Indiana 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 November 5, 2007, NOAA and EPA issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the approval, with conditions, of Indiana's Coastal Nonpoint Program for public comment (72 FR 62444). On January 18, 2008, NOAA and EPA approved the Indiana Coastal Nonpoint Program, with conditions. For the conditional approval findings, see https://coast.noaa.gov/data/czm/pollutioncontrol/media/6217in_fnl.pdf.

Since that time, Indiana 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 November 28, 2023, NOAA and EPA published a notice and request for public comment on the proposed finding that Indiana has satisfied all conditions of approvability on its coastal nonpoint program (88 FR 83101).

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 Indiana'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 2007 for the Indiana 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 both full approval and approval with conditions of the Indiana Coastal Nonpoint Program

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

would not result in any significant environmental impacts in Indiana 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 Indiana to strengthen its coastal nonpoint program to satisfy the conditions while maintaining full CZMA and CWA funding, provided that Indiana 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 January 15, 2008, NOAA and the USEPA approved the Indiana Coastal Nonpoint Program with conditions. No public comments were received when the EA, FONSI and proposed findings 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). 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" (40 C.F.R. § 1506.13 (2020)). This adequacy review relies on NEPA documents also prepared in 1996 (PEIS) and 2007 (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. Additionally, this analysis is consistent with the recent June 3, 2023 amendments to NEPA under the Fiscal Responsibility Act of 2023 (FRA).[2]

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

[2] Fiscal Responsibility Act of 2023, H.R. 3746, 118th Cong. § 321 (codified at 42 U.S.C. § 4321 *et seq*.)

NEPA is required prior to full approval of the Indiana 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 2007 EA for Indiana, the proposed action (and preferred alternative) was approval, with conditions, of the Indiana 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 Indiana'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 2007 EA was approval of the Indiana 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 January 15, 2008. NOAA and EPA put several conditions on Indiana's program related to agriculture, urban development, marinas and recreational boating, hydromodification, wetland and riparian area management measures, monitoring, critical coastal areas, enforceable policies and mechanisms, and technical assistance. More information regarding the specific conditions that were placed on Indiana's program can be found in NOAA and EPA's 2023 findings document on Indiana's Coastal Nonpoint Program (available on NOAA's Coastal Nonpoint Program website at https://coast.noaa.gov/czm/pollutioncontrol/#Indiana). The proposed action and preferred alternative at this time is finding that Indiana has satisfied all conditions of approvability on its program (i.e., full approval). Full approval was analyzed in both the PEIS and the Indiana EA. Since the publication of the Indiana EA, Indiana 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 Indiana has satisfied all conditions of approvability on its program simply confirms that Indiana 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 Indiana 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 Indiana 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 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. Indiana strengthened its program in some areas to address the conditions that were placed on it.

For example, Indiana's program did not originally include processes for the identification of critical coastal areas or for developing and revising management measures to be applied in critical coastal areas where necessary to attain and maintain water quality standards. The state remedied this program gap by relying on its watershed management planning process. The State's Watershed Planning Guide instructs watershed planners how to identify critical areas within the watershed where best management practices will be needed to address nonpoint source pollution and select the best management practices that would be appropriate for each critical area. The identified critical areas may be updated as nonpoint source issues are resolved, new issues are identified, and lower priority areas move up in terms of priority rank. From 2007 to present, the changes to the Indiana 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 Indiana'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 Indiana 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.

Indiana'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, Indiana'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 2007 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 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 Indiana 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. For example, since 2007, Indiana's coastal zone has seen an increase in population and urban development, and a decrease in agricultural land use. Although there have been some changes to the affected environment since the 2007 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 2007 EA that approval of the program will not have significant impacts on the environment.

a. <u>Coastal Environment</u>

i. Geographical Boundary

The geographic area across which the Indiana Coastal Nonpoint Program extends is the same as the geographic area analyzed in the original 2007 EA for the Indiana Coastal Nonpoint Program. Indiana's coastal nonpoint program management area is

defined as the portion of the Calumet-Galien watershed within the state of Indiana's borders,[3] and 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 Indiana's Lake Michigan coast. This boundary aligns with the State's coastal management boundary and Michigan's already approved coastal nonpoint program management area to the north.

