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Living Coastal Resources

A Coastal Zone Management
Technical Assistance Document

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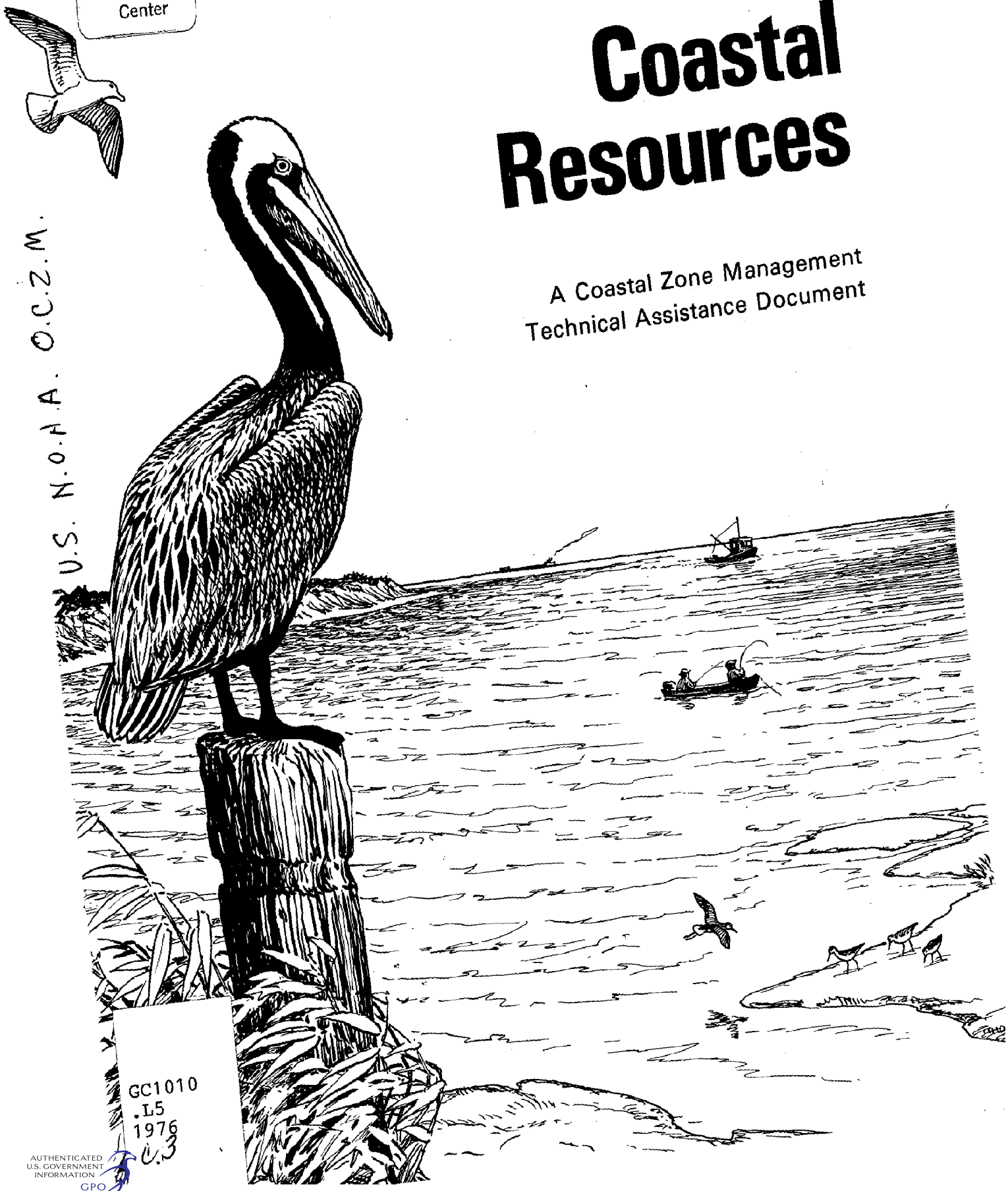

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Living Coastal Resources

A Coastal Zone Management Technical Assistance Document

Prepared by:
U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
And:
U.S. DEPARTMENT OF INTERIOR
U.S. Fish and Wildlife Service

For:
U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

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FOREWORD

The development and implementation of State Coastal Zone Management Programs under the Coastal Zone Management Act of 1972 will involve management of the myriad of coastal uses, such as industry, commerce, residential development, recreation and harvest of living resources. This process provides an outstanding opportunity to establish procedures that routinely achieve consideration of living resources in coastal zone decision-making. Implementation of the programs will provide many conservation advantages, the most important being protection, preservation, enhancement, restoration and improved management of living resources. The extent to which each State program has these advantages will reflect participation of living resources interests, including Federal and State fish and wildlife agencies, in the planning process for coastal zone management.

The National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (FWS) have prepared this report to describe living resource concepts and subjects important in the development of State Coastal Zone Management Programs and to identify sources of technical assistance available in FWS and NMFS. Although not a comprehensive procedural manual, it should be useful to the respective State coastal zone management planning agencies, Office of Coastal Zone Management (OCZM), State fish and wildlife agencies, FWS, NMFS, as well as other agencies and public and private interests, in their interpretations of the living coastal resources requirements of the Act and CZM Regulations.

The Office of Coastal Zone Management wishes to thank the FWS and NMFS for the time and effort required in the preparation of this document. We are also thankful to the many other Federal, State, and public reviewers who contributed their views to the process of preparation.

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TABLE OF CONTENTS

	Page
FOREWORD	i
GLOSSARY	iii
I. INTRODUCTION	1
A. The Coastal Zone Management Act of 1972 and Living Coastal Resources	1
B. Meeting the Act's Intent	2
C. Report Purpose	3
II. LIVING COASTAL RESOURCES AND THE COASTAL ZONE MANAGEMENT PROCESS	4
A. Process for Consideration of Living Coastal Resources	4
B. Ecological Principles	4
C. Living Coastal Resources Data Base	5
1. Importance of Systematic Inventories	5
2. Three Major Information Categories	5
3. Information Sources	7
D. Applications Within Coastal Zone Management Processes	10
1. Boundaries	10
2. Permissible Uses	12
3. Geographic Areas of Particular Concern	14
4. State-Federal Interaction and National Interest	17
5. Public and Government Involvement	18
6. State Authorities and Organization	19
III. SOURCES OF FWS AND NMFS TECHNICAL ASSISTANCE	21
A. U.S. Fish and Wildlife Service Programs	21
1. Programs and Technical Assistance Relevant to Coastal Zone Management	22
B. National Marine Fisheries Service	27
1. Programs Relevant to Coastal Zone Management	28
APPENDICES	
A. FWS and NMFS Authorities of Significance for Coastal Zone Planning	
B. Key Coastal Zone Management Contacts Within the U.S. Fish and Wildlife Service; Department of the Interior; National Marine Fisheries Service; Office of Coastal Zone Management	
C. The Coastal Zone Management Act of 1972, Section 305 Regulations, and Section 306 Regulations	

GLOSSARY

Areas for Preservation and Restoration: As set forth in Sec. 306(c)(9) of the Coastal Zone Management Act of 1972 and the CZM Regulations (15 C.F.R. 923.16), State programs must show evidence that standards and criteria have been developed and applied for designation of areas of conservation, recreational, ecological, or esthetic values for the purpose of preserving and restoring them.

Coastal Waters: As defined in Sec. 304(b) of the Act, coastal waters consist of: In the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, and estuary-type areas such as bays, shallows, and marshes. In other areas, those waters adjacent to the shorelines, which contain a measurable quantity or percentage of seawater, including, but not limited to sounds, bays, lagoons, bayous, ponds, and estuaries.

Coastal Zone: As defined in Sec. 304(a) of the Act, coastal zone means: The coastal waters (including the lands therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends in Great Lakes waters to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

CZM Regulations: Term used in this report to refer collectively to Section 305 Regulations (Issued November 29, 1973, pursuant to Sec. 305 of the Coastal Zone Management Act for the purpose of assisting States to develop management programs for coastal zone land and water resources), and Section 306 Regulations (Issued January 9, 1975, pursuant to Sec. 306 of the Act for the purpose of establishing: 1) criteria and procedures for review and approval of

State Coastal Zone Management Programs and 2) procedures by which coastal States may apply to OCZM for annual administration grants).

Habitat: The surroundings, conditions, and influences, both terrestrial and aquatic, natural for the life and growth of living coastal resources.

Geographic Areas of Particular Concern: As referred to in Sec. 305(b)(3) of the Coastal Zone Management Act of 1972 and addressed in the CZM Regulations, 15 C.F.R. Sec. 920.13 and 923.13, Geographic Areas of Particular Concern are specific land and water areas within the coastal zone which States designate for special management consideration, such as: 1) scarce or fragile areas of historical, cultural, or scenic importance; 2) essential habitats for living resources or areas of high productivity; 3) recreationally valuable areas; 4) areas needed to protect, maintain, or replenish coastal lands or resources, and 5) areas having great impact upon development because of weather hazards, competition for water use, unique geological or topographical conditions, or ready access to coastal waters.

Living Coastal Resources: A broad term for aquatic and terrestrial plant and animal life that inhabit marine and Great Lakes waters, estuaries, freshwater tributaries, wetlands, and adjoining upland areas of the coastal zone. The term applies primarily to fish, shellfish, wildlife, and the food organisms and other living components of their supporting habitats.

Permissible Uses: As addressed in Sec. 305(b)(2) of the Coastal Zone Management Act of 1972 and the CZM Regulations (15 C.F.R. Sec. 920.12 and 923.12), permissible uses are those land and water uses having direct and significant impact on the coastal waters for which each State must establish guidelines setting forth the conditions under which various uses or classes of uses may occur in the coastal zone.

I. INTRODUCTION

A. The Coastal Zone Management Act of 1972 and Living Coastal Resources

Sec. 302(c) and (d) of the Coastal Zone Management Act of 1972, hereafter referred to as the Act, state that

> " (c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space and public use, and shoreline erosion;
>
> (d) The coastal zone, and the fish, shellfish, other living resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;...."

On the basis of these and other findings, Congress established within this Act a National policy, "...to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations..." (Sec. 303(a)).

Implementation of the Act's provisions will have substantial positive effects upon living resources. The requirements for protection, restoration, and preservation within State Coastal Zone Management Programs will serve to perpetuate

these resources and their valuable social and economic uses. The requirements also present opportunities to further the objectives of existing Federal and State fish and wildlife management plans and programs (e.g., accommodation of identified needs for additional marine recreational access areas, as well as reduction of conflicting uses between fisheries and other coastal zone resources and activities, such as sand and gravel operations, and oil and gas development).

B. Meeting the Act's Intent

Implementation of the Act will be a complex, extended undertaking, involving the preparation of State Coastal Zone Management Programs for the coastal States, Great Lakes States, and territories of the United States. It includes such actions as participation by Federal, State, and local agencies and interests; formulation of comprehensive programs; representation of a balance of National, State, and local interests and values; resolution of conflicts; establishment of coastal management priorities; and definition and application of such things as boundaries, permissible uses, areas of particular concern, and areas for protection and restoration. Once the Programs are developed by the States and have been approved by the Secretary of Commerce, the subsequent implementation processes will also be complex and extended.

Meeting the Act's intent with respect to living resources within this overall process will be complicated by the generally imprecise knowledge of coastal ecology and shortages of basic resource information. Federal and State coastal zone planners should recognize that the process of developing State Programs, which successfully achieve preservation, protection, restoration, and better management of living resources, will require not only use of ecological principles, but a systematic gathering of resource information and its subsequent use in planning. Federal and State fish and wildlife agencies, as management authorities and principal sources of living resource information within their respective jurisdictions, should support coastal zone planning agencies in the planning and review and implementation stages, so that the maximum amount of relevant information on living resources will be brought to bear in the planning process.

C. Report Purpose

The purpose of this report is to provide guidance relevant to the consideration of living resources and their social and economic uses in the preparation of State Coastal Zone Management Programs. Chapter II is devoted to living resource aspects that should be considered in State Program development. Chapter II materials are important because they summarize a broad range of subjects and actions that must be addressed within the Programs to achieve protection, preservation, restoration, and enhancement. Chapter III describes technical assistance available from FWS and NMFS for Coastal Zone Management planning. Specific points of contact within these two agencies and OCZM are identified. The report is not a procedural manual, and, because of the varying nature of living resources and their habitats, included examples are illustrative and should not be interpreted as all inclusive.

II. LIVING COASTAL RESOURCES AND THE COASTAL ZONE MANAGEMENT PROCESS

A. Process for Consideration of Living Coastal Resources

Balanced consideration of living resources within the Coastal Zone Management planning process requires two major inputs. First, ecological principles should be recognized as fundamental concepts for managing living resources and their habitats. Second, a data base of biological, economic, and social information about living coastal resources should be compiled and evaluated. The principles and the data base must be integrated into the planning process to develop those portions of the State Programs which reflect these parts of the Act's intent for protection, preservation, restoration, and management of living resources.

The following sections address matters important to consideration of living resources in the process. Section B discusses the use of ecological principles as planning concepts, while Section C discusses the living resource data base. Section D in turn relates ecological principles and the data base to provisions of the Act and the CZM Regulations.

B. Ecological Principles

Ecological principles should be used as the planning bases for living resource consideration and management of their associated social and economic values. For example, the principle of ecosystem integrity 1/, stating that no one

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1/ Clark, John, 1974. Coastal ecosystems. Ecological considerations for management of the coastal zone. The Conservation Foundation, Washington, D.C., in cooperation with National Oceanic and Atmospheric Administration, Office of Coastal Environment, p.x.

part of an ecosystem operates independently of any other part, is demonstrated by the fact that man-caused changes to coastal lands alter the character of adjacent waters, their biota, and human uses. Integration of this principle into State Programs will enhance the capability of Program plans, policies, and procedures to identify and evaluate impacts upon the ecosystem prior to final judgements concerning proposed changes. Clark identifed 11 examples of coastal zone ecological principles, which are listed in table 1.

C. Living Coastal Resources Data Base

1. Importance of Systematic Inventories

The success of managing living resources through State Programs will depend largely on information available for planning. Thus, it is important that systematic inventories be made to marshall relevant biological, economic, and sociological information.

In many cases, however, data needed for coastal zone management planning are incomplete (e.g., information on such subjects as the location and size of important fish spawning and nursery areas, and the associated long-term food and recreational values of these fish). As part of implementing Coastal Zone Management Programs, significant gaps in the data base should be identified and positive actions taken to fill them.

2. Three Major Information Categories

The biological, economic, sociological, and statistical data base can be categorized as that relevant to:

(a) management of important plant and animal populations;
(b) identification and management of significant habitats;
(c) and establishment and management of living resource use zones.

Table 1.-- Examples of ecological principles relevant to the coastal zone planning process (from Clark, 1974)

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1. Ecosystem Integrity - No one part of an ecosystem operates independently of any other.

2. Linkage - Water provides the essential linkage of land and sea elements of the coastal ecosystem.

3. Inflow - The natural volume, pattern, and seasonal rate of fresh water inflow provides for optimum ecosystem function.

4. Basin circulation - The natural pattern of water circulation within basins provides for optimum ecosystem function.

5. Energy - The flow and amount of available energy governs life processes within the coastal ecosystem.

6. Storage - A high capability for energy storage provides for optimum ecosystem function.

7. Nitrogen - Productivity in coastal waters is normally governed by the amount of available nitrogen.

8. Light - The natural light regime provides for optimum ecosystem function.

9. Temperatures - The natural temperature regime provides for optimum ecosystem function.

10. Oxygen - High concentrations of dissolved oxygen provide for optimum ecosystem function.

11. Salinity - The natural salinity regime provides for optimum ecosystem function.

Table 2 presents these three categories of information with examples at the level of resource specificity which should be considered during Program development. These three categories frequently overlap owing to the interrelationships among coastal animals and plants, their habitats, and human uses. For example, coral relates appropriately to all three categories, since coral reefs are in various places managed for important multiple uses, managed as significant habitat zones, or designated as protected or controlled use zones.

3. Information Sources

Federal and State fish and wildlife agencies are particularly important sources of advice and information on living resources. In addition to being repositories for basic resource information, these agencies develop and implement Statewide and local fish and wildlife management plans and programs. They also participate in the development of National and regional interagency water resources plans, which result in recommendations and actions regarding coastal resource management, preservation, protection, and restoration. For example, the cooperative State-Federal South Atlantic Shrimp Plan, developed by four southeastern State fish and wildlife agencies and NMFS, presents a long-term management program for South Atlantic shrimp. This plan identifies adverse consequences upon shrimp habitats of dredging, filling, channelization, flood control projects, and pesticides. The plan emphasizes the need to enforce State and Federal water pollution regulations and to carry on coastal zone management activities that will minimize long-term adverse effects upon shrimp resources. Other examples of plans include those for Federal and State wildlife refuge management and acquisition, and national and flyway waterfowl management. These plans and programs should be identified and evaluated, and their goals and objectives considered in the development of State Coastal Zone Management Programs.

Table 2.--Three categories of information, with examples of subjects that should be considered in State coastal zone management programs

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CATEGORY I: Information relating to locally, regionally, or nationally important animal and plant populations.

- bird populations, pelagic (kittiwakes, phalaropes, shearwaters)
- bird populations, coastal (gulls, ospreys, rails, terns, waterfowl)
- endangered species populations (bald eagles, brown pelicans, leatherback turtles, manatees)
- fish and shellfish populations, commercial (menhaden, king crab, salmon, shrimp)
- fish and shellfish populations, recreational (blue crab, bluefish, razor clams, seatrout, striped bass)
- furbearers (mink, muskrat)
- kelp beds (herring spawning, sea otters)
- marine mammal populations (sea otters, seals, walruses)

CATEGORY II: Information relating to management of habitats significant to the life history stages of important animal and plant populations.

- anadromous fish habitat and migration pathways (Atlantic salmon, striped bass)
- barrier islands and dunes (protection of wetlands and associated flora and fauna)
- beaches (sea turtle nesting sites)
- coral reefs (marine coral reef communities)
- endangered species habitats (Aleutian goose, Key deer, shortnosed sturgeon)
- grass beds (seatrout habitat areas, substrate stabilization)
- marshes, swamps (detritus production, natural tertiary water treatment)
- natural drainage and energy storage areas (needed for maintenance of existing populations and habitat)
- nesting areas (coastal bird rookeries)
- nursery areas (estuary-dependent species)
- shellfish beds (hardshell clam, oysters)
- shoreland habitat (furbearers, waterfowl)
- spawning areas (intertidal salmon spawning)
- tidal flats (baitworm production, fish feeding areas)
- wetlands (furbearers, waterfowl)

CATEGORY III: Information relating to establishment and management of living coastal resource use zones.

- aquaculture areas
- commercial fishing areas
- hunting areas
- marine, estuarine and Great Lakes sanctuaries
- marine, recreational access areas
- nature conservancy districts
- recreational fishing areas
- waterfowl and migratory bird refuges
- wildlife refuges, ranges

Other important sources of living resource information include universities and colleges, libraries, consultants, and various Federal and State resource agencies. Examples of Federal agencies include Bureau of Land Management, National Park Service, Bureau of Outdoor Recreation, U.S. Corps of Engineers, Environmental Protection Agency, components of the National Oceanic and Atmospheric Administration (Environmental Data Service, Environmental Research Laboratories, Marine Environmental Survey and Assessment Program, National Environmental Satellite Service, National Ocean Survey), and the U.S. Coast Guard.

D. Applications Within Coastal Zone Management Processes

This section addresses the application of the living resources data base and other factors in implementation of the Act and the CZM Regulations.

1. Boundaries

The Act defines the terms coastal zone and coastal waters, whereas the CZM Regulations outline elements for identifying boundaries of the coastal zone. These elements include:

- determination of the inland boundary required to control, through the management program, shorelands, the uses of which have a direct and significant impact on the coastal waters
- determination of the extent of the territorial sea, or where applicable, of State waters in the Great Lakes
- identification of transitional and intertidal areas, salt marshes, wetlands, and beaches
- identification of all Federally owned lands, or lands that are held in trust by the Federal Government, its officers and agents in the coastal zone and over which a State does not exercise any control as to use.

This section addresses considerations of living resources having special significance in boundary determination.

(a) Living Coastal Resources Consideration - Boundary setting procedures should reflect protection, preservation, and restoration of living resources. Regardless of the criteria used, the principle of ecological integrity (e.g., alteration of the system at one point may adversely impact other locations, such as downstream effects of upstream land use changes) should be considered. There are definite advantages in adopting biophysical criteria for boundary determination, since they can be used to accommodate such things as natural biogeochemical cycles (which should be protected or managed to avoid damage to important habitats). Natural biophysical boundaries often reflect the distribution of major habitats and biological communities in the coastal zone. Application of biophysical criteria will result in objective determination of boundaries, since the distribution and functional relationships of many organisms in coastal areas do not recognize political boundaries.

