Alabama Coastal Nonpoint Pollution Control Program
Analysis of Finding that State has Satisfied All Conditions of Approvability
(i.e., Full Approval Decision)

I. INTRODUCTION

The Coastal Nonpoint Pollution Control Program, set forth in Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) of 1990, 16 U.S.C. § 1455b, addresses nonpoint source pollution problems in coastal waters. Section 6217 directs states and territories with approved coastal zone management programs to develop coastal nonpoint pollution control programs (or coastal nonpoint programs) to implement management measures for nonpoint source pollution control, for the purpose of restoring and protecting coastal waters. Only coastal states that choose to participate in the National Coastal Zone Management Program pursuant to Section 306 of the Coastal Zone Management Act (CZMA) are required to implement coastal nonpoint programs under section 6217 of the CZARA.

Section 6217 is jointly administered by the National Oceanic and Atmospheric Administration (NOAA) and the United States Environmental Protection Agency (EPA) (collectively, Federal agencies). On January 19, 1993, EPA issued technical guidance to assist states in designing coastal nonpoint programs. This document, titled *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*, 840-B92-002 (January 1993), addresses five major source categories of nonpoint pollution: (1) urban runoff, (2) agriculture runoff, (3) forestry runoff, (4) marinas and recreational boating, and (5) hydromodification. The guidance also addresses nonpoint source pollution issues associated with the loss or damage to wetlands and riparian areas.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of state and territory coastal nonpoint programs pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq*.. The PEIS forms the basis for the environmental documents NOAA is preparing on each state and territorial coastal nonpoint program submitted for approval. In the PEIS, NOAA determined that the full approval and approval, with conditions (i.e., “conditional approval”), of coastal nonpoint programs will not result in any significant adverse environmental impacts and that these actions will have an overall beneficial effect on the environment.

On February 11, 1997, NOAA and EPA issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the approval, with conditions, of Alabama's Coastal Nonpoint Program for public comment (62 FR 6216). On June 30, 1998, NOAA and EPA approved the Alabama Coastal Nonpoint Program, with conditions. For the conditional approval findings, see https://coast.noaa.gov/data/czm/pollutioncontrol/media/findal.txt.

Since that time, Alabama has undertaken a number of actions to address each of the identified conditions. Based on those actions and the materials provided by the State that document how its program meets each condition, on May 15, 2024, NOAA and EPA published a notice and request for public comment on the proposed finding that Alabama has satisfied all conditions of approvability on its coastal nonpoint program (89 FR 42451).

This memo examines whether supplemental environmental review under NEPA is required prior to NOAA and EPA making its decision on whether to approve in full Alabama's Coastal Nonpoint Program.

II. BACKGROUND

Pursuant to CZARA, state coastal nonpoint programs must contain the following components**:**

- Coordination with existing state programs
- Determination of the state's coastal nonpoint management area
- Determination of critical coastal areas
- Processes for the implementation of 6217(g) management measures
- Identification and implementation of additional management measures
- Technical assistance
- Public participation
- Administrative coordination
- Identification of enforceable policies and mechanisms

Of these requirements, the development of processes that provide for the implementation of 6217(g) measures is the most detailed and complex component. Management measures are defined as "economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives." 16 U.S.C. § 1455b(g)(5). States are required to develop programs and processes to

implement 56 management measures. The management measures address five categories of nonpoint source pollution: Agriculture, Forestry, Urban Areas, Marinas and Boating, and Hydromodification. Management measures also address the protection and restoration of wetlands and riparian areas. State programs must also provide for the implementation of "additional management measures… that are necessary to achieve and maintain applicable water quality standards and protect designated uses." § 1455b(b)(3).

Should a state fail to submit an approvable program, NOAA and EPA are both required, by statute, to withhold 30 percent of a state's CZMA 306 funds and Clean Water Act (CWA) 319 funds. § 1455b(c)(3),(4). In recognition of challenges states faced in developing programs, NOAA and EPA developed a policy for approvals, with conditions, whereby the penalty provision of section 6217 will be suspended during the conditional approval period.[1] In the March 1996 PEIS, three alternatives were analyzed: approval, approval with conditions, and program disapproval (i.e., finding that a state had failed to submit an approvable program). Under program disapproval, the state would be subject to the penalty provisions.

In the PEIS, NOAA concluded that both the full approval and approval with conditions of coastal nonpoint programs in general would have beneficial effects on the physical and biological environment associated with reduced nonpoint sources of pollution, improved water quality, and enhanced recreational opportunities. The PEIS noted that there might be some slight and localized positive and negative socioeconomic effects from management measure implementation and behavior changes to reduce nonpoint sources of water pollution, but adverse environmental impacts would not be significant (NOAA 1996). After preparing a programmatic NEPA document, such as a PEIS, federal agencies may “tier" from the programmatic analysis to a narrower analysis of a specific project, policy, or program (pursuant to 40 C.F.R. §§ 1502.20 and 1508.28). The PEIS stated that approval of each state coastal nonpoint program would be analyzed in an EA that would be tiered from the PEIS. The tiered EAs refer back to the PEIS, and they focus on the characteristics and issues ripe for discussion when agencies consider a related action.

NOAA completed a tiered EA in 1997 for the Alabama Coastal Nonpoint Pollution Control Program, which analyzed the alternatives of approving the program fully, approving the program with conditions, and denying approval of the program (i.e., finding the program had failed to submit an approval program, or no approval). The EA concluded that neither full approval nor approval with conditions of the Alabama Coastal

[1] Final Administrative Changes to Coastal Nonpoint Pollution Control Program Guidance, Oct. 16, 1998 (proposed March 12, 1998).

Nonpoint Program would result in any significant environmental impacts in Alabama different from those analyzed in the PEIS, and would have primarily beneficial effects on the environment. Further, the EA indicated that approval with conditions would have the same or greater benefits as full approval, by encouraging Alabama to strengthen its coastal nonpoint program to satisfy the conditions while maintaining full CZMA and CWA funding, provided that Alabama later satisfied the conditions. The EA concluded that the no action alternative, or no approval, would have negative environmental impacts because the program would risk loss of 30 percent of its coastal zone management funding. Based on the results of the analysis, NOAA issued a Finding of No Significant Impact (FONSI). On June 30, 1998, NOAA and the EPA approved the Alabama Coastal Nonpoint Program with conditions. Seven public comments were received when the draft EA, FONSI, and proposed findings were made available for public comment. All comments were in response to the 1997 proposed conditional approval findings and not the EA. They expressed disagreement with NOAA and EPA's conditions for approval, stating Alabama already satisfied the coastal nonpoint management measures for Roads, Highways and Bridges; New and Operating Onsite Disposal Systems; Hydromodification; Wetlands, Riparian Areas and Vegetated Treatment Systems; and Administrative Coordination. Finally, a comment expressed disagreement with NOAA and EPA's condition to include Mobile and Baldwin counties in Alabama's boundary for its coastal nonpoint pollution management area.

