

Illinois 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 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 pollution programs (or 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 May 25, 2016, NOAA and EPA issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the approval, with conditions, of Illinois's

coastal nonpoint program for public comment (81 FR 33216). On August 23, 2016, NOAA and EPA approved the Illinois coastal nonpoint program, with conditions. For the conditional approval findings, see https://coast.noaa.gov/data/czm/pollutioncontrol/media/6217il_fnl.pdf.

Since that time, Illinois 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 June 16, 2022, NOAA and EPA published a notice and request for public comment on the proposed finding that Illinois has satisfied all conditions of approvability on its coastal nonpoint program.⁸⁷ FR 36308.

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 as with 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 for the Illinois Coastal Nonpoint Pollution Control Program in 2016, 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 2016 EA concluded that both full approval, and approval with conditions, of the Illinois coastal nonpoint program would not result in any significant environmental impacts in Illinois 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 Illinois to strengthen its coastal nonpoint program to satisfy the conditions while maintaining full CZMA and CWA funding,

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

provided that Illinois later satisfied the conditions. The 2016 EA concluded that no action, or no approval, would have negative environmental impacts because the program would risk loss of 30 percent of its Section 306 coastal zone management funding and Section 319 CWA funding. Based on the results of the analysis, NOAA issued a Finding of No Significant Impact (FONSI). NOAA and EPA found that the proposed Illinois Coastal Nonpoint Program qualified for approval, with conditions. Comments that were received when the EA, FONSI, and proposed findings were published were made available for public comment.

On July 16, 2020, the Council for Environmental Quality (CEQ) finalized new NEPA regulations that became effective on September 14, 2020 (85 FR 43304). Under the new regulations, 40 C.F.R. § 1506.13 (2020), the new regulations apply to all NEPA processes “begun after the effective date, but agencies have the discretion to apply them to ongoing NEPA processes.” NOAA and EPA published the proposed findings on June 15, 2020, and commenced preparing this NEPA Adequacy review before publication of the proposed findings. Likewise, this adequacy review relies on NEPA documents also prepared in 1996 (PEIS) and 2016 (EA), well before the effective date. As such, NOAA had determined it is appropriate to rely on the CEQ regulations in place prior to the July 16, 2020, rulemaking.

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 significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 CFR § 1502.9(c). 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 Illinois Coastal Nonpoint Program (i.e., finding that the state has satisfied all conditions of approvability on its program).

A. Changes to the Proposed Action

The proposed action is the same as that analyzed in the EIS and EA, which is to make a decision on a state's coastal nonpoint program. The preferred alternative (full approval, i.e., finding that a state has satisfied all conditions of approval on its program) and the state's coastal nonpoint program, however, have changed. This section discusses how the preferred alternative and Illinois's Coastal Nonpoint Program has changed relative to the environmental impact analysis in the PEIS and EA.

The preferred alternative identified in the 2016 EA was approval of the Illinois 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 was granted on August 23, 2016. NOAA and EPA put several conditions on Illinois's program related to the operation of onsite disposal systems; planning, siting, maintenance, and development of roads, bridges, and highways; siting and design of fueling stations; vessel sewage facility management; surface water quality and instream/riparian habitat protection; shoreline erosion management; and monitoring and tracking. More information regarding the specific conditions that were placed on Illinois's program can be found in NOAA and EPA's 2016 findings document on Illinois's Coastal Nonpoint Program (available on NOAA's Coastal Nonpoint Program website at https://coast.noaa.gov/data/czm/pollutioncontrol/media/6217il_fnl.pdf).

The preferred alternative at this time is finding that Illinois has satisfied all conditions of approvability on its program (i.e., full approval). Full approval was analyzed in both the PEIS and the Illinois EA. Since the publication of the Illinois EA, Illinois 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 proposed finding that Illinois has satisfied all conditions of approvability on its program simply confirms that Illinois has developed a program containing management measures necessary to achieve and maintain applicable water quality standards and protect designated uses. As such, the proposed action has not changed in a way that affects the environmental impacts analysis or conclusions contained in the 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 proposed findings.