(b) Management Continuity - There is a need to provide consistent management programs in instances where existing or proposed boundaries would bisect important habitat areas. This consideration is important at interstate boundaries where coordinated arrangements are appropriate to ensure adequate consideration of living resources. For example, States that share an important coastal area, such as an extensive salt marsh that supports an endangered species, should develop coordinated management plans for that area. Another example involves anadromous species (e.g., salmon, striped bass, sturgeon) which have spawning areas in the tidal freshwater reaches of estuary river systems. Effective control over such species and habitats requires management continuity across boundaries.

2. Permissible Uses

The Act requires each State Program to have a definition of what shall constitute permissible land and water uses that directly and significantly impact on coastal waters (Sec. 305(b)(2)). Programs must also include broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority Sec. 305(b)(5)).

(a) Permissible Use Designation - Permissible use designation is a critical stage in the planning process, since each State will use this designation to establish guidelines and subsequently policies, procedures, and conditions, under which various uses or classes of uses will be permitted within the coastal zone. According to the CZM Regulations, 15 C.F.R. 923.12, these guidelines should be based upon methods which include:

- an inventory of natural and manmade coastal resources,
- analyses or establishment of methods for analysis of,

  i) "The capabilities of each resource for supporting various types of uses (including the capacity for sustained and undiminished yield of natural resources).
  ii) The suitability for such resource utilization when evaluated in conjunction with other local, regional, and state resources and uses.
  iii) The impact of various resource uses upon the natural environment (air, land and water)."

In designating permissible uses and establishing policies that address the priority of uses in coastal areas, planners should focus on those

parts of the Act's intent for protection, preservation, and restoration of living resources, habitats, and their uses. These factors should also be considered in the development of administrative procedures and documents (e.g., criteria, standards, and regulations that establish conditions for permissible uses in the coastal zone.

(b) Permissible Use Impacts - Impact significance is associated with the extent of biological, social, and economic change resulting from an action. Examples of significance taken from the Council on Environmental Quality Guidelines 2/ include actions that: 1) result in degradation of the quality of the environment; 2) curtail the range of beneficial uses of the environment; and 3) serve short-term, to the disadvantage of long-term, environmental goals.

The following classes of impacts, identified in the National Estuary Study have been found particularly destructive to living resources 3/ and should be included to evaluate which specific uses should be established as Permissible Uses.

filling	turbidity increases
deepening	noxious odor
obstruction	tributary flow control
shoaling	saltwater barriers

2/ Council on Environmental Quality, 1973, Guidelines for preparation of environmental impact statements. Federal Register 38, (147-pt. II): 20550-20562.

3/ United States Department of Interior, Bureau of Sport Fisheries and Wildlife and Bureau of Commercial Fisheries, National estuary study, 1970, 2:149.

segmentation	freshwater conversion
habitat isolation	substrate modification
wetland drainage	oil pollution
wetland flooding	thermal pollution
bulkheading (dike, levee)	sewage pollution
freshwater diversion	industrial waste pollution
tidal intrusion	agricultural waste disposal
circulation modification	solid waste disposal
excessive fertilization	pesticide pollution
fertility reduction	

For example, power plant construction and operation, oil exploration and development, and logging involve a number of these classes and thus directly and significantly impact the coastal zone.

(c) Coastal Dependency - Dependency of uses for siting on or near coastal waters should be considered in developing policies and procedures to regulate Permissible Uses. Many uses with documented adverse impacts upon living resources depend on coastal locations. Certain other uses, such as residential housing developments and high-rise condominiums, are not dependent on the coast or water and in areas where adverse impacts would occur should be considered for inland or other alternative siting.

3. Geographic Areas of Particular Concern

The Act, while noting the importance of the entire coastal zone, states that certain areas need special attention. The Act requires that each State make "an inventory and designation of areas of particular concern within the coastal zone" (Sec. 305(b)(3)), and that provisions be made for "procedures whereby specific areas may be designated for the purposes of preserving or restoring them for their conservation, recreational, ecological, or esthetic

values" (Sec. 306(c)(9). CZM Regulations also provide the following guidelines regarding designation (15 C.F.R. 923.13(a)):

(1) Areas of unique, scarce, fragile or vulnerable natural habitat, physical feature, historical significance, cultural value, and scenic importance;
(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and the various trophic levels in the food web critical to their well-being;
(3) Areas of substantial recreational value and/or opportunity;
(4) Areas where developments and facilities are dependent on the use of, or access to, coastal waters;
(5) Areas of unique geologic or topographic significance to industrial or commercial development;
(6) Areas of urban concentration where shoreline use and water uses are highly competitive;
(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.;
(8) Areas needed to protect, maintain or replenish coastal lands or resources, including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

Once these areas are designated, States are required to provide policies or actions to manage the Geographic Areas of Particular Concern (15 C.F.R. 923.13(b)).

In addition, it is necessary that "the management Program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values" (Sec. 306(c)(9)).

(a) Living Resources and Geographic Areas of Particular Concern - Regardless of the purpose for designation, nearly all of the areas cited under 15 C.F.R. 923.13(a) include features of importance to living resources and their associated economic and social values. Examples of unique, fragile,or vulnerable habitats include coral reefs, salt marshes, kelp beds, waterfowl staging areas, and promontories used by marine mammals and birds. Areas of high natural productivity or essential habitat include estuaries, areas of upwelling, eelgrass beds, coastal fresh- and brackish-water marshes, and oyster reefs. Areas of substantial recreational value include coastal barrier islands and sport fishing areas. Areas needed to protect, maintain, or replenish coastal lands or resources include some coastal flood plains, deltas, mangrove stands, and hardwood swamps. Management plans for Geographic Areas of Particular Concern should reflect the need for protection, preservation, and restoration of these resources.

Ecological principles (see table 1) should be particularly useful in delineating minimum boundaries for successful management. Boundary selection should allow for essential ecological and human use features, such as buffer zones, access points, natural drainage areas, and natural energy storage zones needed to accomplish each area's designated purposes. Existing or potential external sources of adverse effects should be identified (e.g., undesirable downstream effects due to headwater pollution), and their controls should be designed as part of each plan.

(b) Areas of Preservation and Restoration - The Act states that some Geographic Areas of Particular Concern may be designated as Areas of Preservation and Restoration. Habitat areas

of outstanding or potentially outstanding resource and social value should be considered in area designation and in the development of management objectives, policies, and procedures. Particular emphasis should be given to areas in imminent and potential danger of destruction and degradation; areas with important public hunting, commercial and recreational fishing, and scientific value; and degraded areas of historically high productivity or value, such as shellfish beds and nursery and spawning grounds.

4. State-Federal Interaction and National Interest

(a) Cooperation - States have the predominant Coastal Zone Management responsibility under the Act, yet no single level of government can carry out the task adequately. There remains a shared responsibility calling for a partnership of local, State, and Federal entities. A substantial burden is placed on the States to obtain Federal involvement, as well as local government participation.

The Act and CZM Regulations specify key charges to Federal agencies to:

(1) cooperate and participate in furthering the purposes of the Act;
(2) assume key responsibility for articulating agency and national views;
(3) review and comment on programs before approval;
(4) seek mediation of serious disputes if they arise;
(5) seek consistency with approved State Programs.

At the same time, States are required to:

(1) provide for the opportunity of full participation by Federal agencies;
(2) demonstrate that the views of the Federal agencies have been adequately considered (e.g., letter, questionnaires, meetings).

(b) National Interest - The Act recognizes and makes provision for considering coastal zone management matters of National concern. This consideration takes form in the Congressional findings in Sec. 302 of the Act:

> "There is a National interest in the effective management, beneficial use, protection, and development of the coastal zone." (Sec. 302(a)); and

> "The management program provides for adequate consideration of the National interest involved in the siting of facilities necessary to meet requirements which are other than local in nature." (Sec. 306(c)(8)).

There is a substantial National interest in living resources of the coastal zone as well as their associated social and economic values. The missions, programs, and authorities of FWS and NMFS reflect this National interest.

5. Public and Government Involvement

The Act (Sec. 303(d)) declares it National policy "to encourage the participation of the public, of Federal, State and local governments, and of regional agencies in the development of coastal zone management programs." The implementing regulations (Sec. 306) interpret this statement of policy to mean:

> "It is the intent of these requirements for coordination with government and private bodies

to assure that the State, in developing its management program, is aware of the full array of interests represented by such organizations, that opportunity for participation was provided, and that adequate consultation and cooperation with such bodies has taken place and will continue in the future." (15 C.F.R. 923.30)

Many private organizations and citizen groups have both interest and expertise in values of living coastal resources and associated habitats. These include: commercial fishing associations and cooperatives; sportsmen organizations, ranging from city or county chapters to State-wide chapters of National organizations (e.g., National Audubon Society, National Wildlife Federation). Public review procedures developed as part of the State Programs should provide for coordination with these organizations and interests.

6. State Authorities and Organization

The State-Federal interactions discussed in Sections 4 and 5 have organizational implications. For example, implementation of the Act's consistency provisions will require development of State-Federal organizational arrangements and procedures. While not requiring detailed procedures, each State Program submission must include a description of the general intent and organizational responsibilities of the State in relating to Federal agencies. Program implementation will require that the State set forth the mechanism(s) whereby State and Federal agencies can continue to assess the National interest in the siting of facilities. Finally, State organizations should be responsive to inevitable modifications, refinements, and reactions to changing Federal laws, policies, and administrative practices.

A number of Federal laws and their associated procedures, which are summarized in Appendix A, relating to conservation of living coastal resources should be considered in the development of State Coastal Zone Management Program authorities and design of organizations. For example, the Fish and Wildlife Coordination Act requires routine participation by Federal and State Fish and Wildlife agencies in review of certain coastal developments (e.g., Corps of Engineers Section 10 and Section 404 permit applications, Environmental Protection Agency, National Pollution Discharge Elimination System permit applications, and Federal water resource development projects). The extent to which these existing authorities and procedures may interact with, overlap, or duplicate proposed State Program authorities, organizations, and procedures should be considered.

III. SOURCES OF FWS AND NMFS TECHNICAL ASSISTANCE

FWS and NMFS constitute the Federal fish and wildlife agencies. FWS administers Federal programs for sport fish (excluding migratory marine species), water fowl and other birds, terrestrial and marine mammals (manatees, polar bears, sea otters, and walruses), and certain endangered species. NMFS administers analogous programs on commercial fish, migratory marine sport fish, marine mammals (porpoises, seals, sea lions, and whales), and certain endangered species. Both agencies have capabilities and information available for use in developing State Coastal Zone Management Programs. The following two sections identify programs and activities relevant to coastal zone planning. Appendix B identifies key points of contact in these two agencies.

A. U.S. Fish and Wildlife Service

FWS carries out coastal zone and Great Lakes programs of importance to coastal zone planning within the broad categories of fishery and wildlife resources and habitat conservation. Habitat conservation activities include evaluation and related research and monitoring of the effects of environmental change caused by habitat alteration, pollution, and other factors on the quality and quantity of natural ecosystems, as related to fish and wildlife resources and use. This involves participation in comprehensive planning for land and water use, assessment of how development projects initiated by Federal developmental and regulatory agencies affect fish and wildlife, actions to protect and enhance fish and wildlife habitats and associated ecological values, and preservation of unique ecosystems. Wildlife resource programs involve management of populations and habitats for migratory birds and those mammals and nonmigratory birds for which FWS has responsibilities. These programs encompass management operations aimed at producing and maintaining

wildlife resources both on and off Service-controlled lands. Fishery programs include technical assistance, research, enforcement, and other management activities related directly to developing and maintaining sport fishery resources.

1. Programs and Technical Assistance Relevant to Coastal Zone Management

(a) Land and Water Resource Development Planning Program - This program involves two main parts: The first is environmental impact analysis activities required by the Fish and Wildlife Coordination Act. This law requires that whenever the waters of any stream or other body of water are proposed or authorized to be controlled or modified for any purpose whatever, by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency must first consult with the FWS and the appropriate State fish and wildlife departments with a view toward conserving fish and wildlife resources. Reports and recommendations prepared pursuant to this requirement must be given full consideration in the plans, designs, and reports of the appropriate Federal agencies. Primary activities taking place within the Coastal Zone under this program particularly include reviews and reports on projects proposed to be permitted under Section 10 of the River and Harbor Act of 1899 and Sections 402 and 404 of the Federal Water Pollution Control Act Amendments of 1972, Federal Navigation Projects, Ocean Dumping Permits, and other activities subject to the procedural requirements of the Fish and Wildlife Coordination Act.

The second major part of this program consists of assistance given directly to appropriate agencies on comprehensive planning studies; areawide and regionwide resource studies; and unique area studies, such as those for Wilderness Areas, Natural Areas, and Wild and Scenic Rivers.

(b) Biological Services Program - This program involves research and planning directed to environmental issues and problems of critical importance to fish and wildlife. It is designed to provide improved ecosystems information, baseline data, planning and impact evaluation methods, and expertise. Biological Services Program Activities focus on methodologies and information that can be applied to evaluate specific projects or activities and not be actual project evaluations. The Program's objective is to provide improved ecological input to the Department of the Interior and other resource development programs and thereby improve FWS effectiveness in land and water resource development planning, environmental contaminant evaluation, and related programs. Specific areas of the program that have relevance to coastal zone management include the Coastal Ecosystems Project that focuses on environmental problems associated with tidal wetlands, beaches, islands, estuaries, contiguous ocean waters of the continental shelf, and shorelands of the Great Lakes. Emphasis is placed on ecological characterizations of large coastal areas (e.g., Chenier Plain, SW Louisiana) that will provide descriptive baseline information and a structured informational system of fish and wildlife resources.

Ecological data needs and analyses required by the Outer Continental Shelf Oil and Gas Development and Deepwater Ports are coordinated within the Coastal Ecosystems Project. Other projects in the program that have significance for Coastal Zone Management include the National Wetlands Inventory, and Power Plant and Biological Indicators Projects.

(c) Environmental Contaminant Evaluation (Biological Monitoring Program) - This program involves detection of trends in environmental quality as measured by chemical residues in selected fish and wildlife species, research

into the effects of environmental contaminants on fish and wildlife and their habitats, review and administration of FWS and FWS-sponsored pesticide uses, and provision of technical assistance related to environmental contaminants. An important element of this program in the coastal zone assists in identifying contaminated or declining bird populations and identifying of areas in the aquatic environment that are relatively uncontaminated.

(d) Migratory Birds Program - This program carries out mandates of the Migratory Bird Treaty Act, Migratory Bird Conservation Act, and Migratory Bird Hunting Stamp Act and includes such aspects as migratory surveys, research, migratory and habitat evaluation and acquisition, law enforcement, and development of annual hunting regulations and other regulations relative to game and nongame migratory bird species. Also the program is responsible for development of National waterfowl management plans, as well as comprehensive plans for other migratory species in coordination with State conservation agencies.

(e) Mammals and Nonmigratory Birds Program - This program includes certain activities related to wildlife species other than migratory birds and endangered and threatened species. Emphasis is placed on providing recreation of big-and small-game hunting that recognized the National demand for these resources. Close coordination with the States is exercised in comparing the existing and future estimates of demands and supplies of these resources so that elements of need can be identified that can be used to develop operational program priorities. A major effort is devoted to the prevention of establishment of nonindigenous species in the National Ecosystem. Management efforts focus on providing and encouraging productive habitats and compatible land uses for identified priority species and eliminating land uses that are inconsistent with the animals' ability to replace their numbers.

(f) Coastal Anadromous Fisheries Program - This program involves conservation, development, and enhancement of anadromous fish populations (i.e., those with spawning and juvenile growth in freshwater and maturation in marine waters). Principal activities include the identification of major spawning streams, critical nursery areas, and proposed recovery programs. An important function of the program is to provide anadromous fish through FWS-operated fish hatcheries, especially Atlantic salmon, steelhead, coho, and chinook salmon, to meet the needs of the FWS, the U.S. Army Corps of Engineers, National Marine Fisheries Service, and certain States. Technical assistance on anadromous fish is provided to Indians and Eskimos in the State of Alaska and Indians in the States of Washington and Oregon. Grant responsibilities are administered under the Anadromous Fish Conservation Act of 1965 as amended.

(g) Great Lakes Fisheries Program - This program includes management and research activities relating to improving the quality, abundance, productivity, and use of the Great Lakes Fishery resources. The program is carried out in cooperation with the International Great Lakes Fishery Commission, Canada, other U.S. Federal agencies, the eight Lake States, and commercial and sport fishing interests. The program includes Federal aid to the States, fish, fisheries, and lake environmental research, fish culture and fish disease control, and sea lamprey research and control. The research program is carried out at seven laboratories and biological stations including the Great Lakes Fishery Laboratory at Ann Arbor, the Hammond Bay Station on upper Lake Huron, and the Sandusky, Ohio, Station on western Lake Erie.

Fishes for the Great Lakes are raised at seven National fish hatcheries, which provide most of the lake trout stocked in U.S. waters.

(h) Endangered Species Program - This program consists of activities directly related to preservation or restoration of both animal and plant species, subspecies, or populations listed by the Secretary of the Interior as endangered or threatened and all activities related to the determination and listing of candidate species or groups, as well as those activities related to the delisting process. It includes grant responsibilities under the Endangered Species Act of 1973.

The program aids in the identification of species occupying the coastal zone, critical habitats, and the development of recovery plans. Under this program assistance is available in the interpretation of prohibited acts and restrictions. There is the administration of permits that relate to economic hardship and scientific or propagation purposes.

Of the listed endangered species in the coastal zone, FWS has jurisdiction over the American alligator, American crocodile, short-tailed albatross, Hawaiian dark-rumped petrel, brown pelican, Layson duck, Aleutian Canada goose, southern bald eagle, American peregrine falcon, arctic peregrine falcon, Mississippi sandhill crane, whooping crane, California clapper rail, light-footed clapper rail, California least tern, Cape Sable sparrow, dusky seaside sparrow, Morro Bay kangaroo rat, salt marsh harvest mouse, Florida panther, Columbian white tail deer, Key deer, red wolf, and West Indian manatee.

(i) Grants-In-Aid (Federal Aid) Program - This program consists of the administration of Federal aid in fish and wildlife restoration grant programs, which provide for management of fish and

wildlife resources through Federal financial assistance to States and revenue-sharing payments made to counties via the National Wildlife Refuge Fund. Technical assistance is given those exercising management control over land and water resources. The assistance includes analysis and advice on management practices, land use planning, and environmental quality, for the purpose of substantially improving the preservation, production, and use of fish and wildlife in the interest of the public. Research is undertaken to supply new information about fish and wildlife, their environments, their uses and their users, and new methods for management of those resources. Land is acquired to gain possession of lands, waters, or interest therein, by purchase, condemnation, lease,or gift. In the area of development, the program has the objective of the improvement of real property through construction of works and facilities and the alterations of soil, water, vegetation, and living resource populations. Other activities include hunter safety, resource survey, and maintenance of capital improvements.

B. National Marine Fisheries Service

NMFS carries out a variety of activities to discover, describe, develop, and conserve living marine (including estuarine and anadromous) resources within the broad categories of resource management, research,and utilization. These activities include such things as biological research on economically and socially important species, analyses of economic aspects of fisheries operations, development of methods for improving catches, and in cooperation with the U.S. Department of State, participation in international fisheries affairs. In cooperation with the U.S. Coast Guard, NMFS carries on enforcement and surveillance operations on the high seas and in territorial waters. NMFS studies marine game fish behavior and resources, seeks to describe ecological relationships between game fish and

other marine and estuarine organisms, and investigates how thermal and chemical modifications affect game fish. Also, NMFS participates in Federal environmental decision-making processes related to water resources and associated developments, including leasing of OCS lands for oil and gas development, participates in cooperative Federal-State fisheries management efforts leading to coordinated fisheries management actions over wide geographical areas, and carries out responsibilities under the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973.

1. Programs Relevant to Coastal Zone Management

(a) Environmental Assessment Program - The primary objective of this program is to conserve, protect, and enhance the marine, estuarine, and certain anadromous habitats of living marine resources. Activities involve consolidating NMFS expertise and applying it in cooperation with Federal, State, and local agencies involved in water resources planning and development, and conservation organizations and the general public to systematic participation in environmental decision-making. This program provides technical assistance to the resolution of discrete water resource problems. Considerable effort has been placed in Environmental Baseline Studies related to OCS oil and gas leasing and development. The program also supplies input to comprehensive water-use studies of national and regional significance. Efforts to prevent or reduce damage to the resource are promoted by reviewing and reporting on dredge and fill proposals, Environmental Protection Agency waste discharge and ocean dumping permits, Corps of Engineers permits for construction in navigable waters, environmental impact statements, Nuclear Regulatory Commission and Federal Power Commission license applications, and proposed activities including water resource development projects and leasing and development of OCS areas for oil and gas.

