

2019 – 2020 Coastal States Organization
Chair's Initiative
Brian Lynn – Washington
Update CSO's Proposed Coastal Zone Management Act Reauthorization Language

Strategy Document
Version 2.1

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Summary

Brian Lynn, CSO Delegate for Washington, in his role as the Chair for CSO for 2019 – 2020 has identified updating CSO’s CZMA reauthorization language as his Chairs Initiative. CSO previously undertook writing a proposed CZMA reauthorization in 2008, however with political and coastal State priorities having changed significantly in the intervening decade it is timely and necessary that CSO once again tackles this initiative.

With input from CSO Members, CSO Staff will identify key issues, draft legislative language proposals, and map out a strategy for eventual introduction and passage of a CZMA reauthorization. In order to be respectful of CSO Members’ time, CSO will find collaborative ways to work on a CZMA reauthorization by dividing up the CZMA by sections, identifying priorities, and using online document editing solutions.

The goals of the 2019-2020 Chairs Initiative include:

- An initial Limited CZMA reauthorization proposal
- A Comprehensive CZMA reauthorization proposal
- Strategy for engaging coastal management community, industry, and federal partners to advance CSO’s CZMA reauthorization proposal

Chairs Initiative Timeline At-a-Glance

March 13, 2019	CSO Winter Meeting – Chairs Initiative announced
March – April 2019	CSO staff develops strategy and process
April – September 2019	<ul style="list-style-type: none">- Identification of priorities, topics to address, and CSO Member interests- Limited CZMA reauthorization proposal developed by CSO Staff and Members- Work on Comprehensive CZMA reauthorization proposal will occur in conjunction with work on Limited proposal
October 2019	Limited CZMA reauthorization distributed to full membership for vote during CSO Fall Meeting
November 2019 – January 2020	Comprehensive CZM reauthorization proposal developed by CSO Staff and Members <ul style="list-style-type: none">- Continue to identify priorities and views- Set deadline for comments- Synthesize comments
February 2020	Comprehensive CZM reauthorization distributed to full membership for vote during CSO Winter Meeting
February – TBD	Engagement with outside partners and interests to prepare for introduction, support, and passage of CZMA reauthorization

CSO CZMA Reauthorization Proposal

In order to be best prepared for legislation on CZMA in the short-term and to better identify priorities for a Comprehensive CZMA, the Chairs Initiative Work Group will first work on a Limited CZMA reauthorization. The goal with this proposal is to have legislative priorities identified that are either already being considered by Congress or basic enough to warrant inclusion in a first-cut of authorization. While considering the Limited proposal, work will also be underway on a more Comprehensive CZMA proposal that will include more ambitious priorities and goals while also recognizing political realities.

Due to the nature of the Chairs Initiative, i.e. looking at specifics within a piece of legislation that is lengthy and technical, we plan to engage primarily through distributed documents and responses. Coordination calls will occur at specific points but overall we will be providing members with information to review with longer term deadlines to respond. It is our hope that this process will be not only more conducive to the work but also best respect members' time.

Staff Process Summary

- April 2019
 - o Send poll to members to identify priorities to consider
 - o Send invitation to CSO Membership to participate in initial call
- May 2019
 - o Hold call to discuss strategy, next steps, assign topics/sections
 - o Identify priorities and ideas that will be considered under a Limited proposal and what will be included in the Comprehensive proposal
- June – August 2019
 - o Distribute documents for each topic to be considered under a Limited proposal (a Word document for tracking changes as well as a Google Doc for collaborative input)
- August 2019
 - o Set deadline for comments
- August 2019
 - o Synthesize comments
- September 2019
 - o Distribute Limited proposal to CSO Membership ahead of Fall Meeting
- October or November 2019
 - o Vote on Limited proposal at Fall Meeting
- November 2019 – December 2019
 - o Continue to identify priorities and ideas for a Comprehensive proposal
 - o Set deadline for comments
- January 2020
 - o Synthesize comments
- February 2020