For example, Illinois addresses its condition for the operating onsite disposal systems (OSDS) management measure through various regulatory programs such as the North Shore Water Reclamation District's Sewer and Sewer Systems

Ordinance, Lake County's Onsite Wastewater Treatment System Ordinance, and Lake County's Public Nuisance Ordinance. Widespread, voluntary point of sale inspections, and targeted education and outreach has also aided in this effort. The State has provided a legal opinion from its assistant attorney general to demonstrate that it has the necessary authority to ensure implementation of the OSDS management measure throughout the coastal nonpoint program management area.

Illinois has also incorporated additional manuals for the planning, siting, development, and management of roads, highways, and bridges. In particular, Illinois Department of Transportation's Bureau of Design and Environment (BDE) Manual establishes uniform policies and procedures for environmental evaluations of construction and reconstruction projects within the Illinois highway system that address the planning, siting and development roads, highways and bridges management measures. For example, the Illinois BDE Manual at 26-19.04 requires evaluation of potential project impacts to surface water resources and aquatic habitat, and the consideration of measures for avoiding, minimizing, and mitigating adverse project impacts to those resources and habitats. These practices illustrate how Illinois ensures that State-owned and maintained roads and bridges are planned, sited, and developed in ways that protect aquatic ecosystems and water quality.

Illinois has fulfilled its condition for pollution prevention management through state and local regulations and volunteer-based programs. Regulatory measures include the Illinois Pesticide Act, Section 5a of the Lawn Care Products Application and Notice Act, and local pet waste management ordinances. Examples of voluntary programs include Audubon Cooperative Sanctuary Program for Golf and Illinois-Indiana Sea Grant Lawn to Lake Program, which further promote practices that are in conformity with the 6217(g) pollution prevention management measure.

Illinois addresses its condition for the marina management measures through various state regulations. These regulations include the Illinois Gasoline Storage Act; the Office of State Fire Marshal's Rules for Aboveground Dispensing Storage Tanks, Underground Storage Tanks, and Marinas; Subpart L of the Department of Public Health Recreational Area Code; and the Illinois Accessibility Code. The voluntary Illinois Clean Marina Program further promotes best management practices (BMPs) that are in conformity with the 6217(g) guidance marina management measures.

From 2016 to present, the changes to the Illinois 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 Illinois's program would meet the approval conditions were not known at the time the 2016 EA was published, NOAA and EPA had identified requirements for program approval, and the impacts were analyzed in the prior NEPA documents. The proposed agency action that Illinois 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 action does not vary from that analyzed in the EA.

The management measures requiring behavior changes to reduce nonpoint sources of water pollution may cause slight negative socioeconomic effects, but neither the socioeconomic impacts, nor any environmental impacts, would be significant. Rather, Illinois' 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 habitats. Consistent with the analysis in the 2016 EA, the approval of the conditions will continue the state's eligibility for funding 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 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 Illinois 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: full approval (i.e., approval without conditions or finding that a state has satisfied all conditions of approvability placed on its program), conditional approval, 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. For example, Illinois's coastal zone has seen a slight increase in urban

development and population growth. Although there have been some changes to the affected environment since the 2016 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 2016 EA that approval of the program will not have significant impacts on the environment.

a. Coastal Nonpoint Program Management Area Coastal Environment

i. Geographical Boundary

The geographic area across which the Illinois coastal nonpoint program extends is the same as the geographic area analyzed in the original 2016 EA for the program. No conditions were placed on the coastal nonpoint program management area boundary proposed by Illinois. This boundary includes a 96.5-square-mile area encompassing two segments: the Lakeshore Boundary area and the Inland Waterways Boundary area.