(b) Environmental Research and Investigations - NMFS programs of environmental and ecological research are conducted to determine factors influencing the production of living marine organisms and to establish baseline data in order to evaluate the ecological impacts of manmade and natural alterations. Also investigated are the cycling of pollutants through food chains and their effects on marine ecosystems and organisms, and the identification and definition of problem microconstituents in fish and fishery products. The program is directed toward understanding the physiological processes and basic requirements for life of important marine species. Studies include identification of the physiology of these animals and ascertaining their environmental requirements for reproduction, growth, and survival. Investigations of disease of marine animals are also in progress. In addition, research on the effects of contaminants is determining acceptable levels of pollutants in marine ecosystems.

(c) Fishery Management Program - Operating under the Fishery Conservation and Management Act of 1976, this NMFS program involves conservation and management of fisheries resources within the 200-mile U.S. fisheries conservation zone. Management authority extends beyond this zone with respect to anadromous species and Continental Shelf fisheries resources. Specific activities are directed to support of international management measures for highly migratory species, promotion of the U.S. commercial and recreational fishing industries, cooperative development of management programs for U.S. fish stocks, encouragement of the development of U.S. capabilities for harvesting and processing fish, and issuance of permits to foreign vessels. The program supports the activities of eight regional fisheries management councils, which are responsible for development of management plans and regulations for important fish stocks.

(d) Grant-In-Aid Program - NMFS administers a grant program that provides financial assistance to States and other non-Federal interests under the Commercial Research and Development Act of 1964, 16 U.S.C. 779-779f and the Anadromous Fish Conservation Act of 1975, as amended, 16 U.S.C. 757a-757f. Studies carried out under this program include: life history, abundance,and distribution of commercial species; collection and analysis of data on landings; aquaculture technology; identification of spawning streams and critical nursery areas; and development of proposed recovery programs for anadromous fishery resources.

(e) Resource Assessment Program - The Marine Resources Monitoring, Assessment, and Prediction Program (MARMAP) is a National program that provides systematic assessments of the principal U.S. fish and shellfish stocks. Principal elements include resource surveys, analyses of commercial and recreational fish catches, fishery oceanography, and fishery engineering. Assessments of groundfish and pelagic fish populations are made by standardized sampling and subsequent studies of eggs, larvae, juveniles, and adults of the major stocks. This information is used to conserve stocks and to manage for optimal yields from other stocks. The stock assessments support the activities of the above-mentioned Fishery Management Program. They also support domestic management programs in cooperation with States in three interstate commissions and four State-Federal programs.

(f) Marine Recreational Fisheries Program - Conducted in cooperation with the coastal States, this Program is directed to increasing knowledge about marine recreational fish species and factors that affect their abundance, growth, and behavior.

To obtain information on fish migrations and abundance, NMFS cooperates with sport fishing organizations and the coastal States in fish tagging activities. Studies have been undertaken to examine the productivity of artificial reefs and the effects of manmade changes on recreational fishing. Statistical studies are underway in coastal areas to quantify the angler effort, catch by species, and certain economic factors. Technical information and advice are provided on locating and building reefs and other sport fishing facilities, locating and developing new or underutilized sport fisheries, developing new equipment and techniques, organizing workshops and forums for the exchange of information, and publishing materials designed to help fishermen enjoy their sport and properly care for and cook their catch.

(g) The Columbia River Fisheries Development Program - Authorized by the Mitchell Act of May 11, 1938, 16 U.S.C. 755-757, as amended, this program is a cooperative NMFS/FWS/State function with the major portion of the work being contracted to the States of Idaho, Oregon, and Washington. The program goal is to restore Columbia River populations of salmon and steelhead damaged by the construction of dams and other water development projects. The principal methods of restoration are the construction and operation of hatcheries, fishways, and fish screens. The program is financing the operations and maintenance of 21 fish hatcheries, 88 fishways, and over 500 fish screens.

(h) Aquaculture Program - This program involves research and planning to make commercial production of selected species economically feasible. Aquaculture-produced crops will be required to supplement the supply of traditional fish and shellfish resources that will be in short supply in the future. Ongoing research is directed at

improving natural stocks and supplementing catches for both commercial and recreational fishermen. Current work centers upon culture of bivalve mollusks, Pacific salmon, and penaeid shrimp.

(i) Marine Mammal Program - The NMFS Marine Mammal Program conducts various activities pursuant to its responsibilities for whales, porpoises, seals, and sea lions under the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. This Act has generally placed a moratorium on taking and importing marine mammals and their products. Responsibilities include recommendations concerning proposed waivers of the moratorium, issuance of permits for scientific research and public display, enforcement of the provisions of the Act, participation in negotiations with other nations for the protection and conservation of marine mammals, and Federal cooperation with the States in administering the Act. Activities include research programs on distribution, abundance, habits, and biology aimed at protecting and conserving porpoises, whales, seals, and sea lions. Research on porpoises has been directed principally at reducing porpoise mortalities and injuries which occur incidentally to tuna purse seining. Other primary goals are to collect data on porpoise populations in the eastern tropical Pacific and to establish the status of these populations.

(j) Endangered Species Program - This program involves administration of the Endangered Species Act of 1973, 16 U.S.C. 1531 et. SEQ., with respect to species under Department of Commerce jurisdiction. Of the listed endangered species, NMFS has jurisdiction over the shortnose sturgeon, blue whale, gray whale, right whale, humpback whale, bowhead whale, fin whale, sei whale, sperm whale, Mediterranean monk seal, hawksbill sea turtle (both Atlantic and Pacific), leatherback sea turtle, and

Atlantic ridley sea turtle. This Act prohibits, with certain exceptions, taking, importing, or exporting of endangered species and their parts or products. Responsibilities include issuance of permits for scientific purposes or enhancement of propagation or survival (thereby allowing exceptions to otherwise prohibited acts); recommending limited exemptions in order to minimize undue economic hardship; enforcement of the provisions of the Act and regulations adopted thereunder; protection of critical habitat; encouraging foreign countries to provide for the protection and conservation of endangered and threatened species; cooperating with States in administering the Act; identifying species occupying the coastal zone and critical habitats; and developing recovery plans.

(k) Fisheries Statistics Program - NMFS collects, stores, and publishes statistics on catches of the U.S. commercial fishing industry. Included are the volume and value of the commercial landings of fish and shellfish by species, region, State, and type of gear; number of fishing craft and gear operating in the fisheries; production of processed fishery products; employment on fishing craft and in wholesale and fish processing establishments; and per capita consumption of commercial fishery products. NMFS also collects and publishes statistics on catch and fishing efforts in the Nation's saltwater recreational fisheries.

(l) Pribilof Islands Management Program - The Fur Seal Act of 1966, 16 U.S.C. 1151-1187, charges the Secretary of Commerce with the management of the Northern fur seal and administration of the Pribilof Islands. NMFS supervises a harvest of male fur seals surplus to the needs for maintaining an adequate breeding population of the herds on St. Paul Island, Alaska, during a short period each summer in accordance with the terms of the convention on Conservation of North Pacific Fur Seals between the United States, Japan, Canada, and U.S.S.R.

(m) Economic and Marketing Research Program - This program serves the dual purpose of providing analytical support for the agency's policy and program functions, and providing economic analyses of market conditions for the fishing industry and consumer. Research consists principally of short- and medium-term studies directed toward economic aspects of issues related to extended fishery jurisdiction. Considerable effort is also devoted to improving the economic data base for the marine fishery with respect to cost and earnings of fishing vessels, marketing margins for fishery products, market structure of the fishing industry, analyses of demand for fishery products, international trade and fishery products, and economic value of activities associated with marine recreational fishing. Market research and other analyses of current events, including short-term forecast of market conditions, provide timely information on economic conditions affecting the fishing industry and consumer. Information is transmitted to the public through scheduled publications and special reports.

APPENDIX A

FWS AND NMFS AUTHORITIES

AND

ACTIVITIES OF SIGNIFICANCE FOR COASTAL ZONE PLANNING

FWS AND NMFS AUTHORITIES AND ACTIVITIES OF SIGNIFICANCE TO COASTAL ZONE PLANNING

LAW	NATIONAL OBJECTIVE	AGENCIES	ACTIVITIES
Anadromous Fish Conservation Act, 16 U.S.C. 757a-757f 1974, as amended	Conserve, develop, and enhance anadromous fishery resources & Great Lakes fish that ascend streams to spawn	FWS & NMFS	Agreements with States concerning activities, costsharing operation of facilities, and management and administration of lands and interests pursuant to the management of such fisheries. Conduct research, operate facilities, acquire lands, and perform similar activities in accordance with the purpose for which the Act was established.
Bald Eagle Protection Act, 16, U.S.C. 668-668a, as amended; Taylor Grazing Act, 43 U.S.C. 315, 315a, 315h, 315n	Protection of bald and golden eagles	FWS	Enforcement and administration of Act; develop habitat management plans for eagle management and establish protective regulations and contract stipulations.
Commercial Fisheries Research & Development Act of 1964, 16 U.S.C. 779-997f, as amended	Development of commercial fish resources.	NMFS	Provide grants to carry out projects of research on and development of the commercial fishery resources of the Nation.
Endangered Species Act of 1973, 16 U.S.C. 1531-1543	Conservation of fish and wildlife species threatened with extinction	FWS & NMFS	Develop and enforce regulations, land acquisition, cooperative agreements, and management agreements with states; provide financial assistance to states having cooperative agreements; develop permit systems covering activities not prohibited by the Act. Designate critical habitats; coordinate

			Federal agency activities to prevent critical habitat modification or destruction of species jeopardized by Federal actions.
Federal Aid in Fish Restoration Act of 1950, 16 U.S.C. 777-77k, as amended	Sport fish restoration projects	FWS	Administer grants for fishery research, land acquisition, development, maintenance, and fishery management projects.
Federal Aid in Wildlife Restoration Act of Sept. 2, 1973, 16 U.S.C. 669-669i, as amended	Wildlife restoration projects	FWS	Administer grants for wildlife research, land acquisition, development, maintenance, management, and hunter safety projects.
Fish and Wildlife Act of 1956, 16 U.S.C. 742a-754	Conservation and management of fish and wild-	FWS & NMFS	Authorize the use of funds for research, acquisition of refuge lands, development of existing facilities and other means to meet objectives.
Fish and Wildlife Coordination Act, 16 U.S.C. 661-666c, 1934, as amended	Protection of fish and wildlife habitats	FWS & NMFS	Both FWS and NMFS review and report on projects receiving Federal funds or those permitted under Sections 9 and 10 of the River Harbor Act of 1899, Section 402 and 404 of the Federal Water Pollution Control Act amendments of 1972, and other appropriate Acts.
Fishery Conservation and Management Act of 1976, P.L. 94-265	Conserve and manage U.S. fishery resources within 200-mile fishery conserva-	NMFS	Conduct international management for highly migratory species, promote U.S. commercial and recrea-

	tion zone. Management authority extends beyond 200-mile limit for anadroumous species and continental shelf fishery resources.		tional fishing industry, develop fish stock management plans, and encourage development of U.S. harvest and processing capabilities. Conduct biological fishery research on the impacts of pollution and wetlands and estuary degradation.
Fur Seal Act of 1966, 16 U.S.C. 1151-1187	Fur seal management	NMFS	Provide for management of the fur seal herd and administration of the Pribilof Islands. Also, implement the International Convention on the Conservation of North Pacific Fur Seals.
Marine Mammal Protection Act of 1972, 16 U.S.C. 1361, 62, 71-84, 1401-07	Management of marine mammal resources with an objective of maintaining the health and stability of the marine ecosystem.	FWS & NMFS	Develop and enforce regulations for taking or importing; issuance of permits for such activities; and grants to assist states in developing and implementing protection, research, and management programs. Cooperative agreements for delegation of administration and enforcement to states.
Marine Migratory Game Fish Act, 16 U.S.C. 760a, 760q, 1959, as amended	Marine game fish research	NMFS	Research on migration, identity of stocks, growth rates, mortality rates, variations in survival, and environmental influences including pollution, to develop wise conservation policies and constructive management.

Migratory Bird Conservation Act, 16 U.S.C. 715a-715s, 1929, as amended; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dkd-668, 1966; and other Acts authorizing National Wildlife Refuges (approximately 20 supplemental statutes)	Wildlife refuge acquisition and maintenance for conservation and management of migratory birds, endangered species, and associated specified purposes.	FWS	Provide on-site day-to-day management to assure that maximum benefits are obtained from a refuge in accordance with the purposes for which it was established.
Migratory Bird Treaty Act, 16 U.S.C. 701-711, 1918, as amended (Mexico, 1936; Japan, 1973)	Management of migratory birds	FWS	Develop and enforce protective regulations. Provide for management, research, cooperation, and information and education efforts with regard to migratory birds. Treaty with Japan provides for protection of migratory bird environment with respect to pollution.
National Environmental Policy Act of 1969, 42 U.S.C. 4321-4347	Productive and enjoyable harmony between man and his environment	FWS & NMFS	Review of other agency drafts of environmental impact statements with respect to adequacy of consideration for fish and wildlife resources. Preparation of impact statements concerning significant FWS and NMFS actions, such as proposals for wilderness areas, wildlife refuges, and various resource management regulations.
Predatory Mammal Control Program Act, 7 U.S.C. 426-426b, 1931	Control of crop livestock depredation by problem birds and animals	FWS	Conduct animal control programs. Such programs may be conducted on a cooperative basis; Bureau of Land Management must authorize such work on National Resource Lands.

Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776-776f, 1947, as amended	Preservation and extension of the sockeye salmon fisheries of the Fraser River system	NMFS	Protective regulations, enforcement of regulations, construction of salmon enhancement facilities, and extension of the sockeye and pink salmon stocks of the Fraser River System.
Waterfowl Depredations Prevention Act, 7 U.S.C. 442-446, 1956	Prevent damage to farmers' crops by migratory waterfowl	FWS	Provide grain to Federal, State, and local government bodies, and private individuals to minimize damage by migratory waterfowl.

APPENDIX B

KEY COASTAL ZONE MANAGEMENT CONTACTS

WITHIN

FWS, NMFS, AND OCZM

1. KEY CONTACTS WITHIN THE U.S. FISH AND WILDLIFE SERVICE

The following individuals have been designated by the Regional Directors of the U.S. Fish and Wildlife Service as the points of contact within their respective regions for coastal zone management purposes. These individuals have been appointed to the Secretary's Special Assistants' Intra-Departmental Field Coastal Zone Group.

Region 1 (Washington, Oregon, California, Hawaii, Guam)

Jay Watson, Coastal Ecosystem Activities Leader (Region)
P. O. Box 3737, 1500 N.E. Irving Street
Portland, OR 97208 (503/234-3361 Ext. 5263)

Gary Kline, Fish and Wildlife Biologist (Washington)
P. O. Box 1487
Olympia, WA 98507 (206/943-7200 Ext. 391)

Ronald Weaver, Fish and Wildlife Biologist (Oregon)
919 N.E. 19th Avenue
Portland, OR 97232 (503/243-3361)

Felix Smith, Field Supervisor, Ecological Services (California)
Room E-2727, Federal Office Bldg., 2800 Cottage Way
Sacramento, CA (916/484-4731)

Maurice Taylor, Area Supervisor, Ecological Services
821 Mililani Street
Honolulu, HA 96813 (808/546-5602)

Region 2 (Texas)

Joseph Higham, Field Supervisor
Room 327, U.S. Custom House
Galveston, TX 77550 (713/763-1211)

Region 3 (Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio)

Richard Huber, Stream Alteration Activity Leader
Federal Building, Fort Nelling
Twin Cities, MN 55111 (FTS 8/474-2914)

Region 4 (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana)

James Kirkwood, Coastal Ecosystem Activities Leader
17 Executive Park Drive, N.E.
Atlanta, GA 30329 (FTS 8/285-4671)

Region 5 (Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia)

Ralph Andrews, Coastal Ecosystem Activities Leader
U.S. Post Office and Courthouse
Boston, MA 02109 (FTS 8/223-2983)

Alaska Area

Melvin Monson, Fish and Wildlife Administrator
813 D Street
Anchorage, AK 99501 (907/265-4896)

2. KEY CONTACTS WITHIN THE NATIONAL MARINE FISHERIES SERVICE*

Director
National Marine Fisheries Service
Washington, D. C. 20235
202/634-7283

Regional Director, Northeast Region
National Marine Fisheries Service
Federal Building, 14 Elm Street
Gloucester, MA 01930

(Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Wisconsin)

Regional Director, Southeast Region
National Marine Fisheries Service
Duval Building, 9450 Gandy Boulevard
St. Petersburg, FL 33702
813/893-3141

(Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Texas, Virgin Islands)

Regional Director, Southwest Region
National Marine Fisheries Service
300 South Ferry Street
Terminal Island, CA 90731
213/548-2575

(American Samoa, California, Guam, Hawaii)

Regional Director, Northwest Region
National Marine Fisheries Service
1700 Westlake Avenue N.
Seattle, WA 98109
206/442-7575

(Oregon, Washington)

Regional Director, Alaska Region
National Marine Fisheries Service
P. O. Box 1668
Juneau, AK 99801
907/586-7221

(Alaska)

* The Regional Directors are the principal National Marine Fisheries Service contacts on CZM matters for coastal states within their respective regions.

3. KEY CONTACTS WITHIN THE OFFICE OF COASTAL ZONE MANAGEMENT Washington, D.C. 20235

Kathryn Cousins	Northeast Regional Coordinator 202/634-4235
Grant Dehart	Pacific Regional Coordinator 202/634-4235
Eileen Mulaney	Great Lakes Regional Coordinator 202/634-4235
John Sun	Middle Atlantic Regional Coordinator 202/634-4235
Carol Sondheimer	Southeast Regional Coordinator 202/634-4235
Richard Gardner	Deputy Assistant Administrator (Regional Coordination Overview) 202/634-4232

APPENDIX C

THE COASTAL ZONE MANAGEMENT ACT OF 1972, SECTION 305 REGULATIONS, AND SECTION 306 REGULATIONS

Public Law 92-583
92nd Congress, S. 3507
October 27, 1972

An Act

86 STAT. 1280

To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

Marine Resources and Engineering Development Act of 1966, amendment.

80 Stat. 998; 84 Stat. 865.

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

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DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such managament programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set

aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307(f).

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 307(g).

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program. Limitation.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for

review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

Grants, allocation.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

Expiration date.

(h) The authority to make grants under this section shall expire on June 30, 1977.

ADMINISTRATIVE GRANTS

Limitation.

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

Allocation.

(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

Program requirements.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration

Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and 80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone;

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

Program modification.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

Segmental development.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c)(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

Certification.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such

certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

Notification.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

42 USC 4231.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

Ante, p. 816.
81 Stat. 485; 84 Stat. 1676. 42 USC 1857 note.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such pro-

gram. shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

Financial assistance, termination.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

RECORDS

SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

ADVISORY COMMITTEE

Costal Zone Management Advisory Committee, establishment; membership.

SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

Compensation, travel expenses.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their

homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently. 80 Stat. 499; 83 Stat. 190.

ESTUARINE SANCTUARIES

SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed $2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section. Grants. Federal share.

ANNUAL REPORT

SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

RULES AND REGULATIONS

SEC. 314. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title. 80 Stat. 383.

AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) There are authorized to be appropriated—

(1) the sum of $9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed $30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed $6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

Approved October 27, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1049 accompanying H.R. 14146 (Comm. on Merchant Marine and Fisheries) and No. 92-1544 (Comm. of Conference).

SENATE REPORT No. 92-753 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 118 (1972):

Apr. 25, considered and passed Senate.

Aug. 2, considered and passed House, amended, in lieu of H.R. 14146.

Oct. 12, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 44:

Oct. 28, Presidential statement.

federal register

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THURSDAY, NOVEMBER 29, 1973

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PART V

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS

NOTICE OF FINAL RULEMAKING

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 920—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS

The National Oceanic and Atmospheric Administration (NOAA) on June 13, 1973, proposed guidelines (originally published as 15 CFR Part 960), pursuant to section 305 of the Coastal Zone Management Act of 1972 (Pub. L. No. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of defining the procedures by which States can qualify to receive development grants under section 305 of the Act and policies for development of their management program.

Written comments were to be submitted to the Office of Coastal Environment, National Oceanic and Atmospheric Administration before August 13, 1973, and consideration has been given these comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation. Present State and institutional arrangements for planning and regulating land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal State for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant). Once a coastal State has developed a management program it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible, under section 306, to receive annual grants for administering its management program (administrative grants).

