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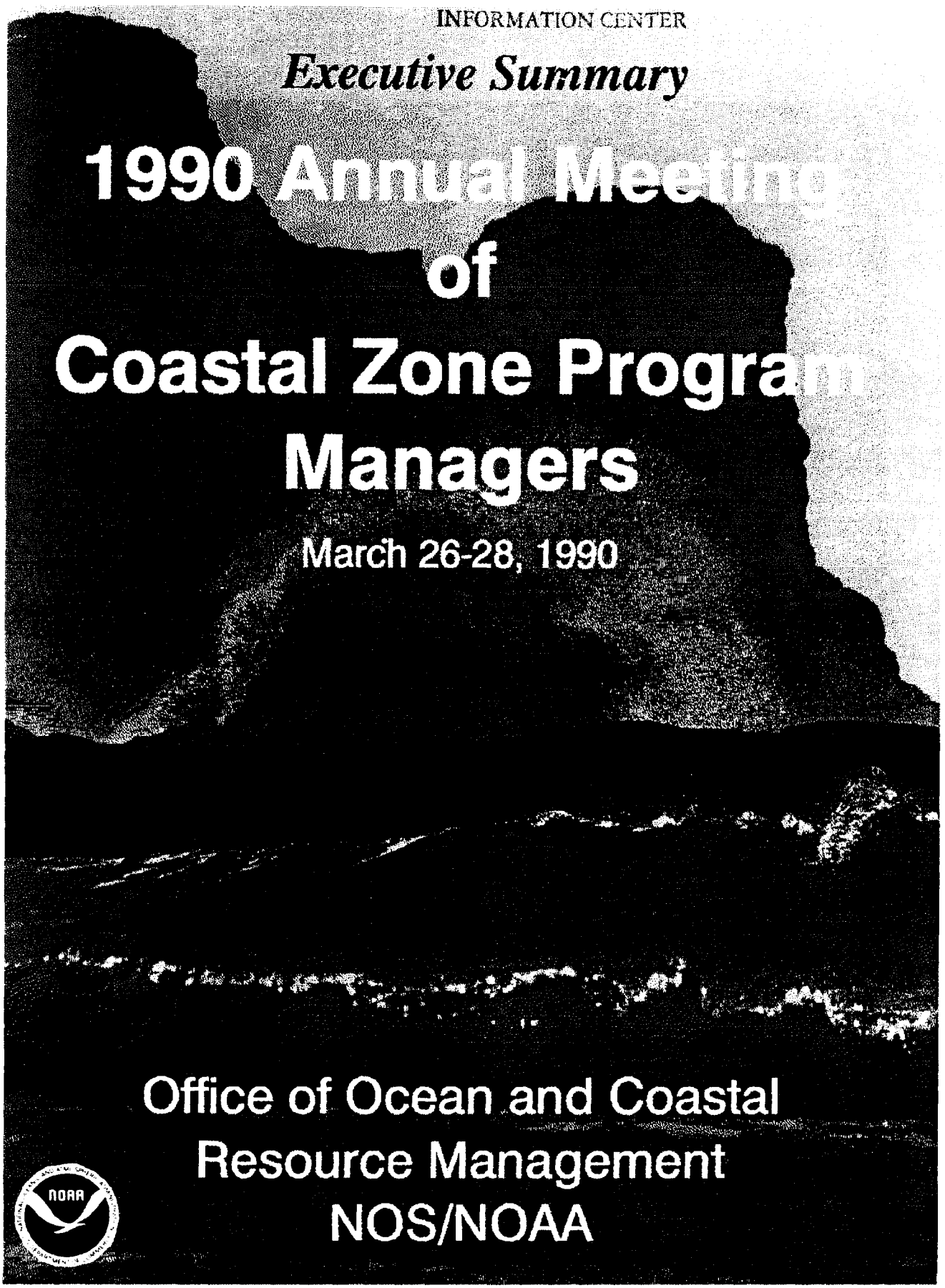
Executive Summary

1990 Annual Meeting of Coastal Zone Program Managers

March 26-28, 1990



Office of Ocean and Coastal Resource Management
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1990 ANNUAL MEETING OF COASTAL ZONE PROGRAM MANAGERS

INTRODUCTION

On March 26-28 1990, program managers of the Nation's 29 federally-approved coastal management programs held their annual meeting at the Shoreham Hotel in Washington, D.C. Jointly sponsored by the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM) and the Coastal States Organization (CSO), this year's meeting focused on "Solutions for Addressing Major Coastal/Ocean Resource Management Issues in the 1990s."