III. Analysis

Under NEPA, an EIS or EA must be supplemented and re-circulated for public comment if, in pertinent part, "[t]he agency makes substantial changes in the proposed action that are relevant to environmental concerns" or "there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis." 40 CFR § 1502.9(d). The courts have further interpreted this threshold for supplementation as fairly high and subject to a rule of reason, such as where "new information must provide a seriously different picture of the environmental landscape such that another hard look is necessary." *Wisconsin v. Weinberger*, 745 F.2d 412, 418 (7th Cir. 1984), or if the new information is sufficient to show that the remaining action will affect the environment "in a significant manner or to a significant extent not already considered." *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 373-74 (1989). In this analysis, we compare the proposed action to the alternatives analyzed in the PEIS and EA, and examine the new information, to determine if supplemental analysis under NEPA is required prior to full approval of the Alabama Coastal Nonpoint Program (i.e., finding that the state has satisfied all conditions of approvability on its program).

In addition, the new section 108 of NEPA requires that the agency reevaluate the analysis of a programmatic environmental document older than five years and any

underlying assumptions to ensure reliance on the analysis remains valid. 42 U.S.C. § 4336b.

A. Changes to the Proposed Action

The proposed action and range of alternatives is the same as that analyzed in the EIS and EA. In the PEIS, the proposed action was NOAA's decision on the approvability of the state and territory coastal nonpoint programs, and the alternatives were to approve the state and territory programs, conditionally approve programs, or deny approval of programs, depending on whether the programs meet the requirements of section 6217. In the 1997 EA for Alabama, the proposed action (and preferred alternative) was approval, with conditions, of the Alabama Coastal Nonpoint Program, and the alternatives were full approval (to approve the program without conditions) or denial of approval of the program. Now, the proposed action and the preferred alternative is full approval, i.e., finding that a state has satisfied all conditions of approval on its program. As described below, while the content of Alabama's Coastal Nonpoint Program has slightly changed, the proposed action and alternatives, and the environmental impacts thereof, remain the same.

The preferred alternative identified in the 1997 EA was approval of the Alabama Coastal Nonpoint Program subject to certain conditions, based on a finding that the program met many, but not all, of the requirements of section 6217 and related guidance. The approval with conditions was granted on June 30, 1998. NOAA and EPA put several conditions on Alabama's program related to the coastal nonpoint program boundary, agriculture, forestry, urban development, watershed protection, marinas and recreational boating, hydromodification, wetland and riparian area management measures, administrative coordination, and monitoring. More information regarding the specific conditions that were placed on Alabama's program can be found in NOAA and EPA's 2024 decision document on Alabama's Coastal Nonpoint Program (available on NOAA's Coastal Nonpoint Program website at https://coast.noaa.gov/data/czm/pollutioncontrol/media/6217al_proposed.pdf). The proposed action and preferred alternative at this time is finding that Alabama has satisfied all conditions of approvability on its program (i.e., full approval). Full approval was analyzed in both the 1996 PEIS and the Alabama 1997 EA. Since the publication of the Alabama 1997 EA, Alabama better articulated how its existing programs and authorities address the 6217(g) management measures and further strengthened other parts of its coastal nonpoint program. While the program designed to meet the management measures is more fully developed, the finding that Alabama has satisfied all conditions of approvability on its program simply confirms that Alabama has developed a program containing management measures necessary to achieve and maintain applicable water quality standards and protect designated uses. Approval of

the remaining conditions is not necessary for Alabama to implement management measures as described in its coastal nonpoint program, as these programs exist under state and local laws, regulations, and programs. The approval means that Alabama remains eligible to continue to receive undiminished grant funding under section 306 of the CZMA and section 319 of the CWA, and it may now focus its limited resources on implementing the state program. As such, the proposed action has not changed in a way that affects the environmental impacts analysis or conclusions contained in the PEIS or EA. Some particular management measures are discussed below for illustration purposes. A full description of the updates to the State's coastal nonpoint program may be found in the findings. Alabama strengthened its program in some areas to address the conditions that were placed on it.

For example, Alabama's program originally excluded existing land and water areas and uses that reasonably were expected to have a significant impact on the coastal waters of the State. The state remedied this program gap by establishing a coastal nonpoint program boundary that includes the State's coastal zone boundary, which extends from the continuous 10-foot contour seaward to the three-mile limit inland in Mobile and Baldwin counties and includes the entirety of Baldwin and Mobile counties. Alabama's coastal nonpoint program boundary is consistent with the federal agencies' boundary recommendations from the 1998 findings that Alabama's boundary should encompass the land and water uses that have a significant impact on coastal waters in the State.

Alabama's program also did not include agricultural management measures in conformity with the 6217(g) guidance. Alabama had identified back-up enforceable policies and mechanisms to implement the management measures but had not yet demonstrated the ability of the authorities to ensure widespread implementation of the management measures throughout the coastal nonpoint management area. To fulfill this condition, Alabama developed a strategy which incorporates both regulatory and voluntary approaches, including its combined feeding operation rule, pesticide rule, and outreach and technical assistance efforts through partnerships with the United States Department of Agriculture's (USDA) Natural Resource Conservation Service (NRCS), local Soil and Water Conservation Districts (SWCDs), and Alabama's Cooperative Extension System (ACES). This technical assistance promotes agriculture best management practices contained within NCRS Field Office Technical Guides (FOTGs) and other ACES outreach materials to ensure nonpoint source pollution from agriculture lands is minimized. The State has also provided a legal opinion and supporting documentation that demonstrates that it has adequate back-up authority and is committed to implementing the agriculture management measures throughout its coastal nonpoint management area, when needed.

From 1997 to present, the changes to the Alabama program reflect the development and/or further explanation of specific programs and policies to meet the CZARA management measure requirements. Although the manner in which Alabama's program would meet the approval conditions was not known at the time the EA was published, NOAA and EPA had identified requirements for program approval, and the impacts of satisfying the requirements were analyzed in the prior NEPA documents. The proposed agency action that Alabama has met all conditions of approvability placed on its program, (i.e., full approval) is simply a finding that a program satisfies the program requirements. The proposed action does not vary from that analyzed in the PEIS or EA.

Alabama's implementation of management measures requiring behavior changes to reduce nonpoint source pollution may cause slight negative socioeconomic effects, but neither the socioeconomic impacts, nor any environmental impacts, would be significant. Rather, Alabama's implementation of these management measures is expected to have positive impacts on both environmental conservation and human health and safety by increasing the quality of coastal waters and habitats. Environmental effects are indirect, as approval is not required for these programs to be implemented, as these programs are already in existence and being implemented by the state or local government. Consistent with the analysis in the 1997 EA, the approval of the conditions will continue the state's eligibility for funding for the state to implement the aforementioned management measures, which are expected to have positive environmental impacts and minor negative socioeconomic impacts.