The guidelines contained in this part are for grants under section 305 to develop a management program that will meet the requirements of section 306. Section 305 provides guidance as to what must be included in a management program while section 306 sets forth requirements that must be met before the Secretary can approve a State's management program for administrative grants. Participating States, therefore, must insure that the management program they develop under section 305 will meet the requirements of section 306. These guidelines incorporate some of the requirements of section 306. Guidelines for section 306 are being developed and will be published when available.

In general terms, section 305 requires a management program to include (1) the boundaries of the State's coastal zone; (2) a process pursuant to which permissible land and water uses which have a direct and significant impact on coastal waters are defined; (3) criteria for and designation of geographic areas in the coastal zone of particular concern to the State; (4) identification or establishment of the means by which the State, together with other levels of government, shall exert control over the land and water uses in its coastal zone; (5) designation of priority uses within specific geographic areas throughout the coastal zone; and (6) description of the organizational structure and intergovernmental arrangements sufficient to develop and maintain an effective and coordinated management process.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing procedures for applications to receive development grants under section 305 of the Act. The final regulations and criteria published herewith were revised from the proposed guidelines based on the comments received. A total of sixty-three (63) States, agencies, organizations and individuals submitted responses to the proposed section 305 Guidelines published in the FEDERAL REGISTER on June 13, 1973. Of those responses received, twelve (12) were wholly favorable as to the nature and content of the Guidelines as they appear in the FEDERAL REGISTER on June 13, 1973. Forty-one (41) commentators submitted suggestions concerning the proposed section 305 Guidelines.

The following analysis summarizes key comments received on various sections of the interim regulations and presents a rationale for the changes made:

1. Several commentators asserted that there was a need for further elaboration on the definitions contained under § 920.2. No changes were made in response to these comments since the present definitions allow the States to adjust their programs as local conditions require.

2. Sixteen comments were received on the necessity of submitting an Environmental Impact Statement as required by § 920.10(c). The National Environmental Policy Act, 42 U.S.C. 4332, and implementing regulations, 38 FR 20562, August 1, 1973, require an Environmental Impact Statement be prepared and circulated on:

(i) The environmental impact of the proposed action,

(ii) Any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) Alternatives to the proposed action,

(iv) The relationship between local, short-term uses of man's environment and the maintenance of enhancement of long-term productivity, and

(v) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(42 U.S.C. 4332 [C])

It is anticipated that such Environmental Impact Statements will be prepared by the Secretary, primarily on the basis of an environmental impact assessment and other relevant data, prepared and submitted by the individual States.

3. Several suggestions were made that the seven representative factors listed under § 920.13 be expanded to include renewable resource lands. The commentators expressed concern that this important area in the coastal ecosystem was not specifically identified. As a result of the concern expressed by the commentators, renewable resource lands are included in the list of representative factors which will assist in the designation of certain areas as being areas of particular concern.

4. The requirement that a "more comprehensive management program design" be submitted within 120 days after approval of the grant application has been amended under § 920.45(d). The final guidelines require that the management program design be submitted at the same time as the application for the initial grant. The reason for the above change is that the 120-day delay is not necessary and would serve as a potential source of confusion to the applicants.

5. Several comments received pertaining to § 920.14 recommended that NOAA emphasize the point that institutional questions should be raised early in the overall process. Commentators expressed concern that waiting until all the "technical work" is completed and the "plan" developed to consider the institutional vehicles for implementation would be a mistake that could forseeably delay the implementation of the plan. As a result of the comments received, language has been inserted to encourage the States to determine at an early stage whether or not legislation is needed.

6. There appeared to be general misunderstanding of the Public Hearing requirements cited under § 920.31. In order to clarify this section it has been rewritten. The present section emphasizes that "the key to compliance with the provisions of the Act is the assurance that the public has had an adequate opportunity to participate in the development of the plan."

7. Several comments received indicated a lack of understanding by several commentators as to the exact meaning of "segmentation" under § 920.44. To eliminate any misinterpretation, the term "geographic" has been inserted before the terms "segment and segmentation" as they appear in §920.44.

8. One commentator expressed concern over § 920.45(f) which required that where "a State chooses to reject (completed and approved regional and local) plans, it should be prepared to justify its actions as part of the management program." The above language has been amended to require a State "to advise the local government wherein" "its plan is deficient," rather than to "justify" its actions. The commentator argued that it would be inappropriate to establish a burden of proof for the States when it disagrees with actions of a regional or local body created by the State.

9. Several suggestions were made that the 15-day limit under § 920.47 be expanded. On the basis of the comments submitted, the time limit was expanded

to "30 working days." One commentator believed that this would afford the Secretary greater time and opportunity to thoughtfully respond to State requests pursuant to this section.

Accordingly, having considered the comments received and other relevant information, the Secretary concludes by adopting the final regulations describing the procedure for application to receive development grants under section 305 of the Act, as modified and set forth below.

Effective date. November 29, 1973

Dated: November 26, 1973.

ROBERT M. WHITE,
Administrator.

Sec.

Subpart A—General

920.1 Policy and objectives.
920.2 Definitions.
920.3 Applicability of air and water pollution control requirements.

Subpart B—Content of Management Programs

920.10 General.
920.11 Boundaries of the coastal zone.
920.12 Permissible land and water uses.
920.13 Geographic areas of particular concern.
920.14 Means of exerting State control over land and water uses.
920.15 Designation of priority uses within specific geographic areas throughout the coastal zone.
920.16 Organizational structure to implement the management program.

Subpart C—Research and Technical Support

920.20 General.
920.21 Approaches to research activities.

Subpart D—Public Participation

920.30 General.
920.31 Public hearings.
920.32 Additional means of public participation.

Subpart E—Applications for Development Grants

920.40 General.
920.41 Administration of the program.
920.42 State responsibility.
920.43 Allocation.
920.44 Segmentation.
920.45 Application for initial grant.
920.46 Approval of applications.
920.47 Amendments.
920.48 Application for second year grants.
920.49 Application for third year grants.

AUTHORITY: Sec. 305, Coastal Zone Management Act of 1972 (Pub. L. No. 92-583; 86 Stat. 1280).

Subpart A—General

§ 920.1 Policy and objectives.

(a) This part establishes guidelines on the procedures to be utilized by coastal States to obtain development grants under section 305 of the Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280, and sets forth policies for the development of coastal zone management programs.

(b) Coastal zone management programs developed by the States shall comply with the policy of the Act; that is, the program must give full consideration to ecological, cultural, historic, and esthetic values, as well as to needs for economic development.

§ 920.2 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) The term "Act" means the Coastal Zone Management Act of 1972, Pub. L. 92-583, 86 Stat. 1280.

(b) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the U.S. territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion or which is held in trust by the Federal Government, its officers or agents.

(c) "Coastal waters" means (1) those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of seawater, including but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries; and (2) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.

(d) "Coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of these guidelines, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(e) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the seawater is measurably diluted with freshwater derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(f) "Secretary" means the Secretary of Commerce or his designee.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other permanent media of communication, prepared and adopted by the State in accordance with the provisions of these guidelines, setting forth objectives, policies, and standards to guide and regulate public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water within the coastal zone.

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone.

§ 920.3 Applicability of air and water pollution control requirements.

Notwithstanding any other provisions of this part, nothing in this part shall in any way affect any requirement (a) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (b) established by the Federal Government or by any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to these guidelines and shall be the water pollution control and air pollution control requirements applicable to such program.

Subpart B—Content of Management Programs

§ 920.10 General.

(a) The guidelines for section 305 of the Act have been structured to parallel the language and sequence of requirements in the Act. This approach has been followed to facilitate references to the Act. It is not required that this sequence be rigorously followed in developing the management program and in carrying out the specific tasks contained therein. It is anticipated and acceptable that the approach taken for development of programs will vary. These guidelines should not be interpreted as limiting State approaches or the contents of their management development grant applications.

(b) Section 305(b) required the inclusion of six elements in the initial development of State coastal zone management programs. These minimum requirements are set forth below with accompanying commentary that is designed to guide State responses to these key provisions of the management program development grant effort.

(c) It is anticipated that an environmental impact statement will be prepared and circulated on a State's management program prior to its approval by the Secretary of Commerce, in accordance with the terms of the National Environmental Policy Act and its associated administrative regulations. The Secretary will prepare and circulate an environmental impact statement on the basis of an environmental impact assessment and other relevant data, prepared and submitted by the individual States.

§ 920.11 Boundaries of the coastal zone.

Section 305(b)(1) requires the management program to include "an identification of the boundaries of the coastal zone subject to the management program." The definition of the coastal zone in the Act recognizes that no single geographic definition will satisfy the management needs of all coastal States, because designation of the coastal zone for management purposes must take into account the diverse natural, institutional, and legal characteristics that are subject to decisions made in fulfillment of other requirements of the Act and this subpart. Determination by a State of the extent of the coastal zone of that State land-

ward from the shoreline presents a very important conceptual and operational issue for State study, analysis, and decision. The following factors should be considered:

(a) In order to develop an orderly and effective management program, States my wish initially to delineate a planning area which generally is larger than, and encompa s the area ultimately identified as the coastal zone. Such a two-step procedure would enable a State to undertake planning studies and policy development for a relatively broad region aimed at a later final determination of the smaller coastal zone where specific land and water use controls, regulations, and active management activities will be applied. Demographic, economic, developmental, and biophysical factors and their analysis, which will largely determine State management activities in coastal waters and the landward and seaward areas and uses affecting them, are likely to be based upon data, programs, and institutional boundaries (such as counties or areawide agencies) that encompass geographic areas larger than the coastal zone designation. Specific coastal zone programming and regulation must take into account current developmental, political, and administrative realities, as well as biophysical processes, that may be external to the restricted zone eventually selected for direct management control.

(b) The coastal zone for management purposes extends inland only "to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." However, the States are encouraged to take early and continuing account of existing Federal and State land/water use and resource planning programs. In addition, States may wish to anticipate a national land-use policy, including its application in their State, unless the State coastal zone management program applies to the entire State. States may also wish to anticipate the desired coordination between the coastal zone and proposed land use or broad resource management programs. Examples of some related statewide policies and programs which will affect and should be considered in making determinations under the Act include: Energy policy, siting of power plants and other major water-dependent facilities, surface and subsurface mineral extraction controls, overall land and water conservation policies, and many others.

(c) Lands the use of which are by law subject solely to the discretion of, or which are held in trust by the Federal Government, its officers or agents are excluded from the coastal zone. However, section 307(c) of the Act requires Federal agencies conducting or supporting activities in the coastal zone to conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs. Furthermore, before the Secretary can approve a management program, he is required under section 307(b) to consider the views of Federal agencies principally affected by the management program. States having excluded Federal lands in coastal zone must indicate the manner in which they will coordinate with Federal officials administering such lands in the development of their management program.

§ 920.12 Permissible land and water uses which have a direct and significant impact on coastal waters.

Section 305(b)(2) of the Act requires that the management program include "a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on coastal water." In determining permissible uses, States should give consideration to "requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources." As stated in the declaration of congressional policy, these uses are to be managed "giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development." Developing indices for determining environmental and economic impact—beneficial, benign, tolerable, adverse—is the first essential analytical and policy step needed to give substance and clarity to those uses which are "permissible." Some of the factors involved in this determination include location, magnitude, the nature of impact upon existing natural or man-made environments, economic, commercial, and other "triggering" impacts, and land and water uses of regional benefit. In responding to this requirement, therefore, the following general types of study and evaluation should be undertaken utilizing existing data and available analysis where possible:

(a) Determining criteria and measures to assess the impact of existing, projected, or proposed uses or classes of uses on the identified coastal environments;

(b) Categorizing the nature, location, scope, and conflicts of current and anticipated coastal land and water use or classes of uses;

(c) A continuing compilation, verification, and assessment of the general characteristics, values, and interrelationships within coastal land and water environments.

In establishing permissible uses, States must also be cognizant of the requirement in section 306(c)(8) of the Act that the management program must provide "for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature." The State must have adequate processes for providing such adequate consideration.

§ 920.13 Geographic areas of particular concern.

Section 305(b)(3) of the Act requires that the management program include "an inventory and designation of areas of particular concern." The inventory and analysis of the States' total costal zone in § 920.12 should provide the basic data analysis, and criteria necessary to identify specific geographic areas of particular concern. It should be noted that geographic areas of particular concern are likely to encompass not only the more-often cited areas of significant natural value or importance, but also: (a) Transitional or intensely developed areas where reclamation, restoration, public access and other actions are especially needed; and (b) those areas especially suited for intensive use or development. In addition, immediacy of need should be a major consideration in determining particular concern. While the States will vary in their perceptions of what areas are of particular concern, criteria derived from assessing the following representative factors will assist in these designations:

(1) Areas of unique, scarce, fragile, or vulnerable natural habitat, physical feature, historical significance, cultural value, and scenic importance;

(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife, and the various trophic levels in the food web critical to their well-being;

(3) Areas of substantial recreational value and/or opportunity;

(4) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(5) Areas of unique geologic or topographic significance to industrial or commercial development;

(6) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(8) Areas needed to protect, maintain or replenish coastal lands or resources, such areas including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands.

This inventory and designation of geographic areas of particular concern will be of assistance in meeting the requirement in section 306(c)(9) of the Act which requires that the management program "make provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values."

§ 920.14 Means of exerting State control over land and water uses.

Section 305(b)(4) of the Act requires that the management program include "an identification of the means by which the State proposes to exert control over land and water uses referred to in (§ 920.12) including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions." A fundamental purpose of this legislation is to broaden the perspective by which decisions affecting the coastal zone are made to incorporate a statewide view. Congress in section 306(e) provided

three methods by which a State might carry out its management responsibilities in an acceptable manner. Section 306(e) of the Act provides:

(a) Prior to granting approval, the Secretary shall also find that the program provides:

(1) For any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(i) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(ii) Direct State land and water use planning and regulation; or

(iii) State administrative review for consistency with the management program of all development plans, projects, or land water use regulations, including exceptions and variance thereto, proposed by any State or local authority or private developer with power to approve or disapprove after public notice and an opportunity for hearings.

It is for the several States to determine the appropriate role of local governments in administering its coastal zone program. The Act recognizes that local governments are closest to those who will be most affected by a management program and that many sub-State units often can make a useful contribution to the development of the program. Section 306 requires that: Local governments and other interested public and private parties must have an opportunity for full participation in the development of the management program; the State has coordinated with local, areawide, and interstate plans; and, the State has established an effective mechanism for continuing consultation and coordination with local governments and other units to insure their full participation in carrying out the management program (e.g., advisory councils composed of representatives of local government).

(b) Some of the issues to be addressed in identifying the means by which a State will propose to exert its control include:

(1) Whether existing State powers and authority are sufficient to exert one of the three alternative means of control specified in section 306(e);

(2) What specific modifications or strengthened mandates would be needed to qualify the State under section 306(d) and (e);

(3) Whether a shared State-local or State-areawide regional consolidated regulatory system should be established.

It is important that the States determine at an early stage whether legislation is needed, and identify the elements of that legislation to meet the requirements in section 306(d) and (e). This requires that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, have authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(i) To administer land and water use regulations, control development in order to insure compliance with the management program, and to resolve conflicts among competing uses; and,

(ii) To acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means where necessary to achieve conformance with the management program.

The required listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions will, of course, be one foundation for analyzing and making decisions concerning the above issues and alternatives. In order to undertake the kinds of work outlined above, however, it will be necessary to go beyond a mere listing by preparing an assessment of current legal constraints or prohibitions, needed executive or legislative initiatives, and where required, to prepare the elements of any legislative program needed to establish a comprehensive and effective management program. There is room to exercise strengthened design and management imagination and creativity under this program for coastal zone management. While past research and planning efforts have often been limited by existing law, policy and practices, the Act encourages creative approaches to action programs for orderly development, and preservation or restoration of areas within the coastal zone for their conservation, recreational, ecological or esthetic values. Thus, the States are encouraged to consider innovative techniques or strategies that are now being tested and utilized both in the United States and elsewhere that they deem suitable to their management needs.

§ 920.15 Designation of priority uses within specific geographic areas throughout the coastal zone.

Section 305(b)(5) of the Act requires that the management program include "broad guidelines on priority of uses in particular areas including specifically those uses of lowest priority." This required element is closely tied to the requirements in §§ 920.12 and 920.13 and should build upon the States' findings and conclusions reached concerning "permissible uses" and areas of "particular concern." These decisions should assist the State in establishing preferred uses tailored to specific areas in its coastal zone. Priority guidelines will serve three essential purposes:

(a) To provide the basis for regulating land and water uses in the coastal zone;

(b) To provide the State, local governments, areawide/regional agencies, and citizens with a common reference point for resolving conflicts, and

(c) To articulate the States' interest in the preservation, conservation, and orderly development of specific areas in its coastal zone.

It should be noted that States will be expected to utilize all available information relating to characteristics of the coastal zone when planning for specific uses. For example, data on flood inundation at 100-year intervals should be examined to determine the feasibility or wisdom of construction on affected sites.

§ 920.16 Organizational structure to implement the management program.

Section 305(b)(6) requires a management program to include: "A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional and interstate agencies in the management process." One essential element of the organizational structure is the requisite State involvement in land and water use decisions in the coastal zone as set forth in § 920.14. Another, is the process of coordination by the State with local, areawide, regional and interstate agencies, in the development and administration of the management program. Guidance with respect to organizational structure is provided in section 306 (c) which requires that the Secretary, prior to granting approval of a management program, find that:

(a) The State has—

(1) Coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(2) Established an effective mechanism for continuing consultation and coordination between the management agency designated (by the Governor) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this Act.

(b) The management program and any changes thereto have been reviewed and approved by the Governor.

(c) The Governor of the State has designated a single agency to receive and administer the grants for implementing the management program.

(d) The State is organized to implement the management program required under paragraph (d)(1) of this section. Based on policies, management approaches, technical data, priorities and existing or potential powers and authorities developed by the State in §§ 920.11 through 920.15, the critical issues of organizational structure, administrative responsibilities and institutional arrangements must be resolved. While a detailed institutional structure for achieving the Act's objectives cannot be specified in advance of development of the management program, the agency designated, or to be designated, by the Governor to re-

ceive and administer management grants should have:

(1) Authority to correlate the activities of all State, local, areawide/regional or other entities in the coastal zone;

(2) Appropriate access to the Governor; and

(3) Requisite powers set forth in section 306 of the Act.

In addition, States should strengthen cooperative mechanisms for State-Federal consultation in key mutual areas of concern, particularly where Federal activities affect the coastal zone. Section 306 requires that the management program provide for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit. Cooperation among the various State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action, particularly regarding environmental problems and resource development in the national or regional interest, is encouraged.

Subpart C—Research and Technical Support

§ 920.20 General.

(a) It is clear that the process of developing (and operating) a management program for the coastal zone will necessarily involve frequent access to informational and research sources. In many cases, adequate understanding of questions such as dune stabilization, barrier beach dynamics, salt marsh productivity and estuarine circulation and flushing, to mention only a few, will be needed in order to develop successful management programs. Also, the process of inventorying and mapping the nature of a State's zone, and designation of areas of particular concern almost certainly will benefit from the application of technologies such as those employing remote sensing.

(b) A substantial number of sources for such information exist within Federal agencies, in universities, in State and Federal laboratories and research centers, and in the private sector. NOAA's Office of Coastal Environment, with the assistance of the Environmental Data Service, will endeavor to serve generally as a clearinghouse for specialized coastal zone technical information, and will issue pertinent publications on appropriate technical support available at least from Federal sources.

(c) Because some features of the coastal zone remain incompletely understood, States may find it necessary to act without all of the basic technical information that they require. The Office of Coastal Environment intends to identify unsolved coastal research problems and will seek to facilitate their solution. Monitoring programs established as part of the development of a management program may also, if properly designed, produce data which can be used to elucidate important coastal zone phenomena.

(d) It should be pointed out that the primary emphasis of the coastal zone management program is to create the mechanism for States to exert appropriate control over land and water uses and to begin the management process, not to engage in long-term research projects. Applications for management program development grants which contain substantial research elements will be carefully reviewed to assure that these elements are essential to the successful development of a State's management program and are an integral part of a comprehensive review of existing information relating to the management program. Clearly, the nature of this program will give preference to and encourage research in such applied activities as resource surveys, inventories, and determination of environmental carrying capacities.

(e) In developing their management programs, States should always endeavor to locate and utilize existing information and research sources to the extent applicable and available rather than undertaking unnecessary independent research or information gathering, as part of program development effectiveness. In this respect, the Office of Coastal Environment should ordinarily be initially contacted to ascertain what information and assistance it can provide.

§ 920.21 Approaches to research activities.