The purpose of the meeting was three-fold: (1) to improve the Federal-state partnership created by the Coastal Zone Management Act; (2) to examine issues timely to the future of the National Coastal Zone Management (CZM) Program and discuss the Administration's policies affecting the coasts; and (3) to further the initiative of planning for more effective management of coastal resources. To facilitate this endeavor, a diverse group of speakers and panelists representing Federal, state and local government, Congress, private industry, environmental groups, and academia were provided a forum for expressing their views.

Response to this year's meeting was very favorable with over 200 people attending the three-day event. During these three days, the agenda provided a forum for diverse discussion between speakers, panelists and attendees on a variety of coastal and ocean related issues. Discussions focused on reauthorization of the Coastal Zone Management Act (CZMA), various coastal management issues, such as nonpoint source pollution, coastal hazards, wetlands protection, growth management, Outer Continental Shelf activities, the economic value of the CZM program, CZM administrative operations, Federal consistency issues and the joint U.S.-Canadian Gulf of Maine Initiative.

The prominent topic during the three-day meeting was the ongoing reauthorization of the CZMA. The authorization for the Act expires on September 30, 1990. Meeting attendees exchanged views on how the legislative mandate of the CZM program could be improved to address coastal and ocean environmental problems. Although there was some disagreement among panelists as to the degree of changes that are necessary, a consensus was reached that the CZMA should be reauthorized, revitalized and expanded. The participants expressed optimism over the fact that the Administration favored reauthorization and a strengthened Act. One week prior to the annual meeting, the Administration transmitted a legislative proposal to the U.S. Congress which would revitalize the CZMA and shift its emphasis to major problems of the coastal and marine environment.

This publication has been prepared by OCRM staff to provide a summary of the various presentations and discussions at the meeting. OCRM staff chose to summarize the presentations to keep the report brief. The report is intended to

serve as a reference for meeting attendees and to further provide a benchmark from which future efforts toward effective management of the Nation's shoreline might be measured. The agenda and other selected items are appended to this report to provide additional information.

NOAA SUPPORTS COASTAL MANAGEMENT

Three top NOAA officials and the CSO Executive Chairperson greeted the managers with opening remarks on Monday morning. Virginia Tippie, NOAA's Assistant Administrator for Ocean Services and Coastal Zone Management, opened the meeting with optimistic words about the future of the CZM program. "These are exciting times to be a part of NOAA," she said, emphasizing that the current NOAA management team, led by Dr. John A. Knauss, is committed to providing national leadership in carrying out the President's plans to improve the Nation's ocean and coastal environment. Ms. Tippie indicated that one of NOAA's goals is to provide better products and services to its users and to ensure that research activities are better coordinated with coastal decisionmakers at all levels of government.

Dr. Knauss, a physical oceanographer and long time associate of ocean and coastal resources management issues, has been involved with NOAA and its various programs since the Agency's inception 20 years ago. Emphasizing the Administration's commitment to revitalize and strengthen the CZMA, Dr. Knauss noted that for the first time in almost a decade, the President's Fiscal Year 1991 budget request provides funding for the CZMA to assist states and territories in implementing and enhancing their federally approved CZM programs. Dr. Knauss believes this is an important first step to addressing the critical coastal problems of the Nation. The NOAA Administrator concluded his remarks by commending his management team and noting that both Ms. Tippie and Mr. Timothy Keeney, Director of the OCRM, have extensive experience in coastal management issues. With their strong leadership and the solid support of career staff at OCRM, Dr. Knauss is confident NOAA will provide the leadership necessary to address the coastal issues of the 1990s.

In his first official appearance before the program managers as the Director of OCRM, Mr. Keeney commended the states for their substantial progress over the past eight years in responding to threats to coastal resources. Mr. Keeney voiced optimism about the future of the CZM program and said he was looking forward to the challenge ahead, which would require considerable work from both the Federal government and the states. The OCRM Director affirmed his commitment to rebuilding the Federal side of the CZMA partnership with the states by providing increased technical assistance to states, improving coordination and communication between OCRM and affected Federal agencies, and redirecting current programs to meet changing demands and new challenges.

