

**PART IV
 REQUIREMENTS OF THE NATIONAL ENVIRONMENTAL
 POLICY ACT (NEPA)**

A. NEPA REQUIREMENTS

This document is both a Final Environmental Impact Statement (FEIS) and Minnesota’s Lake Superior Coastal Plan. Some of the section headings, and the order in which they are presented, are different from those frequently found in other environmental impact statements. To assist NEPA reviewers, the following table has been developed. Topics normally addressed in an EIS document are listed under the heading “NEPA Requirement.” The corresponding section of this document and the page numbers are provided in the other two columns.

Table 8. NEPA Requirements.

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B. PURPOSE AND NEED FOR ACTION

NOAA has prepared this Final Environmental Impact Statement (FEIS) pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq. to assess the environmental impacts associated with the approval and implementation of the coastal management program submitted to NOAA by the State of Minnesota. The State of Minnesota has submitted its coastal management program to the Office of Ocean and Coastal Resource Management (OCRM) for approval pursuant to Section 306 of the federal Coastal Zone Management Act (CZMA) of 1972 as amended, 16 U.S.C. 1451.

The proposed action on the FEIS is approval of Minnesota's Lake Superior Coastal Program (MLSCP). The OCRM has made an initial determination that the program meets the requirements of the CZMA. Federal approval of Minnesota's program will enable the State of Minnesota to receive federal grant assistance for program implementation and will require that federal actions in or affecting the Minnesota coast be consistent with the Minnesota program. The Minnesota Coastal Management Program is described in Part V of this document. A table cross-referencing CZMA requirements with sections from this document may be found in Part II.

Approval and implementation of the MLSCP will improve management of Minnesota's coastal land and water uses according to the coastal policies and standards contained in the existing statutes, authorities and rules. Federal alternatives to program approval include delaying or denying approval, if certain requirements of the Coastal Zone Management Act have not been met. The state could modify parts of the program or withdraw its application for federal approval if either of the above federal alternatives results from circulation of this document.

The Coastal Zone Management Act (CZMA)

In response to the intense pressures upon coastal areas of the United States, Congress passed the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.). The CZMA was signed into law on October 27, 1972. The CZMA authorizes a federal grant program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration's (NOAA) Office of Ocean and Coastal Resource Management (OCRM). The CZMA affirms a national interest in the effective protection and development of coastal areas by providing assistance and encouragement to coastal states to develop and implement rational programs for managing their coastal areas.

Broad guidelines and the basic requirements of the CZMA provide the necessary direction for developing these state programs. These guidelines and requirements for program development and approval are contained in 15 C.F.R. Part 923.

In summary, the requirements for program approval are that a state develops a management program that:

- Identifies and evaluates those coastal resources recognized in the act that require management or protection by the state;
 - Re-examines 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;
 - Determines specific uses and special geographic areas that are to be subject to the management program, based on the nature of identified coastal concerns. The basis for managing uses, or their impacts, and areas, should be based on resource capability and suitability analyses, socio-economic considerations and public preferences;
 - Identifies the inland and seaward areas subject to the management program;
 - Provides for the consideration of the national interest in the planning for the siting of facilities that meet more than local requirements; and
 - Includes sufficient legal authorities and organizational structure to implement the program and to ensure conformance to it.
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C. ALTERNATIVES INCLUDING THE PROPOSED ACTION

1. Introduction

Given the nature of the proposed federal action, approval, delay and denial of Minnesota's Lake Superior Coastal Program, are all alternatives available to OCRM. In approving a coastal management program (the preferred alternative), the assistant administrator for Ocean Services and Coastal Zone Management must find that a state has met the federal approval requirements of the CZMA at 15 C.F.R. Part 923. Delay or denial of program approval could be based on failure of Minnesota's Lake Superior Coastal Program to meet any of the requirements of the CZMA, as amended.

In an effort to elicit public and agency comment and to assure that the assistant administrator's determination will be appropriate, this section identifies possible programmatic reasons for delaying or denying approval of the MLSCP identified through the public review process to date.

2. Federal Alternatives

Three alternatives to the proposed action are available to the assistant administrator: approve, delay, or take no action/deny. The assistant administrator's approval must be based upon affirmative findings for all of the requirements of the CZMA.

- a. **Alternative 1:** The assistant administrator could approve the MLSCP. This is the preferred alternative.