In addition to taking full advantage of the various sources of technical information found within the individual States, the States will also find that one of the important sources of technical information will be the various components of NOAA which support ongoing programs in coastal research and mapping, physical oceanography, and hydrography. Those elements of NOAA which States may wish to contact for assistance include:

(a) Office of Sea Grant: Supports a large program of university research aimed largely at coastal zone-related problems. Contact Office of Sea Grant, Pennsylvania Building, 425 13th Street NW., Washington, D.C.

(b) National Ocean Survey: Conducts a substantial inhouse effort on coastal mapping and charting, geodesy, hydrography, and related subjects. Contact National Ocean Survey, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

(c) National Marine Fisheries Service: Undertake biological and ecological research and other programs relevant to commercial and sport fisheries of all types. Contact National Marine Fisheries Service, Page Building 2, 3300 Whitehaven Street NW., Washington, D.C.

(d) Environmental Data Service: Monitors large quantities of environmental data of all types, including weather, oceanographic and earth sciences. Includes National Oceanic Data Center. Contact Environmental Data Service, National Oceanic and Atmospheric Administration, Page Building 2, 3300 Whitehaven Street NW., Washington, D.C.

(e) Environmental Research Laboratories: Conduct a wide ranging research program in the ocean and atmospheric sciences. Contact Environmental Research Laboratories, National Oceanic and Atmospheric Administration, Boulder, Colo. 80302.

(f) Office of Coastal Environment: Contains responsibility for administration of the Coastal Zone Management Act as well as a number of coastal environmental studies and manned underwater activity programs. Contact Office of Coastal Environment, National Oceanic and Atmospheric Administration, Rockville, Md. 20852.

(g) Other sources of information and resourses are:

(1) Research carried on by or for the U.S. Army Corps of Engineers;

(2) The Environmental Protection Agency has information on environmental programs and water quality studies and could be consulted for technical information and assistance in environmental pollution control problems and techniques;

(3) Department of Housing and Urban Development research program;

(4) Office of Water Resources Research, U.S. Department of the Interior;

(5) National Science Foundation—Research Applied to National Needs; and

(6) U.S. Geological Survey water and minerals resources investigations.

(h) In addition to the research activities cited above, there are many ongoing programs conducted by agencies at the State and Federal level which can provide technical assistance and should be utilized where appropriate. Inasmuch as further effort will be made to identify relevant Federal program, they are not described in detail here. They are, however, housed in such Federal agencies as:

Regional Economic Development Commissions,
Soil Conservation Service,
U.S. Geological Survey,
National Aeronautic and Space Administration,
Atomic Energy Commission,
Water Resources Councils and Associated River Basin Commissions.

(i) Finally, it is important to establish and maintain a relationship with the research community, designers, planners, decisionmakers, and managers. Because applied and basic research will be a continuing need in coastal zone management, States should review and develop explicit statements of their research needs and strengthen their contacts and involvement with the private and public research community, by taking a lead role in determining research and technical assistance priorities, continuing mutual project development activities and translation of scientific findings into information useful for managers.

Subpart D—Public Participation

§ 920.30 General.

Public participation is an essential element of development and administration of a coastal zone management program. Through citizen involvement in the development of a management program, public needs and aspirations can be reflected in use decisions for the

coastal zone, and public support for the management program can be generated. Participating States, therefore, should seek to obtain extensive public participation in the development and administration of a coastal zone management program.

§ 920.31 Public hearings.

Section 306(c)(3) of the Act requires that public hearings be held in the development of the management program.

(a) *Notice.* Notification of public hearing should provide the public the longest period of notice practical, but in no event should notice less than the 30-day statutory minimum be provided. Announcement of the hearings should be through media designed to inform the public—not merely to provide "technical notice." Therefore, in addition to any publication of legal notice as required by State law, reasonably informative news releases should be made available to the news media in the affected communities.

(b) *Access to document.* At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, the agenda for the hearing, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.

(c) *Number of hearings.* Where a State has determined that a public hearing or hearings will be held only on the entire plan, it shall assure that the public is afforded an adequate opportunity to participate in the hearings.

Where a portion of the plan has been developed prior to the effective date of this Act, the requirement for public hearings under this Act shall be satisfied if the State shows that hearings complying with requirements of this section have been held on such earlier developed portions of the plans, or if the State provides a full opportunity for public hearings on the plan prior to submission of the plan for approval under section 306. In reviewing the plan submitted by a State, the Secretary will not approve any plan unless there has been a full and effective opportunity for public involvement in every portion of the plan. The key to compliance with the provisions of the Act is the assurance that the public has had an adequate opportunity to participate in the development of a plan. More than one public hearing on the plan is not required: *Provided,* That a hearing is conducted prior to final adoption of the plan and members of the public are given adequate notice of the hearing and a full opportunity to effectively participate and make their views known at such a hearing.

(d) *Location of hearings.* Hearings should be held in those geographic areas which would be principally affected by the decisions on issues under consideration at the hearing, e.g., establishment of priority uses for a given geographic area. Hearings on the total management program should be held in places within the State where all citizens of the State may have an opportunity to comment.

(e) *Timing of hearings.* In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings are held when those populations most likely to be affected are present.

(f) *Report.* A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be prepared and made available to the public within 30 days after the conclusion of the hearing. A copy of these summaries shall accompany the management program when it is submitted to the Secretary for approval.

§ 920.32 Additional means of public participation.

Formal public hearings may not provide an adequate opportunity for information exchange. To insure that the public is heard during the development of the program, efforts should be made to encourage discussion in various forums of the subject matter of the hearings and to take other steps to insure that the public can participate in the process in a meaningful manner. The following are suggested to accommodate increased public participation:

(a) Establish arrangements for exchanging information, data, and reports, among State and local government agencies, citizen groups, special interest groups, and the public at large, throughout the development and administration of the coastal zone program.

(b) The State should provide, after notice, the opportunity of participation by relevant Federal agencies, State agencies, local organizations, port authorities and other interested parties both public and private.

(c) Develop mechanisms in addition to public hearings to allow citizens and the public at large to effectively participate in the coastal zone program. The following are examples of some of the components that may be used in the participation process:

(1) Citizen involvement in the development of the goals and objectives.

(2) Citizen appointment by the agency to a Citizen Advisory Committee.

(3) Establishment of processes to review component elements of the management program by selected citizen groups and the general public.

Subpart E—Applications for Development Grants

§ 920.40 General.

(a) The primary purpose of the development grant is to assist States in developing a comprehensive management program for their coastal zone. While the majority of the responsibility for developing a management program resides with the State, a State is permitted to allocate a portion of its grant to sub-State entities, or multi-State organizations, to assist in the development of a management program. At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in geographical segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided,* That the State adequately provides for the ultimate coordination of the various geographical segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable. Grants given to the State must be expended for the development of a management program that meets the requirements of the Act. The grants shall not exceed two-thirds of the costs of the annual programs. Federal funds received from other sources cannot be used to match these grants. No more than three annual management program development grants can be awarded to a State.

(b) Section 305(c) of the Act provides:

> In order to qualify for grants under this section, the State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of the Act. After making the initial grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the State is satisfactorily developing such management program.

§ 920.41 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

> Director, Office of Coastal Environment, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

§ 920.42 State responsibility.

(a) Applications for initial development grants must be submitted by the Governor of a coastal State or his designee.

(b) The application shall designate a single State official, agency, or entity, to receive development grants and have responsibility for the development of the State's coastal zone management program. The designee need not necessarily be that agency which will be designated by the Governor under the provisions of section 306(c)(5) of the Act as the single agency to receive and administer the grants for implementing the management program.

(c) A single State application will cover all program development activities, whether carried out by State agencies, areawide/regional agencies, local governments, regional or interstate entities.

§ 920.43 Allocation.

Section 305(g) allows a State to allocate a portion of its development grant to sub-State or multi-State entities. States must insure, in the development of the management program, that they de-

velop sufficient capability to administer the coastal zone management programs they are developing. If the State intends to allocate a portion of its grant, the application for a development grant shall set forth the manner in which a State plans to allocate any portion of its grant to sub-State units, multi-State units, or any other allocation. Requests for allocation will not be approved unless it is clearly demonstrated that the State is developing sufficient capabilities, and the work to be accomplished as the result of such allocations is integrated into the State's coastal zone management program development effort and will clearly contribute to the development of effective applications of State's policy in the coastal zone.

(a) *Areawide / Regional agencies.* Should the application indicate the desire of the State to allocate a portion of its management program development grant to an areawide/regional agency under the provisions of section 305(g) of the Act, in the absence of State law to the contrary, preference shall be given to those agencies recognized or designated as areawide/regional comprehensive planning and development agencies under the provisions of Office of Management and Budget circular No. A-95, under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or Title IV of the Intergovernmental Cooperation Act of 1968. The provisions of part IV, OMB circular No. A-95 dealing with the "Coordination of Planning in Multijurisdictional Areas" apply to the areawide/regional agencies designated as recipients of management program development grants under this Act.

(b) *Local government.* Should the application indicate the desire of the State to allocate a portion of its management program development grant to a local government under the provisions of section 305(g) of the Act, units of general-purpose local government are preferred rather than special-purpose units of local government, as provided in section 402 of the Intergovernmental Cooperation Act of 1968.

(c) *Interstate agencies.* At the discretion of two or more Governors of adjacent or related coastal States, coordinated management programs or research and planning efforts may be developed leading to the establishment of management programs for such interstate or multi-State areas. Such proposals for interstate cooperation and action shall be set forth in the application for each State together with the interstate funding arrangements proposed for the joint work. The States involved may designate interstate compact agencies, Regional Action Planning Commissions, river basin commissions, or an interstate areawide/regional planning agency to accomplish the management program development work for the coastal zone management area within each jurisdiction as they see fit. Applications for interstate management program development grants will not be accepted directly from interstate or multi-State agencies, but only from the individual States involved in the joint program.

§ 920.44 Geographical segmentation.

Authority is provided in the Act for a State's management program to be "developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs." Request by a State to develop and adopt a program in geographical segments is subject to the additional proviso that the State "adequately provides for the ultimate coordination of the various geographical segments of the management program into a single unified program and that the unified program will be completed as soon as it is reasonably practicable." Undue geographical segmentation creates the possibility of continuing the status quo without creating a comprehensive management program.

§ 920.45 Application for the initial grant.

The application for the initial development grant shall include but not be limited to:

(a) Identification of the designated official, the State agency or entity designated by the Governor to prepare and submit the State's management program and receive its development grant as well as the legal authority or other basis under which the lead agency or entity operates. It shall also indicate what other State agencies may be involved in the development of the management program and, if the State desires to allocate a portion of its grant to other governmental units, it should identify those units and set forth the work proposed to be accomplished by each unit so identified.

(b) A summarization of the State's past and current activities in its coastal zone, the current status of coastal zone management, and other activities.

(c) A discussion and ranking by general order of importance of the major coastal zone related problems and issues facing the State, as well as identification of the goals and objectives the State hopes to achieve by development of its coastal zone management program.

(d) A management program design detailing the work to be accomplished in the development of the State's coastal zone management program. The management program design serves as an outline for the State's plan of action for developing a management program and should include a projection of how the State will seek to meet the requirements set forth in subpart B of this part. In addition, the management program design should include:

(1) An identification of existing information and sources of information;

(2) A projection as to additional information which must be acquired;

(3) A description of methods to insure public participation;

(4) A description of the intergovernmental process by which the State intends to involve various levels of government in the development and implementation of the management program;

(5) A mechanism for coordination with agencies administering excluded Federal lands that are in the coastal land; and

(6) A tentative approximation of the boundaries of the State's coastal zone.

(e) Submission of an annual work program consisting of a precise statement of what is intended to be accomplished during the year. Such a statement will include:

(1) Identification of the plans, programs and studies to be produced.

(2) Definition of the major tasks needed to produce the plans, programs and studies.

(3) For each task, the following should be specified:

(i) Approach and techniques to be used,

(ii) Data and studies already available,

(iii) Manpower requirements,

(iv) Time schedule,

(v) Costs, and

(vi) Source of funds.

(f) Identification of any other State and Federal planning, programming, or activity which may have a significant impact on the State's coastal zone. Such planning, programming or activities includes work accomplished or to be undertaken by any State, areawide, local, regional or interstate agencies funded, in part or in total, by State or local money, with or without Federal assistance. Completed and officially approved regional and local plans provide invaluable input and guidance in the development of a State's coastal zone management program. It should be pointed out that where a State chooses to reject such plans, it should advise the local government wherein its proposed plan is deficient and clarify what needs to be done to correct the deficiency. The objective of this provision is to seek and achieve as complete coordination and integration as possible at the State level of all local, State and Federal programs that lead to the setting of policy or the development of public and private works, facilities or programs in the State's defined coastal zone. The Act provides in section 307(c)(1) that: "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is to the maximum extent practicable, consistent with approved State management programs." To this end, the application shall reflect, and the developed coastal zone management program will provide, methods to integrate the following types of programs and activities as they affect the coastal zone of the state: (1) Federally assisted planning development and management programs, such as but not limited to (the program numbers and titles listed below are those contained in the 1972 Catalog of Federal Domestic Assistance as published by OMB):

PUBLIC LAW REFERENCE		
Pub. L. 87-703; 91-343; 74-46.	Resource Conservation and Development.	(10.901)
Pub. L. 83-560...	Comprehensive Planning Assistance.	(14.203)
Pub. L. 88-578...	Outdoor Recreation State Planning.	(15.401)
Pub. L. 89-304; 91-249.	Anadromous Fish Conservation.	(15.600)
	Fish Restoration.....	(15.605)
	Wildlife Restoration.....	(15.611)
Pub. L. 74-292...	Historic American Buildings Survey.	(15.903)
Pub. L. 89-665...	Historic Preservation.....	(15.904)
Pub. L. 91-258...	Airport Planning Grant Program.	(20.103)
Pub. L. 90-495; 91-605; 89-574.	Highway Research Planning and Construction.	(20-205)
Pub. L. 91-453; 88-365.	Urban Mass Transportation Technical Studies Grants.	(20-505)
Pub. L. 89-80....	Water Resources Planning.	(65.001)
	Air Pollution Survey and Demonstration Grants.	(66.005)
	Solid Waste Planning Grants.	(66.301)
	Water Pollution Control Comprehensive Planning Grants.	(66.401)
Pub. L. 88-206; 89-272; 89-675; 90-148; 91-604.	Air Pollution Survey and Demonstration Grants.	(66.005)
Pub. L. 92-500...	Water Quality Management Technical Planning Assistance.	(66.023)
Pub. L. 89-272; 91-512; 93-14.	Solid Waste Technical Assistance, Training and Information Services.	(66.304)
Pub. L. 92-583...	Marine Protection Research and Sanctuaries.	

(2) Public works land acquisition and development projects conducted, proposed to be conducted, proposed to be conducted or assisted by a Federal agency, authorized and financed outside of the Federal programs listed above, such as activities conducted with respect to rivers and harbors, small watershed development, wastewater collection and treatment facilities, military reservations, wildlife refuges, park and recreation areas, improvements in navigation, flood control and so forth;

(3) Any Federally supported national land use program which may be hereinafter enacted as specified in section 307 (g) of the Act;

(4) Activities in the coastal zone stemming from the Rural Development Act of 1972;

(5) State programs dealing with land use controls in the coastal zone or other regulatory, licensing, permit or operating programs in the coastal zone including, but not limited to, activities such as mineral extracting, power plant siting and harbor construction.

§ 920.46 Approval of applications.

(a) The Secretary shall approve any application which he finds complies with policy and requirements of the Act and these guidelines.

(b) Should the Secretary determine that an application is deficient, he shall notify the applicant in writing and set forth in detail the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or other adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) The Secretary may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 920.47 Amendments.

Amendments to an approved development program must be submitted to, and approved by the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with Federal officials well in advance. It is recognized that, while all amendments must be approved by the Secretary, most such requests will be relatively minor in scope; therefore, approval by the Secretary may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 920.48 Applications for second year grants.

(a) Second year development grant applications will follow the procedures set forth in § 920.45: *Provided, however,* That the management program design and annual work program shall be updated to indicate the progress made toward the development of the State's coastal zone management program under the initial development grant and should in addition:

(1) Demonstrate how the past year's work activities and products contributed to the realization of management program development goals if such goals have not been fully realized. Either document the extent to which they have been met or present modified goals.

(2) Identify major constraints upon or problems encountered in establishing and implementing an adequate management program for the State.

(3) Reexamine and assess the development program's broad goals and measurable planning objectives; and

(4) Reexamine and, if necessary, revise management program design in light of emerging or continuing priority problems and opportunities.

(b) In evaluating whether a State is making satisfactory progress in the development of the management program to determine eligibility for the second year grant, the Secretary will consider among other things whether a State has completed:

(1) An analysis of the existing legal authority to exert control over land and water uses in the coastal zone;

(2) A description of the activities and authorities of the various agencies (State, local, regional, areawide or interstate) involved in activities or regulation of activities in the coastal zone; and

(3) An analysis of the existing or needed legal authorities with which the State believes it can insure compliance with coastal zone management program, resolve conflicts among competing uses, and acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(4) This analysis will permit a State to determine what legislative action will be needed to qualify under section 306 of the Act. States may propose alternate standards of accomplishment for consideration by the Secretary in determining "satisfactory progress" towards completion of the management program.

§ 920.49 Application for third year grants.

(a) The general requirements set forth in paragraph (a) of § 920.46 shall apply to review of the application for the third year development grant.

(b) In evaluating whether a State is making satisfactory progress in development of the management program to determine eligibility for the third year grant, the Secretary will consider among other things whether a State has completed:

(1) Identification of the boundaries of the coastal zone;

(2) Development of a process by which permissible land and water uses having a direct and significant impact upon coastal waters can be defined; and

(3) Criteria for designating geographical areas of particular concern. Accomplishment of these tasks will put the State in a position to provide guidelines on priority of uses in particular areas and allow a State to complete development of its management program by the end of the third year. States may propose alternate standards of accomplishment for consideration by the Secretary in determining "satisfactory progress" toward completion of the management program.

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PART I

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM ADMINISTRATIVE GRANTS

NOTICE OF FINAL RULEMAKING

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

The National Oceanic and Atmospheric Administration (NOAA) on August 21, 1974, proposed guidelines (originally published as 15 CFR Part 923), pursuant to the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of defining the procedures by which States can qualify to receive administrative grants under the Act.

Written comments were to be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, before November 22, 1974, and consideration has been given these comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation. Present State and institutional arrangements for planning and regulating land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal State for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant). Once a coastal State has developed a management program, it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible under Section 306 to receive annual grants for administering its management program (administrative grants).

The regulations below set forth (a) criteria and procedures to be utilized in reviewing and approving coastal zone management programs pursuant to section 306 of the Act, and (b) procedures by which coastal States may apply to receive administrative grants under section 306(a) of the Act. The criteria and procedures under (a) constitute the "guidelines for section 306" referred to in 15 CFR 920.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing procedures for applications to receive administrative grants under section 306 of the Act. The final regulations and criteria published herewith were revised from the proposed guidelines based on the comments received. A total of thirty-two (32) States, agencies, organizations and individuals submitted responses to the proposed section 306 guidelines published in the FEDERAL REGISTER on August 21, 1974. Of those responses received, nine (9) were wholly favorable as to the nature and content of the guidelines as they appeared in the FEDERAL REGISTER on August 21, 1974. Twenty-three (23) commentators submitted suggestions concerning the proposed Section 306 guidelines.

The following analysis summarizes key comments received on various sections of the draft regulations and presents a rationale for the changes made:

1. Several commentators asserted that the guidelines did not adequately reflect the environmental considerations contained in the Act. No changes were made in response to these comments since the guidelines more than adequately reflect the environmental concerns in the legislation as evidenced in part by the comment section under § 923.4:

> Management programs will be evaluated in the light of the Congressional findings and policies as contained in Section 302 and Section 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the 'urgent need to protect and to give high priority to natural systems in the coastal zone.'

2. Several comments were received on the necessity of the Secretary of Commerce preparing and circulating an environmental impact statement on each individual State application as required by § 923.5. The National Environmental Policy Act, 42 USC 4332, and implementing regulations, 38 FR 20562, August 1, 1973, require an environmental impact statement be prepared and circulated on each individual State's application. An environmental impact statement shall be prepared on each individual State's application by the Secretary, primarily on the basis of an environmental assessment, and other relevant data, prepared and submitted by the individual States. This section was amended to reflect the requirement of the National Environmental Policy Act environmental impact statement requirements.

3. Several comments indicated that the States did not have a clear understanding as to what was meant under § 923.11 (b)(4) which refers to Federal lands subject solely to the discretion of, or which is held in trust by, the Federal government, its officers and agents. This section has been amended in order to provide a procedure for identifying those lands which are within the framework of this section.