ii. Shoreline Hydrology

The present hydrology of the Lake Michigan coastal area in Indiana is significantly changed from what existed before development. The industrialization and urbanization, which began in northwest Indiana during the late nineteenth century, caused a marked change in the natural landscape and drainage patterns. However, for the purposes of this sufficiency analysis, the hydrologic conditions in the 45-mile coastline of Indiana have not substantially changed from that analyzed in the original 2007 EA. The Calumet-Galien hydrologic unit is still considered approximately 187,000 hectares. It covers the entire Lake Michigan coast line of Indiana, and extends to the northeast into Michigan and west into Illinois. The portion of the watershed within the state of Indiana includes approximately 139,000 acres. The Little Calumet-Galien Watershed includes several smaller subwatersheds. The major streams and rivers of the watershed include the Grand Calumet River, Little Calumet River, Trail Creek, and the Galena River. These form the principal drainage network in the Calumet River Basin. Today (and in 2007), the Grand Calumet River begins at the Marquette Park lagoons and flows west to the Indiana Harbor Ship Canal. The majority of streamflow from the east enters the Indiana Harbor Ship Canal and flows to Lake Michigan.

iii. Biological Resources and Habitats

Additionally, the biological resources and habitats in the coastal region have not significantly changed since the time of the 2007 EA. The watershed's close proximity to Lake Michigan to the north and the Kankakee Outwash Plain to the south still allows for the co-existence of highly diverse habitats, including beaches, dunes, wetlands, forest and rivers.[4,5,6] The coastal region is also home to the Indiana Dunes National Lakeshore and Indiana Dunes State Park, which preserve a massive dune ecosystem, one of the largest freshwater sand dune systems in the world. These sand dunes rise to almost 200 feet in a series of ridges and valleys resulting from the retreat of the last great

[3] https://efotg.sc.egov.usda.gov/references/public/IN/Little_Calumet_Galien.pdf

[4] https://www.in.gov/idem/nps/resources/watershed-management-plans/

[5] https://www.in.gov/dnr/water/files/104_summary.pdf

[6] https://www.in.gov/dnr/lake-michigan-coastal-program/publications/

continental glacier some 14,000 years ago. Wetlands fill many depressions between dune ridges. The park landscape represents at least four major successive stages of historic Lake Michigan shorelines, making it one of the most extensive geologic records of one of the world's largest, fresh water bodies.[7] The diverse habitats in this area support many types of wildlife, including nearly 50 species of mammals, over 70 species of fish, 60 species of butterflies, 23 species of reptiles, and 18 species of amphibians.[8]

Most urban development occurs inland, and much of the coastline is protected. However, Lake Michigan's water levels fluctuate cyclically, and the Indiana shoreline thus experiences widespread shoreline recession in response to the rapid and sustained water level increase periods. Several efforts, such as the importing of massive amounts of sand, as well as the construction of shoreline barriers and seawalls have slowed the natural but damaging effects of the lake changes.

iv. Water Quality

At the time of the 2007 EA, approximately 79 percent of the 17,535 stream miles assessed for aquatic life use were found to be fully supporting in Indiana. Today, IDEM has assessed approximately 36,653 miles of stream for aquatic life use and has found 68 percent of assessed miles to be fully supporting that use. In 2008, approximately 30 percent of the 12,073 stream miles assessed supported full body contact recreational use, while presently, approximately 27 percent of the 33,904 stream miles assessed support full body contact recreational use. At the time of the EA, almost all of Indiana's 59 miles of Lake Michigan shoreline outside the Indiana Harbor fully supported aquatic life use, while almost none of the shoreline waters supported full body contact recreational use. The same is still true today. While these assessment values may indicate a slight decline in water quality since the 2007 EA was published, because IDEM recently assessed more than double the stream miles it did in 2007, direct comparisons are not possible.[9,10]

[7] https://www.nps.gov/indu/learn/nature/index.htm

[8] https://www.npca.org/articles/3550-9-features-you-may-not-know-about-at-indiana-dunes-national-park