Approval of the MLSCP would be based on an affirmative finding that the program meets all requirements of the CZMA and its regulations. The benefits of the MLSCP implementation would include improved regulation and enforcement through intergovernmental coordination; balanced coastal community development; improved economic development for water dependent uses; better natural resource and hazardous areas management; and improved public awareness. Additional benefits are reviewed by Minnesota of federal and federally permitted and funded projects for consistency with its Coastal Management Program and consideration of the national interest in state decision making.

- b. **Alternative 2:** The assistant administrator could deny approval (take no action) on the MLSCP.

OCRM could deny approval if the program is found to not meet all requirements. With respect to the "no action" alternative, the Office of Ocean and Coastal Resource Management considers federal denial or state withdrawal from the program and "no action" as synonymous. State participation under the CZMA is voluntary. When a state participates in program development, it determines whether or not program approval and implementation is in its best interest. The impacts of "no action" are described below:

- , Loss of federal funds to administer the program: Under Section 306 of the CZMA, Minnesota would receive about \$600,000 annually to administer its Coastal Management Program.
- , Loss of consistency review of federal actions: This will mean that federal actions would not be reviewed by Minnesota for consistency with the MLSCP as required by Section 307 of the CZMA.
- , Loss of adequate consideration of the national interest in the siting of facilities which are other than local in nature as required by Section 306(d)(8) of the CZMA. By delaying or denying approval, the State of Minnesota and local governments would be under no obligation under Section 306(d)(8) to give adequate consideration to coastal facilities that are of national interest. This could result in loss of public benefit that the use of such facilities provide.

c. Alternative 3: The assistant administrator could delay approval of the MLSCP.

OCRM could delay if any element of the MLSCP necessary for program approval does not meet approval requirements and requires some modification. The MLSCP is a “networked” program consisting of several Minnesota natural resource protection programs. The MLSCP requires that all state agency actions affecting the coast be consistent with the existing state laws embodied within the MLSCP. Responsibility in Minnesota for implementing the relevant statutes and coordinating the overall program falls to the Department of Natural Resources. Other state agencies need to act consistently with the MLSCP. The assistant administrator could delay program approval if the coordination and consistency provisions of the MLSCP are insufficient to effectively network state agencies and divisions into an overall coastal management program.

Before taking final action approving the MLSCP, OCRM will review the complete record of comments and responses on this document.

3. State Alternatives Considered During Program Development

Throughout the effort to develop a program in Minnesota, preference was always given to using a networked approach based on existing authorities rather than creation of new laws or regulations. Minnesota’s program establishes a networked program, with the DNR as lead agency assuring consistency in implementation of existing authorities.

In the process of developing an inland boundary through the use of a citizen’s work group, several alternatives were considered. The largest boundary considered was the extent of the natural watersheds adjacent to Lake Superior. While this boundary made sense from an ecological standpoint, it was determined that it encompassed areas that did not have a direct or significant impact on the coastal area and did not lend itself to the most efficient management. The smallest boundary considered was the boundary created under the North Shore Management Plan, consisting of the 40 acre subdivision lines of the rectangular coordinate system established in the

U.S. Public Land Survey, nearest to the landward side of a line 1,000 feet from the shoreline of Lake Superior or 300 feet landward from the center line of U.S. Highway 61, whichever is greater. This narrow boundary did not cover the entire Minnesota Lake Superior shoreline and was deemed insufficient to encompass the resources intended to be protected under the Coastal Zone Management Act. The selected boundary which is primarily the coastal townships covers an area sufficient to address coastal resources, including most of the population and towns that are in the watershed.

Similar to the boundary development process, a work group of citizens was established to discuss and propose the organization of the program and the implementation process. The organizations of numerous existing state coastal management programs were examined as alternatives before the unique organization and implementation process was selected that is described in this document.

4. Consultation and Coordination

All local, state and federal agencies referenced in Appendix C of this document were consulted during initial phases of program development and during development of the 1997 public review draft document. The Minnesota DNR consulted each agency again in 1998 with the review of the DEIS in order to incorporate necessary revisions prior to publication of the FEIS.

D. ENVIRONMENTAL AND SOCIO-ECONOMIC CONSEQUENCES

In enacting the CZMA, Congress declared that "it is national policy to preserve, protect, develop, and where possible, restore or enhance the resources of the nation's coastal zone for this and succeeding generations." States are to achieve these potentially conflicting goals by improving governmental coordination, incorporating consideration of long term implications of development decisions, and instituting a more rational decision-making process which conforms to CZMA policies. Such actions have the potential to substantially affect future coastal area activity and have a significant positive environmental impact. The CZMA mandates giving full consideration to ecological, cultural, historic and aesthetic values as well as to needs for economic development when considering various development proposals.