The Lakeshore Boundary includes approximately 85 square miles of land that drain into Lake Michigan, while the Inland Waterways Boundary area includes approximately 11.5 square miles of land along segments of the Chicago River, North Shore Channel, and Little Calumet and Grand Calumet Rivers. Illinois' entire coastal nonpoint management area is confined to two counties: Lake County to the north and Cook County to the south.² This designated area was found to be sufficient to control the land and water uses that have or are reasonably expected to have a significant impact on the coastal waters of Illinois. Therefore, there has been no change to the boundary of the management area.

ii. Terrestrial Environment

For purposes of this sufficiency analysis, the coastal environment of Illinois has not substantially changed since 2016. The Illinois coastal zone contains portions of 16 different subwatersheds, as designated by the U.S. Geological Survey. Surface water drains to four major watersheds, the Lake Michigan watershed (which includes the Calumet River watershed), Des Plaines River watershed, Chicago River watershed, and Little Calumet River watershed. The Illinois Program Document states that soil in inland portions of the Illinois coastal zone is predominantly silty and clayey till, with some discontinuous layers of sand and gravelly sand.

² 2016 Environmental Assessment for Illinois' Coastal Nonpoint Pollution Control Program, p. 14.

Illinois once contained over eight million acres of wetlands; the state has fewer than 1 million acres of wetlands remaining, as a large amount were dredged, drained, or filled to support development and agriculture, and many additional acres were diked, impounded, or excavated.³ Data from the National Land Cover Database from 2016 indicates there are a little over 4,800 acres of wetlands in the Illinois coastal zone, including emergent herbaceous wetlands and woody wetlands, but not including open water.⁴

Most of Illinois' 63-mile coastline has been altered by coastal engineering and shore protection projects. Chicago's shoreline has been most heavily modified from its original state, with a total of more than 5.5 square miles of lakefront land constructed in the late 19th and the 20th centuries, largely for the purpose of providing for public use of the shoreline. Municipalities north of Chicago also created parks and beaches along the shoreline.⁵ Though the region has undergone slight alterations, such as an increase in population and urban development, no changes or events have occurred since the time of the 2016 EA that have significantly altered the baseline information of that document. Thus, the 2016 EA continues to appropriately support a finding that full approval of the program will not have significant impacts on the environment.

iii. Water Quality

Sections 305(b) and 303(d) of the Federal Clean Water Act (CWA) require the Illinois EPA to submit a report to the USEPA detailing the quality of Illinois surface water (e.g., lakes, streams, Lake Michigan, wetlands) and groundwater resources (Section 305(b)) and provide a list of impaired waters (Section 303(d)). The report is based on chemical, physical, biological, habitat, and toxicity data of water bodies across the state. Quality conditions placed on water resources are assessed by the degree to which waters attain "beneficial" or "designated" uses.

Illinois EPA's Bureau of Water (the Bureau of Water) is responsible for ensuring that Illinois' rivers, streams, and lakes support all uses for which they are designated, including protection of aquatic life, primary contact recreation, aesthetic quality, drinking water supply, and fish consumption. The Bureau of

³ 2016 Environmental Assessment for Illinois' Coastal Nonpoint Pollution Control Program, p. 22.

⁴ <https://coast.noaa.gov/ccapatlas/>

⁵ 2016 Environmental Assessment for Illinois' Coastal Nonpoint Pollution Control Program, p. 22.

Water also works toward maintaining a safe public water supply system, and establishes protections for Illinois' groundwater resources.

Specifically, the Bureau of Water monitors Illinois' surface and groundwater resource quality; maintains a municipal, stormwater, and industrial effluent permitting program; inspects sources of pollution; processes citizen complaints; ensures compliance with regulatory standards; and enforces applicable requirements. The Bureau of Water also provides a number of loan and grant programs designed to build and upgrade new wastewater, stormwater treatment and public water supply infrastructure; reduce nonpoint source pollution; conduct green infrastructure projects; and protect and restore Illinois' inland lakes and streams.

The Illinois Integrated Water Quality Report (IR) details water quality condition data in Illinois, satisfying water quality reporting requirements under Sections 303(d), 305(b), and 314 of the CWA. There were no significant differences between the water quality data reported in the IR for 2016 and the IR for 2022.^{6,7} Below is a summary of the water quality data detailed in both IR documents.