[9] https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83371264&dDocName=83373669&Rendition=web&allowInterrupt=1&noSaveAs=1

[10] https://www.in.gov/idem/nps/files/ir_2022_report.pdf

Designated Use	Support	Threatened	Non support	Assessed	Not Assessed
Rivers (miles)					
Aquatic Life Use	13,913	–	3,622	17,535	14,606
Fishable Uses	1,044	–	3,402	4,435	27,705
Drinking Water Supply	–	–	1	1	101
Recreational Use (Human Health)	3,700	–	8,374	12,073	20,100
Great Lakes Shoreline (miles)					
Aquatic Life Use	59	–		59	–
Fishable Uses	–	–	59	59	–
Drinking Water Supply	33	–		33	–
Recreational Use (Human Health)	–	–	59	59	–
Lake Michigan (acres)					
Fishable Uses	–	–	154,176	154,176	–
Lakes and Reservoirs (acres)					
Aquatic Life Use	3,690	–	6,625	10,315	21,826
Fishable Uses	7,820	–	63,663	71,483	5,084
Drinking Water Supply	230	–	16,385	22,905	12,926
Recreational Use (Human Health)	21,922	–	983	22,905	104,662
Recreational Use (Aesthetics)	29,035	–	8,006	37,041	90,526

Table 1: Summary of use support by waterbody type (Source: Indiana Integrated Water Monitoring and Assessment Report 2008)

Designated Use	Total Size	Size Assessed	Percent Assessed	Size Fully Supporting	Size Not Supporting
Rivers and Streams (miles)					
Full Body Contact (Recreational Use)	63,511	33,904	53.4%	9,277	24,627
Human Health and Wildlife (Fishable Use)	63,508	8,865	14.1%	3,361	5,604
Public Water Supply	377	23	6.1%	23	0
Warm Water Aquatic Life (Aquatic Life Use)	63,511	36,653	57.7%	24,820	11,833
Lake Michigan Shoreline (miles)					
Full Body Contact (Recreational Use)	67	67	100%	0	67
Human Health and Wildlife (Fishable Use)	67	67	100%	0	67
Public Water Supply	35	35	100%	35	0
Warm Water Aquatic Life (Aquatic Life Use)	67	67	100%	63	4
Lake Michigan (acres)					
Human Health and Wildlife (Fishable Use)	154,176	1545,176	100%	0	154,176
Lakes and Reservoirs (acres)					
Full Body Contact (Recreational Use)	129,547	39,790	30.7%	30,503	9,287
Human Health and Wildlife (Fishable Use)	129,622	81,335	62.0%	42,215	39,120
Public Water Supply	29,262	16,871	57.7%	230	16,641
Warm Water Aquatic Life (Aquatic Life Use)	129,547	16,125	12.5%	5,919	10,206

Table 2: Summary of use support by waterbody type (Source: Indiana Integrated Water Monitoring and Assessment Report to USEPA 2022)

At the time of the 2007 EA, pathogens were the top cause of stream impairments, affecting over 8,000 miles of streams. Polychlorinated biphenyl (PCB) in fish tissue impacted over 3,000 miles while mercury impairments impacted nearly 2,000 miles of streams. Over 2,000 stream miles also had biological communities with measurable adverse response to pollutants.[11]

In 2022, pathogens continue to be the top cause of stream impairments in Indiana, impacting the potential recreational use of more than 24,600 miles of streams. Through its assessments for fish consumption, IDEM has also found that polychlorinated biphenyls (PCBs) in fish tissue affects 4,926 miles of rivers and streams in Indiana while mercury in fish tissue affects 597 miles. IDEM has also found fish with high levels of PCBs and/or mercury in 59 of the 1,578 Indiana lakes that IDEM tracks for assessment purposes, including Lake Michigan. While many of Indiana's rivers and streams support healthy biological communities (fish and aquatic insects), IDEM found almost 8,880 stream miles that have experienced a measurable adverse response to stressors, many of which remain unknown.[12]

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 Indiana Coastal Nonpoint Program management area. The Indiana Coastal Nonpoint Program management area supports extensive and varied commercial and recreational activities. As in 2007, various land and water uses in Indiana 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, Indiana's terrestrial environment and land and water uses have not significantly changed.

