



October 7, 1999

The Honorable Olympia J. Snowe
Chair, Subcommittee on Oceans and Fisheries
Committee on Commerce, Science and
Transportation
United States Senate
Washington, D.C. 20510-6134

Dear Madame Chair:

This letter provides you with the Department of Commerce's views on S. 1534, entitled the *Coastal Zone Management Act of 1999*, as introduced on August 5, 1999. 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 into the next century. The Department respectfully requests that you amend S. 1534 to reflect the views and recommendations provided in the enclosure to this letter, and looks forward to working with you on this important Act.

In general, there are many similarities between S. 1534 and the Administration's proposal to amend the CZMA. These similarities are due in part to our shared support for the CZMA and the collaboration between the Department and your Subcommittee.

Nonetheless, we have a fundamental concern that S. 1534 does not adequately address coastal nonpoint pollution. Addressing polluted runoff in a reauthorized CZMA is a primary goal of the Administration, and S. 1534 does not provide a dedicated funding provision to ensure implementation of states' coastal nonpoint programs. Under S. 1534, coastal nonpoint programs are eligible for funding under sections 306, 306A and 309 of the proposed legislation. However, under S. 1534, state coastal programs are not obligated to fund the implementation of coastal nonpoint programs. The Department believes it is critical to ensure that a portion of coastal management funding be directed to solve this national problem. While many states may elect to use the CZMA funds for their coastal nonpoint programs, some states may elect not to do so. As a result, the Department cannot support this bill unless a mandatory polluted runoff program is included in the legislation.

The Administration, Members of Congress, coastal states and the environmental community have put tremendous effort over the past several years into developing coastal nonpoint programs, providing a road map for how to address the severe threat to our coastal waters and habitats from

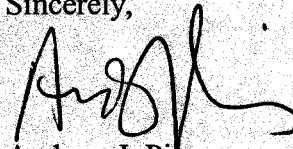
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polluted runoff and securing dedicated funds to accomplish these tasks. The Department, therefore, believes that it is imperative that some portion of the funds identified in S.1534 be dedicated to implement coastal nonpoint programs. A recommendation on this, as well as other important differences between S.1534 and the Administration's proposal are addressed in the enclosure.

The Department also notes that the total authorization levels in S.1534 are below the President's fiscal year 2000 budget request, and recommends that the authorization levels be revised to conform to the President's request, as noted in the enclosure.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this report to the Congress from the standpoint of the Administration's program.

Sincerely,



Andrew J. Pincus

Enclosure

**The Department of Commerce's Views and Recommendations Regarding
S. 1534 - The Coastal Zone Management Act of 1999**

Coastal Nonpoint Program. We recommend that the Administration language of identifying 10-to-20% of appropriations under sections 306/306A for nonpoint purposes be considered. This would help ensure dedicated funding for coastal nonpoint program development and implementation that would be maintained at levels consistent with FY 1999 enacted amounts. As an alternative, a separate authorization line item dedicated to implementing coastal nonpoint programs could be added to section 17 of the bill (CZMA section 318) regarding authorization of appropriations.

In addition, we recommend that the following language be added to CZMA section 312(a), after the second occurrence of "Secretary," to address the evaluation of the nonpoint program, as included in the Administration's proposal: "including the coastal nonpoint pollution control program,".

Coordination with American Indian Tribes. The Administration's CZMA proposal strengthens coordination between states and American Indian tribes. The Administration is improving the coordination between tribes and state coastal management programs. There are also many community-type projects that could be accomplished by tribes. We recommend that S.1534 be amended in two places to improve state-tribal coordination. First, insert the phrase "federally recognized American Indian Tribes," after "state and local governments," in CZMA section 303(4). Second, insert the following paragraph (F) in section 8(1) of S.1534 (amending CZMA section 306A(a)(3)): "(F) any federally recognized American Indian tribe located in, or having an impact on, the coastal zone."

Definitions. The definition of "coastal nonpoint pollution control plan" in the proposed CZMA section 304(19) (S.1534 section 5(3)) should be amended to "coastal nonpoint pollution control program under 16 U.S.C. § 1455b." Under the coastal nonpoint pollution control statute and CZMA section 306(d)(16), states develop and implement coastal nonpoint "programs" not "plans." This same change should be made for all occurrences of coastal nonpoint "plans" (proposed CZMA sections 306A(b)(5), 306A(c)(2)(G), and 309(a)(10)).

Administrative Grants. S. 1534 implies in two sections that states should submit separate grant applications to the Department under proposed CZMA sections 306A(d)(1)(A) and 309A(c)(1). We strongly recommend that the following sentence be added at the end of CZMA section 306(b): "Coastal states shall submit a combined application for sections 306, 306A, 309 and 309A." Requiring the states to submit only one grant application for all four sections is administratively much more efficient and less burdensome for both the states and the Department.