Mr. Keeney cited several instances in which OCRM is moving to revitalize and strengthen the CZM program. For example, OCRM provided travel funds to

send a team of permit experts from North Carolina, Florida, and Maryland to assist the Virgin Islands with permit reviews following the disaster of Hurricane Hugo. Also, OCRM contracted with a coastal hazards expert to evaluate coastal management issues in South Carolina in the wake of Hurricane Hugo. Mr. Keeney noted that these initial efforts are only the beginning of OCRM's plans to increase technical assistance to the states.

OCRM is also moving to resolve disagreements with other Federal agencies regarding their interpretation of CZMA provisions. Mr. Keeney referred to his December 15, 1989 letter to the U.S. Army Corps of Engineers (COE) in which he raised several major points of disagreement with the COE's September 1989 Guidance Letter. The COE's guidance letter outlined the agency's responsibilities to address requirements of the Clean Water Act and the CZMA when conducting COE operation and maintenance dredging activities. OCRM's letter raised several major points of disagreement with the COE over its interpretation of the CZMA Federal consistency provisions, including: (1) the COE's basis for "voluntary compliance" rather than mandatory compliance with the CZMA; (2) the COE's use and definition of "Federal Standard" when attempting to determine project viability; and (3) the COE's basis for its interpretation that the Ocean Dumping Act preempts the Federal consistency requirements of the CZMA.

COASTAL STATES ORGANIZATION SUPPORT

Dr. Sarah Taylor, the recently elected Chairperson of the Coastal States Organization, urged the managers to make their coastal management needs and interests known to President Bush, Administration officials, and the Congress, especially during the ongoing reauthorization of the CZMA. In emphasizing the importance of the long-standing partnership between OCRM and CSO, Dr. Taylor stressed the value of continuing the Annual Program Managers' Meeting. She also noted the opportunity for states to work cooperatively with the new administration, which has expressed a commitment to address environmental resources management problems.

CONGRESSIONAL SUPPORT

In a show of support from Congress, the Honorable Porter J. Goss, U.S. House of Representatives (R-FL.), and the Honorable H. James Saxton, U.S. House of Representative (R-NJ) gave the luncheon addresses on Monday and Tuesday, respectively. Both Congressmen were introduced by Jennifer Joy Wilson, Deputy Administrator of NOAA. In her introductory comments, Ms. Wilson reiterated the President's support for protecting the Nation's environmental resources and noted that the climate is right for furthering the objectives of the CZMA.

During his luncheon address, Congressman Goss expressed support and commitment to the reauthorization of the CZMA. He noted that the House bill now

addresses a variety of issues, but cautioned that the reauthorized bill should not attempt to be too aggressive. Congressman Goss supported the goals of the coastal water quality section and the efforts to strengthen the Federal consistency provisions as envisioned in H.R. 4030, introduced by Congressman Walter B. Jones (D-NC), Chairman of the House Committee on Merchant Marine and Fisheries.

During lunch on Tuesday, Congressman Saxon affirmed his support for the CZMA and the environment. Since taking office in 1984, the Congressman noted the variety of ocean issues he has been involved with. He also informed the managers that he recently proposed an amendment which, if passed, would establish a National Environmental Institute (NEI) to address environmental problems. The NEI would parallel the National Institutes of Health, which was established more than 100 years ago to control disease. The NEI, as an independent agency, would function as an information clearinghouse, pooling the talents of academia and Federal research facilities to aid in setting our Nation's environmental policies.

TECHNICAL SESSIONS:

1. CZMA Reauthorization Part I: Views of the Administration and the Congress.

Moderator: James P. Burgess, Chief, CPD-OCRM
Panelists: Tim Keeney, Director, OCRM; Dan Ashe, Majority Staff, U.S. House Merchant Marine and Fisheries Committee; Will Stelle, Fish & Wildlife Counsel, U.S. House Merchant Marine and Fisheries Committee; Mike Nussman, Majority Staff, National Ocean Policy Study, U.S. Senate Commerce Committee; and Lisa Pittman, Minority Counsel, U.S. House Merchant Marine and Fisheries Committee.