i. Coastal Zone Population

Population in Indiana has increased from 6,345,289 people in 2007 to 6,805,985 people in 2021, representing a growth of 7.26 percent.[13] While specific population data is not readily available for Indiana's coastal nonpoint program management area, the total population of Indiana's coastal watershed counties, a close approximation, has increased from 762,469 in 2007 to 785,191 in 2021, representing an increase of 2.98 percent.[14] The average population density within the coastal watershed counties has

11 https://ecm.idem.in.gov/cs/idcplg?IdcService=GET_FILE&dID=83371264&dDocName=83373669&Rendition=web&allowInterrupt=1&noSaveAs=1

12 https://www.in.gov/idem/nps/files/ir_2022_report.pdf

13 https://www.census.gov/quickfacts/IN

14 https://www.oceaneconomics.org/Demographics/PHresults.aspx

also increased, from 213.6 people per square mile in 2007 to 223.5 people per square mile in 2021. 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

Agriculture is a vital component of Indiana's economic health. Over 80 percent of Indiana's land is devoted to farms and forests, and the agriculture industry contributes $31.8 billion to the Indiana economy. There are 56,649 farms in Indiana and 15 million acres in farmland. Corn and soybeans make up approximately 60 percent of the agricultural products sold in Indiana. In a typical year, almost half of the cropland in Indiana is corn.[15]

The three coastal counties in Indiana are Lake, LaPorte, and Porter counties. The most recent agricultural data for those counties is from 2017. In 2017, Lake County contained 112,451 acres of farmland, LaPorte County contained 248,872 acres of farmland, and Porter County contained 122,523 acres of farmland.[16,17,18] The EA relied on agricultural data from 2002. At that time, Lake County contained 127,782 acres of farmland, LaPorte County contained 243,447 acres of farmland, and Porter County contained 145,779 acres of farmland. In total, Indiana's coastal nonpoint management area consisted of 483,846 acres of farmland in 2017, and 517,008 acres in 2002. These figures represent a slight decrease in agricultural land use in Indiana's coastal nonpoint management area over time, though the market value of agricultural products sold has increased. In 2002, the market value of agricultural products sold for the three counties totaled over $150 million, while the 2017 total market value figure for the three counties was $309,076,000.

iii. Forestry

Most of Indiana's forested land is located in the southern half of the state, as the soils throughout Lake Michigan's southern rim region are dry and rated as "poor" for the growth of trees. Therefore, commercial forestry activities in the coastal nonpoint management area are minimal. At the time of the original EA, no large tracts of commercial forest existed within Indiana's Lake Michigan coastal nonpoint management program boundary. A portion of LaPorte and Porter Counties had been identified as a

[15] https://www.in.gov/isda/files/Brochure_Indiana-agriculture-small.pdf

[16] https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Indiana/cp18091.pdf

[17] https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Indiana/cp18127.pdf

[18] https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Indiana/cp18089.pdf

Forest Legacy Area. The remaining forests of this area represented, and still represent, the diminishing northwest morainal forest type, and provide wildlife habitat, recreation, aesthetic values and community greenspace.

There remains a lack of significant farming activities occurring within the coastal counties of Indiana. There are only a few private landowners who conduct forestry activities in Northern Porter County and in LaPorte County, and Pike Lumber company conducts minor forestry operations in the area. As in 2007, forestry is not a robust industry in Indiana's coastal nonpoint management area.

Forestry restoration in the coastal nonpoint management area was a priority under the Great Lakes Restoration Initiative (GLRI) in 2022. The Northwestern Indiana Regional Planning Commission received $120,000 through the USDA Forest Service's GLRI competitive grant process. The funds are supporting the CommuniTree: Community Tree Pass-Through grant program, which supports communities and public entities that plant trees to mitigate the impacts of invasive insects and disease on forest canopies in Lake, Porter, and LaPorte Counties in the Lake Michigan watershed, leading to a healthier and more diverse tree population in northwest Indiana.[19]

iv. Urban

Residential development has increased in Indiana's coastal nonpoint management area in the past 16 years. In 2007, Indiana's coastal counties of LaPorte, Lake, and Porter, had housing densities of 80.69, 422.06, and 156.74, respectively. In 2021, the LaPorte, Lake, and Porter Counties had housing densities of 83.38, 435.94, and 172.58, respectively.[20] These numbers reflect the coastal counties of Indiana, which is close to but not exactly equivalent to the coastal nonpoint boundary.

