. § 923.13	Part V Chapter 3, Section G
306(d)(2)(I)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a planning process for assessing the effects of, and studying and evaluating ways to manage the impacts of, shoreline erosion and for restoring areas adversely affected by such erosion.	15 C.F.R. §923.25	Part V Chapter 3, Section A (3)
306(d)(3)(A)	The state has coordinated Minnesota's Lake Superior Coastal Program (MLSCP) with local, area wide, and interstate plans applicable to areas within the coastal zone existing before 1/1/95.	15 C.F.R. §923.56	Part V Chapter 2, 3, 4
306(d)(3)(B)	The state has established an effective mechanism for continuing consultation and coordination between the lead agency and local governments, interstate agencies, regional agencies, and area wide agencies within the coastal boundary.	15 C.F.R. §923.57	Part V Chapter 2, Section A, B Chapter 6
307	Minnesota's Lake Superior Coastal Program (MLSCP) contains adequate federal consistency procedures.	15 C.F.R. §923.53 and §930 Subparts C-F	Part V Chapter 6, Section C
306(d)(4)	The state has held adequate public hearings during the development of Minnesota's Lake Superior Coastal Program (MLSCP).	15 C.F.R. §923.58	Part VII Appendix D Part I, Section B
306(d)(5)	The Governor has reviewed and approved the management program and certifies that it contains adequate authorities.	15 C.F.R. §923.48	Letter at beginning of Part III
306(d)(6)	The Governor has designated a lead coastal agency.	15 C.F.R. §923.47	Letter at beginning of Part III Part I, Section B (2)

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CZMA Section	Requirement	CZMA Approval Regulations	Program Document
306(d)(7)	The state is organized to implement Minnesota's Lake Superior Coastal Program (MLSCP).	15 C.F.R. §923.46	Part V Chapter 2, A (I)
306(d)(8)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for adequate consideration of the national interest.	15 C.F.R. §923.52	Part V Chapter 6, Section B
306(d)(9)	Minnesota's Lake Superior Coastal Program (MLSCP) includes a program by which specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or aesthetic values.	15 C.F.R. §923.22	Part V Chapter 4
306(d)(10)(A) and (B)	The state has authority for the management of the coastal zone in accordance with Minnesota's Lake Superior Coastal Program (MLSCP), including the power to: a) administer land use and water use regulations to control development to ensure compliance with Minnesota's Lake Superior Coastal Program (MLSCP); b) resolve conflicts among competing uses; and c) acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means, if necessary.	15 C.F.R. §923.41	Part V Chapters 3 and 4
306(d)(10)(B)	The state has the authority to acquire interests in real property when necessary to achieve conformance with the management program.	15 C.F.R. §923.41	Part V Chapter 3 and 4
306(d)(11)	Minnesota's Lake Superior Coastal Program (MLSCP) uses any or a combination of the following techniques for control of land uses and water uses within the coastal zone: a) state establishment of criteria and standards for local implementation, b) direct state land and water use planning and regulation; and/or c) state administrative review of development plans, projects, or land and water use regulations.	15 C.F.R. §923.41-44	Part V Chapter 3
306(d)(12)	Minnesota's Lake Superior Coastal Program (MLSCP) ensures that local land use and water use regulations within the coastal boundary do not unreasonably restrict or exclude land uses and water uses of regional benefit.	15 C.F.R. §923.12	Part V Chapter 3 and 5

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306(d)(13)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for an inventory and designation of areas that contain one or more coastal resources of national significance and specific and enforceable standard to protect such resources.	No Regulations	Part V Chapter 3, 4, 6
306(d)(14)	Minnesota's Lake Superior Coastal Program (MLSCP) provides for public participation in permitting processes, consistency determinations, and other similar decisions.	No Regulations	Part V Chapter 2, Section C Chapter 6, Section C
306(d)(15)	Minnesota's Lake Superior Coastal Program (MLSCP) ensures that all state agencies will adhere to the program.	No Regulations	Part V Chapter 2, Section B
306(d)(16)	Minnesota's Lake Superior Coastal Program (MLSCP) contains enforceable policies and mechanisms to implement applicable requirements of the §6217(g).	Guidance on Coastal Nonpoint Source Program issued January 1993.	Part VI

THE FRAMEWORK FOR NATIONWIDE PROGRAM IMPLEMENTATION

Federal Role

- Set national policy and advocate program goals
- Review, approve, and evaluate state coastal management programs
- Develop CZMA regulations and legislative proposals
- Review/approve legal changes to federally-approved CZM programs
- Coordinate national interagency policies & activities
- Ensure adequate consideration of national interests
- Provide “federal consistency” technical assistance & mediation services
- Ensure public participation in national CZM activities
- Provide technical assistance and information transfer
- Provide federal funding

State, Territorial, and Commonwealth Role

- Represent state interest in the coast and shape national agenda
- Develop and implement comprehensive coastal management programs
- Prepare state regulations and statutory change proposals for CZM issues
- Update/improve resource management capabilities
- Coordinate state interagency policies and activities
- Provide state funding, and manage federal funds
- Ensure state and federal consistency with state enforceable policies
- Provide technical assistance to local governments
- Ensure public participation
- Advocate program goals

Local Role

- Influence state and national agenda and goals
- Develop and implement delegated authorities, including permitting
- Develop local ordinances and regulations for land and water uses
- Update/improve delegated local coastal authorities
- Coordinate local interagency policies and activities
- Provide local funding
- Represent local interests in the coast
- Provide a forum for citizen participation
- Encourage public education and outreach
- Develop and implement local coastal land and water use plans

From: Sustaining America’s Coastal Communities and Resources, A Strategic Framework for the Coastal Zone Management Program, September 1997