- Distribute Comprehensive proposal to CSO Membership ahead of 2020 Winter Meeting
- March 2020
 - Vote on Comprehensive proposal at 2020 Winter Meeting

Member Engagement Summary

- April 2019
 - Respond to poll identifying priorities to consider
- May 2019
 - Participate in initial scoping call to discuss strategy and next steps as well as selecting topics/sections to consider
- June – August 2019
 - Respond to policy memos distributed by CSO Staff outlining each topic to be considered under a Limited proposal (a Word document for tracking changes as well as a Google Doc for collaborative input)
 - **Further information on policy items, including proposed deadlines, are included in the next section**
- August 2019
 - Deadline for comments on policy memos
- September 2019
 - Review Limited proposal ahead of 2019 Fall Meeting
- October or November 2019
 - Vote on Limited proposal at Fall Meeting
- November 2019 – December 2019
 - Continue to respond to policy memos for priorities and ideas for a Comprehensive proposal
- January 2020
 - Deadline for comments on policy memos
- February 2020
 - Review Comprehensive proposal to CSO Membership ahead of 2020 Winter Meeting
- March 2020
 - Vote on Comprehensive proposal at 2020 Winter Meeting

Policy Items to be Considered

The Chairs Initiative will be looking at improvements to the existing CZMA legislation as well as new policies that should be included in a reauthorization. For some items there is legislation that has already been introduced that the Work Group will evaluate, however some issues are less well defined and merit further attention. To avoid duplicative consideration of topics, the Work Group will first evaluate current legislation and the current CZMA. Through this, topics will be identified that can be included in the Limited reauthorization and those that need further consideration under a Comprehensive proposal.

For example, when considering Section 306A there may be an objective that clearly should be added as eligible under 306A that can be included in the Limited proposal. However, there may be an objective, e.g. creating efficiencies within the approval process, which is identified by the Work Group but needs further consideration and thus would fall under the Comprehensive proposal.

For Review in June

The first tranche of items will be the existing CZM grants. This is both because of the importance of these sections but also because we may identify ambitious goals or wholesale changes to be considered further.

- Improvements to Section 303
 - o Potential areas to consider:
 - Climate change
 - Resiliency

- Improvements to Section 306A
 - o Potential areas to consider:
 - Chairs Initiative – Mike Friis

- Improvements to Section 309
 - o Potential areas to consider:
 - \$10 million cap
 - Competitive process

For Review in July

The second tranche will round out existing CZMA sections that are currently funded or enforced.

- Improvements to CNPS 6217
 - o Potential areas to consider:
 - CNPS Work Group suggestions
 - Conditionally approved programs

- Improvements to Section 307
 - o Potential areas to consider:
 - OCS regulatory changes
 - Federal grants to communities without consistency determinations
 - Local, state, federal coordination

- Improvements to Section 312
 - o Potential areas to consider:
 - Performance measures
 - Process overall

For Review in August

The final tranche of topics will be existing legislation likely to be considered in a CZMA reauthorization near-term as well as funding levels.

- Funding authorization amounts
 - o Potential areas to consider:
 - Additional programs and growth
 - Length of authorization
 - Growth in funding

- DC inclusion in CZMA
 - o Potential areas to consider:
 - Precedent set
 - NOAA calculated share of CZM funds

- Tribal resiliency
 - o Potential areas to consider:
 - Interaction with State CZM
 - Sovereignty impacts
 - Share of CZM funds

August will be set aside for additional items that may arise. We also anticipate holding at least one call in August to review the consolidated feedback and discuss next steps in the process.

- Regional Ocean Partnerships
 - o Potential areas to consider:
 - Delineation of responsibilities
 - Coordination with CZM
 - Section 310

Coordination of Policy

CSO will work with partners to inform policy goals as well as additional items under the CZMA. In particular, NERRA and NOAA are essential partners to engage with and as the Work Group gets underway we will determine how best to incorporate their views.