B. Considerations for Adequacy of Existing PEIS and EA

1. Comparison of the range of alternatives analyzed and evaluated in the prior two NEPA analysis documents and the proposed action to find that Alabama has satisfied all conditions of approvability on its program (i.e., full approval):

The alternatives presented in this sufficiency analysis are generally the only ones available to both NOAA and EPA, both when the programmatic EIS and EA were finalized, and now: full approval (i.e., approval without conditions or finding that a state has satisfied all conditions of approvability placed on its program), approval with conditions, or disapproval (i.e., finding that a state has failed to submit an approvable program).

2. Comparison of Affected Environment

The geographic area and resource conditions of the affected environment have slightly evolved since the management area was analyzed in the existing NEPA document.

Some of the characteristics of the affected environment have changed over time. Although there have been some changes to the affected environment since the 1997 EA, the changes in coastal use trends and the evolution of the affected environment continue to provide adequate baseline information to support the findings in the 1997 EA that approval of the program will not have significant impacts on the environment.

a. Coastal Environment

i. Geographical Boundary

The geographic area across which the Alabama Coastal Nonpoint Program extends is the same as the geographic area analyzed in the original 1997 EA for the Alabama Coastal Nonpoint Program. Alabama's coastal nonpoint program management area consists of Mobile and Baldwin counties. The boundary includes portions of the Mobile Bay, Perdido Bay, and Mississippi River Coastal watersheds within the state of Alabama's borders,[2] with the Mobile Bay watershed covering the majority of the coastal nonpoint program management area. Control of the land and water uses contributing to nonpoint pollution in this area have or are reasonably expected to have significant impact on the waters along Alabama's Gulf coast. This boundary also encompasses the State's coastal management boundary.

ii. Shoreline Hydrology

For the purposes of this sufficiency analysis, the hydrologic conditions in the 607-mile coastline of Alabama have not substantially changed from that analyzed in the original 1997 EA. The Mobile Bay watershed covers approximately 65 percent of the state of Alabama and portions of Mississippi, Georgia, and Tennessee. It covers the majority of the coastal nonpoint program management area within Mobile and Baldwin Counties on either side of Mobile Bay, and serves as a drainage system for 43,662 square miles. The Mobile Bay watershed is the sixth largest in the nation by area and, at 62,000 cubic feet per second on average, it has the fourth largest freshwater inflow on the North American continent.[3] Outflows from Alabama's major rivers consolidate into five: Mobile, Spanish, Tensaw, Apalachee, and Blakely Rivers. These rivers create the second largest intact river delta system in the nation, The Mobile-Tensaw Delta, a vast network of wetlands and waterways. Large watersheds draining to major rivers can be divided into many smaller sub-watersheds that drain to tributaries of those rivers.[4]

[2] https://nrcs.maps.arcgis.com/apps/instant/basic/index.html?appid=c5841399969a4f649fd0f806e5bc4748

[3] https://www.mobilebaynep.com/the_landscape/mobile_bay_watershed2

[4] https://www.mobilebaynep.com/assets/pdf/FINAL-CCMP-11.25.2019.pdf

iii. Biological Resources and Habitats

Additionally, the biological resources and habitats in the coastal region have not substantially changed since the time of the 1997 EA.

The Mobile Bay estuary covers the majority of the coastal nonpoint program management area and the Gulf coastline to the south still allows for the coexistence of highly diverse habitats, including beaches, dunes, wetlands, forest and rivers. The Mobile Bay estuary includes waters within Baldwin and Mobile counties and Mobile Bay, where the fresh water from several Alabama rivers mixes with the salt water of the Gulf of Mexico to produce rich brackish waters. It supports both fresh and saltwater species and serves as nursery habitat for many commercially and recreationally important fish and shellfish.[5]

The coastal region also contains Meaher State Park, Gulf State Park, and Bon Secour National Wildlife Refuge, all of which are home to diverse habitats and various types of wildlife. Meaher State Park is situated within the wetlands of north Mobile Bay estuary in Mobile County, with numerous species of fresh and saltwater fish, as well as birds along the Coastal Alabama Birding trail.[6] Gulf State Park is located in Gulf Shores in Baldwin County, and is home to several diverse ecosystems and a variety of mammals, reptiles, and amphibians. Conservation efforts at Gulf State Park include a dune restoration program, prescribed forest burning, wildlife monitoring programs, and coastal cleanup.[7] Bon Secour National Wildlife Refuge, established in 1980, is located on the Fort Morgan Peninsula along the Gulf shore in Baldwin County, with Bon Secour Bay to the north. The refuge provides crucial habitat for neotropical migratory songbirds and threatened and endangered species, including the Alabama beach mouse and loggerhead, green, and Kemp's ridley sea turtles.[8]

Overall, the biological resources and habitats of Baldwin and Mobile Counties in Alabama have undergone changes since the time of the 1997 EA. Increased development has led to habitat loss, particularly in coastal areas, affecting species that rely on those habitats. Both counties have experienced wetland degradation due to development and drainage for agriculture, which has affected water quality and wildlife habitats. The introduction of non-native species has altered local ecosystems, often outcompeting native species and changing habitat dynamics. Rising sea levels and

[5] https://www.mobilebaynep.com/assets/pdf/FINAL-CCMP-11.25.2019.pdf

[6] https://www.alapark.com/parks/meaher-state-park

[7] https://www.alapark.com/parks/gulf-state-park/conservation

[8] https://www.fws.gov/refuge/bon-secour/about-us

changing precipitation patterns have affected coastal and freshwater habitats, impacting species distributions.

The above-mentioned changes have prompted efforts for increased coastal management and habitat protection along the state's Gulf shoreline. There have been various conservation initiatives aimed at preserving critical habitats, which can help mitigate some negative impacts of the referenced changes. For example, the Alabama Department of Conservation and Natural Resources (ADCNR) has implemented the Alabama Living Shorelines Program, an alternative to traditional shoreline armoring, such as bulkheads, that aims to protect Alabama's coastal lands. The program uses natural and artificial materials, such as oyster shells, living plants, and breakwaters, to reduce wave energy and erosion, while also creating habitats for submerged aquatic vegetation and marsh vegetation.[9,10] While efforts have been made to protect and restore habitats, ongoing pressures from development and climate change continue to influence the biological landscape of these counties.

iv. Water Quality

At the time of the 1997 EA, the majority of rivers, streams, lakes, and estuaries in Alabama fully supported designated uses, including fishing and swimming.[11] Approximately 13 percent of all assessed waterbodies were found to be partially supporting uses, and three (3) percent of the State's waters were in non-support.[12] The main cause for nonsupport of classified uses was attributed to excessive levels of organic enrichment which deplete the available oxygen supply. Another significant cause was siltation from agricultural and silvicultural practices throughout the State.[13] At the time of the EA, approximately 62 percent of Alabama's publicly accessible lakes and reservoirs were fully supporting their designated uses.