Coastal Zone Enhancement Grants. The proposed revision to CZMA section 309(a)(5) in S. 1534 section 10(3) is unclear as polluted runoff is not a use or an activity, it is an impact. We recommend that the section read as follows: "Development and adoption of procedures to assess,

consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect of various individual uses, activities, and sources of polluted runoff, on coastal waters, habitats, and resources.”

We also believe it is important for states to continue to enhance their programs. Thus, we recommend that the language in CZMA section 309(f) be retained in the following form: “A coastal state shall be required to use at least 10 percent of the amounts appropriated to implement sections 309 and 309A of this title for use in making coastal zone enhancements under section 309.”

Coastal Community Program. Proposed CZMA section 309A(a)(1) (S.1534 section 11) duplicates proposed CZMA section 309A(a)(4) of S. 1534 section 11. We recommend that proposed CZMA section 309A(a)(4) be deleted from S. 1534 and that proposed CZMA section 309A(a)(1) be amended by adding at the end of the subsection the following: “, so long as such activities emphasize water-dependent uses and protect coastal waters and habitats.”

The Administration’s Coastal Community Initiative provides for unmatched funds. The Coastal Community grants in S.1534 would require that the state match the projects on a one-to-one basis. The result of a mandatory 50% match is that smaller, fiscally constrained communities may be left out of the process. The Department recommends that grants provided for this purpose not be matched. If match is required, then proposed CZMA section 309A(c)(2) should be reworded as follows since the existing language is confusing and could cause grant administration problems for the states and the Department by specifying two separate match ratios: “it shall match the amount used for section 309A purposes in the ratio required by section 306(a).”

A sentence should be added at the end of proposed CZMA section 309A(d)(1) that reads: “The term ‘qualified local entity’ is described in section 306A(a)(3).”

Technical Assistance. Proposed CZMA section 310A of the Administration’s proposal provides for National Oceanic and Atmospheric Administration (NOAA) technical assistance to build the capacity of states and communities to address coastal issues. Although the language in proposed CZMA section 310(b)(4) in S.1534 section 12 directs the Secretary to undertake a program of technical assistance and management-oriented research, no funds are authorized for section 310. We recommend that a portion of the proposed section 309A funds be identified for this purpose.

In addition, the Administration’s changes to CZMA section 310 (CZMA section 310A in the Administration’s proposal) are needed to clarify the use of CZMA section 310, e.g., technology development currently conducted under the authority of section 310 through the Cooperative Institute for Coastal and Estuarine Environmental Technology, international activities, nonpoint program, coastal communities, and other technical assistance activities. The Department strongly recommends that these changes be made to CZMA section 310.

Authorization of Appropriations. The Department notes that the total authorization levels for S.1534 for CZMA sections 306, 306A, 309 and 309A are \$14.2 million below the President’s fiscal year 2000 budget request for the Administration’s corresponding CZMA sections (306,

306A, 309 and 310). The Administration's proposal is \$61.7 million for sections 306, 306A and 309, and \$28 million for section 310, for a total of \$89.7 million. S.1534 authorizes \$75.5 million for sections 306 and 306A and \$20 million for sections 309 and 309A. The Department recommends that the authorization levels for S.1534 be increased to conform to the President's budget request in the following way: add \$10.2 million to the \$55.5 million proposed for CZMA sections 306 and 306A to be used by states to implement their coastal nonpoint programs, and \$4 million for NOAA's technical assistance program under CZMA section 310 (or CZMA section 310A of the Administration's proposal).

The Department also strongly recommends that Section 318 subsection (e), Restriction on Use of Amounts for Program, Administrative or Overhead Costs, be deleted. The \$5.5 million authorized in subsection (a)(5) will only cover personnel and associated operational costs such as travel, supplies, equipment, etc., directly related to administration of the state coastal management program as well as the National Estuarine Research Reserve System. It does not cover other shared NOAA costs, such as grants administration, legal counsel, security, etc., that are just as necessary to support an effective program, but are more efficiently provided through a centralized source. When these corporate costs rise faster than can be supported through NOAA's administrative line item, they must be paid for somehow, and the most equitable way is by the programs that they support. The restriction as proposed in this section of S. 1534 would severely hamper the flexibility required to equitably meet these necessary costs. The Department suggests that a sufficient amount of budget authority be added to the amount in subsection (a)(5) to cover these costs in future years. This would allow the entire amount of the section 306 grants to be awarded to the states, while still allowing NOAA to meet its necessary expenses.