v. Boating Activities

Recreational boating remains one of the uses of Indiana's coastal waters. There were approximately 209,783 boats registered in the State of Indiana in 2021.[21] Compared to the boats registered in Indiana in 2005 (214,696), this is a decrease of 4,913 boats.[22]

The Indiana Clean Marina Program is an ongoing collaborative effort by the IDEM, the IDNR, marinas, boatyards, yacht clubs, and recreational boaters to decrease pollution caused by boating activities in Indiana. The program was developed in 2008, in part to

[19] https://apps.fs.usda.gov/nicportal/temppdf/sfs/naweb/in_brief.pdf

[20] https://oceaneconomics.org/Demographics/PHresults.aspx

[21] https://www.statista.com/statistics/1155988/us-recreational-boating-vessels/

[22] https://marinas.com/browse/marina/US/IN/16

help meet the coastal nonpoint program marina management measures. Of the eighteen marinas in the coastal nonpoint program management area, 6 are certified clean marinas. The largest marina along Indiana's Lake Michigan coast, with 918 slips, constituting nearly a third of the slips within the coastal nonpoint program management area, is a certified clean marina.[23]

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 Indiana 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 2007 Indiana EA.
The programs, initiatives and other components proposed for inclusion in the Indiana 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 2007 Indiana 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 Indiana for coastal management and water quality initiatives will not change as a result of full program approval (i.e., finding that Indiana has satisfied all conditions of approvability on its program). Indiana would simply continue to be eligible to receive CZMA 306 funds.

If NOAA and EPA were to find that Indiana 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

[23] https://indianadem.maps.arcgis.com/apps/Shortlist/index.html?appid=dea97b86c805434b965da37d5b42b9bf

coastal habitat, the Indiana coastal management program frequently does support efforts that address 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 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, Indiana 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 Indiana has satisfied all conditions of approvability on its program (i.e., full program approval) signifies that Indiana 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 Indiana'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 Indiana 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 Indiana. 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 2007 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 a recent Purdue Climate Change Impacts Assessment, climate change is anticipated to cause some changes to Indiana's environment.[24] The report anticipates

[24] https://docs.lib.purdue.edu/cgi/viewcontent.cgi?article=1000&context=incciawatertr

precipitation to increase in Indiana, and this pattern is projected to continue, particularly in the winter and spring, making for wetter spring conditions. Summer precipitation is projected to remain the same or decrease slightly, but the intensity of summer storm events is projected to increase. Water storage in soil is expected to increase by 2 to 5 percent in the spring and decrease by 5 to 9 percent in the fall, though the amount of change will vary across the state.

Ongoing increases in temperature will accelerate, raising evapotranspiration rates – the amount of moisture lost to plant use and evaporation from surface soils and water – by 5 to 6 percent across Indiana by midcentury. Water deficits will increase late in the growing season, because higher temperatures will cause faster evapotranspiration while summer rainfall remains unchanged or decreases slightly. Snowfall and snow cover across the state will decline as winter temperatures rise. Increased precipitation in the winter will come as rain, and the snow that does fall is expected to melt faster. The number of days with significant soil frost is expected to decrease sharply throughout the century.

Streamflow has generally increased for all but the northeast part of the state over the last 30 years. Annual streamflow is expected to continue rising throughout the state, with distinct seasonal shifts. In spring, more precipitation will increase streamflow, but risks of flooding due to snow melt or rain on snow could decline late in the century. Average streamflow will decrease in the summer and fall, but the total number of low-flow days is expected to decrease as summer precipitation intensity increases. The frequency and magnitude of high streamflow events are expected to rise.

Increased spring precipitation and saturated soils is expected to increase the likelihood of flooding and ponding on agricultural fields, and more intense precipitation events will likely lead to more urban flooding as stormwater retention facilities more quickly reach their capacities. Continued urban development and more intensive agricultural drainage is expected to further exacerbate flooding issues.