According to Alabama's 2024 Integrated Water Quality Monitoring And Assessment Report, developed by the Alabama Department of Environmental Management Water Division Water Quality Branch, Alabama's surface water is currently of generally high quality.[14] Approximately 45 percent of Alabama's publicly accessible lakes and reservoirs are fully supporting their designated uses, which is a notable decline from

9 https://www.restorethegulf.gov/sites/default/files/Alabama%20Living%20Shorelines%20Restoration%20and%20Monitoring%20Project.pdf

10 https://restorethegulf.gov/sites/default/files/Alabama%20Living%20Shorelines%20Program.pdf

11 https://adem.alabama.gov/programs/water/waterforms/1998AL-IWQMAR.zip

12 https://adem.alabama.gov/programs/water/waterforms/1998AL-IWQMAR.zip

13 https://adem.alabama.gov/programs/water/waterforms/1998AL-IWQMAR.zip

14 https://adem.alabama.gov/programs/water/waterforms/2024AL-IWQMAR.pdf

1997.[15] The total mileage of Alabama rivers and streams not supporting designated uses in 2024 was 5,572 miles, equaling 40 percent of over 15,000 river and stream miles which have been assessed.[16] Alabama's estuaries enjoy overall good health, but pathogens and mercury are pollutants of concern in many coastal watersheds.[17] Direct water quality comparisons from 1997 to present day are not possible, as the number of miles assessed and the data collection methods utilized have materially changed over the past 25 years.

Numerous county, regional, and state agencies play an important role in managing nonpoint source pollution in Alabama. These entities provide information about local water quality issues and help maintain management measures that are necessary to prevent and reduce nonpoint source pollution. Coordinating with these partners allows Alabama to effectively manage its water quality protection and restoration efforts.

b. Coastal Nonpoint Program Management Area Land and Water Uses

This section provides a description of the land and water uses and users in the Alabama Coastal Nonpoint Program management area. The Alabama Coastal Nonpoint Program management area supports extensive and varied commercial and recreational activities. As in 1997, various land and water uses in Alabama have the potential to threaten and degrade coastal water quality if adequate measures to control nonpoint source pollution are not employed.

i. Coastal Zone Population

The total population of Alabama's two coastal watershed counties (Baldwin and Mobile Counties), that comprise Alabama's coastal nonpoint program management area, has increased from 528,081 in 1997 to 652,367 in 2021, representing an increase of 23.54 percent. The average population density within the coastal watershed counties has also increased, from 180.44 people per square mile in 2000 to 230.82 people per square mile in 2021.[18] Population growth can create additional pressure to increase development in the region which, in turn, could increase nonpoint source pollution if not managed properly.

[15] https://adem.alabama.gov/programs/water/waterforms/2024AL-IWQMAR.pdf
[16] https://adem.alabama.gov/programs/water/waterforms/2024AL-IWQMAR.pdf
[17] https://adem.alabama.gov/programs/water/waterforms/2024AL-IWQMAR.pdf
[18] https://www.oceaneconomics.org/cstecon_pop_housing/cecon_pop_housing.html#Pop_Housing_Data

ii. Agriculture

Agriculture is a vital component of Alabama's economic health, contributing approximately $70 billion to the Alabama economy. As of 2017, there were 40,592 farms in Alabama and 8.6 million acres of farmland, or 26.5 percent of total land area. Of that farmland, 32.8 percent or about 2.8 million acres was cropland, 36.1 percent or about 3.1 million acres was woodland, and about 2.1 million acres or 24.9 percent was pastureland.[19] The most common agricultural crops produced in Alabama are cotton, peanuts, corn, and soybeans, in addition to animal agriculture and livestock products.[20]

The most recent agricultural data reported by the United States Department of Agriculture (USDA) for the two coastal counties in Alabama, Baldwin County and Mobile County, is from 2022. In 2022, Baldwin County contained 853 farms and 180,784 acres of farmland and Mobile County contained 657 farms and 108,529 acres of farmland.[21] According to the agricultural data reported by the EA in 1997, Baldwin County contained 167,832 acres of farmland and Mobile County contained 104,342 acres of farmland in 1995. In total, Alabama's coastal nonpoint management area consisted of 272,174 acres in 1995, and 289,313 acres of farmland in 2022. These figures represent an increase in agricultural land use of 17,139 acres in Alabama's coastal nonpoint management area over time. Additionally, the market value of agricultural products sold has more than doubled. In 1997, the market value of agricultural products sold for the two counties totaled $124,952,000,[22] while the 2022 total market value figure for the two counties combined was $270,702,000.[23]

iii. Forestry

Forestry is Alabama's largest industry, generating over $21 billion in timber production and processing revenue, and ranking third in the contiguous United States in timberland acreage, behind Georgia and Oregon. Alabama contains approximately 23 million acres of timberland, accounting for 69 percent of the state's total land area and supporting logging and wood, paper, and furniture manufacturing.[24, 25] Alabama forests are

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[19] https://data.ers.usda.gov/reports.aspx?StateFIPS=01&ID=17854

[20] https://alfafarmers.org/wp-content/uploads/2021/02/Alabama-Farm-Facts-Mini-Brochure-Small.pdf

[21] https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_2_County_Level/Alabama/

[22] https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_2_County_Level/Alabama/

[23] https://agcensus.library.cornell.edu/census_parts/1997-alabama/

[24] https://alfafarmers.org/wp-content/uploads/2021/02/Alabama-Farm-Facts-Mini-Brochure-Small.pdf

[25] https://forestry.alabama.gov/Pages/Education/PDFs/ForestFacts.pdf

dominated by loblolly pines throughout the state, including in the southwest region encompassing Baldwin and Mobile Counties, followed by red oak, white oak, sweet gum, and yellow-poplar forests, which are more prevalent in the northern regions of the state. According to Alabama Forestry Commission (AFC) data reported within the 1997 EA, there were approximately 662,100 acres and 499,100 acres of forestland within Baldwin and Mobile Counties, respectively. In comparison, the AFC reported approximately 729,632 acres and 491,141 acres of forestland within Baldwin and Mobile Counties, based on 2022 Forest Inventory and Analysis (FIA) data.[26] While these figures do indicate a small decrease in forestland within Mobile County, they also indicate both an increase in forestland within Baldwin County and an overall net increase in forestland within both coastal counties of approximately 59,573 acres.

Within the coastal watersheds, timber harvesting is a major activity. According to the 1997 EA, there were approximately 35,419 and 154,473 acres of timber harvested within Baldwin County and Mobile County, respectively, for a total of 189,892 acres harvested within the watershed in 1993. According to FIA data reported by the AFC, approximately 825,896 and 464,259 tons of timber were harvested from within Baldwin and Mobile Counties, respectively, for a total of 1,290,155 tons harvested from within the watershed in 2022.[27] Assuming an average estimation of approximately four dry tons of timber harvested per acre for the loblolly pine,[28] approximately 322,539 acres of timber were harvested from within Baldwin and Mobile Counties in 2022, representing an increase of approximately 132,647 acres of annual timber harvests since 1993 within the watershed.

iv. Urban

Residential development has increased in Alabama's coastal nonpoint management area in the past 16 years. In 2000, Alabama's Baldwin and Mobile coastal counties had housing densities of 46.54 and 133.90, respectively. By comparison, in 2021, Baldwin and Mobile Counties had housing densities of 149.93 and 335.01, respectively.[29] These numbers reflect a significant increase in overall housing density within the coastal nonpoint boundary.

v. Boating Activities

[26] https://forestry.alabama.gov/Pages/Management/Forms/Forest_Resource_Report_2021.pdf

[27] https://www.discoveringalabama.org/alabama-forests.html

[28] https://bioenergykdf.net/system/files/Pine_Paper_v7.pdf

[29] https://www.oceaneconomics.org/cstecon_pop_housing/cecon_pop_housing.html#Pop_Housing_Data

Recreational boating remains one of the primary uses of Alabama's coastal waters. There were approximately 248,710 boats registered in the State of Alabama in 2021.[30] Compared to the number of boats registered in Alabama in 1990 (231,000), which was reported by the 1997 EA, this reflects an increase of 17,710 boat registrations.