Thus many factors and diverse, often conflicting values, between resource protection and development must be weighed. The CZMA requires that a balance must be achieved which allows or encourages development, while still protecting unique and critical resources.

It is the intent of the MLSCP to carry out these legislative mandates of the CZMA. Therefore, the environmental, institutional and socio-economic effects are expected to be primarily beneficial. The MLSCP will provide more coordinated decision-making with a greater focus on critical coastal issues.

There are four impacts associated with approval of the MLSCP: (1) impacts resulting from federal approval and (2) impacts resulting from implementation of Minnesota's coastal protection statutes embodied within the program. In contrast to approving the MLSCP, the assistant administrator could decide to (3) deny, or (4) delay approval of the program. In general, such impacts are discussed with respect to direction of change (positive or beneficial, negative or neutral) and with respect to duration (long-term or short-term). Because the proposed action is approval of a broad ranging program, quantification of net effects is not possible.

1. Positive Impacts Directly Resulting from Federal Approval

Section 306 Funding: Federal approval will enhance the State of Minnesota's financial ability to carry out its various coastal management efforts in accordance with Minnesota policies in the MLSCP. The state will rely to a considerable degree on the program funding made available in annual grants under Section 306 of the CZMA, both for program administration and for local and regional coastal management assistance grants. Program administration funding will support staff, contracts, and other resources to provide assistance to local governments and other entities as well as enhancement of implementation of laws included in MLSCP. Section 306 funding for local and regional assistance grants will be used for environmentally and socio-economically beneficial efforts, such as the following:

- C Feasibility studies and engineering reports for projects at the local level that are consistent with the policies in the coastal management program document;

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- C The protection and preservation of wetlands, beaches, fish and wildlife habitats, mineral, natural areas, endangered plant and animal species, or other significant natural coastal resources;
- C 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;
- C The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities for water-dependent energy, commercial, industrial, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal;
- C Increasing public access to Lake Superior and other public places in the coastal area;
- C The protection and preservation of historical, cultural, or aesthetic coastal resources;
- C Improving the predictability and efficiency of governmental decision making related to coastal area management;
- C The redevelopment of deteriorating and underutilized waterfronts and ports; and
- C Other purposes approved by the Coastal Council and the Department of Natural Resources.

Funding for such efforts is expected to have direct beneficial impacts on the natural and socio-economic environment of the coastal region, through protection of natural areas and other sensitive resources, waterfront revitalization, comprehensive planning, streamlining of permits and the monitoring of their effects, and conflict resolution. The integrated management approach of a coordinated cooperative MLSCP is expected to result in direct benefits to the environment through a heightened proactive focus on coastal resource management. The MLSCP provides the framework for a partnership among state and local agencies and other entities, public and private, to cooperate to preserve, protect, develop and restore the region's unique values.

Federal Consistency Review: Federal approval and implementation of the MLSCP will have effects upon federal agency actions. Approval will activate the federal consistency review provisions of Section 307 of the CZMA. The MLSCP federal consistency process and relevant provisions of 15 C.F.R Part 930 are described in Part V, Chapter 6. Because federal consistency entails early coordination and closer cooperation in planning as well as review of project proposals, it is presumed that federal consistency will provide another means to minimize the potential for adverse environmental impacts. This is considered to be a desirable impact and one of the main purposes of the CZMA.

The MLSCP has been developed with the assistance and input of numerous federal agencies having responsibility for activities in or affecting the coastal area. Therefore, conflicts between Minnesota's enforceable policies included in the MLSCP and federally permitted or conducted

activities should be minimal. Federal activities will not be excluded but rather will be required to be consistent with the policies in the MLSCP.

National Interest: Part V, Chapter 5 and Chapter 6 of the MLSCP describes how the siting of land and water uses of regional benefit, coordination with federal agencies, and consideration of national interest are integrated in the program. In general, the activities identified for being of regional benefit are under direct state and/or federal management, which preclude the unreasonable restriction or exclusion of the use of regional benefit by local regulation. This does not mean, however that local concerns are not sought and addressed. Each state agency administers a review process or other mechanism to assure consideration of all interests in the exercise of its authorities related to the regional use.

As MLSCP includes procedures for considering national and regional interests in comprehensive planning and decision making for the coastal area, the potential for conflicts between state, regional and national goals is reduced. Consideration of national interest during program implementation will be achieved by the review, certification, and permitting process described in the federal consistency section of this document (Part V, Chapter 6, page 7) or through processes outlined in Memorandums of Understanding (list of agreements in Appendix G) that address alternative review processes.

