



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Office of the General Counsel**  
Washington, D.C. 20230

October 6, 1999

The Honorable Don Young  
Chairman, Committee on Resources  
House of Representatives  
Washington, D.C. 20515

This letter provides you with the Department of Commerce's views on H.R. 2669, entitled the *Coastal Community Conservation Act of 1999*, as described in the "Committee Print" dated September 3, 1999. The Department supports H.R. 2669.

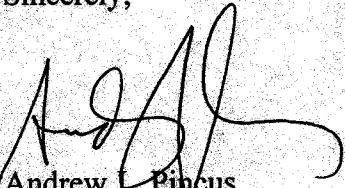
The reauthorization of the Coastal Zone Management Act (CZMA) is of great importance to the Department and provides a unique opportunity to guide coastal and ocean resources management in the next century. H.R. 2669 contains important amendments that would help coastal states to address the severe impacts to the coastal zone from polluted runoff and would provide much needed support at the local level to revitalize coastal communities. These amendments, and the CZMA in general, have the support of the Department, the coastal states, local government groups, the environmental community as well as substantial bi-partisan support in Congress.

The Department understands, however, that an amendment may be offered regarding private property rights. Such an amendment was offered and defeated in Subcommittee. As stated in our June 15, 1999, views letter to Chairman Saxton on H.R. 1110, the Department vigorously opposes the property rights amendment and, if adopted and passed by Congress, the Secretary of Commerce would strongly recommend a Presidential veto. Such an amendment would effectively repeal most of the CZMA's provisions and would make most elements in the 33 federally approved state coastal management programs illegal. The CZMA's findings, policy statements and state coastal management program approval requirements all address the need to manage and control the land and water uses and natural resources of the coastal zone. The amendment would require the Department to again review all 33 federally approved state coastal management programs and possibly decertify those programs that did not remove provisions that control or manage private uses of the coastal zone. This would, for all practical purposes, render the national and state CZMA programs non-existent and ineffective. Further, the amendment would subject the Department and the states to endless litigation and takings claims, placing an enormous financial burden on the states, local governments and the Federal Government. The CZMA has had strong bipartisan support for over 27 years and was unanimously reauthorized by the 104<sup>th</sup> Congress in 1996. If this amendment is adopted, *there would effectively no longer be a coastal management program in the United States* as envisioned in the CZMA.

We note that section 109(b) imposes a requirement on the Executive Branch that gives rise to constitutional concerns under the Recommendations Clause. The Recommendations Clause provides that the President "shall from time to time...recommend to [Congress] such measures as he shall judge necessary and expedient[.]" U.S. Const. Art. II, § 3. The Clause precludes Congress from either requiring or prohibiting the Executive Branch from making legislative recommendations to the Congress. H.R. 2669, section 109(b) would violate this Constitutional principle. The Department therefore recommends that section 109(b) be amended by inserting the words: ", if any," after the words "House of Representatives draft legislation".

The Office of Management and Budget has advised the Department that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

Sincerely,



Andrew J. Pincus

cc: The Honorable George Miller  
The Honorable Jim Saxton  
The Honorable Eni F. H. Faleomavaega