C. Direct and Indirect Effects Comparison

This section discusses a direct and indirect effects comparison between the full approval analysis in this sufficiency analysis and the existing NEPA documents. The direct and indirect effects, and the underlying assumptions in the effects analysis, of full approval of the Alabama program (i.e., finding that the state has satisfied all conditions of approvability on its program) are similar qualitatively and quantitatively to the effects of full approval discussed in the 1996 PEIS and the 1997 Alabama EA. The programs, initiatives and other components proposed for inclusion in the Alabama Coastal Nonpoint Program are already operating, independent of the NOAA-EPA action. The elements of the coastal nonpoint program are supported by enforceable policies and mechanisms that will remain in effect regardless of the federal action. Thus, there are limited direct impacts of the federal action itself, particularly now that there is no longer a dedicated funding source for coastal nonpoint programs.

The indirect effects of activities falling under the umbrella of the Coastal Nonpoint Program have beneficial effects to the natural and socioeconomic environment. For more information about these effects, see Section 4 of both the 1996 PEIS and the 1997 Alabama EA. The underlying assumptions for the effects analysis remain valid, as they derive from the nature of the statutory framework in section 6217, which has not changed. The funding levels available to Alabama for coastal management and water quality initiatives will not change as a result of full program approval (i.e., finding that Alabama has satisfied all conditions of approvability on its program). Alabama would simply continue to be eligible to receive CZMA 306 funds. If NOAA and EPA were to find that Alabama had failed to submit an approvable program (i.e., disapprove the program), a 30 percent reduction in CZMA Section 306 coastal zone management and CWA Section 319 nonpoint source management funding would have indirect adverse effects on the physical, biological, and socioeconomic environments because it would reduce investments in efforts to manage coastal uses and improve water quality. The state's CZMA Section 306 funding supports overall implementation of the state's coastal zone management program. While not all activities supported through CZMA Section 306 funds are directly related to water quality and coastal habitat, the Alabama coastal management program frequently does support efforts that address coastal water quality. These initiatives, as well as other initiatives of the coastal management program

[30] https://www.nmma.org/statistics/publications/economic-impact-infographics

related to coastal resilience, public access and other coastal management issues would be reduced if NOAA withheld 30 percent of the state's Section 306 funds because NOAA and EPA disapproved the state's coastal nonpoint program. The state's CWA Section 319 funding is used to fund eligible projects that reduce pollutant loads and improve water quality, including installation of best management practices that reduce the transport of pollutants to waterbodies. If the state's CWA Section 319 funding is reduced, Alabama would have to cut the number of projects it funds that improve water quality and reduce nonpoint source pollution.

NOAA and EPA's proposed finding that Alabama has satisfied all conditions of approvability on its program (i.e., full program approval) signifies that Alabama has demonstrated that it has met all coastal nonpoint program requirements, including that it has in place programs and processes to implement the 6217(g) management measures. This continued implementation of Alabama's coastal nonpoint program and full funding of its coastal zone management and nonpoint source management programs translates to continued beneficial effects to water quality, as discussed in the EA. Also, as noted in the EA, both conditional and full approval of the Alabama Coastal Nonpoint Program help make existing programs more effective by continuing to strengthen the link between federal and state coastal zone management and water quality programs in Alabama. Thus, the various direct, indirect, and cumulative effects resulting from implementation of the new proposed action are similar to those analyzed in prior NEPA documents, including the 1997 EA.

D. Analysis of Cumulative Impacts

Cumulative impacts, as defined in NEPA, are the impacts from the proposed action, when added to other past, present, and reasonably foreseeable future actions affecting the same geographic range or area of potential effect. In addition to the discussion on environmental impacts from the proposed action, cumulative impacts, in particular, assist stakeholders to understand the complete picture of what is taking place in the project area because it looks at not just the impacts from the proposed action, but also impacts from all other actions and natural influences.

Climate Change

According to several recent reports, climate change is anticipated to cause various changes to Alabama's environment, specifically with regard to increased risks from heat and precipitation over the next 30 years and beyond. Currently, the Alabama climate is characterized by hot, humid summers and mild winters, averaging approximately 55 inches of precipitation in the northern regions and 65 inches near the coastal zone each

year.[31] According to the 1998 and 2016 Environmental Protection Agency (EPA) informational reports discussing climate change in Alabama, temperatures in Alabama could increase by approximately two degrees Fahrenheit in winter and summer, three degrees Fahrenheit in spring, and four degrees Fahrenheit in autumn.[32,33] Extremely hot days averaging approximately 96 degrees Fahrenheit are expected to become more frequent at approximately 43 days per year by 2050,[34] therefore increasing the potential for drier soils and more severe drought conditions.

Seasonal rainfall is expected to increase by approximately 20 percent during spring months and 15 percent during summer and autumn months within the next 50 to 100 years. Additionally, the amount of precipitation during heavy rainstorms has increased by 27 percent in the Southeast United States since 1958, and the trend toward increasingly heavy rainstorms is likely to continue. However, this increase in rainfall is anticipated to be offset by a simultaneous decrease in water runoff by 2.5 to 5 percent due to increased evaporation.[35, 36]

Climate change is also expected to modify the hydrologic cycle and has significant implications for Alabama's water resources. These include observed increased evaporation rates, a higher proportion of precipitation received as rain rather than snow, earlier and shorter runoff seasons, changes in water budget and streamflows, increased water body temperatures, such as the warming of lakes and rivers, and decreased water quality in both inland and coastal areas. A study assessing climate change impacts on streamflow within the Alabama River Basin reported in 2021 that seasonally, monthly streamflow increases between 50 percent and 250 percent were found for spring and autumn months, with decreases in summer months for 2045. Spring and summer months for 2075 resulted in increased monthly streamflow between 50 percent and 300 percent, while autumn and spring months experienced decreased streamflow. The results indicate situations of likely increase and decrease in mean monthly

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[31] https://www.mdpi.com/2071-1050/15/21/15324

[32] https://nepis.epa.gov/Exe/ZyNET.exe/40000PQA.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1995+Thru+1999&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C95thru99%5CTxt%5C00000013%5C40000PQA.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL

[33] https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-al.pdf

[34] https://climatecheck.com/alabama

[35] https://nepis.epa.gov. Climate Change and Alabama. EPA. September 1998.