Illinois Stream Support Summary, Reporting Cycle 2014-2016

Designated Use	Miles Assessed	Percent Assessed	Percent Fully Supporting (Good) ⁽²⁾		Percent Not Supporting (Fair) ⁽²⁾		Percent Not Supporting (Poor) ⁽²⁾		Percent Not Assessed	
			2014	2016	2014	2016	2014	2016	2014	2016
Year:	2016	2016	2014	2016	2014	2016	2014	2016	2014	2016
Aesthetic Quality	11,475	9.6	95.4	96.1	0.0	0.0	4.6	3.9	94.4	90.4
Aquatic Life	17,783	14.9	60.8	57.8	34.0	37.3	5.2	4.9	85.4	85.1
Fish Consumption	4,170	3.5	0.0	0.0	93.4	93.3	6.6	6.7	96.5	96.5
Indigenous Aquatic Life	90	100.0	13.9	15.1	23.1	20.9	62.9	63.9	0.0	0.0
Primary Contact	4,492	3.8	18.6	16.8	29.5	32.8	51.9	50.4	96.2	96.2
Public and Food Processing Water Supply	924	100.0	63.6	65.2	36.4	34.8	0.0	0.0	0.0	0.0
Secondary Contact ⁽¹⁾	753	0.6	100.0	100.0	--	--	--	--	99.3	99.4

Illinois Stream Support Summary, Reporting Cycle 2020-2022

⁶ <https://www2.illinois.gov/epa/Documents/iepa/water-quality/watershed-management/tmdls/2016/303-d-list/iwq-report-surface-water.pdf>

⁷ https://www2.illinois.gov/epa/topics/water-quality/watershed-management/tmdls/Documents/2020-2022_IR_DRAFT-FINAL_2-14-22.pdf

Designated Use	Miles Assessed	Assessed Miles (%)	Fully Supporting Miles (%)	Not Supporting Miles (%)	Miles Not Assessed (%)
Aesthetic Quality	14,430	12.1	97.4	2.6	87.9
Aquatic Life	18,242	15.3	59.5	40.5	84.7
Indigenous Aquatic Life	89	100	38.4	61.6	0
Primary Contact	4,744	4.0	14.7	85.3	96
Public and Food Processing Water Supply	884	100	59.7	40.3	0
Fish Consumption	4,871	4.1	0	100	95.9

For each designated use in Illinois streams, the main potential causes of impairment are: fecal coliform bacteria impairing primary contact use; mercury and polychlorinated biphenyls (PCBs) in fish tissue impairing fish consumption use; low dissolved oxygen, physical- habitat alterations, high phosphorus, excessive siltation, and high total suspended solids impairing aquatic life use; and atrazine, iron, simazine, and nitrate impairing public and food processing water supply use. Potential sources of impairment include atmospheric deposition of toxics, agriculture, hydromodification such as channelization, loss of riparian habitat, municipal point sources, and urban runoff/storm sewers.

Numerous county, regional, and state agencies play an important role in managing nonpoint source pollution in Illinois. 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 Illinois 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 terrestrial environment and the land and water uses and users in the Illinois coastal nonpoint program management area. The Illinois coastal nonpoint program management area supports extensive and varied commercial and recreational activities. As in 2016, various land and water uses in Illinois have the potential to threaten and degrade coastal water quality if adequate measures to control nonpoint source pollution are not employed. For the purpose of supplementation review, Illinois's terrestrial environment and land and water uses have not significantly changed.

i. Coastal Zone Population

Around the time of the 2016 EA, the estimated population of Lake County was 704,158, and Cook County's population was 5.224 million.⁸ In 2020, Lake County's population was 714,342, and Cook County's population was 5.275 million, representing a small one percent increase in the overall population.⁹ Population growth can create additional pressure to increase development in the region, which, in turn, could increase nonpoint source pollution if not managed properly.