Background: The current authorization of the CZMA expires September 30, 1990. Several legislative proposals to reauthorize the CZMA have been put forward. These include: the Administration bill (H.R. 4438), the House Merchant Marine Committee's reauthorization bill (H.R. 4030), and Congressman Studds' Coastal Defense Initiative (H.R. 2647), which focuses on improving coastal water quality. At the time of this meeting, there was no Senate reauthorization proposal, although a Senate staffer reported that a proposal was being drafted based on an update of S.1189, a bill introduced in 1989 by Senator Kerry of Massachusetts. As introduced, S.1189 would require state CZM programs to prepare plans for the improvement of coastal zone water quality.

Although substantive changes were made to the CZMA in 1980, the current effort is the first major reauthorization of the Act since its initial passage in 1972. There was consensus that the CZMA should be reauthorized. As identified under the various bills, the major issues slated for improved management include:

-- water quality (nonpoint source pollution)
-- wetlands protection
-- coastal hazards (implications of sea level rise)
-- public access
-- marine debris

-- cumulative impacts (growth management)

Panel Summary: The panelists discussed many of the provisions contained in the various legislative proposals. Following are some highlights from this discussion:

o For the first time in several years, the Administration is strongly supportive of the reauthorization of the CZMA. One panelist suggested that the proposed move of the CZM program to the U.S. Environmental Protection Agency (EPA) accounted for some of this support. Panelists emphasized that the days of a "silent" Federal partner are over and that the Executive Branch is "back at the table." Congressional expectations are rising, and the states, Congress and the Federal Government must rebuild the partnership in coastal management.

o Presently, the climate is one of opportunity for important changes to the CZM program and renewed, but realistic, Federal financial support. Congressional staffers from both the House and Senate warned that unless the key CZM players work together, this opportunity will be missed.

o There was consensus that the CZMA would see a substantive reauthorization this year rather than a simple one-year, straight reauthorization.

During the question and answer period, several state CZM managers expressed concern about various provisions of the current proposals. Two items of particular concern to the managers dealt with the proposed Section 306B of H.R. 4030, the Water Quality Protection Program. Specifically, the managers were concerned with: 1) the penalty provisions of Section 306B which culminates in program decertification if States fail to prepare an acceptable program; and 2) the implementation difficulties and interagency cooperation at the state level. Also, there was concern about the low funding levels proposed for implementing these new provisions. The Congressional panelists invited the state program managers to contact them with specific suggestions on how the legislation should be modified to address their concerns.

2. CZMA Reauthorization Part II: The View of the Affected Interest Groups

Moderator: James P. Burgess, Chief, CPD-OCRM

Panelists: Beth Milleman, Executive Director, Coastal Alliance; John Peschke, OCS Coordinator, American Petroleum Institute; Gary Magnuson, Executive Director, Coastal States Organization; and Jack Archer, Environmental Science Program, University of Massachusetts.

All panelists unanimously supported reauthorization of the CZMA. A range of viewpoints was expressed by the panelists on specific topics and provisions contained in the pending reauthorization bills. However, much of the discussion focused on H.R. 4030.

The environmental interests proposed tighter controls for protecting wetlands, and water quality, advocated growth techniques and applauded the public participation and Federal consistency sections of H.R. 4030. Most panelists felt

that the Presidential exemption contained in an amendment to the Federal consistency provisions should be deleted and that water dependent uses should be more clearly defined.

The oil industry concerns were threefold. One concern is that H.R. 4030 transforms the existing statutory program for coastal management to one that over emphasizes coastal zone environmental protection to the detriment of energy development and other economic activity. In addition, the oil industry objects to the proposed changes to the Federal consistency provisions, specifically the application of these provisions to OCS lease sales. Finally, the industry is opposed to replacing the existing statutory term "coastal dependent uses" with "water-dependent uses," as proposed in H.R. 4030. The industry argued that this change precludes coastal siting priority being given to those activities which merely gain economic or commercial benefits from coastal location but which could be sited inland. The oil industry spokesperson indicated that the existing consistency provisions of the CZMA are adequate and should not be changed.