Wetter conditions overall are expected to reduce the likelihood of prolonged, multi-year droughts in Indiana. However, flat or declining summer precipitation occurring in less frequent but more intense storm events, paired with loss of soil water from rising rates of evapotranspiration, increase the likelihood of sudden onset, short duration droughts.[25]

Climate change is expected to exacerbate coastal nonpoint pollution and its adverse effects. For example, increased flooding also leads to additional nonpoint source

[25] https://docs.lib.purdue.edu/cgi/viewcontent.cgi?article=1000&context=incciawatertr

pollution if proper best management practices to prevent and reduce polluted runoff are not employed. Indiana's 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. There are many programs, regulations and guidance materials in Indiana that are designed to reduce nonpoint source pollution, many of which are part of the state's coastal nonpoint program, such as the state's TMDL program and the Indiana Storm Water Quality Manual (stormwater manual). A more complete discussion of other programs and authorities aimed at reducing nonpoint source pollution and protecting water quality can be found in Indiana's Nonpoint Source Management Plan.[26] Since the 2007 EA, Indiana has made improvements to many of these programs to be able to better manage and control nonpoint source pollution. For example, more TMDLs and water quality implementation plans have been developed and are being administered.

In addition to various state initiatives and programs implemented to address nonpoint source pollution and improve Indiana's coastal water quality, there are additional efforts being carried out by federal, Tribal, and local governments, non-governmental organizations, and the private sector. These and similar activities are likely to continue for the foreseeable future.

For example, Indiana is currently working on a septic project with county health departments, local municipalities, and other environmental stewardship groups. Indiana also partners with Trail Creek Watershed Group to focus on water quality concerns in LaPorte County.[27] Additionally, Indiana is working with coastal county soil and water groups to reduce and prevent polluted runoff caused by agricultural practices.

Another example of a nonpoint pollution control partnership is the Indiana State Revolving Fund (SRF) Loan Program, which finances projects that abate or prevent nonpoint source pollution of Indiana's waters. The SRF Program has traditionally provided low interest loans to Indiana 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 Indiana Nonpoint

[26] https://www.in.gov/idem/nps/resources/indiana-nonpoint-source-management-plan/
[27] https://www.tcwatershed.org/

Source Management Plan. Eligible nonpoint source projects must provide water quality benefits to their respective communities and can include wetland restoration/protections projects, septic system repair, and erosion control measures.[28]

Additionally, the Indiana Association of Soil and Water Conservation Districts (IASWCD) is also involved with nonpoint pollution control in Indiana. The mission of the IASWCD is to represent Soil and Water Conservation districts and to assist the leadership of local SWCDs through coordination and education for the appropriate use and management of natural resources. IASWCD provides information and outreach in support of statewide efforts to develop and enhance Indiana's watershed program and help address nonpoint source pollution. Section 319 funds are used to staff a Conservation Development Specialist position at the IASWCD that serves as a liaison with IDEM Office of Water Quality staff to help promote watershed management efforts throughout the state. Numerous Soil and Water Districts in counties across Indiana are leading watershed groups in planning and implementing on-the-ground solutions to nonpoint source pollution.[29]

IDEM and Illinois partners are working together to minimize the impact of Chicago's pollution output on Indiana's coastline and watershed. For example, in 2019, partners collaborated to address high bacteria levels at Jeorse Park Beach in East Chicago, located in Lake County. IDEM was able to continue a limited-scope gull exclusion project at the East Chicago-managed beaches and worked with municipal staff to implement additional best management practices designed to further reduce levels of E. coli at beaches in Hammond, Whiting, East Chicago, and Gary.[30]

Lastly, the IDNR administers the Indiana Lake Michigan Coastal Program (LMCP). The purpose of the LMCP is to enhance the state's role in planning for and managing natural and cultural resources in the coastal region and to support partnerships between federal, state and local agencies and organizations. IDNR is the lead agency implementing the LMCP. The LMCP passes approximately $650,000 annually through the Coastal Grants Program for projects to protect and restore natural, cultural, and historic resources in Indiana's Lake Michigan coastal region. Project categories include land acquisition (e.g., riparian corridors), low-cost construction (e.g., natural area restoration), education and outreach, and planning/coordination/management (e.g., land use planning and ordinances).[31]

