

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

### PART 71—[AMENDED]

1. The authority citation for 14 part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

AGL SD E5 Gregory, SD [New]  
Gregory Municipal Airport, SD

(Lat. 43°13'18" N, long. 99°24'12" W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Gregory Municipal Airport, and that airspace extending upward from 1,200 feet above the surface beginning at lat. 43°41'00" N, long. 99°29'00" W, southeastbound to lat. 43°00'00" N, long. 99°00'00" W, westbound to V71, northwestbound to lat. 43°29'30" N, long. 99°39'00" W, to the point of beginning, and that airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 43°20'00" N, on the east by V71, on the south by lat. 43°00'00" N, and on the west by long. 100°05'00" W, excluding that airspace within the Winner, SD, E5 airspace.

\* \* \* \* \*

Issued in Des Plaines, Illinois on February 27, 1997.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 97-6621 Filed 3-14-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Parts 921, 923 and 930

RIN 0648-AJ24

### Coastal Zone Management Program Regulations and National Estuarine Research Reserve System Regulations

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) is amending its ocean and coastal resource management regulations concerning the National Estuarine Research Reserve System, Coastal Zone Management Program, and Secretarial review procedures. The Coastal Zone Protection Act of 1996 amended the Coastal Zone Management Act (the Act) and reauthorized NOAA's Coastal Zone Management Program and National Estuarine Research Reserve System under the Act. Among the amendments to the Act were changes to the use of Coastal zone enhancement grants, the formula for financial assistance to the states for National Estuarine Research Reserve (NERR) activities, and the timing for the appeals process under the consistency provisions. NOAA issues this final rule to amend the existing regulations to conform with the statutory amendments.

**EFFECTIVE DATE:** March 17, 1997.

#### FOR FURTHER INFORMATION CONTACT:

Vickie A. Allin, Policy Coordination Division, Office of Ocean and Coastal Resource Management, 1305 East-West Highway, N/ORM4, Silver Spring, Maryland 20910. Telephone: 301-713-3086 ext. 126.

#### SUPPLEMENTARY INFORMATION:

##### I. Authority

This final rule is issued under the authority of the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 et seq., as amended by the Coastal Zone Protection Act of 1996 (CZPA), Pub. L. 104-150.

##### II. Background

The CZMA was enacted to encourage and assist coastal states and territories to develop and implement management programs to preserve, protect, develop and, where possible, restore or enhance the resources of the Nation's coasts. Prior to the 1996 amendments:

- Section 309 of the CZMA identified eight national coastal zone enhancement objectives and authorized grants to states for development and submission of program changes that support attainment of those objectives. Section 309 did not authorize grants for implementation of those changes.

- Section 315 of the CZMA authorized grants to states for the designations, management and use of NERRs. However, section 315 limited, in most cases, the amount of Federal financial assistance that could be used for a NERR activity to a specified percentage of the cost of that activity.

- Section 307 of the CZMA established the Federal consistency requirement, which requires Federal agencies, applicants for Federal licenses, permits or other approvals and state or local government agencies applying for Federal financial assistance to conduct their activities consistent with federally-approved state coastal management programs if an activity is reasonably likely to affect any land or water use or natural resource of a state's coastal zone. Section 307 also provided for an appeal, referred to as a consistency appeal, to the Secretary of Commerce (Secretary) for a Secretarial override of state objections to Federal license or permit or financial assistance activities.

NOAA's regulations at 15 CFR Parts 921, 923 and 930 implement these provisions.

#### III. Coastal Zone Protection Act of 1996

The Coastal Zone Protection Act of 1996 (CZPA) contains the following amendments to the CZMA.

- Section 7 of the CZPA amends section 309 to add, as a ninth coastal zone enhancement objective, the adoption of procedures and policies to evaluate and facilitate the siting of aquaculture in the coastal zone.

- Section 3 of the CZPA amends section 309 to authorize limited use of coastal zone enhancement grants to states for implementation as well as for development and submission of program changes.

- Section 6 of the CZPA amends section 315 to provide that Federal financial assistance provided from amounts recovered as a result of damage to natural resources in the coastal zone may be used to pay for 100% of the cost of a NERR activity.