4. Several commentators indicated that there was uncertainty as to what the requirements of the national interest were pursuant to § 923.15. This section has been amended in order to more succinctly state what the requirements are pursuant to this section and how a State must meet these requirements during the development and administration of its coastal zone management program. At the request of several commentators, several additions have been made to the list of requirements which are other than local in nature.

5. Several commentators indicated that § 923.26, which pertains to the degree of State control needed to implement a coastal zone management program, did not offer sufficient guidance in interpreting the legislation. In response to these comments, § 923.26 has been expanded to include specific examples of how a State may implement this section.

6. Comments received indicate there was some misunderstanding in interpreting § 923.43, which deals with geographical segmentation. This section has been substantially amended in order to indicate that the segmentation issue refers to geographical segmentation of a State's coastal zone management program. The requirements for a State to receive approval on a segmented basis are clearly set forth in the amendment to the regulations.

7. Extensive discussions have taken place with various elements of the U.S. Environmental Protection Agency (EPA) concerning the applicability of air and water pollution requirements to the development, approval and implementation of State management programs pursuant to § 923.44 of the proposed regulations. State coastal zone management programs have also been surveyed in order to determine current and anticipated problems, issues and opportunities associated with carrying out the requirements of section 307(f) of the Coastal Zone Management Act, and § 923.44 of the draft approval regulations. Consolidated EPA comments have been received, together with State reviews, and one comment from the private sector. Specific clarifications and changes as a result of these reviews are contained in §§ 923.4, 923.12, 923.32 and § 923.44 of these regulations.

8. One commentator objected to the amount of detail required in section 306 applications and the undue administrative burden proposed pursuant to Sub-

part F of the proposed regulations. The revisions attempt to both clarify and reduce those requirements, while still requiring sufficient information for the Office of Coastal Zone Management to approve management programs and make sound funding decisions.

Accordingly, having considered the comments and other relevant information, the Administrator concludes by adopting the final regulations describing the procedure for application to receive administrative grants under section 306 of the Act, as modified and set forth below.

Effective date: January 8, 1975.

Dated: January 6, 1975.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

Subpart A—General

Sec.
923.1 Purpose.
923.2 Definitions.
923.3 Submission of management programs.
923.4 Evaluation of management programs—general.
923.5 Environmental impact assessment.

Subpart B—Land and Water Uses

923.10 General.
923.11 Boundary of the coastal zone.
923.12 Permissible land and water uses.
923.13 Areas of particular concern.
923.14 Guidelines on priorities.
923.15 National interest facilities.
923.16 Area designation for preservation and restoration.
923.17 Local regulations and uses of regional benefit.

Subpart C—Authorities and Organization

923.20 General.
923.21 Means of exerting State control over land and water uses.
928.22 Organizational structure to implement the management program.
923.23 Designation of a single agency.
923.24 Authorities to administer land and water uses, control development and resolve conflicts.
923.25 Authorities for property acquisition.
923.26 Techniques for control of land and water uses.

Subpart D—Coordination

923.30 General.
923.31 Full participation by relevant bodies in the adoption of management programs.
923.32 Consultation and coordination with other planning.

Subpart E—Miscellaneous

923.40 General.
923.41 Public hearings.
923.42 Gubernatorial review and approval.
923.43 Segmentation.
923.44 Applicability of air and water pollution control requirements.

Subpart F—Applications for Administrative Grants

923.50 General.
923.51 Administration of the program.
923.52 State responsibility.
923.53 Allocation.
923.54 Geographical segmentation.
923.55 Application for the initial administrative grant.
923.56 Approval of applications.
923.57 Amendments.
923.58 Applications for second and subsequent year grants.

AUTHORITY: 86 Stat. 1280 (16 U.S.C. 1451-1464).

Subpart A—General

§ 923.1 Purpose.

(a) This part establishes criteria and procedures to be employed in reviewing and approving coastal zone management programs submitted by coastal States and for the awarding of grants under Section 306 of the Act.

(b) The Act sets forth in sections 305, 306 and 307 a number of specific requirements which a management program must fulfill as a condition for approval by the Secretary. These requirements are linked together as indicated in the subparts which follow. Presentation of the State management program in a similar format is encouraged since it will enable more prompt and systematic review by the Secretary. However, there is no requirement that a State present its management program in the format which corresponds exactly to the listing of categories below. The broad categories are: Land and Water Uses, Subpart B; Authorities and Organization, Subpart C; Coordination, Subpart D; and Miscellaneous, Subpart E. Subpart F, Applications for Administrative Grants, deals with applications for administrative grants upon approval of State coastal zone management programs which will be subject to periodic review by the Secretary in accordance with Section 309 of the Act. In addition to providing criteria against which State coastal zone management programs can be consistently and uniformly judged in the approval process and establishing procedures for the application by States for administrative grants, it is the intent of this part to provide guidance to coastal States in the development of management programs. Therefore, many of the sections dealing with approval requirement in the subparts are followed by a "comment" which refers to a section or sections of the Act and indicates the interpretation placed upon the requirements of the Act or the regulation by the Secretary.

§ 923.2 Definitions.

In addition to the terms defined in the Act and 15 CFR 920.2, the following terms shall have the meanings indicated below:

"Final approval" means, with respect to a coastal zone management program, approval of a program which terminates the eligibility of the State for grants under Section 305 of the Act and makes the State eligible for grants under Section 306 of the Act. In cases where a State has elected to follow the geographical segmentation option pursuant to § 923.43, final approval will apply only to that specific geographical segment. The State will continue to remain eligible for development grants pursuant to Section 305 of the Act for the remainder of the State's coastal zone.

"Preliminary approval" means, with respect to a coastal zone management program, approval of a program which does not terminate the eligibility of the State for further grants under Section 305 of the Act, and which does not make the State eligible for grants under Section 306 of the Act.

"Use of regional benefit" means a land or water use that typically provides benefits to a significant area beyond the boundaries of a single unit of the lowest level of local, general-purpose government.

§ 923.3 Submission of management programs.

(a) Upon completion of the development of its management program, a State shall submit the program to the Secretary for review and final approval in accordance with the provisions of these regulations. A program submitted for final approval must comply with all of the provisions set forth in Subparts A–E of this part, including, in particular, Subpart C, which requires that certain authorities and plans of organization be in effect at the time of the submission.

(b) Optionally, the State may submit for the preliminary approval of the Secretary a program complying with the substantive requirements of this part, but for which the proposed authorities and organization complying with the provisions of Subpart C are not yet legally effective. In reviewing a program submitted for preliminary approval, the Secretary may grant such approval subject to establishment of a legal regime providing the authorities and organization called for in the program. If the State elects this option, it shall continue to be eligible for funding under Section 305 but it shall not yet be eligible for funding under Section 306 of the Act until such time as its program is finally approved. Upon a showing by the State that authorities and organization necessary to implement the program which has received preliminary approval are in effect, final approval shall be granted.

Comment. The purpose of the optional procedure is to provide a State with an opportunity for Secretarial review of its program before State legislation is enacted to put the program into legal effect. Some States may prefer not to utilize the optional procedure, especially those which have legislative authority enabling the coastal zone agency of the State to put the program into effect by administrative action. In any event, the Office of Coastal Zone Management will be available for consultation during all phases of development of the program.

(c) States completing the requirements set forth in Subpart B—Land and Water Uses, and Subpart D—Coordination, will be deemed to have fulfilled the statutory requirements associated with each criteria. If, however, a State chooses to adopt alternative methods and procedures, which are at least as comprehensive as the procedures set forth below, for fulfilling those statutory requirements contained in Subparts B and D, they may do so upon prior written approval of the Secretary. The States are encouraged to consult with the Office of Coastal Zone Management as early as possible.

Comment. The thrust of the Act is to encourage coastal States to exercise their full

authority over the lands and waters in the coastal zone by developing land and water use programs for the zone, including unified policies, criteria, standards, methods and processes for dealing with land and water uses of more than local significance. While the Act mandates a State to meet specific statutory requirements in order for the State to be eligible for administrative grants, it does not require the State to follow specific processes in meeting those requirements. The Secretary will review any State management program that meets the requirements contained in Subparts B and D in addition to the other subparts contained herein.

§ 923.4 Evaluation of management programs—general.

(a) In reviewing management programs submitted by a coastal State pursuant to § 923.3, the Secretary will evaluate not only all of the individual program elements required by the Act and set forth in Subparts B–E of this part, but the objectives and policies of the State program as well to assure that they are consistent with national policies declared in Section 303 of the Act.

(b) Each program submitted for approval shall contain a statement of problems and issues, and objectives and policies. The statements shall address:

(1) Major problems and issues, both within and affecting the State's coastal zone;

(2) Objectives to be attained in interagency and intergovernmental cooperation, coordination and institutional arrangements; and enhancing management capability involving issues and problem identification, conflict resolution, regulation and administrative efficiency at the State and local level;

(3) Objectives of the program in preservation, protection, development, restoration and enhancement of the State's coastal zone;

(4) Policies for the protection and conservation of coastal zone natural systems, cultural, historic and scenic areas, renewable and non-renewable resources, and the preservation, restoration and economic development of selected coastal zone areas.

(c) The Secretary will review the management program for the adequacy of State procedures utilized in its development and will consider the extent to which its various elements have been integrated into a balanced and comprehensive program designed to achieve the above objectives and policies.

Comment. Evaluation of the statutory requirements established in this subpart will concentrate primarily upon the adequacy of State processes in dealing with key coastal problems and issues. It will not, in general, deal with the wisdom of specific land and water use decisions, but rather with a determination that in addressing those problems and issues, the State is aware of the full range of present and potential needs and uses of the coastal zone, and has developed procedures, based upon scientific knowledge, public participation and unified governmental policies, for making reasoned choices and decisions.

Management programs will be evaluated in the light of the Congressional findings and policies as contained in Sections 302 and 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the "urgent need to protect and to give high priority to natural systems in the coastal zone." A close working relationship between the agency responsible for the coastal zone management program and the agencies responsible for environmental protection is vital in carrying out this legislative intent. States are encouraged by the Act to take into account ecological, cultural, historic and esthetic values as well as the need for economic development in preparing and implementing management programs through which the States, with the participation of all affected interests and levels of government, exercise their full authority over coastal lands and waters.

Further assistance in meeting the intent of the Act may be found in the Congressional Committee Reports associated with the passage of the legislation (Senate Report 92–753 and House Report 92–1049). It is clear from these reports that Congress intended management programs to be comprehensive and that a State must consider all subject areas which are pertinent to the particular circumstances which prevail in the State. A comprehensive program should have considered at least the following representative elements:

(1) Present laws, regulations, and applicable programs for attainment of air and water quality standards, on land and water uses, and on environmental management by all levels of government;

(2) Present ownership patterns of the land and water resources, including administration of publicly owned properties;

(3) Present populations and future trends, including assessments of the impact of population growth on the coastal zone and estuarine environments;

(4) Present uses, known proposals for changes and long-term requirements of the coastal zone;

(5) Energy generation and transmission;

(6) Estuarine habitats of fish, shellfish and wildlife;

(7) Industrial needs;

(8) Housing requirements;

(9) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming and pleasure boating;

(10) Open space, including educational and natural preserves, scenic beauty, and public access, both visual and physical, to coastlines and coastal estuarine areas;

(11) Mineral resources requirements;

(12) Transportation and navigation needs;

(13) Floods and flood damage prevention, erosion (including the effect of tides and currents upon beaches and other shoreline areas), land stability, climatology and meteorology;

(14) Communication facilities;

(15) Commercial fishing; and

(16) Requirements for protecting water quality and other important natural resources.

The list of considerations is not meant to be exclusive, nor does it mean that each consideration must be given equal weight. State initiative to determine other relevant factors and consider them in the program is essential to the management of the coastal zone as envisioned by Congress.

In assessing programs submitted for approval, the Secretary, in consultation with other concerned Federal agencies, will examine such programs to determine that the full range of public problems and issues affecting the coastal zone have been identified and considered. In this connection, developments outside the coastal zone may often have a significant impact within the coastal zone and create a range of public problems and issues which must be dealt with in the coastal zone management program.

The Secretary encourages the States to develop objectives toward which progress can be measured and will review program submissions in this light. While it is recognized that many essential coastal zone management objectives are not quantifiable (e.g. public aspirations, "quality of life"), others are, and should be set forth in measurable terms where feasible (e.g. shore erosion, beach access, recreational demand, energy facility requirements). Identifying and analyzing problems and issues in measurable terms during the program development phase will facilitate the formulation of measurable objectives as part of the approval submission.

§ 923.5 Environmental impact assessment.

Individual environmental impact statements will be prepared and circulated by NOAA as an integral part of the review and approval process for State coastal zone management programs pursuant to the National Environmental Policy Act (Pub. L. 91–190, 42 USC 4321 et seq) and its implementing regulations. The Administrator of NOAA will circulate an environmental impact statement prepared primarily on the basis of an environmental impact assessment and other relevant data submitted by the individual applicant States.

Subpart B—Land and Water Uses

§ 923.10 General.

(a) This subpart deals with land and water uses in the coastal zone which are subject to the management program.

(b) In order to provide a relatively simple framework upon which discussion of the specific requirements associated with this subpart may proceed, it may be helpful to categorize the various types of land and water uses which the Act envisions.

(1) The statutory definition of the landward portion of the coastal zone states that it "extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." Thus, the coastal zone will include those lands and only those lands where any existing, projected or potential use will have a "direct and significant impact on the coastal waters." Any such use will be subject to the terms of the management program, pursuant to Section 305(b)(2).

(2) There may well be uses of certain lands included within the coastal zone which will not have such "direct and significant impact." Such uses may be subject to regulation by local units of government within the framework of the management program.

(3) The Act also requires that management programs contain a method of assuring that "local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit." This requirement is described more fully in § 923.17.

(c) As part of the State's management program, it must address and exercise authority over the following:

(1) *Land and water uses which have a direct and significant impact upon coastal waters.* These uses are described more fully in § 923.12.

(2) *Areas of particular concern.* Section 305(b)(3) specifies that the management program include an inventory and designation of areas of particular concern within the coastal zone. Section 923.13 deals more thoroughly with this statutory requirement. Such areas must be considered of Statewide concern and must be addressed in the management program.

(3) *Siting of facilities necessary to meet requirements which are other than local in nature.* The management program must take "adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature" (Section 306(c)(8)). This requirement is more fully discussed in § 923.15.

§ 923.11 Boundaries of the coastal zone.

(a) *Requirement.* In order to fulfill the requirement contained in Section 305 (b)(1), the management program must show evidence that the State has developed and applied a procedure for identifying the boundary of the State's coastal zone meeting the statutory definition of the coastal zone contained in Section 304(a). At a minimum this procedure should result in:

(1) A determination of the inland boundary required to control, through the management program, shorelands the uses of which have direct and significant impacts upon coastal waters,

(2) A determination of the extent of the territorial sea, or where applicable, of State waters in the Great Lakes,

(3) An identification of transitional and intertidal areas, salt marshes, wetlands and beaches,

(4) An identification of all Federally owned lands, or lands which are held in trust by the Federal government, its officers and agents in the coastal zone and over which a State does not exercise any control as to use.

(b) *Comment.* Statutory citation: Section 305(b)(1):

> Such management program shall include * * * an identification of the boundaries of the coastal zone subject to the management programs.

Useful background information concerning this requirement appears in Part 920.11, which is incorporated into this part by reference.

(1) The key to successful completion of this requirement lies in the development and use of a procedure designed to identify the landward extent of the coastal zone. Included in this procedure must be a method for determining those "shorelands, the uses of which have a direct and significant impact upon the coastal waters." These uses shall be considered the same as the "land and water uses" described in § 923.12, reflecting the requirements of Section 305(b)(2) of the Act regardless of whether those uses are found, upon analysis, to be "permissible." The coastal zone must include within it those lands which have any existing, projected or potential uses which have a direct and significant impact upon the coastal waters and over which the terms of the management program will be exercised. In some States, existing regulations controlling shoreland uses apply only in a strip of land of uniform depth (e.g. 250 feet, 1,000 yards, etc.) behind the shoreline. Such a boundary will be acceptable if it approximates a boundary developed according to the procedure outlined above and extends inland sufficiently for the management program to control lands the uses of which have a direct and significant impact upon coastal waters. States may wish, for administrative convenience, to designate political boundaries, cultural features, property lines or existing designated planning and environmental control areas, as boundaries of the coastal zone. While the Secretary will take into account the desirability of identifying a coastal zone which is easily regulated as a whole, the selection of the boundaries of the coastal zone must bear a reasonable relationship to the statutory requirement. Nothing in this part shall preclude a State from exercising the terms of the management program in a landward area more extensive than the coastal zone called for in this part. If such a course is selected, the boundaries of the coastal zone must nevertheless be identified as above and the provisions of the Act will be exercised only in the defined coastal zone. It should be borne in mind that the boundary should include lands and waters which are subject to the management program. This means that the policies, objectives and controls called for in the management program must be capable of being applied consistently within the area. The area must not be so extensive that a fair application of the management program becomes difficult or capricious, nor so limited that lands strongly influenced by coastal waters and over which the management program should reasonably apply, are excluded.

(2) Inasmuch as the seaward boundary of the coastal zone is established in the Act, the States will be required to utilize the statutory boundary, i.e. in the Great Lakes, the international boundary between the United States and Canada, and elsewhere the outer limits of the United States territorial sea. At present, this limit is three nautical miles from the appropriate baselines recognized by international law and defined precisely by the United States. In the event of a statutory change in the boundary of the territorial sea, the question of whether a corresponding change in coastal zone boundaries must be made, or will be made by operation of law, will depend on the specific terms of the statutory change and cannot be resolved in advance. In the waters of Lake Michigan, the boundary shall extend to the recognized boundaries with adjacent States.

(3) A State's coastal zone must include transitional and intertidal areas, salt marshes, wetlands and beaches. Hence the boundary determination procedure must include a method of identifying such coastal features. In no case, however, will a State's landward coastal zone boundary include only such areas in the absence of application of the procedure called for herein or in § 923.43.

(4) Since the coastal zone excludes lands the use of which is by law subject solely to the discretion of, or which is held in trust by the Federal government, its officers and agents, the coastal zone boundary must identify such lands which are excluded from the coastal zone. In order to complete this requirement, the State should indicate those Federally owned lands, or lands held in trust by the Federal government, *and* over which the State does not exercise jurisdiction as to use. In the event that a State fails to identify lands held by an agency of the Federal government as excluded lands, and the agency, after review of the program under Section 307(b), is of the opinion that such lands should be excluded, the disagreement will be subject to the mediation process set forth in said section.

§ 923.12 Permissible land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305(b)(2), the management must show evidence that the State has developed and applied a procedure for defining "permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters," which includes, at a minimum:

(1) a method for relating various specific land and water uses to impact upon coastal waters, including utilization of an operational definition of "direct and significant impact,"

(2) an inventory of natural and man-made coastal resources,

(3) an analysis or establishment of a method for analysis of the capability and suitability for each type of resource and application to existing, projected or potential uses.

(4) an analysis or establishment of a method for analysis of the environmental impact of reasonable resource utilizations.

(b) *Comment.* Statutory citation: Section 305(b)(2):

> Such management program shall include * * * a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters.

Useful background information concerning this requirement appears in 15 CFR 920.12, which is incorporated into this part by reference. Completion of this requirement should be divided into two distinct elements: a determination of those land and water uses having a direct and significant impact upon coastal waters, and an identification of such uses which the State deems permissible.

(1) *Section 305(b)(4).* In identifying those uses which have a "direct and sig-

nificant impact," the State should define that phrase in operational terms that can be applied uniformly and consistently, and should develop a method for relating various uses to impacts upon coastal waters. Existing, projected and potential uses should be analyzed as to the level and extent of their impact, be it adverse, benign or beneficial, intrastate or interstate. These impacts should then be assessed to determine whether they meet the definition of "direct and significant impact upon coastal waters." (These are the ones by which the boundaries of the coastal zone are defined.) Those uses meeting that definition are automatically subject to control by the management program.

(2) In determining which land and water uses may be deemed permissible, a State should develop a method for assuring that such decisions are made in an objective manner, based upon evaluation of the best available information concerning land and water capability and suitability. This method should include at a minimum:

(i) An inventory of significant natural and man-made coastal resources, including but not limited to, shorelands, beaches, dunes, wetlands, uplands, barrier islands, waters, bays, estuaries, harbors and their associated facilities. This should not be construed as requiring long-term, continuing research and baseline studies, but rather as providing the basic information and data critical to successful completion of a number of required management program elements. States are encouraged, however, to continue research and studies as necessary to detect early warnings of changes to coastal zone resources. It is recognized that in some States a complete and detailed inventory of such resources may be expensive and time consuming in relation to the value of information gathered in the development of the management program. Much information, of course, already exists and should be integrated into the inventory. The Secretary, in reviewing this particular requirement, will take into account the nature and extent of the State's coastline, the funding available and existing data sources.

