

- Title opinion or certification;
- Appraisal;
- State Historic Preservation Officer's clearance; and
- Copies of any notices or determinations that pertain to compliance or consistency with Federal requirements.

6. *Applicability of Other Federal Requirements*

The approval of plans under this program and award of financial assistance are Federal activities subject to authorities such as the National Environmental Policy Act, Endangered Species Act, and the Federal consistency provisions of the CZMA. Before awarding funds, NOAA is responsible for ensuring that projects comply with these and other relevant authorities. A checklist, provided as part of the project application, will be used to determine whether additional information may be required to satisfy these requirements for any project.

6.1 National Flood Insurance Program (NFIP)

The NFIP prohibits the use of funds for acquisition or construction of buildings in special flood hazard areas in communities that are not participating in the Flood Insurance Program, as identified in the NFIP's Community Status Book. Construction of buildings is not an eligible use of CELCP funds. A community is not precluded from proposing projects within the floodplain for conservation purposes.

6.2 Coastal Barriers Resource Act (CoBRA)

In order to receive Federal funds, all proposed projects located on undeveloped coastal barriers designated in the CoBRA system must be consistent with the purposes of minimizing: the loss of human life; wasteful Federal expenditures; and damage to fish, wildlife, and other natural resources. For projects in these areas, the Office of Coastal and Resource Management (OCRM) must consult with the regional office of the U.S. Fish and Wildlife Service (USFWS) and allow 30 days for them to determine whether the project is consistent with CoBRA. Because OCRM defers to their opinion in these cases, some projects or grant awards may be conditioned pending the results of the consultation process. Early coordination by the applicant with the USFWS is advisable.

6.3 Endangered Species Act

An applicant shall indicate whether it believes that a proposed project may

affect threatened or endangered species or critical habitat as defined by the Endangered Species Act (ESA), and shall state the basis for its conclusion. If a proposed project may have minor and temporary effects, OCRM will informally consult with the relevant Federal agency either the USFWS or NOAA's National Marine Fisheries Service (NMFS). If a proposed project may significantly affect threatened or endangered species or critical habitat, OCRM will consult with the applicant regarding further steps that may need to be taken. If the applicant still wants to proceed, OCRM will enter into formal consultation with the USFWS or NMFS, pursuant to section 7 of the ESA. OCRM will not approve a proposed project that the USFWS or NMFS has determined will adversely and significantly affect threatened or endangered species or critical habitat.

6.4 National Environmental Policy Act (NEPA)

These guidelines are administrative and financial in nature, and therefore are considered a categorical exclusion under NEPA. Subsequent actions concerning the approval of CELC plans, or acquisition, restoration, or enhancement of properties may require further analysis on a programmatic or case-by-case basis to determine compliance with NEPA. As part of the application for each project, applicants must complete an environmental compliance checklist that will be used to determine whether additional information or an Environmental Assessment or Environmental Impact Statement is needed.

6.5 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Act requires that Federal agencies consult with NMFS regarding any action authorized, funded, or undertaken that may adversely affect essential fish habitat (EFH) for federally managed fish. Consultation is generally initiated when a Federal agency notifies NMFS of an action that may adversely affect EFH, and provides NMFS with an assessment of the action. In response, NMFS provides Conservation Recommendations to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. Federal agencies must provide a detailed response in writing to NMFS that includes proposed measures for avoiding, mitigating, or offsetting the impact of the proposed activity on EFH. If the Federal agency chooses not to adopt NMFS' EFH Conservation Recommendations, it must provide an explanation. EFH consultation and

coordination should be consolidated, where appropriate, with interagency consultation, coordination, and environmental review procedures required by other statutes. Consultation procedures are outlined at 50 CFR 600.920.

6.6 National Historic Preservation Act

Under the provisions of Section 106 of the National Historic Preservation Act of 1966, the Secretary of the Interior has compiled a national register of sites and buildings of significant importance to America's history. Before submitting an application, the applicant must determine whether land acquisitions or other grant-supported activities will affect a property listed on the national register. If so, the applicant must obtain clearance from the appropriate State Historic Preservation Office before submitting the application.

6.7 Americans with Disabilities Act (ADA)

As a general rule, no qualified individual with a disability shall be subject to discrimination or be excluded from participation or benefits of the services, programs, or activities of a public entity. The ADA does not address issues of handicapped accessibility for outdoor recreation projects and public access projects that are needed to reduce harm to natural resources. Each project shall be handicapped accessible to the extent that conditions allow. Any construction associated with projects that provide for recreation, using funds other than CELCP, shall be handicapped accessible unless the construction of a handicapped accessible structure would damage coastal resources. Requirements for handicapped accessibility for the ADA are based on 42 U.S.C. 12101 *et. seq.*, and the U.S. Architectural and Transportation Barriers Compliance Board.

6.8 Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970

This Act, Public Law 91-646, as amended, (42 U.S.C. 4601 *et. seq.*) requires certain assurances for projects conducted by a state agency or its agent that involve the acquisition and/or modernization of real property or cause the displacement of persons, businesses, or farm operations. Because CELCP only supports acquisition of property or interests in property from willing sellers, it is not anticipated that this program will result in any displacements. In cases of displacement, Public Law 91-646 requires that applicants ensure that fair and