ii. Agriculture

In 2016, Illinois was the second largest exporter of agricultural commodities, among U.S. states. Today, Illinois has dropped to the third on that list, but agriculture continues to contribute billions of dollars to the state's economy. However, an insignificant amount of agricultural activities occur in the Illinois coastal zone. Available data from the 2016 EA sources suggest that agricultural land represents on the order of 1% or 2% of the coastal zone. There has not been a significant change in farming operations in the coastal zone of Illinois since the time of the 2016 EA. There are still roughly 30,000 acres of farmland in Lake County, farmed by around 300 farms.¹⁰ Most farms are grain, such as corn/soybeans, as well as hay.¹¹ The county continues to contain a few small-scale livestock operations which raise beef and hogs, as well as one remaining dairy farm.¹² Today, as well as in 2016, neither agriculture nor livestock is considered a source of water quality impairment of any lake or stream in the coastal zone.¹³

iii. Forestry

Areas with forest cover and the potential for forest harvesting are fewer in the Lake Erie watershed than in Illinois as a whole. During the time of the EA, 30 percent of Illinois was forested, but only 18 percent of the Lake Erie watershed was forested. Illinois remains 30 percent forested, with 17.8% of the coastal nonpoint management area counties forested.¹⁴ Ninety-six percent of Illinois's forest land (7.6 million acres) is timberland. Four percent (292,000 acres) is

⁸ United States Census Bureau, Illinois, 2016

⁹ United States Census Bureau, Illinois, 2020

¹⁰ Communications with Andrew Blaul, Information Director Lake County Farm Bureau Nov. 2021

¹¹ Communications with Andrew Blaul, Information Director Lake County Farm Bureau Nov. 2021

¹² Communications with Andrew Blaul, Information Director Lake County Farm Bureau Nov. 2021

¹³ Communications with Andrew Blaul, Information Director Lake County Farm Bureau Nov. 2021

¹⁴ <https://coast.noaa.gov/ccapatlas/>

publicly-owned reserved forest land.¹⁵ Net volumes are increasing, though at a slower pace compared to years past.

iv. Urban

Residential development has increased in Illinois's coastal watershed since the time of the 2016 EA. In 2016, Cook County contained approximately 2,186,328 housing units, with a housing density of 2,311.1 units per square mile.¹⁶ By 2019, housing development in Cook County increased to 2,204,019 total housing units in the county, with a housing unit density of 2,329.8 units per square mile.¹⁷

In 2016, Lake County contained approximately 263,236 housing units, with a housing density of 587.6 units per square mile.¹⁸ By 2019, housing development in Lake County increased to 265,507 total housing units in the county, with a housing unit density of 592.6 units per square mile.¹⁹

v. Marinas

At the time of the 2016 EA, a total of 32 marinas were located in the Illinois coastal zone. As of 2020, there are 38 marinas in the Illinois coastal zone.^{20, 21}

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 of full approval of the Illinois 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 2016 Illinois EA. The programs, initiatives and other components proposed for inclusion in the Illinois coastal nonpoint program are already operating, independent of the NOAA-EPA proposed 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,

¹⁵ https://www.fs.fed.us/nrs/pubs/ru/ru_fs171.pdf

¹⁶ <https://www.oceaneconomics.org/Demographics/PHresults.aspx>

¹⁷ <https://www.oceaneconomics.org/Demographics/PHresults.aspx>

¹⁸ <https://www.oceaneconomics.org/Demographics/PHresults.aspx>

¹⁹ <https://www.oceaneconomics.org/Demographics/PHresults.aspx>

²⁰ <https://www.countyoffice.org/il-cook-county-marina/>

²¹ <https://www.countyoffice.org/il-lake-county-marina/>

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 2016 Illinois EA. The funding levels available to Illinois for coastal management and water quality initiatives will not change as a result of full program approval (i.e., finding that Illinois has satisfied all conditions of approvability on its program). Illinois would simply continue to be eligible to receive CZMA 306 funds. If NOAA and EPA were to find that Illinois 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 Illinois coastal management program often supports efforts every year related to coastal water quality. These initiatives, as well as other initiatives of the coastal management program related to coastal resilience, public access and other coastal management issues may also have to be reduced. The state's CWA section 319 funding is used to fund eligible projects that reduce pollutant loads and improve water quality, including installation of BMPs that reduce the transport of pollutants to waterbodies. If the state's CWA Section 319 funding is reduced, Illinois would have to cut the number of projects that improve water quality and reduce nonpoint source pollution it is able to support.