Policy Issue Memo
2019-2020 Chairs Initiative – CZMA Reauthorization

Topic:
Date:
CSO Staff:

Background

(Policy Analysis)

CSO Staff Suggestions & Member Feedback

Name:
State/Territory:
Topic:
Date:

To best identify the issues that matter most to CSO Members as well as identify common-sense proposals we can support in the more Limited CZMA Proposal, we will be asking you to rank your responses according to the method below.

- **Priority:** This change would improve the CZMA and is a priority for our state. This proposal is worth CSO expending political capital to achieve and should be a goal for our reauthorization strategy.
- **Support:** This change would improve the CZMA but is not a priority for our state. CSO should seek to achieve this proposal if opportunity arises, but not at the cost of any priority proposals.
- **Neutral:** This change would neither improve nor damage the CZMA, and/or is irrelevant to our state. CSO can seek to achieve this proposal.
- **Oppose:** This change would be negative for the CZMA and/or our state. CSO should not seek to achieve this proposal.
- **Disqualifying:** This change would be negative for the CZMA and cause serious problems for our state. Our state cannot support any position advancing this proposal.
- **More Info:** If the information provided is not adequate for making a decision *or* it is something your state needs more time to evaluate.

Topic:					
Background					
Prompt					
Priority	Support	Neutral	Oppose	Disqualifying	More Info
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you disagree or have additional concerns, please elaborate below:

Topic:					
Background					
Prompt					
Priority	Support	Neutral	Oppose	Disqualifying	More Info
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If you disagree or have additional concerns, please elaborate below:					

Additional Thoughts, Comments, Suggestions

Policy Issue Memo
2019-2020 Chairs Initiative – CZMA Reauthorization

Topic: DC Inclusion in CZMA Eligibility

Date: April 1, 2019

CSO Staff: Grant Williams

Background

DC’s Mayor has expressed interest in finding new sources of federal funds to support the District of Columbia and has pushed for DC to be eligible under CZMA for a number of years.

Justifications include the fact that DC experiences tidal impacts and that Virginia’s Coastal Zone extends to Arlington County, which is just across the river from DC. The Senate Commerce Committee is receptive to this proposal and included DC as eligible in the CZMA reauthorization bill that passed out of Committee during the 115th Congress.

CSO Staff Suggestions & Member Feedback

Name:

State/Territory:

Topic: DC Inclusion in CZMA Eligibility

Date:

To best identify the issues that matter most to CSO Members as well as identify common-sense proposals we can support in the more Limited CZMA Proposal, we will be asking you to rank your responses according to the method below.

- **Priority:** This change would improve the CZMA and is a priority for our state. This proposal is worth CSO expending political capital to achieve and should be a goal for our reauthorization strategy.
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- **Neutral:** This change would neither improve nor damage the CZMA, and/or is irrelevant to our state. CSO can seek to achieve this proposal.
- **Oppose:** This change would be negative for the CZMA and/or our state. CSO should not seek to achieve this proposal.
- **Disqualifying:** This change would be negative for the CZMA and cause serious problems for our state. Our state cannot support any position advancing this proposal.
- **More Info:** If the information provided is not adequate for making a decision *or* it is something your state needs more time to evaluate.

Topic:	
Background	Issues/concerns <ul style="list-style-type: none"> - Appropriations would need to increase to account for the funds DC would be eligible to receive - DC would still need to go through the process of creating an approvable CZM Program

	<ul style="list-style-type: none"> - Questions about how much “coastal” land DC would claim due to the prevalence of federal lands along the water and boundary in general <p>Benefits/positives</p> <ul style="list-style-type: none"> - Additional champion for CZMA in the Capital - Benefits for DC residents, particularly in lower income areas in the Anacostia area 				
Prompt	Support DC inclusion with the caveat that additional funding must be included.				
Priority	Support	Neutral	Oppose	Disqualifying	More Info
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If you disagree or have additional concerns, please elaborate below:					

Additional Thoughts, Comments, Suggestions

Appendix

Section by Section of the 2008 CSO Legislation

Section 1. Short Title

“Coastal Management Act of 2009”

Section 2. Congressional Findings

Strikes existing findings and replaces with new priorities including:

- Healthy and resilient coastal communities
- Protection and restoration
- Preparing for climate change
- Local, state, and federal coordination

Section 3. Congressional Declaration of Policy

Strikes current declaration and replaces with policies similar to findings.