(ii) An analysis or establishment of a method for analysis of the capabilities of each resource for supporting various types of uses (including the capability for sustained and undiminished yield of renewable resources), as well as of the suitability for such resource utilization when evaluated in conjunction with other local, regional and State resources and uses. Resource capability analysis should include physical, biological and chemical parameters as necessary.

(iii) An analysis or establishment of a method for analysis of the impact of various resource uses upon the natural environment (air, land and water). Based upon these analyses and applicable Federal, State and local policies and standards, the State should define permissible uses as those which can be reasonably and safely supported by the resource, which are compatible with surrounding resource utilization and which will have a tolerable impact upon the environment. These analyses, in part, will be provided through existing information on environmental protection programs, and should be supplemented to the extent necessary for determining the relationship between land uses and environmental quality. Where a State prohibits a use within the coastal zone, or a portion thereof, it should identify the reasons for the prohibition, citing evidence developed in the above analyses. It should be pointed out that uses which may have a direct and significant impact on coastal waters when conducted close to the shoreline may not have a direct and significant impact when conducted further inland. Similarly, uses which may be permissible in a highly industrialized area may not be permissible in a pristine marshland. Accordingly, the definition may also be correlated with the nature (including current uses) and location of the land on which the use is to take place. The analyses which the State will undertake pursuant to this section should also be useful in satisfying the requirements of § 923.13 through § 923.17.

§ 923.13 Areas of particular concern.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305 (b)(3), the management program must show evidence that the State has made an inventory and designation of areas of particular concern within the coastal zone. Such designations shall be based upon a review of natural and man-made coastal zone resources and uses, and upon consideration of State-established criteria which include, at a minimum, those factors contained in 15 CFR 920.13, namely:

(1) Areas of unique, scarce, fragile or vulnerable natural habitat, physical feature, historical significance, cultural value and scenic importance;

(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and the various trophic levels in the food web critical to their well-being;

(3) Areas of substantial recreational value and/or opportunity;

(4) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(5) Areas of unique geologic or topographic significance to industrial or commercial development;

(6) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(8) Areas needed to protect, maintain or replenish coastal lands or resources, including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands.

(b) *Comment.* Statutory citation: Section 305(b)(3).

Such management program shall include * * * an inventory and designation of areas of particular concern within the coastal zone.

Useful background information concerning the requirement appears in 15 CFR 920.13, which is incorporated here by reference. It should be emphasized that the basic purpose of inventorying and designating areas of particular concern within the coastal zone is to express some measure of Statewide concern about them and to include them within the purview of the management program. Therefore, particular attention in reviewing the management program will be directed toward development by the State of implementing policies or actions to manage the designated areas of particular concern.

§ 923.14 Guidelines on priority of uses.

(a) *Requirement.* The management program shall include broad policies or guidelines governing the relative priorities which will be accorded in particular areas to at least those permissible land and water uses identified pursuant to § 923.12. The priorities will be based upon an analysis of State and local needs as well as the effect of the uses on the area. Uses of lowest priority will be specifically stated for each type of area.

(b) *Comment.* Statutory citation: Section 305(b)(5)

Such management program shall include * * * broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority.

As pointed out in 15 CFR 920.15, the priority guidelines will set forth the degree of State interest in the preservation, conservation and orderly development of specific areas including at least those areas of particular concern identified in § 923.13 within the coastal zone, and thus provide the basis for regulating land and water uses in the coastal zone, as well as a common reference point for resolving conflicts. Such priority guidelines will be the core of a successful management program since they will provide a framework within which the State, its agencies, local governments and regional bodies can deal with specific proposals for development activities in various areas of the coastal zone. In order to develop such broad guidelines, the management program shall indicate that a method has been developed and applied for (1) analyzing State needs which can be met most effectively and efficiently through land and water uses in the coastal zone, and (2) determining the capability and suitability of meeting these needs in specific locations in the coastal zone. In analyzing the States' needs, there should be a determination made of those requirements and uses which have Statewide, as opposed to local, significance. Section 302(h) of the Act states in part that land and water use programs for the coastal zone should include "unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance." The inventory and analyses of coastal resources and uses called for in § 923.12 will provide the State with most of the basic data needed to determine the specific locations where coastal resources are capable and suitable for meeting State-

wide needs. In addition, these analyses should permit the State to determine possible constraints on development which may be applied by particular uses. The program should establish special procedures for evaluating land use decisions, such as the siting of regional energy facilities, which may have a substantial impact on the environment. In such cases, the program should make provision for the consideration of available alternative sites which will serve the need with a minimum adverse impact. The identifying and ordering of use priorities in specific coastal areas should lead to the development and adoption of State policies or guidelines on land and water use in the coastal zone. Such policies or guidelines should be part of the management program as submitted by the State and should be consistent with the State's specified management program objectives. Particular attention should be given by the State to applying these guidelines on use priorities within those "areas of particular concern" designated pursuant to § 923.13. In addition, States shall indicate within the management program uses of lowest priority in particular areas, including guidelines associated with such uses.

§ 923.15 National interest in the siting of facilities.

(a) *Requirement.* A management program which integrates (through development of a body of information relating to the national interest involved in such siting through consultation with cognizant Federal and regional bodies, as well as adjacent and nearby States) the siting of facilities meeting requirements which are of greater than local concern into the determination of uses and areas of Statewide concern, will meet the requirements of Section 306(c)(8).

(b) *Comment.* Statutory citation: Section 306(c)(8):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

This policy requirement is intended to assure that national concerns over facility siting are expressed and dealt with in the development and implementation of State coastal zone management programs. The requirement should not be construed as compelling the States to propose a program which accommodates certain types of facilities, but to assure that such national concerns are included at an early stage in the State's planning activities and that such facilities not be arbitrarily excluded or unreasonably restricted in the management program without good and sufficient reasons. It is recognized that there may or may not be a national interest associated with the siting of facilities necessary to meet requirements which are other than local in nature. Requirements which are other than local in nature shall be considered those requirements which, when fulfilled, result in the establishment of facilities designed clearly to serve more than one locality (generally, the lowest unit of local, general-purpose government, excluding situations such as with cities and counties which exercise concurrent jurisdiction for the same geographic areas). In order to provide assistance to the States in completing this requirement, a listing is presented below which identifies those requirements which are both (1) other than local in nature, and (2) possess siting characteristics in which, in the opinion of the Secretary, there may be a clear national interest. For each such need, there is a listing of associated facilities. In addition, the principal cognizant Federal agencies concerned with these facilities are also listed. This list must not be considered inclusive, but the State should consider each requirement and facility type in the development of its management program. Consideration of these requirements and facilities need not be seen as a separate and distinct element of the management program, and the listing is provided to assure that the siting of such facilities is not overlooked or ignored. As part of its determination of permissible uses in the coastal zone (§ 923.12), as well as of priority of uses (§ 923.14), the State will have developed a procedure for inventorying coastal resources and identifying their existing or potential utilization for various purposes based upon capability, suitability and impact analyses. The process for responding to the requirements of Section 306(c)(8) should be identical to, and part of, the same procedure. No separate national interest "test" need be applied and submitted other than evidence that the listed national interest facilities have been considered in a manner similar to all other uses, and that appropriate consultation with the Federal agencies listed has been conducted. As a preliminary to adequate consideration of the national interest, the State must determine the needs for such facilities. Management programs must recognize the need of local as well as regional and national populations for goods and services which can be supplied only through the use of facilities in the coastal zone in order to make reasonable provision for such facilities in light of the size and population of the State, the length and characteristics of its coast and the contribution such State is already making to regional and national needs. This will require the State to enter into discussions with appropriate Federal agencies and agencies of other States in the region, a process which should begin early in the development of the management program so that the full dimensions of the national interest may be considered as the State develops its program (§ 923.31 and §923.32). The management program should make reference to the views of cognizant Federal agencies as to how these national needs may be met in the coastal zone of that particular State. States should actively seek such guidance from these Federal agencies, particularly in view of the fact that all management programs will be reviewed with the opportunity for full comment by all affected Federal agencies prior to approval. It is recognized that Federal agencies will differ markedly in their abilities to articulate policies regarding utilization of individual State's coastal zones. NOAA's Office of Coastal Zone Management will encourage Federal agencies to develop policy statements regarding their perception of the national interest in the coastal zone and make these available to the States. The States should also consult with adjacent and nearby States which share similar or common coastal resources or with regional interstate bodies to determine how regional needs may be met in siting facilities. Specific arrangements of "trade-offs" of coastal resource utilization should be documented with appropriate supporting evidence. The importance of this type of interstate consultation and cooperation in planning cannot be overemphasized for it offers the States the opportunity of resolving significant national problems on a regional scale without Federal intervention.

Requirements which are other than local in nature and in the siting of which there may be a clear national interest (with associated facilities and cognizant Federal agencies)

Requirements	Associated facilities	Cognizant Federal Agencies
1. Energy production and transmission.	Oil and gas wells; storage and distribution facilities; refineries; nuclear, conventional, and hydroelectric powerplants; deepwater ports.	Federal Energy Administration, Federal Power Commission, Bureau of Land Management, Atomic Energy Commission, Maritime Administration, Geological Survey, Department of Transportation, Corps of Engineers.
2. Recreation (of an interstate nature)	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts; wildlife reserves.	National Park Service, Forest Service, Bureau of Outdoor Recreation.
3. Interstate transportation	Interstate highways, airports, aids to navigation; ports and harbors, railroads.	Federal Highway Administration, Federal Aviation Administration, Coast Guard, Corps of Engineers, Maritime Administration, Interstate Commerce Commission.
4. Production of food and fiber	Prime agricultural land and facilities; forests; mariculture facilities; fisheries.	Soil Conservation Service, Forest Service, Fish and Wildlife Service, National Marine Fisheries Service.
5. Preservation of life and property	Flood and storm protection facilities; disaster warning facilities.	Corps of Engineers, Federal Insurance Administration, NOAA, Soil Conservation Service.
6. National defense and aerospace	Military installations; defense manufacturing facilities; aerospace launching and tracking facilities.	Department of Defense, NASA.
7. Historic, cultural, esthetic and conservation values.	Historic sites; natural areas; areas of unique cultural significance; wildlife refuges; areas of species and habitat preservation.	National Register of Historic Places, National Park Service, Fish and Wildlife Service, National Marine Fisheries Service.
8. Mineral resources	Mineral extraction facilities needed to directly support activity.	Bureau of Mines, Geological Survey.

§ 923.16 Area designation for preservation and restoration.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(c)(9), the management program must show evidence that the State has developed and applied standards and criteria for the designation of areas of conservation, recreational, ecological or esthetic values for the purpose of preserving and restoring them.

(b) *Comment.* Statutory citation: Section 306(c)(9):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreation, ecological or esthetic values.

(1) This requirement is closely linked to that contained in § 923.13, dealing with designation of areas of particular concern. Unless the State can make a compelling case to the contrary, all areas designated according to the methods called for in this part shall also be considered as areas of particular concern.

(2) This requirement is reasonably self-explanatory. The State must develop procedures for the designation of areas with certain characteristics. The State, in doing so, must:

(i) Establish standards and criteria for the possible designation of coastal areas intended for preservation or restoration because of their conservation, recreational, ecological or esthetic values, and

(ii) Apply those standards and criteria to the State's coastal resources. (In this, the inventory associated with the requirement of § 923.13 will be most helpful.)

(3) The requirement of the statute goes to the procedures rather than substance; the fact that a State may be unable to move rapidly ahead with a program of preservation or restoration will not prevent the program from being approved. The State should also rank in order of relative priority areas of its coastal zone which have been designated for the purposes set forth in this section. As funds become available, such a ranking will provide a set of priorities for selecting areas to be preserved or restored.

§ 923.17 Local regulations and uses of regional benefit.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(e)(2), the management program must show evidence that the State has developed and applied a method for determining uses of regional benefit, and that it has established a method for assuring that local land and water use controls in the coastal zone do not unreasonably or arbitrarily restrict or exclude those uses of regional benefit.

(b) *Comment.* Statutory citation: Section 306(e)(2):

Prior to granting approval, the Secretary shall also find that the program provides * * * for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

This requirement is intended to prevent local land and water use decisions from arbitrarily excluding certain land and water uses which are deemed of importance to more than a single unit of local government. For the purposes of this requirement, a use of regional benefit will be one which provides services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as in cities and counties which exercise jurisdiction over the same geographic areas). In order to assure that arbitrary exclusion does not occur, the State must first identify those uses which it perceives will affect or produce some regional benefit. This designation would normally be derived from the inventory and analysis of the uses contained in § 923.12. In any event, however, these uses should include those contained in the table of § 923.15. In addition, the State may determine that certain land and water uses may be of regional benefit under certain sets of circumstances; the State should then establish standards and criteria for determining when such conditions exist. There should be no blanket exclusion or restrictions of these uses in areas of the coastal zone by local regulation unless it can be shown that the exclusion or restriction is based upon reasonable considerations of the suitability of, the area for the uses or the carrying capacity of the area. The requirement of this section does not exclude the possibility that in specific areas certain uses of regional benefit may be prohibited. However, such exclusions may not be capricious. The method by which the management program will assure that such unreasonable restrictions or exclusion not occur in local land and water use decisions will, of course, be up to the State, but it should include the preparation of standards and criteria relating to State interpretation of "unreasonable restriction or exclusion", as well as the establishment of a continuing mechanisms for such determination.

Subpart C—Authorities and Organization

§ 923.20 General.

This subpart deals with requirements that the State possess necessary authorities to control land and water uses and that it be organized to implement the management. It should be emphasized that before final approval of a coastal zone management program can be given by the Secretary of Commerce, the authorities and organizational structure called for in the management program must be in place. Preliminary approval, however, can be given to a proposal which will require subsequent legislative or executive action for implementation and eligibility for administrative grants under Section 306.

§ 923.21 Means of exerting State control over land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Sections 305(b)(4) and 306(c)(7), the management program must show evidence that the State has identified a means for controlling each permissible land and water use specified in § 923.12, and for precluding land and water uses in the coastal zone which are not permissible. The management program should contain a list of relevant constitutional provisions, legislative enactments, regulations, judicial decisions and other appropriate official documents or actions which establish the legal basis for such controls, as well as documentation by the Governor or his designated legal officer that the State actually has and is prepared to implement the authorities, including those contained in Section 306(d), required to implement the objectives, policies and individual components of the program.

(b) *Comment.* Statutory citation: Section 305(b)(4):

Such management program shall include * * * an identification of the means by which the State proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions;

Statutory citation: Section 306(c)(7):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

Useful information concerning this requirement appears in 15 CFR 920.14, which is incorporated into this part by reference. The key words in this requirement are, "to exert control over the land and water uses." This reflects the Congressional finding that the "key to more effective protection and use of the land and water resources of the coastal zone is to encourage the States to exercise their full authority over the lands and waters in the coastal zone * * *." It is not the intent of this part to specify for the States the "means" of control; this is a State responsibility. The State must, however, describe in the management program its rationale for developing and deciding upon such "means." The "means" must be capable of actually implementing the objectives, policies and individual components of the management program. As such, requirements shall be reviewed in close conjunction with § 923.24, 923.25 and § 923.26, relating to actual authorities which the State must possess. The management program should also indicate those specific land and water uses over which authority, jurisdiction or control will be exercised concurrently by both State and Federal agencies, particularly those uses affecting water resources, submerged lands and navigable waters. The management program must provide for control of land and water uses in the coastal zone, although the exercise of control may be vested in, or delegated to, various agencies or local government. As part of the approval of a management program, the Secretary must find that the means for controlling land and water uses identified in § 923.21 are established and in place, and that the means include the

authorities contained in § 923.24 and § 923.25. This finding will be based upon documentation by the Governor of the coastal State or his designated legal officer that the State possesses and is prepared to implement the requisite authorities.

§ 923.22 Organizational structure to implement the management program.

(a) *Requirement.* In order to fulfill the requirement contained in Section 305(b)(6), the management program must contain a description of how the State is organized to implement the authorities identified in § 923.21. In addition, the management program must contain a certification by the Governor of the State or his designated legal officer that the State has established its organizational structure to implement the management program.

(b) *Comment.* Statutory citation: Section 305(b)(6):

Such management program shall include * * * a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional and interstate agencies in the management process.

Statutory citation: Section 306(c)(6):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the State is organized to implement the management program required under paragraph (1) of this subsection.

Useful background information and guidance concerning this requirement appears in 15 CFR 920.16, which is incorporated into this part by reference. The legislative history of the Act makes it clear that the States should be accorded maximum flexibility in organizing for implementation of their coastal zone management programs. Thus, neither the Act nor this part provide an organizational model which must be followed. While individual State programs may have a wide range of interstate, State, local or areawide agency roles to play, the program will be reviewed closely for assurance that it constitutes an organized and unified program. Consistent with this principle, there must be a clear point of responsibility for the program, although program implementation may be undertaken by several State entities. In those cases, where a complex interagency and intergovernmental process is established, the State must submit a description of roles and responsibilities of each of the participants and how such roles and responsibilities contribute to a unified coastal zone management program. This description should be sufficiently detailed to demonstrate that a coherent program structure has been proposed by the State and the State is prepared to act in accordance with the objectives of the management program. Although the Act does not prescribe the creation of a central management agency at the State level, it envisions the creation of a coastal zone management entity that has adequate legislative and/or executive authority to implement the policies and requirements mandated in the Act. Review of the management program for compliance with this requirement will be undertaken as a single review with review of the requirements contained in § 923.31, full participation by interested bodies in adoption of management programs, and § 923.23, designation of a single State agency.

§ 923.23 Designation of a single agency.

(a) *Requirement.* In order to fulfill the requirement of Section 306(c)(5), the management program must contain appropriate documentation that the Governor of the coastal State has designated a single agency to be responsible for receiving and administering grants under Section 306 for implementing an approved management program.

(b) *Comment.* Statutory citation: Section 306(c)(5):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the Governor of the State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

This requirement is closely related to that contained in § 923.22, relating to a description of the organizational structure which will implement the management program. While this requirement is self-explanatory, it should be pointed out that States will undoubtedly come forward with a wide variety of organizational structures to implement approved management programs. Some will probably be quite complex, utilizing a variety of control techniques at a number of governmental levels. Nothing in this part should be construed as limiting the options available to a State for implementing its program. The purpose of the requirement is simply to identify a single agency which will be fiscally and programmatically responsible for receiving and administering the grants under Section 306 to implement the approved management program.

§ 923.24 Authorities to administer land and water uses, control development and resolve conflicts.

(a) *Requirement.* (1) The management program must contain documentation by the Governor or his designated legal officer that the agencies and governments chosen by the State to administer the management program have the authority to administer land and water regulations, control development in accordance with the management program and to resolve use conflicts.

(b) *Comment.* Statutory citation: Section 306(d)(1):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power * * * to administer land and water use regulations, control development in order to ensure compliance with the management program and to resolve conflicts among competing uses * * *

This requirement shall be reviewed in close conjunction with that of §§ 923.21, 923.25 and § 923.26, dealing with authorities which the State's organizational structure must possess in order to ensure implementation of the management program. The language of this requirement makes it clear that the State may choose to administer its program using a variety of levels of governments and agencies, but that if it does, the State must have available to it the authorities specified.

§ 932.25 Authorities for property acquisition.

(a) *Requirement.* The management program shall contain documentation by the Governor or his designated legal officer that the agency or agencies, including local governments, areawide agencies, regional or interstate agencies, responsible for implementation of the management program have available the power to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means where necessary to achieve conformance with the management program. Where the power includes condemnation, the State shall so indicate. Where the power includes other means, the State shall specifically identify such means.

(b) *Comment.* Statutory citation: Section 306(d)(2):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power * * * to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means when necessary to achieve conformance with the management program * * *.

In most cases, it will not be necessary to acquire fee simple ownership. Normally, appropriate use restrictions will be adequate to achieve conformance with the program. In other cases, an easement may be necessary to achieve conformance with the management program. Where acquisition is necessary, this section contemplates acquisition by condemnation or through other means. However, the mere authority to acquire an interest in lands or waters by purchase from a willing vendor will not be sufficient in cases where the acquisition of interests in real property is a necessary and integral part of the program. In such cases, the power of condemnation need be no broader than necessary to achieve conformance with the program. For example, if a State's program includes provisions expressly requiring that power transmission lines and pipelines be located in specified energy and transportation corridors to minimize environmental impact, and for State ac-

quisition of such transportation corridors, then the State should have the power to acquire corridors for such purposes through condemnation. It is not necessary that the power to acquire real property be held by any one particular agency involved in implementing the management program. The authority must, however, be held by one or more agencies or local governments with a statutory responsibility to exercise the authority without undue delay when necessary to achieve conformance with the management program.