2. Impacts (of Approval) Attributable to Minnesota's Lake Superior Coastal Program

The Minnesota Department of Natural Resources (DNR) is designated by executive order as the lead agency for development and implementation of the MLSCP. The functions and authorities of the DNR with respect to MLSCP administration, described in detail in Part V, Chapter 2, provide a cohesive framework for improved and integrated decision making regarding coastal issues. Memoranda of Understanding between the DNR and other agencies as well as state consistency review coordinated by the DNR further foster unified coordination. Decisions and activities of federal, state and local agencies as well as those within the DNR will be monitored, coordinated and mediated by one office within the DNR Waters to assure compliance with the MLSCP. Greater consistency, a central focus and streamlining of the decision-making process is expected to improve the predictability of that process and bring about beneficial environmental and institutional impacts.

Assuring state agency consistency with the Coastal Program will help maintain program strength. As with federal consistency provisions and mechanisms, the impacts are expected to be positive. Improved coordination and cooperation throughout project planning and review will serve to minimize adverse impacts and to enhance predictability of decision making regarding state projects which may affect coastal resources. The MLSCP structure is described in Part V, Chapter 2, and the means to assure state consistency is described in Part V, Chapter 6.

The Coastal Council is the decision-making mechanism through which Minnesota's Lake Superior Coastal Program implements the grant program. The responsibilities of the Council include development of program priorities, review and selection of grant proposals, review of the annual budget, and periodic review of the program. The Council will provide direction for the Coastal Program to the program coordinator and informally serve as liaison to outside organizations.

These functions help to assure that public concerns regarding the environment are emphasized in the state's decision making.

Public Participation: There is a shared value of the Lake Superior resource base by those who work, live, or visit the area and there is a strong interest in public participation in the decision making and policy making process to protect this area. A coastal program will provide another avenue for public participation and additional funding to conduct these citizen based planning processes. The Coastal Council will provide additional means of providing public participation in the MLSCP including representation of the large geographical area of the North Shore as well as the diversity of issues and perspectives.

Shoreline, Stream Bank and Bluff Erosion: Erosion and sedimentation problems exist along the Lake Superior shoreline. Although the potential exists that erosion management may result in decreased property values for some individuals who own shorefront property with extremely high erosion rates, the costs of protective actions are expected to be short term with property values generally increasing over the long term due to improved protection and decreased risk. The Coastal Program can provide resources for planning, engineering or other tools to assist in solving erosion problems.

Counties or municipal corporations with land in the designated coastal flood hazard area are required to participate in the National Flood Insurance Program (NFIP) or adopt resolutions or ordinances meeting or exceeding NFIP requirements. Although they participate in the NFIP, no flood hazard areas have been identified in Cook and Lake Counties. Carlton and St. Louis Counties have identified flood hazard areas and participate in the NFIP. For the long term, this will assure that the state standards and the minimum federal standards are always in effect in the Lake Superior coastal flood hazard areas.

Harbor Development and Dredging Issues: All the ports and harbors in the Minnesota coastal area are important to local and regional economies. The Duluth-Superior Harbor is the most significant shipping port in the region as well as the leading bulk cargo port on the Great Lakes and one of the busiest in the nation. The Duluth Comprehensive Port Development Plan addresses preservation and restoration of natural areas, placement of dredged material, and revitalization of commercial/industrial land adjacent to the harbor. The Port Plan is implemented through the existing framework of the Duluth-Superior Metropolitan Interstate Committee. The committee was formed to address issues related to the Duluth-Superior Harbor among which the placement of dredged material is a very high priority. Representatives on the committee include local and state agencies from Wisconsin and Minnesota. This interstate relationship will be enhanced through the communication of the Coastal Programs in Wisconsin and Minnesota. Implementation of the Port Plan will also be improved through better communication with state and federal agencies and new linkages formed at the state and national level. These linkages will also provide a means to exchange technical assistance at the local, state, and national levels.

Public Access: Through the implementation of the MLSCP, technical assistance to and coordination with local communities will improve the recreational potential of the lakeshore. There is strong interest in enhancing the waterfront and increasing public access to Lake Superior. Public access programs will benefit from increased resources and funding through MLSCP

implementation. The Coastal Program can help fund planning as well as low-cost construction projects and waterfront improvements. The Coastal Program will promote improved coordination of public access projects, facilities, and plans along the entire shoreline and across all levels of government and organizations.