Section 4. Certain Provisions of the Coastal Zone Management Act of 1972 Retained

Repeals the following provision of CZMA:

- The entirety of Section 305, *Management program development grants*
- In Section 306, *Administrative grants*, the authorization of funds, grants to states, and allocation of grants to states. Retains criteria for an approved program.
- The entirety of Section 306A, *Coastal resource improvement program*.
- In Section 307, *Coordination and cooperation*, federal consistency remains, the rest is repealed.
- The entirety of Section 309, *Coastal Zone Enhancement Grants*
- The entirety of Section 310, *Technical assistance*
- The Coastal and Estuarine Land Conservation Program
- The entirety of Section 312, *Review of performance*
- Various rules and regulation in Section 317

Retains Section 6217 until all programs have a “Coastal Action Plan” or seven years following enactment of the bill.

Adds definitions.

Section 5. Grants to States

Authorizes grants for:

- Essential program services
- Assessment of state programs and to develop Coastal Action Plans

Section 6. Essential Program Services

Declares national interest to retain essential program services.

Section 7. State Coastal Assessments and Action Plans

Describes what a state must do to fulfill assessment and plan requirements.

Section 8. National Priority: Support Healthy, Resilient Coastal Communities and Economies

Directs funding to states to carry out priority.

Section 9. National Priority: Protect and Restore Coastal Ecosystems, Habitats, Waters, and Unique Resources

Directs funding and technical assistance to states to carry out priority.

Section 10. National Priority: Prepare for Climate Change on the Nation’s Coasts and Coastal Communities

Directs funding and technical assistance to states to carry out priority.

Section 11. National Priority: Ensure that Local, State, Regional and Federal Coastal Programs are Coordinated and Integrated At All Appropriate Scales

Creates an Integrated Interagency Committee on Coastal Management.

Directs funding to carry out priority.

Section 12. Measuring Performance

Requires performance measures for each national priority and periodic review.

Section 13. Approved Programs

Existing programs would not need to submit for review and approval due to this legislation.

Section 14. Coastal and Estuarine Lands Conservation Program

Gives authority to conduct program.

Section 15. National Estuarine Research Reserve System

BLANK

Section 16. Authorization of Appropriations

Does not provide dollar amounts but authorizes appropriations for Sections 6 – 15 of the legislation.

Coastal Conservation Act S. 3038 (Nelson/Wicker)

Section-by-Section

Note: Most sections include technical and conforming amendments to reflect current legislative drafting standards—and these changes are not reflected in the section-by-section. This work product is only a summary of the substantive provisions of S. 3038.

TITLE I. CZMA REAUTHORIZATION AND AMENDMENTS.

SEC. 101. Findings (302).

- Broadens national interest to include coastal resilience.
- Includes tourism and non-mineral energy development as a coastal use.
- Expresses that local government and coordination is important to protecting State coastal interest; and that federal agencies should, to the maximum extent practicable, seek to conduct, fund, license, or permit activities related to a State’s coastal zone in a manner consistent with that State’s coastal zone management plan.

SEC. 102. Definitions (304).

- Broadens the definition of a coastal resource of national significance to include the cumulative impact of such a resource and to include resources with research, geological, hydrological, ecological, water quality, and flood risk reduction value.
- Updates the definition of “estuary” to reflect the current science regarding tidal influence without regard to salinity.
- Defines a “working waterfront” as the land, infrastructure, and waterways used for a water-dependent activity.

SEC. 103. Coastal Resource Improvement Program (306A).

- Allows for use of Resource Management Improvement Grants for preservation or redevelopment of working waterfronts and for the development of coordinated processes to maximize efficiency of processing permits related to activities in the coastal zone.

SEC. 104. Coordination and Cooperation (307).