[36] https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-al.pdf

streamflow discharge and increase in the frequency and variability in peak flows during the periods from the mid to end of the 21st century.[37]

As the Alabama climate continues to warm, the frequency and intensity of storms is expected to increase, especially with regard to summer thunderstorms and hurricanes. Sea level is rising more rapidly in Alabama than most coastal areas because the land is sinking. If the oceans and atmosphere continue to warm, sea level along the Alabama coast is likely to rise 18 inches to four feet over the next century. Rising sea level submerges wetlands and dry land, erodes beaches, and exacerbates coastal flooding.[38] Combined with the increased potential for storm risk, sea level rise can exacerbate storm surge and high-tide flooding in coastal areas.

Climate change could also exacerbate coastal nonpoint pollution and its adverse effects. For example, increased flooding can lead to additional nonpoint source pollution if proper best management practices to prevent and reduce polluted runoff are not employed.[39] Estimates indicate that by 2050, Alabama's coastal flood risk is projected to increase by 25 percent.[40] Therefore, the state's coastal nonpoint program, particularly via its processes to identify additional management measures, is expected to provide a tool for the state to combat the effects of climate change on the State's resources.

Programs and Partnerships

Nonpoint source pollution cannot be addressed by one entity or program by itself. It requires a comprehensive effort by many different organizations that are able to bring their resources and expertise to bear. Alabama implements its coastal nonpoint program through a group of networked programs that categorically addresses nonpoint source pollution, such as the Alabama Department of Environmental Management (ADEM) Water Quality Management Programs, Alabama National Pollutant Discharge Elimination System (NPDES) Program, and Section 401 Water Quality Certification Program. These programs encompass all categories of nonpoint pollution listed in the federal guidance for the development of coastal nonpoint programs.[41]

A more complete discussion of other programs and authorities aimed at reducing nonpoint source pollution and protecting water quality can be found in the Alabama

[37] https://www.mdpi.com/2225-1154/9/4/55

[38] https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-al.pdf

[39] https://www.epa.gov/nps/basic-information-about-nonpoint-source-nps-pollution

[40] https://www.sierraclub.org/alabama/climate

[41] https://adem.alabama.gov/programs/coastal/nonpointPollutionControl.cnt

Nonpoint Source Management Plan.[42] Since the 1997 EA, Alabama has made improvements to many of these programs to be able to better manage and control nonpoint source pollution. In addition to various state initiatives and programs implemented to address nonpoint source pollution and improve Alabama's coastal water quality, there are additional efforts being carried out by federal, regional, interstate, state, and local government agencies, alongside non-governmental, Tribal, and private organizations. These and similar activities are likely to continue for the foreseeable future, and several examples, referenced in the Alabama Nonpoint Source Management Plan, are presented below.

Governmental public sector efforts include the EPA National Estuary Program (Mobile Bay-NEP), under Section 320 of the Clean Water Act, founded in 1995 and dedicated to protecting and restoring the water quality and ecological integrity of estuaries of national significance. The NEP's associated Mobile Bay Comprehensive Conservation and Management Plans (CCMPs) and annual workplan are designed to address nonpoint source pollution and estuarine watershed challenges. The CCMPs characterize priority problems in their estuaries and surrounding watersheds, list and describe actions to address those problems, and identify partners and entities to implement those actions.[43]

In addition, the USDA-NRCS National Water Quality Initiative (NWQI), a partnership among NRCS, state water quality agencies, and the U.S. Environmental Protection Agency (EPA) aims to identify and address impaired water bodies through voluntary conservation.[44] The NWQI is cooperatively implemented to encourage and facilitate the voluntary implementation of conservation practices and measures in priority watersheds throughout the state; for example, the NWQI aims to reduce nonpoint source pollution loadings such as nutrients, sediment, and pesticides in impaired watersheds consistent with Total Maximum Daily Loads where they have been developed.[45]

Another example of a nonpoint pollution control partnership is the Alabama State Revolving Fund (SRF) Loan Program under Title 4 of the Clean Water Act, which is administered by ADEM and finances projects that abate or prevent nonpoint source pollution of Alabama's waters. The SRF Program has traditionally provided low interest loans to Alabama communities for projects that improve wastewater and drinking water infrastructure. The program has been expanded to fund projects that address nonpoint source pollution and meet the objectives in the AL Nonpoint Source Management Plan. Eligible nonpoint source projects must provide water quality benefits to their respective

[42] https://adem.alabama.gov/programs/water/nps/files/mgmtplancover.pdf

[43] https://www.mobilebaynep.com/what-we-do

[44] https://www.nrcs.usda.gov/programs-initiatives/eqip-national-water-quality-initiative/alabama/national-water-quality

[45] https://www.adem.alabama.gov/programs/water/tmdl.cnt

communities and can include watershed and estuary protection projects, water conservation and reuse projects, green infrastructure projects, publicly owned water or wastewater treatment works, sewer rehabilitation, and others.[46]

The Alabama Coastal Area Management Program, administered by ADEM, supports a comprehensive approach to coastal watershed protection and partnerships between federal, state and local agencies and organizations. For example, the Coastal Watershed Survey Program utilizes a spectrum approach for assessing the condition of the small subwatersheds located in Alabama's Coastal Area.[47] ADEM and the Alabama Department of Public Health routinely monitor coastal Alabama beach bacteria (*Enterococci*) levels at select swimming beaches along the Gulf Coast and Mobile Bay to mitigate risks to community health.[48] Additionally, ADEM administers the Coastal Waters Monitoring Program, which provides data to develop indicators and assessment criteria that link chemical, physical, and biological conditions for estuaries and coastal rivers within Alabama's coastal area, as well as a cooperative Fish Tissue Monitoring Program to monitor bioaccumulative contaminants with the potential for ecological and human health risks.[49]

Lastly, the Alabama Coastal Nonpoint Program maintains private sector partnerships, including for example, the Alabama Clean Water Partnership,[50] which supports capacity building and public/private sector coordination forums engaged in implementation of nonpoint source pollution mitigation practices within high priority watersheds. The Gulf of Mexico Alliance network includes over 150 participating organizations from state and Federal agencies, Tribal governments, communities, academia, non-governmental organizations, and industry to produce resource management plans and nonpoint source watershed-based initiatives and challenges,[51] and the Gulf of Mexico Program engages as a multi-agency partnership to apply an adaptive management approach to large coastal freshwater and marine ecosystems.[52] Additionally, both the Alabama Cooperative Extension System and the Centers for Excellence in Watershed

[46] https://adem.alabama.gov/programs/water/srf.cnt

[47] https://www.adem.alabama.gov/programs/coastal/watershedSurvey.cnt

[48] https://adem.alabama.gov/programs/coastal/beachMonitoring.cnt

[49] https://www.adem.alabama.gov/programs/water/wqsurvey.cnt

[50] www.cleanwaterpartnership.org

[51] https://gulfofmexicoalliance.org/

[52] https://southeastaquatics.net/partnership/partner-directory/epa-gulf-of-mexico-program

Protection[53] at Auburn University[54] and Alabama A&M[55] provide technical assistance and training for watershed planning and restoration.