- Section 8 of the CZPA adds a new section 319 which requires that the Secretary publish a notice in the Federal Register stating when the record in a consistency appeal has closed. Within 90 days after publication of this notice, the Secretary shall issue a final decision

in the appeal or publish another notice detailing why the decision cannot be issued. In the latter case, the Secretary shall issue a final decision within 45 days after the publication of the latter notice.

#### IV. Discussion of Changes

Because of the statutory amendments, some of NOAA's current CZM Program and NERRS regulations no longer conform to the law. The purpose of this rule is to amend certain regulations so that they are consistent with the statute and to incorporate requirements that are effective immediately. These changes are non-controversial and are merely codifying statutory changes.

The following is a brief explanation of changes made to each of the sections of the regulations to reflect the statutory amendments.

##### A. National Coastal Zone Management Program

NOAA is amending regulations for the Coastal Zone Enhancement Grant Program at 15 CFR 923.121(a) and (g) to include limited use of section 309 enhancement grants for implementation of program changes. NOAA is also adding a new subsection, 15 CFR 923.122(b)(9), allowing use of section 309 grants for attainment of the new aquaculture coastal zone enhancement objective.

##### B. National Estuarine Research Reserve System

Several subsections of 15 CFR Part 921 limit the amount of section 315 Federal financial assistance that a state or other qualified entity or individual may receive to fund a NERR activity to a specific percentage of the cost of that activity. For each of these subsections, NOAA is adding the provision that 100% of the cost of the NERR activity may be funded with Federal financial assistance, when that assistance comes from amounts recovered as a result of damage to natural resources in the coastal zone.

##### C. Federal Consistency With Approved Coastal Management Programs

NOAA is deleting 15 CFR 930.130(b), which provided that the Secretary shall make all reasonable efforts to complete consideration of consistency appeals within 90 days. This section is superseded by section 8 of the CZPA.

#### V. Rulemaking Requirements

A. This rule was determined to be "not significant" for purposes of Executive Order 12866.

B. This rule relates to public property, loans, grants, benefits, and contracts,

and therefore, it is exempt from every requirement of section 553 of the Administrative Procedure Act (5 U.S.C. 553), including notice and comment and delayed effective date.

C. Because a notice of proposed rulemaking is not required by 5 U.S.C. 553, or any other law, a Regulatory Flexibility Analysis is not required and was not prepared for purposes of the Regulatory Flexibility Act.

D. This rule involves collections of information subject to the Paperwork Reduction Act and cleared by the Office of Management and Budget under Control number 0648-0119. The estimated response times for these requirements are 480 hours for management program approval and 8 hours for program amendments and routine program changes. The response estimates shown include the time for reviewing instruction, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

E. National Environmental Policy Act. NOAA has concluded that this regulatory action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

F. This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

G. NOAA has concluded that this regulatory action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment under Executive Order 12612.

List of Subjects in 15 CFR Parts 921, 923, and 930

Administrative practice and procedure, Coastal zone, Grant programs—Natural resources, Reporting and recordkeeping requirements.

Dated: March 7, 1997.

David L. Evans,

*Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.*

For the reasons set out in the Preamble, 15 CFR parts 921, 923, and 930 are amended as follows:

#### **PART 921—NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM REGULATIONS**

1. The authority citation for part 921 continues to read as follows:

Authority: Section 315 of the Coastal Zone Management Act, as amended (16 U.S.C. 1461)

2. Paragraph (f) of § 921.1 is amended by adding a sentence after the third sentence to read as follows:

##### **§ 921.1 Mission, goals and general provisions.**

\* \* \* \* \*

(f) \* \* \* Notwithstanding the above provisions for financial assistance, financial assistance provided from amounts recovered as a result of damage to natural resources located in the coastal zone may be used to pay 100 percent of the costs of activities carried out with the assistance. \* \* \*

\* \* \* \* \*

3. Section 921.20 is amended by revising the last sentence to read as follows:

##### **§ 921.20 General.**

\* \* \* In any case, the amount of Federal financial assistance provided to a coastal state with respect to the acquisition of lands and waters, or interests therein, for any one National Estuarine Research Reserve may not exceed an amount equal to 50 percent of the costs of the lands, waters, and interests therein or \$5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