§ 923.26 Techniques for control of land and water uses.

(a) *Requirement.* The management program must contain documentation by the Governor or his designated legal officer that all existing, projected and potential land and water uses within the coastal zone may be controlled by any one or a combination of the techniques specified in Section 306(e)(1).

(b) *Comment.* Statutory citation: Section 306(e)(1):

Prior to granting approval, the Secretary shall also find that the program provides * * * for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(1) Section 306(e)(1)(A) "State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance." This option requires the State to establish general criteria and standards within the framework of the coastal zone program for implementation by local government. Such criteria and standards would provide for application of criteria and standards to specific local conditions. Implementation by a local unit of government would consist of adoption of a suitable local zoning ordinance or regulation, and enforcement on a continuing basis. Administrative review at the State level requires provision for review of local ordinances and regulations and local enforcement activity for consistency with the criteria and standards as well as programs, not review of specific cases on the merits. In the event of deficiencies either in regulation or local enforcement, State enforcement of compliance would require either appropriate changes in local regulation or enforcement or direct State intervention.

(2) Section 306(e)(1)(B) "Direct State land and water use planning and regulation." Under this option the State would become directly involved in the establishment of detailed land and water use regulations and would apply these regulations to individual cases. Initial determinations regarding land and water use in the coastal zone would be made at the State level. This option preempts the traditional role of local government in the zoning process involving lands or waters within the coastal zone.

(3) Section 306(e)(1)(C) "State administrative review for consistency with the management program of all development plans, projects, or land and water regulations, including exceptions and variances thereto proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings." This option leaves the local unit of government free to adopt zoning ordinances or regulations without State criteria and standards other than the program itself, but subjects certain actions by the local unit of government to automatic State review, including public notice and a hearing when requested by a party. Such actions include:

(i) Adoption of land and water use regulations, ordinarily in the form of a zoning ordinance or regulation.

(ii) Granting of an exception or variance to a zoning ordinance or regulation.

(iii) Approval of a development plan or project proposed by a private developer. This may be defined to exclude approval of minor projects, such as small residences or commercial establishments, or those which do not have a significant impact.

(4) It should be noted that State review is for consistency with the management program, not of the merits or of the facts on which the local decision is based.

(5) The State may choose to utilize only one of the specified techniques, or more than one, or a combination of them in different locations or at different times. Within the parameters set forth in the requirement, there is a large variety of tools which the management program could adopt for controlling land and water uses. The program should identify the techniques for control of land and water uses which it intends to use for existing, projected and potential uses within the coastal zone. This requirement will be reviewed in close conjunction with those contained in §§ 923.21, 923.24 and 923.25, dealing with State authorities to implement the management program.

Subpart D—Coordination

§ 923.30 General.

One of the most critical aspects of the development of State coastal zone management programs will be the ability of the States to deal fully with the network of public, quasi-public and private bodies which can assist in the development process and which may be significantly impacted by the implementation of the program. Each State will have to develop its own methods for accommodating, as appropriate, the varying, often conflicting interests of local governments, water and air pollution control agencies, regional agencies, other State agencies and bodies, interstate organizations, commissions and compacts, the Federal government and interested private bodies. It is the intent of these requirements for coordination with governmental and private bodies to assure that the State, in developing its management program, is aware of the full array of interests represented by such organizations, that opportunity for participation was provided, and that adequate consultation and cooperation with such bodies has taken place and will continue in the future.

§ 923.31 Full participation by relevant bodies in the adoption of management programs.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(1), the management program must show evidence that:

(1) The management program has been formally adopted in accordance with State law or, in its absence, administrative regulations;

(2) The State has notified and provided an opportunity for full participation in the development of its management program to all public and private agencies and organizations which are liable to be affected by, or may have a direct interest in, the management program. The submission of the management program shall be accompanied by a list identifying the agencies and organizations referred to in paragraph (a)(2) of this section, the nature of their interest, and the opportunities afforded such agencies and organizations to participate in the development of the management program. These organizations should include those identified pursuant to § 923.32, which have developed local, areawide or interstate plans applicable to an area within the coastal zone of the State as of January 1 of the year in which the management program is submitted for approval; and

(3) The management program will carry out the policies enumerated in section 303 of the Act.

(b) *Comment.* Statutory citation: Section 306(c)(1):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

This requirement embodies the actual approval by the Secretary of Commerce of a State's coastal zone management program pursuant to all of the terms of the Act, plus associated administrative rules and regulations. As the operative section, it subsumes all of the requirements included in this part, which shall be considered the "rules and regulations promulgated by the Secretary" mentioned in section 306(c)(1). The citation, however, also includes some specific additional requirements, for which guidance and performance criteria are necessary. These additional requirements include:

(1) Adoption of the management program by the State. The management program must demonstrate that it represents the official policy and objectives of the State. In general, this will require

documentation in the management program that the State management entity has formally adopted the management program in accordance with either the rules and procedures established by statute, or in the absence of such law, administrative regulations.

(2) Opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private. A major thrust of the Act is its concern for full participation and cooperation in the development and implementation of management programs by all interested and affected agencies, organizations and individuals. This is specifically included in the statement of national policy in section 303(c). The State must provide evidence that the listed agencies and parties were, in fact, provided with an opportunity for full participation. It will be left to the States to determine the method and form of such evidence, but it should contain at a minimum:

(i) A listing, as comprehensive as possible, of all Federal and State agencies, local governments, regional organizations, port authorities and public and private organizations which are likely to be affected by, or have a direct interest in, the development and implementation of a management program (including those identified in § 923.32), and

(ii) A listing of the specific interests of such organizations in the development of the management program, as well as an identification of the efforts made to involve such bodies in the development process.

(a) "Opportunity for full participation" is interpreted as requiring participation at all appropriate stages of management program development. The assistance which can be provided by these public and private organizations can often be significant, and therefore contact with them should be viewed not only as a requirement for approval, but as an opportunity for tapping available sources of information for program development. Early and continuing contact with these agencies and organizations is both desirable and necessary. In many cases it may be difficult or impossible to identify all interested parties early in the development of the State's program. However, the public hearing requirement of § 923.41 should afford an opportunity to participate to interested persons and organizations whose interest was not initially noted.

(3) Consistency with the policy declared in section 303 of the Act. In order to facilitate this review, the State's management program must indicate specifically how the program will carry out the policies enumerated in section 303.

§ 923.32 Consultation and coordination with other planning.

(a) *Requirement.* In order to fulfill the requirements contained in section 306(c)(2), the management program must include:

(1) An identification of those entities mentioned which have plans in effect on January 1 of the year submitted,

(2) A listing of the specific contacts made with all such entities in order to coordinate the management program with their plans,

(3) An identification of the conflicts with those plans which have not been resolved through coordination, and continuing actions contemplated to attempt to resolve them, and

(4) Indication that a regular consultive mechanism has been established and is active, to undertake coordination between the single State agency designated pursuant to § 923.23, and the entities in paragraph (B) of Section 306(c)(2).

(b) *Comment.* Statutory citation: Section 306(c)(2):

"Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find * * * that the State has:

(A) Coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) Established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

Relevant background information on this requirement appears in 15 CFR 920.45(f), and is incorporated by reference herein. While the State will exercise its authority over land and water uses of Statewide significance in the coastal zone by one or more of the techniques set forth in § 923.28, the State management program must be coordinated with existing plans applicable to portions of the coastal zone. It should be noted that this section does not demand compliance of the State program with local plans, but the process envisioned should enable a State not only to avoid conflicts and ambiguities among plans and proposals, but to draw upon the planning capabilities of a wide variety of governments and agencies. Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step. Effective cooperation and consultation must continue as the management program is put into operation so that local governments, interstate, regional and areawide agencies can continue to participate in the carrying out of the management program. The "plans" referred to in (A) shall be considered those which have been officially adopted by the entity which developed them, or which are commonly recognized by the entity as a guide for action. The list of relevant agencies required under § 923.31 will be of use in meeting this requirement. It will enable the State to identify those entities mentioned in (A) which have such plans and to provide evidence that coordination with them has taken place. The process envisioned should not only enable a State to avoid conflicts between its program and other plans applying within its coastal zone, but to draw upon the planning capabilities of a wide variety of local governments and other agencies. In developing and implementing those portions of the program dealing with power transmission lines, pipelines, interstate transportation facilities and other facilities which will significantly impact on neighboring States of a region, particular attention should be paid to the requirements of this section.

Subpart E—Miscellaneous

§ 923.40 General.

The requirements in this subpart do not fall readily into any of the above categories but deal with several important elements of an approvable management program. They deal with public hearings in development of the management program, gubernatorial review and approval, segmentation of State programs and applicability of water and air pollution control requirements.

§ 923.41 Public hearings.

(a) *Requirements.* In order to fulfill the requirement contained in section 306(c)(3), the management program must show evidence that the State has held public hearings during the development of the management program following not less than 30 days notification, that all documents associated with the hearings are conveniently available to the public for review and study at least 30 days prior to the hearing, that the hearings are held in places and at times convenient to affected populations, that all citizens of the State have an opportunity to comment on the total management program and that a report on each hearing be prepared and made available to the public within 45 days.

(b) *Comment.* Statutory citation: Section 306(c)(3):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has held public hearings on the development of the management program.

Extensive discussion and statements of policy regarding this requirement appears in §§ 920.30, 920.31 and 920.32, which is incorporated herein by reference.

§ 923.42 Gubernatorial review and approval.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(4), the management program must contain a certification signed by the Governor of the coastal State to the effect that he has reviewed and approved the management program and any amendments thereto. Certification may be omitted in

the case of a program submitted for preliminary approval.

(b) *Comment.* Statutory citation: Section 306(c)(4):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program and any changes thereto have been reviewed and approved by the Governor.

This requirement is self-explanatory.

§ 923.43 Segmentation.

(a) *Requirement.* If the State intends to develop and adopt its management program in two or more segments, it shall advise the Secretary as early as practicable stating the reasons why segmentation is appropriate and requesting his approval. Each segment of a management program developed by segments must show evidence (1) that the State will exercise policy control over each of the segmented management programs prior to, and following their integration into a complete State management program, such evidence to include completion of the requirements of § 923.11 (Boundaries of the coastal zone) and § 923.15 (National interest in the siting of facilities) for the State's entire coastal zone, (2) that the segment submitted for approval includes a geographic area on both sides of the coastal land-water interface, and (3) that a timetable and budget have been established for the timely completion of the remaining segments or segment.

(b) *Comment.* Statutory citation: Section 306(h):

At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That, the State adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

(1) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion. Segmentation is at the State's option, but requires the approval of the Secretary. States should notify the Secretary at as early a date as possible regarding intention to prepare a management program in segments.

(2) Continuing involvement at the State as well as local level in the development and implementation of segmented programs is essential. This emphasis on State participation and coordination with the program as a whole should be reflected in the individual segments of a management program. Regional agencies and local governments may play a large role in developing and carrying out such segmented programs, but there must be a continuing State voice throughout this process. This State involvement shall be expressed in the first segment of the management program in the form of evidence that (i) the boundaries of the coastal zone for the entire State have been defined (pursuant to § 923.11) and (ii) there has been adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature (pursuant to § 923.15) for the State's entire coastal zone. These requirements are designed to assure that the development of a Statewide coastal zone management program proceeds in an orderly fashion and that segmented programs reflect accurately the needs and capabilities of the State's entire coastal zone which are represented in that particular segment.

(3) The Act's intent of encouraging and assisting State governments to develop a comprehensive program for the control of land and water uses in the coastal zone is clear. This intent should therefore apply to segments as well, and segmented management programs should be comprehensive in nature and deal with the relationship between and among land and water uses. No absolute minimum or maximum geographic size limitations will be established for the area of coverage of a segment. On the one hand, segments should include an area large enough to permit comprehensive analyses of the attributes and limitations of coastal resources within the segment of State needs for the utilization or protection of these resources and of the interrelationships of such utilizations. On the other hand, it is not contemplated that a segmented management program will be developed solely for the purpose of protecting or controlling a single coastal resource or use, however desirable that may be.

(4) One of the distinguishing features of a coastal zone management program is its recognition of the relationship between land uses and their effect upon coastal waters, and vice versa. Segments should likewise recognize this relationship between land and water by including at least the dividing line between them, plus the lands or waters on either side which are mutually affected. In the case of a segment which is predominantly land, the boundaries shall include those waters which are directly and significantly impacted by land uses in the segment. Where the predominant part of the segment is water, the boundaries shall include the adjacent shorelands strongly influenced by the waters, including at least transitional and inter-tidal areas, salt marshes, wetlands and beaches (or similar such areas in Great Lake States).

(5) Segmented management programs submitted for approval will be reviewed and approved in exactly the same manner as programs for complete coastal zones, utilizing the same approval criteria, plus those of this section.

§ 923.44 Applicability of air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements contained in Section 307(f) of the Act the management program must be developed in close coordination with the planning and regulatory systems being implemented under the Federal Water Pollution Control Act and Clean Air Act, as amended, and be consistent with applicable State or Federal water and air pollution control standards in the coastal zone. Documentation by the official or officials responsible for State implementation of air and water pollution control activities that those requirements have been incorporated into the body of the coastal zone management program should accompany submission of the management program.

(b) *Comment:* Statutory citation: Section 307(f):

Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal government, or any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title, and shall be the water pollution control requirements and air pollution control requirements applicable to such program.

(1) The basic purpose of this requirement is to ensure that the management program does not conflict with the national and State policies, plans and regulations mandated by the Federal Water Pollution Control Act, as amended, and the Clean Air Act as amended. The policies and standards adopted pursuant to these Acts should be considered essential baselines against which the overall management program is developed. This is a specific statutory requirement that reflects the overall coastal zone management objective of unified state management of environmental laws, regulations and applicable standards. To this end, management programs should provide for continuing coordination and cooperation with air and water programs during subsequent administration of the approved management program.

(2) There are also significant opportunities for developing working relationships between air and water quality agencies and coastal zone management programs. These opportunities include such activities as joint development of Section 208 areawide waste treatment management planning and coastal zone management programs; consolidation and/or incorporation of various planning and regulatory elements into these closely related programs; coordination of monitoring and evaluation activities; increased management attention being accorded specifically to the coastal waters; consultation concerning the desirability of adjusting state water quality standards and criteria to complement coastal zone management policies; and designation of areas of particular concern or priority uses.

Subpart F—Applications for Administrative Grants

§ 923.50 General.

The primary purpose of administrative grants made under section 306 of the Act is to assist the States to implement coastal zone management programs following their approval by the Secretary of Commerce. The purpose of these guidelines is to define clearly the processes by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." This Manual contains procedures and guidelines for the administration of all grants covered under the Coastal Zone Management Act of 1972. It has been designed as a tool for grantees, although it addresses the responsibilities of the National Oceanic and Atmospheric Administration and its Office of Coastal Zone Management, which is responsible for administering programs under the Act. The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application. Inclusion of recommended policies and procedures for grantees does not limit the choice of grantees in selecting those most useful and applicable to local requirements and conditions.

§ 923.51 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration (NOAA) as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Director, Office of Coastal Zone Management (OCZM)
National Oceanic and Atmospheric Administration,
U.S. Department of Commerce
Rockville, Maryland 20852

§ 923.52 State responsibility.

(a) The application shall contain a designation by the Governor of a coastal State of a single agency to receive and have fiscal and programmatic responsibility for administering grants to implement the approved management program.

(b) A single State application will cover all program management elements, whether carried out by State agencies, areawide/regional agencies, local governments, interstate or other entities.

§ 923.53 Allocation.

Section 306(f) allows a State to allocate a portion of its administrative grant to sub-State or multi-State entities if the work to result from the allocation contributes to the effective implementation of the State's approved coastal zone management program. The requirements for identifying such allocations are set forth in § 923.55(e).

§ 923.54 Geographical segmentation.

Authority is provided in the Act for a State's management program to be developed and adopted in segments. Additional criteria for the approval of a segmented management program are set forth in Subpart E § 923.43. Application procedures for an administrative grant to assist in administering an approved segmented management program will be the same as set forth in this subpart for applications to administer an approved management program for the entire coastal zone of a State.

§ 923.55 Application for the initial administrative grant.

(a) The Form CD-288, Preapplication for Federal Assistance, required only for the initial grant, must be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required. The preapplication form may be submitted prior to the Secretary's approval of the applicant's management program provided, after consultation with OCZM, approval is anticipated within 60 days of submittal of the preapplication.

(b) All applications are subject to the provisions of OMB Circular A-95 (revised). The Form CD-288, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to the Office of Coastal Zone Management (OCZM). If the application is determined to be Statewide or broader in nature, a statement to that effect shall be attached to the Preapplication form submitted to OCZM. Such a determination does not preclude the State clearinghouse from involving areawide clearinghouses in the review. In any event, whether the application is considered to be Statewide or not, the Preapplication form shall include an attachment indicating the date copies of the Preapplication form were transmitted to the State clearinghouse and if applicable, the identity of the areawide clearinghouse(s) receiving copies of the Preapplication form and the date(s) transmitted. The Preapplication form may be used to meet the project notification and review requirements of OMB Circular A-95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence the project notification and review procedures, established State and areawide clearinghouses, should be implemented simultaneously with the distribution of the preapplication form.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. The allowability of costs will be determined in accordance with the provisions of FMC 74-4. Administrative grants made under section 306(a) of the Act are clearly intended to assist the States in administering their approved management programs. Such intent precludes tasks and related costs for long range research and studies. Nevertheless it is recognized that the coastal zone and its management is a dynamic and evolving process wherein experience may reveal the need for specially focused, short-term studies, leading to improved management processes and techniques. The OCZM will consider such tasks and their costs, based upon demonstrated need and expected contribution to more effective management programs.

(d) The Form CD-292, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A-95 requirements including the resolution of any problems raised by the proposed project. The OCZM will not accept applications substantially deficient in adherence to A-95 requirements.

(e) The State's work program implementing the approved management program is to be set forth in Part IV, Program Narrative, of the Form CD-292 and must describe the work to be accomplished during the grant period. The work program should include:

(1) An identification of those elements of the approved management program that are to be supported all or in part by the grant and the matching share, hereinafter called the grant project. In any event, activities related to the establishment and implementation of State responsibilities pursuant to Section 307 (c)(3) and Section 307(d) of the Act, are to be included in the grant project.

(2) A precise statement of the major tasks required to implement each element.

(3) For each task, the following should be specified:

(i) A concise statement of how each task will accomplish all or part of the program element to which it is related. Identify any other State, areawide, regional or interstate agencies or local governments that will be allocated responsibility for carrying out all or portions of the task. Indicate the estimated cost of the subcontract/grant for each allocation.

(ii) For each task indicate the estimated total cost. Also indicate the estimated total man-months, if any, allocated to the task from the applicant's in-house staff.

(iii) For each task, list the estimated cost using the object class categories 6.a. through k., Part III, Section B—Budget Categories of Form CD-292.

(4) The sum of all the task costs in sub-paragraph (3) of this paragraph should equal the total estimated grant project costs.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's in-house staff, that will be assigned to the grant project. Additionally indicate the number assigned full time and the number assigned less than full time in the two categories.

(6) An identification of those management program elements, if any, that will not be supported by the grant project, and how they will be implemented.

§ 923.56 Approval of applications.

(a) The application for an administrative grant of any coastal State with a management program approved by the Secretary of Commerce, which complies with the policies and requirements of the Act and these guidelines, shall be approved by OCZM, assuming available funding.

(b) Should an application be found deficient, OCZM will notify the applicant in writing, setting forth in detail the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) OCZM may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 923.57 Amendments.

Amendments to an approved application must be submitted to, and approved by, the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with OCZM well in advance. It is recognized that, while all amendments must be approved by OCZM, most such requests will be relatively minor in scope; therefore, approval may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 923.58 Applications for second and subsequent year grants.

(a) Second and subsequent year applications will follow the procedures set forth in this subpart, with the following exceptions:

(1) The preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 923.55 (b) will be followed and the preapplication is to be submitted 120 days prior to the beginning date of the requested grant. If the preapplication form is not used, the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed.

(2) The application must contain a statement by the Governor of the coastal State or his designee that the management program as approved earlier by the Secretary of Commerce, with any approved amendments, is operative and has not been materially altered. This statement will provide the basis for an annual OCZM certification that the approved management program remains in effect, thus fulfilling, in part, the requirements of section 309(a) for a continuing review of management programs.

(3) The Governor's document designating the applicant agency is not required, unless there has been a change of designation.

(4) Copies of the approved management program or approved amendments thereto are not required.

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