The 6217(g) management measures are designed to reduce and/or prevent polluted runoff, thus limiting stress caused by poor water quality on resources and local communities within the coastal nonpoint management area. While the programs that comprise Alabama's Coastal Nonpoint Program may cause limited cumulative effects on coastal communities and individuals that need to modify certain behaviors, such as those related to forest practices, stormwater management, and waste disposal, government agencies and individuals have been subject to economic costs related to administering water quality and environmental management programs (including the coastal nonpoint program) for years. In addition, the programs that comprise the coastal nonpoint program already exist and are being implemented and will continue to be implemented at the federal, state or local level regardless of NOAA and the EPA's finding that Alabama has met all conditions of approvability on its coastal nonpoint program (i.e., full approval). Therefore, NOAA and EPA's action to find that Alabama has satisfied all conditions of approvability on its coastal nonpoint program would not create any additional cumulative effects.

NOAA concludes that the proposed action and the effects of implementing Alabama's Coastal Nonpoint Program will improve water quality and increase the potential for resources to sustain themselves. Further, NOAA concludes that the action, when added to the other past, present, and reasonably foreseeable future actions within the coastal nonpoint program management area will not significantly alter the ecosystem or have an adverse effect. Additionally, the proposed action, when combined with other actions, will not affect the potential for any resources in the coastal nonpoint management area to sustain themselves in the future. Therefore, NOAA concludes that cumulative impacts to the proposed action, as defined under NEPA, are not significant.

E. Public Review

On February 11, 1997, NOAA and the EPA announced a 30-day public comment period on the proposed conditional approval findings, EA, and FONSI for the Alabama Coastal Nonpoint Program (62 FR 6216). Seven public comments were received on Alabama's proposed conditional approval findings. All comments expressed disagreement with

[53] https://cwp.org/

[54] https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/0f2feff522e8113c852574db005b241f.html

[55] https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/0e1d78bbda6d08198525754e0061d824.html

NOAA and EPA's conditions for approval, stating Alabama already satisfied the coastal nonpoint management measures for Roads, Highways and Bridges; New and Operating Onsite Disposal Systems; Hydromodification; Wetlands, Riparian Areas and Vegetated Treatment Systems; and Administrative Coordination. Finally, a comment expressed disagreement with NOAA and EPA's condition to include Mobile and Baldwin counties in Alabama's boundary for its coastal nonpoint pollution management area. As noted above, full approval was one of the alternatives presented in the EA. Thus, the public has already been given one opportunity to comment on the environmental consequences of the proposed action, including the alternative for full approval of the program.

On May 15, 2024, NOAA and EPA announced in the Federal Register a proposed decision that Alabama has satisfied all conditions of approvability placed on its coastal nonpoint program (i.e., full approval) for a 30-day public comment period.[56] NOAA and EPA received one comment, not specific to Alabama's program, during the public comment period.

IV. CONCLUSION

NOAA has determined that there is not a need to supplement the existing 1997 Alabama Coastal Nonpoint Program EA in order to find that Alabama has satisfied all conditions of approvability placed on its coastal nonpoint program. The changes to the proposed action and the new information and circumstances do not suggest the proposed action will result in significant adverse impacts, and the expected impacts of the action currently proposed were considered in the 1997 Alabama EA. Additionally, no new information has changed the validity of the analysis and underlying assumptions of the 1996 PEIS and 1997 EA. Therefore, the 1997 PEIS and the 1997 Alabama EA remain valid and NOAA will continue to rely on them to support a FONSI for the full approval of Alabama's Coastal Nonpoint Program.

[56] 89 FR 42451 (May 15, 2024) (accessible via https://www.federalregister.gov/documents/2024/05/15/2024-10131/coastal-nonpoint-pollution-control-program-proposed-finding-for-alabama-approval-conditions)

V. FINDING OF NO SIGNIFICANT IMPACT

Pursuant to section 6217 of Coastal Zone Act Reauthorization Amendments, the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) propose to find that Alabama has satisfied all conditions of approvability placed on its coastal nonpoint pollution control program. In addition to the proposed action, NOAA and EPA considered additional alternatives: disapproval and no action (maintaining the approval with conditions).

The 1997 Final Environmental Assessment (EA), prepared to evaluate the proposed action of approving with conditions, found that the proposed action and the alternatives of full approval and disapproval will not result in any significant environmental impacts, or impacts different from those analyzed in the 1996 Programmatic Environmental Impact Statement (PEIS) for the Coastal Nonpoint Program, which resulted in a Finding of No Significant Impact (FONSI). The 1997 EA was tiered off the 1996 PEIS and focused on information specific to Alabama. The analysis in the 1997 EA indicates that potential environmental effects from full approval and implementation of the proposed Alabama program (the preferred alternative) would not be significant individually or cumulatively.

NOAA prepared an analysis of the current proposed action to find that Alabama has satisfied all conditions of approvability (i.e., full approval), and has determined that the impacts do not differ from those analyzed in the 1997 EA and 1996 PEIS, and reliance on these documents is still valid. Thus, preparation of a Finding of No Significant Impact (FONSI) is warranted.

The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria (40 CFR 1508.27) (1978);[57] see also the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A (2017). These criteria are discussed below as they relate to the proposed action. Each criterion is discussed below with respect to the proposed action and considered individually, as well as in combination with the others.

a. **Has the agency considered both beneficial and adverse effects? (A significant effect may exist even if the Federal agency believes on balance the effect will be beneficial.)**

[57] "This EA applies CEQ's 1978 NEPA regulations because review of this proposed action preceded the effective date of CEQ's 2020 NEPA regulations (September 14, 2020). See 50 C.F.R. § 1506.13."

The agency has considered both beneficial and adverse effects, and no significant effects are anticipated. The primary beneficial effects of the Alabama Coastal Nonpoint program relate to the improvement of Alabama's water quality. Alabama also expects the program to promote an improved coastal habitat, improved public health, increased aesthetic value of coastal areas and enhanced recreational opportunities as a result of cleaner water and healthier coastal habitats.

b. **To what degree would the proposed action affect public health and safety?**

The proposed approval decision would not be anticipated to have significant impacts on public health or safety because it would not alter any Alabama programs already in operation. Additionally, the implementation of management measures reduces nonpoint source pollution generation from a variety of sources and minimizes the delivery of pollutants into Alabama's land, surface water, and groundwater, which could result in minor improvements to public health and safety due to cleaner coastal waters.

c. **To what degree would the proposed action affect unique characteristics of the geographic area in which the proposed action is to take place?**