- Encourages states to prioritize coordinating coastal zone policies in a way that doesn’t negatively impact another state’s coastal zone and establish an effective mechanism to resolve mutual interstate or regional problems that affect the coastal zone.
- Authorizes interstate compacts to effectively manage each state’s coastal zone. *Without this preemptive authorization, under the Constitution, states would be required to seek specific congressional authorization to enter into interstate/regional compacts.*
- Requires the Department of Commerce to provide mediation (nonbinding) of a coastal zone management dispute between willing states. *The law currently only requires mediation to be available for a disagreement between a federal agency and a state.*

SEC. 105. Coastal Zone Enhancement Grants (309).

- Allows for these grants to be available for protection, restoration, or enhancement of existing seagrass beds, coral reefs, oyster habitat, and marine habitat in addition to coastal wetlands.
- Allows grants to be available not just to prevent loss of life and property, but also for increasing coastal resilience.
- Adds two new eligible uses: (1) interstate water resource and coastal management planning, (2) oil spill response.
- Specifies that section 309 grants are direct allocations per state based on the existing formula, minimums, and maximums, ensuring that the fiscal and technical needs of the coastal states are accounted for.

SEC. 106. National Estuarine Research Reserve System (315).

- Emphasizes that NOAA should look to NERRS as a connected system.
- Requires the Secretary of Commerce to periodically consider expansion of existing reserves based on recommendations of the research community, the coastal states, the NERRS system, and stakeholders, taking into account changing environmental conditions and the impact to existing reserves and the system as a whole.
- Explicitly authorizes the Secretary to expand certain NERRs.
- Authorizes the NERRS program to accept private or non-profit donations to carry out research, stewardship, and education at the reserves.

SEC. 107. Coastal Zone Management Reports (316).

- Reduces the frequency of these reports to once every five years rather than every two years.

SEC. 108. Technical and Conforming Amendments.

SEC. 109. Authorization of Appropriations (318).

- Reauthorizes the CZMA for 5 years (through 2021)
- \$80 million for the Section 306, 306A, and 309 grant programs.
- \$25 million for Section 315 NERRS.

TITLE II. GULF OF MEXICO REGIONAL COORDINATION.

In the mid-2000s, NOAA, EPA, and the five Gulf states began coordination of efforts on regional scale protection and restoration of the ecosystem, working on issues like hypoxia. This initiative was formally established as the Gulf of Mexico Alliance. After the Deepwater Horizon explosion and oil spill in 2010, several other bodies were established with differing mechanisms and funding streams (the RESTORE Council, the Natural Resource Damage Assessment Trustee Council, the Gulf Environmental Benefit Fund, etc.). This title seeks to harmonize and coordinate the varying efforts.

SEC. 201. Sense of Congress.

- Expresses the congressional desire for consistency and coordination of protection and restoration of the Gulf of Mexico ecosystem.

SEC. 202. Purposes.

- Expresses that the purpose of Title II is to expand voluntary cooperation with all states, the federal agencies, and international partners.

SEC. 203. Gulf of Mexico Regional Coordination.

- Authorizes NOAA to award grants to develop action plans and carry out the coordination, protection, and restoration purposes of the Title.

SEC. 204. Authorization of Appropriations.

- \$5 million.
- Authorizes the grant program for five years through 2021.

TITLE III. COASTAL ZONE IMPACTS.

The Fish and Wildlife Coordination Act (FWCA) of 1934 was last authorized in 1965—five years before NOAA was established by President Nixon. It allowed for the USFWS, the Department of the Interior, and the state in which a water body was proposed for impoundment or diversion to provide recommendations to the action agency as to mitigation of impacts to fish and wildlife. NOAA and USFWS believe that the Reorganization Plan No. 4 (1970) that established NOAA gives NOAA coequal authority to DOI/USFWS under the FWCA.

SEC. 301

- Updates the FWCA to reflect the current practice of NOAA and USFWS.
- Allows for an impacted coastal state to also provide recommendations.