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[28] https://www.in.gov/idem/nps/what-is-nonpoint-source-pollution/what-others-are-doing-about-nonpoint-source-pollution/

[29] https://iaswcd.org/

[30] https://www.epa.gov/sites/default/files/2020-06/documents/uw-nwi_2020_work_plan_with_2019_accomplishments.pdf

[31] https://www.in.gov/dnr/lake-michigan-coastal-program/

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 Indiana'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 Indiana has met all conditions of approvability on its coastal nonpoint program (i.e., full approval). Therefore, NOAA and EPA's action to find that Indiana 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 Indiana's Coastal Nonpoint Program will improve water quality and increase the potential for 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 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, NOS concludes that cumulative impacts to the proposed action, as defined under NEPA, are not significant.

E. Public Review

On November 5, 2007, NOAA and the EPA announced a 30-day public comment period on the proposed conditional approval findings, EA, and FONSI for the Indiana Coastal Nonpoint Program. No public comments were received on these documents. 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 November 28, 2023, NOAA and EPA announced in the Federal Register a proposed decision that Indiana has satisfied all conditions of approvability placed on its coastal

nonpoint program (i.e., full approval) for a 30-day public comment period.[32] NOAA and EPA did not receive any comment letters during the public comment period.

IV. CONCLUSION

NOAA has determined that there is not a need to supplement the existing 2007 Indiana Coastal Nonpoint Program EA in order to find that Indiana 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 2007 Indiana EA. Additionally, no new information has changed the validity of the analysis and underlying assumptions of the 1996 PEIS and 2007 EA. Therefore, the 1997 PEIS and the 2007 Indiana EA remain valid and NOAA will continue to rely on them to support a FONSI for the full approval of Indiana's Coastal Nonpoint Program.

[32] 88 FR 83101 (November 28, 2023) (accessible via https://www.federalregister.gov/documents/2023/11/28/2023-25841/coastal-nonpoint-pollution-control-program-proposal-to-find-that-indiana-has-satisfied-conditions-on

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 Indiana 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 2007 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 2007 EA was tiered off the 1996 PEIS and focused on information specific to Indiana. The analysis in the 2007 EA indicates that potential environmental effects from full approval and implementation of the proposed Indiana program (the preferred alternative) would not be significant individually or cumulatively. NOAA prepared an analysis of the current proposed action to find that Indiana has satisfied all conditions of approvability (i.e., full approval), and has determined that the impacts do not differ from those analyzed in the 2007 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);[33] 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.)**

[33] "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 Indiana Coastal Nonpoint program relate to the improvement of Indiana's water quality. Indiana 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 Indiana 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 Indiana'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 Indiana 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 Indiana already manages nonpoint source pollution; the programs and policies that comprise Indiana'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 Indiana's proposed conditional approval findings and draft EA. NOAA and EPA did not receive any comment letters during the public comment period. In addition, although NOAA and EPA invited Tribal Governments with an interest in Indiana'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 Indiana'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 Indiana 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 Indiana has satisfied all conditions of approvability on its coastal nonpoint program. The Indiana 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 Indiana 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 Indiana. These investments and other endeavors identified as components of the Indiana Coastal Nonpoint Program would be expected to give Indiana improved

control of sources of nonpoint pollution and result in reduced pollutant levels entering coastal waters, improved water quality, and enhanced coastal habitat. The Indiana Coastal Nonpoint Program has beneficial impacts on the physical, biological, and socioeconomic environment in Indiana. While climate change is expected to continue to exacerbate water quality problems, the Indiana 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 Indiana 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 Indiana'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 Indiana'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 Indiana'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 Indiana'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 Indiana 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 Indiana 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 Indiana 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 IDNR Division of Historic Preservation & Archaeology 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 Indiana 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 Indiana 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 Indiana 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 Indiana 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. The IDNR, other state agencies, and other entities are involved in invasive species management.