NOAA and EPA's proposed finding that Illinois has satisfied all conditions of approvability on its program (i.e., full program approval) signifies that Illinois 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 and funding of Illinois's nonpoint program 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 Illinois 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 Illinois. 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 2016 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. The Illinois Department of Natural Resources has identified multiple stressors that lead to potential adverse cumulative impacts within the coastal nonpoint program boundary.

A recent comprehensive climate change assessment by The Nature Conservancy details environmental issues that Illinois currently faces, and predicts long-term effects of climate change that the state will likely experience in the future.

The report found that the average daily temperature has increased by 1-2°F in most areas of Illinois, and nighttime temperatures have risen about three times the rate of daytime temperatures over the past 120 years. Illinois' precipitation has increased 5% to 20%, varying across the state, and the number of days with at least 2 inches of rain has increased by 40% over the past 120 years.²²

The report predicts that by the end of the century, unprecedented warming of 4°F to 14°F is likely. This warming will likely cause large increases in extended droughts, increased storm surge, and notably higher annual precipitation totals. The report predicts that annual precipitation will increase by 2-10% by the end of the century. The report noted that Illinois has experienced hotter summer temperatures, longer, more severe droughts, and increased intensity and frequency of flooding, particularly on the Mississippi and Illinois rivers. Climate change continues to stress Illinois' remaining natural areas, which are already vulnerable due to large-scale land conversion and fragmentation projects.²³

²² https://www.nature.org/content/dam/tnc/nature/en/documents/IL_Climate_Assessment_2021.pdf

²³ https://www.nature.org/content/dam/tnc/nature/en/documents/IL_Climate_Assessment_2021.pdf

The report predicted that climate change issues will continue to stress Illinois' infrastructure and economy. For example, storm surge will cause damage to urban drainage systems, heat and water stress are likely to reduce corn yields by mid-century, and livestock will face growing threats related to heat, reduced forage quality, and increased disease. Human health will also be compromised as a result of climate change. Extreme heat waves increase the risk of severe heat-related illness such as heat exhaustion and heat stroke.²⁴ Increased flooding increases risk of human exposure to water-borne infectious diseases and mold. Pests and vector-borne diseases are expected to worsen as a result of warmer winters, increased spring precipitation and higher temperatures.²⁵

Improved social science research is critical to improve understanding of various issues that both rural and urban communities will face. This research can supply Illinois with the tools necessary to help both communities adapt to a changing climate. Additionally, the report prompts Illinois to expand research on the relationship between climate change and mental health.

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 Illinois' coastal nonpoint program may cause limited cumulative socioeconomic effects on coastal communities and individuals that need to modify certain land management practices, such as those related to agriculture runoff management, 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 USEPA's finding that Illinois has met all conditions of approvability on its coastal nonpoint program (i.e., full approval). Therefore, NOAA and EPA's action to find that Illinois has satisfied all conditions of approvability on its coastal nonpoint program would not create any additional cumulative effects.

NOS concludes that the proposed action and the effects of implementing Illinois's coastal nonpoint program will improve water quality and increase the potential for

²⁴ <https://glisa.umich.edu/climate-change-in-the-great-lakes-region-references/>

²⁵ https://www.nature.org/content/dam/tnc/nature/en/documents/IL_Climate_Assessment_2021.pdf

resources to sustain themselves. Further, NOS concludes that the action, when added to the other past, present, and reasonably foreseeable future actions within the coastal nonpoint program 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, NOS concludes that cumulative impacts to the proposed action, as defined under NEPA, are not significant.

E. Public Review

On May 25, 2016, NOAA and EPA announced a 30-day public comment period on the proposed conditional approval findings, 2002 EA, and FONSI for the Illinois coastal nonpoint program (81 FR 33216). As noted above, full approval was one of the alternatives presented in the 2016 Illinois EA. Thus, the public has already been given one opportunity to comment on the environmental consequences of the action that is currently being proposed.