None. Though there are unique places within the Alabama coastal nonpoint management area, the proposed action will not affect its unique characteristics because it does not create any new programs or initiatives. Finding that the state has satisfied all conditions of approval placed on its coastal nonpoint program does not create new programs or policies that change how Alabama already manages nonpoint source pollution; the programs and policies that comprise Alabama's Coastal Nonpoint Program already exist and are being implemented by state, local, and other entities regardless of NOAA and EPA's action.

d. **To what degree would the proposed action have effects on the human environment that are likely to be highly controversial?**

The effects of the proposed action on the human environment are not likely to be highly controversial. Seven public comments were received during the public comment period for Alabama's proposed conditional approval findings in 1997. Although all comments expressed disagreement with NOAA and EPA's conditions for approval, stating Alabama already satisfied the Coastal Nonpoint Program, they do not indicate that Alabama's Coastal Nonpoint Program would have significant effects on the human environment that are likely to be highly controversial. NOAA and EPA only received one comment on the federal agencies' 2024 proposed decision that Alabama had satisfied all conditions of approval on its program. However, this comment was not related

specifically to Alabama's Coastal Nonpoint Program. In addition, although NOAA and EPA invited Tribal Governments with an interest in Alabama's coastal nonpoint program management area to consult or further engage with the federal agencies on this decision, no Tribal Governments requested formal government to government consultation on the proposed decision or expressed interest in further engagement. The programs and authorities that comprise Alabama's Coastal Nonpoint Program are already in existence and being implemented at the state and local level and will continue to be implemented regardless of NOAA and EPA's action. Therefore, NOAA and EPA's action will not create any additional effects on the human environment beyond what is already occurring in absence of the action.

While NOAA and EPA's action would allow Alabama to be eligible for future funding (if appropriated) to implement its coastal nonpoint program, any potential effects of that future funding on the human environment are unknown and speculative at this time. NOAA has mechanisms in place for evaluating any effects on the human environment if and when a future funding decision is made.

e. **What is the degree to which effects are highly uncertain or involve unique or unknown risks?**

None. There are no uncertain, unique, or unknown risks associated with the proposed finding that Alabama has satisfied all conditions of approvability on its coastal nonpoint program. The Alabama Coastal Nonpoint Program consists entirely of existing state and local requirements, as well as voluntary educational and participatory activities, which do not have uncertain, unique, or unknown risks.

f. **What is the degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration?**

None. NOAA and EPA evaluate individually each coastal nonpoint program by carefully reviewing all materials submitted by any conditionally approved state or territory to evaluate whether the information provided addresses applicable conditions of approvability. The finding that Alabama has satisfied all conditions of approvability on its coastal nonpoint program does not have any bearing on whether NOAA and EPA will make similar findings of programs in other jurisdictions. Thus, this action does not establish a precedent for future actions or represent a decision in principle about a future consideration.

g. **Does the proposed action have individually insignificant but cumulatively significant impacts?**

No, this action would not have any individually insignificant but cumulatively significant impacts. A finding that a state has satisfied all conditions of approvability on its coastal nonpoint program would facilitate continued investments in addressing coastal nonpoint pollution in Alabama. These investments and other endeavors identified as components of the Alabama Coastal Nonpoint Program would be expected to give Alabama improved control of sources of nonpoint pollution and result in reduced pollutant levels entering coastal waters, improved water quality, and enhanced coastal habitat. The Alabama Coastal Nonpoint Program has beneficial impacts on the physical, biological, and socioeconomic environment in Alabama. While climate change is expected to continue to exacerbate water quality problems, the Alabama Coastal Nonpoint Program is not expected to have potential adverse effects that would exceed the ability of human or natural communities to withstand stress. Thus, neither the incremental effects of a finding that Alabama has satisfied all conditions of approvability nor program implementation will have individually or cumulatively significant effects.

h. **What is the degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources?**

NOAA and EPA have provided informal and formal tribal consultation opportunities throughout the process of reviewing Alabama's Coastal Nonpoint Program, consistent with each agency's policies on consultation and coordination with Indian Tribes and Executive Order 13175. No Tribes requested formal consultation or further informal engagement on this decision. The federal agencies believe that Alabama's Coastal Nonpoint Program provides mechanisms for the State to address many sources of nonpoint pollution, and the EPA and NOAA's finding that the State has satisfied all conditions of approvability on the program will allow the State to continue to receive important grant funds it can use to implement this program.

The overall success of Alabama's Coastal Nonpoint Program in addressing water quality impairments will require a concerted and ongoing effort that depends on the successful implementation of a matrix of federal, state, and local regulatory efforts. Many of the tribal treaty rights concerns cannot be fully addressed through the authorities of any one program, state or federal, such as the coastal nonpoint program. Additionally, the continued implementation and adaptive management of Alabama's Coastal Nonpoint Program is an ongoing process. NOAA and EPA are committed to continuing to work with tribes and use our suite of authorities and forums to protect treaty rights, improve water quality.

Also, issuing a finding that Alabama has satisfied all conditions of approval on its coastal nonpoint program is a federal action that would have no potential to affect significant scientific or historic resources in Alabama because it is an administrative action. Prior to approving or providing funding (typically under the Coastal Zone Management Act for other types of specific activities in Alabama that address coastal nonpoint pollution, NOAA's Office for Coastal Management evaluates environmental compliance needs and ensures compliance with National Historic Preservation Act (NHPA) and all other applicable requirements. For example, targeted consultations under NHPA are conducted for those activities that have the potential to cause an adverse effect on historic properties. At that time, NOAA can provide to the Alabama Historical Commission State Historical Preservation Office the site-specific details necessary to fully analyze the effects of specific actions to historic properties.

i. **What is the degree to which endangered or threatened species, or their critical habitat, as defined under the Endangered Species Act of 1973, are adversely affected?**

None. Finding that Alabama has satisfied all conditions of approval on its coastal nonpoint program would have no effect on threatened and endangered species or their critical habitat. Projects aimed at managing, quantifying, and controlling coastal nonpoint pollution funded by NOAA under the Coastal Zone Management Act are evaluated individually with respect to their potential to affect resources protected pursuant to the Endangered Species Act; appropriate procedures are followed if there is a need to consult with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

j. **Does the proposed action have a potential to violate federal, state, or local law for environmental protection?**

No. Finding that Alabama has satisfied all conditions of approval on its coastal nonpoint program does not have the potential to violate federal, state, or local law. Federally-supported projects intended to reduce coastal nonpoint pollution are required to comply with all applicable federal, state, and local laws, including those for environmental protection. Given project review at the state and federal level, no violation of environmental protection laws is threatened.

k. **Will the proposed action result in the introduction or spread of a non-indigenous species?**

No. Finding that Alabama has satisfied all conditions of approval on its coastal nonpoint program will not result in the introduction or spread of any non-indigenous species. The

components of the program are already in place and exist and are being implemented at the state and local level regardless of the federal action. Neither the components identified as planned parts of the Alabama Coastal Nonpoint Program nor federally-supported nonpoint pollution reduction projects would be expected to introduce any invasive species because the*y* would be subject to federal and state requirements and best management practices intended to reduce the spread of non-indigenous species.