Environmental Justice: Approval of Minnesota's Lake Superior Coastal Program will lessen the likelihood of environmental inequities and may promote greater environmental justice. MLSCP policies provide for the protection of resources, such as fish and wildlife and their critical habitats, that are the mainstays of traditional coastal economies. MLSCP project grants will provide funds to local communities to increase and enhance access to Minnesota's waters and shore areas for all residents and will provide additional means to address development pressures in small-town waterfront areas and rehabilitate degraded urban waterfront areas. Approval of the MLSCP may provide additional resources to organizations such as the North Shore Management Board to address development issues such as wastewater treatment which will reduce impacts to groundwater and water bodies and improve public health generally. The MLSCP has included economic development areas, cultural resource protection areas, and natural resource protection areas as Areas of Particular Concern. This provides special management attention to these areas and makes them eligible for construction and acquisition projects under Section 306A of the federal Coastal Zone Management Act.

3. Impacts Resulting from Denying Federal Approval

Several environmental, economic and social impacts could result if OCRM decided to deny approval of the MLSCP. An obvious economic impact is the loss of federal funds to administer and implement the program. Under Section 306 of the CZMA, Minnesota would receive about \$600,000 annually to implement its Coastal Management Program. Consistency of federal actions, as required by Section 307, CZMA, would be lost to Minnesota. Adequate consideration of the national interest in siting facilities of national interest, as required by CZMA section 306(d)(8), would be lost and could result in loss of public benefit from use of those facilities. The technical assistance available to Minnesota from OCRM would be lost without federal approval of the program as well as the benefit from information exchange and coordination with other states both in the Great Lakes region and nationally.

4. Impacts Resulting from Delaying Federal Approval

The environmental, economic and social impacts listed above, that result from denial of federal approval of the MLSCP, also apply to delaying approval of the program. Further, continued delay at this juncture may make it impossible, due to limits in funding, for Minnesota to enter the federal program in the future.

E. UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS

The probable effects of Minnesota's Lake Superior Coastal Program implementation will, on the whole, be environmentally beneficial. However with or without the program, adverse impacts associated with the siting of major facilities for purposes of defense, transportation, and energy requirements in which both the state and federal governments have interest, will continue. It is important to note, however, that under the Coastal Program and related federal laws (e.g., National Environmental Policy Act), such projects will be evaluated as to the impacts on the natural coastal environment. That is, investigations will be made, alternatives considered, et cetera. The program also makes provisions for consideration of the national interest in the siting of these facilities.

No new energy generation facilities are planned in Minnesota's coastal area, and it is anticipated that existing facilities will remain largely unchanged.

F. RELATIONSHIP BETWEEN SHORT-TERM USES OF THE ENVIRONMENT AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

Minnesota's Lake Superior Coastal Program will provide long-term assurance that the natural resources and benefits provided by the Minnesota Lake Superior coast will be available for future use and enjoyment, by more effectively administering existing resource protection laws.

Minnesota's Lake Superior Coastal Program recognizes in the short-term that some coastal-dependent developments have adverse environmental consequences, but that they may still be located in the coastal zone to protect the inland environment as well as help provide for orderly economic development, and meet national interest.

Regarding the long-term use of the environment, the MLSCP recognizes the coastal area as a delicately balanced ecosystem; establishes a process of balanced management of coastal resources; allows growth to continue while protecting key resources; and provides a framework which can protect regional, state and national interests by assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the public. Beneficial changes will likely promote avoidance of long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources.

G. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

The only irretrievable or irreversible commitment of resources that will result directly from the approval of Minnesota's Lake Superior Coastal Program is the commitment of state and federal funds and personnel for the purpose of achieving the goals and objectives of the MLSCP. It is presumed that irretrievable and irreversible commitments of economic and environmental resources will occur during the implementation of the MLSCP. This MLSCP is designed to balance the need for development with the need for the protection and enhancement of coastal environmental resources by avoiding, minimizing and mitigating the consequences of coastal development on resources such as wetlands and shallow water Lake Superior habitats.

The MLSCP ensures, through enhanced local and regional participation and awareness, that any such proposed activities which commit coastal resources are provided a more comprehensive review as individual actions and as an action contributing to the cumulative impacts taking place on coastal resources. Such review will ensure that those irretrievable and irreversible commitments of resources which are undertaken under MLSCP are made with full awareness of the consequences of those commitments.