On June 16, 2022, NOAA and EPA announced in the Federal Register a proposed decision that Illinois has satisfied all conditions of approvability placed on its coastal nonpoint program for a 30-day public comment period (i.e., full approval). No public comments were received on the proposed decision. NOAA and EPA have provided multiple opportunities for public engagement, and the public has received sufficient notice and opportunity to comment on the proposed action.

IV. CONCLUSION

NOAA has determined that there is not a need to supplement the existing 2016 Illinois coastal nonpoint program EA in order to find that Illinois 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 2016 Illinois EA. Therefore, the 2016 Illinois EA and FONSI remain valid and NOAA will continue to rely on them to support the proposed action.

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 Illinois has satisfied all conditions of approvability placed on its coastal nonpoint pollution control program. In addition to the preferred alternative, NOAA and EPA considered additional alternatives: disapproval and no action. The Final Environmental Assessment (EA) prepared to evaluate potential consequences associated with approving and implementing the Illinois Coastal Nonpoint Pollution Control Program concluded that finding that Illinois has satisfied all conditions of approvability on its coastal nonpoint program (i.e., full approval) will not result in any significant environmental impacts different from those analyzed in the 1996 Programmatic Environmental Impact Statement (PEIS) for the Coastal Nonpoint Pollution Control Program, which resulted in a Finding of No Significant Impact (FONSI). The 2016 EA was tiered off the 1996 PEIS and focused on information specific to Illinois. The analysis in the 2016 EA indicates that potential environmental effects from full approval and implementation of the proposed Illinois program (the preferred alternative) would not be significant individually or cumulatively. Thus, preparation of a Finding of No Significant Impact (FONSI) is warranted.

NOAA uses eleven criteria for determining the significance of the impacts of a proposed action. These criteria are discussed below as they relate to the proposed project. 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.)

The agency has considered both beneficial and adverse effects, and no significant adverse effects are anticipated. The primary beneficial effects of the Illinois Coastal Nonpoint Program relate to the improvement of Illinois's water quality. Illinois 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 Illinois 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 Illinois'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 Illinois 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 Illinois already manages nonpoint source pollution; the programs and policies that comprise Illinois'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. No public comments were received during the public comment period for Illinois's proposed approval, with conditions, findings and draft EA. The programs and authorities that comprise Illinois'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 proposed action would allow Illinois 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 Illinois has satisfied all conditions of approvability on its coastal nonpoint program. The Illinois 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 proposed coastal nonpoint program by carefully reviewing all materials submitted by any approved state or territory with conditions on their program to evaluate whether the information provided addresses applicable conditions of approvability. The finding that Illinois 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 Illinois. These investments and other endeavors identified as components of the Illinois Coastal Nonpoint Program would be expected to give Illinois improved control of sources of nonpoint pollution and result in reduced pollutant levels entering coastal waters, improved water quality, and enhanced coastal habitat. The Illinois Coastal Nonpoint Program has beneficial impacts on the physical, biological, and socioeconomic environment in Illinois. Potential adverse effects would not exceed the ability of human or natural communities to withstand stress. Thus, neither the incremental effects of a finding that Illinois 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?

None. Issuing a finding that Illinois has satisfied all conditions of approval on its

coastal nonpoint program is a federal action that would have no potential to affect historic properties or significant scientific, cultural, or historic resources in Illinois 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 Illinois that address coastal nonpoint pollution, NOAA's Office for Coastal Management evaluates environmental compliance needs and ensures compliance with 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 Illinois State Historic Preservation Office, Illinois Historic Preservation Division, 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 Illinois 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 Illinois 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 Illinois 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 are being implemented at the state and local level regardless of the federal action. Neither the components identified as planned parts of the Illinois Coastal Nonpoint Program nor federally-supported nonpoint pollution reduction projects would be expected to introduce any invasive species because they would be subject to federal and state requirements and measures intended to reduce the spread of non-indigenous species. The Illinois Department of Natural Resources, other state agencies, and other entities are involved in invasive species management.