4. Section 921.31 is amended by revising the second and fourth sentences to read as follows:

##### **§ 921.31 Supplemental acquisition and development awards.**

\* \* \* Federal financial assistance provided to a National Estuarine Research Reserve for supplemental development costs directly associated with facility construction (i.e., major construction activities) may not exceed 70 percent of the total project cost, except when the financial assistance is provided from amounts recovered as a

result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. \* \* \*

Acquisition awards for the acquisition of lands or waters, or interest therein, for any one Reserve may not exceed an amount equal to 50 percent of the cost of the lands, waters, and interests therein or \$5,000,000, whichever amount is less, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. \* \* \*

5. Paragraph (c) of § 921.32 is amended by revising the second sentence to read as follows:

**§ 921.32 Operation and management: Implementation of the management plan.**

(c) \* \* \* Federal funds provided pursuant to this section may not exceed 70 percent of the total cost of operating and managing the Reserve for any one year, except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs. \* \* \*

\* \* \* \* \*

6. Paragraph (b) of § 921.50 is amended by revising the last sentence to read as follows:

**§ 921.50 General.**

\* \* \* \* \*

(b) \* \* \* Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) ("allowable costs"), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

7. Paragraph (b) of § 921.60 is amended by revising the last sentence to read as follows:

**§ 921.60 General.**

\* \* \* \* \*

(b) \* \* \* Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) ("allowable costs"), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the

assistance may be used to pay 100 percent of the costs.

\* \* \* \* \*

8. Paragraph (b) of § 921.70 is amended by revising the last sentence to read as follows:

**§ 921.70 General.**

\* \* \* \* \*

(b) \* \* \* Federal funds provided under this subpart may not exceed 70 percent of the total cost of the project, consistent with § 921.81(e)(4) ("allowable costs"), except when the financial assistance is provided from amounts recovered as a result of damage to natural resources located in the coastal zone, in which case the assistance may be used to pay 100 percent of the costs.

\* \* \* \* \*

**PART 923—COASTAL ZONE MANAGEMENT PROGRAM REGULATIONS**

9. The authority citation for part 923 is revised to read as follows:

Authority: 16 U.S.C. 1451 et seq.; 31 U.S.C. 6506; 42 U.S.C. 3334; Sections 923.92 and 923.94 are also issued under E.O. 12372, July 14, 1982, 3 CFR 1982 Comp. p. 197, as amended by E.O. 12416, April 8, 1983, 3 CFR 1983 Comp. p. 186.

10. Section 923.121 is amended by adding a sentence at the end of paragraph (a) and revising paragraph (g) to read as follows:

**§ 923.121 General.**

(a) \* \* \* This subpart also allows use of section 309 funds for implementation of program changes for up to two fiscal years following the fiscal year in which a program change was approved.

\* \* \* \* \*

(g) Grants awarded under section 309 may be used:

(1) To support up to 100 percent of the allowable costs of approved projects under section 309 of the CZMA, as amended; or

(2) To implement program changes approved by the Secretary for up to two fiscal years following the fiscal year in which a program change was approved.

\* \* \* \* \*

11. Section 923.122 is amended by adding paragraph (b)(9) to read as follows:

**§ 923.122 Objectives.**

\* \* \* \* \*

(b) \* \* \*

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer,

and implement strategic plans for marine aquaculture.

**PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS**

12. The authority citation for part 930 is revised to read as follows:

Authority: 16 U.S.C. 1451 et seq.

**§ 930.130 [Amended]**

13. Section 930.130 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

[FR Doc. 97-6581 Filed 3-14-97; 8:45 am]

BILLING CODE 3510-08-M

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 8677]

RIN 1545-AU35

**Consolidated Returns—Limitations on the Use of Certain Losses and Deductions; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final and temporary regulations.

**SUMMARY:** This document contains a correction to final and temporary regulations [TD 8677] which were published in the Federal Register on Thursday, June 27, 1996 (61 FR 33321). The final and temporary regulations relate to the deductions and losses of members and also to the carryover and carryback of losses to consolidated and separate return years and to the built-in deduction rules.

**EFFECTIVE DATE:** June 27, 1996.

**FOR FURTHER INFORMATION CONTACT:** Diana Fulton at (202) 622-7550 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final and temporary regulations that are the subject of this correction are under section 1502 of the Internal Revenue Code.

**Need for Correction**

As published, the final and temporary regulations contain an error which may prove to be misleading and is in need of clarification.

**Correction of Publication**

Accordingly, the publication of the final and temporary regulations [TD