One panelist cautioned against inclusion of the Presidential exemption under Section 307 of the CZMA, given the way in which this exemption has worked under the Clean Water Act. Presumably, this opposition centered on the broad number of issues that would now become subject to Presidential exemptions, the lack of definition of "paramount interest" and the lack of judicial review of the Presidential decision. One panelist surmised that the Presidential exemption may have been added as a trade off for the expanded Federal consistency provisions in H.R. 4030.

3. Nonpoint Source Pollution: Overview of National Policies and Coordination of Existing Programs

Moderator: Arthur Rocque, Director, Connecticut Coastal Management Program

Panelists: Martha Prothro, Director, Office Of Water Regulations and Standards, EPA; Charles Terrell, Deputy Chief for Programs, Soil Conservation Service, USDA; Lynne Sprague, Northeast Representative, National Association of Conservation Districts; and George Stafford, Program Manager, New York State CZM Program.

All panelists underscored the need to greatly improve coordination among existing state CZM, water quality and other resource management programs to provide a more comprehensive management approach to address nonpoint source pollution. The ubiquitous nature of the problem and the multiplicity of Federal and state programs which already address nonpoint source pollution problems, necessitate improved coordination and cooperation among the key players. The panelists cited the need to track the progress being made on water quality at the Federal, state and local levels, to better coordinate these efforts to prevent overlap and to improve communication among the relevant groups.

While the Environmental Protection Agency (EPA) has the major responsibility for ensuring water quality and controlling

nonpoint and other sources of pollution, several other Federal agencies (i.e., NOAA, the U.S. Fish and Wildlife Service, the Army Corps of Engineers and the Department of Agriculture) are also involved in water quality management efforts. In some cases, overlapping responsibilities exist for addressing water quality concerns. Lack of coordination and communication among these responsible agencies has caused and will cause some problems. As reported by EPA, 54 states and territories have completed nonpoint source assessments and plans as required by Section 319 of the Clean Water Act. Although most plans require additional work, EPA reported that all but 12 are complete. In Fiscal Year 1990, Congress appropriated funds ($40 million) for states to begin implementing their nonpoint source plans. An informal survey of program managers in attendance indicated that only about one-third of all state CZM managers had been involved in the development of their state's Section 319 grant proposals. The managers agreed that a formal interagency coordinating group or other informal memoranda of understanding (MOU) should be established to enhance coordination between the water quality and CZM agencies. EPA indicated that future nonpoint source efforts should focus on the establishment of baseline nonpoint source controls in specific geographic areas and that greater CZM involvement is necessary.

The Department of Agriculture's Soil Conservation Service (SCS) reported water quality as a major priority, second or equal to its principal goal of arresting soil erosion. FY 90 programmatic efforts by SCS to address water quality issues include increased technical assistance, demonstration projects, regional programs, and a special program to address nonpoint source issues in 37 hydrological units nationwide. It was noted that proposed farm legislation may include significant new programs to address water quality concerns.

The National Association of Conservation Districts stressed the need to integrate Federal and state water quality programs at the local level and cited the Conservation Districts as a potential mechanism to provide such integration because of their grassroots focus. Also, because of their land-use focus, CZM programs should play a key role in integrating nonpoint source efforts. It was also noted that many beneficial results can come from "program crossovers" -- i.e., integrating various land use, water quality, and agricultural programs.

In New York State, efforts by the CZM program agency to coordinate nonpoint source pollution management activities with the Department of Environmental Conservation's water quality program led to the signing of an agreement between the two state agencies. In part, this agreement was the result of Congressional staff efforts to develop a CZM water quality coordination process for inclusion in H.R. 2647, the Coastal Defense Initiative. The basic points of agreement between the two agencies are that: Federal legislation should provide the framework for state CZM water quality coordination; a single coastal water quality plan should be developed jointly by the state CZM and water quality agencies; the plan should be approved by both NOAA and EPA; the plan should include an

implementation MOU; and each state grant application to NOAA and EPA must explain how the grant is consistent with the Coastal Water Quality Plan.

4. Techniques for Controlling Nonpoint Source Pollution

Moderator: William Millhouser, South Atlantic Regional Manager, CPD, OCRM

Panelists: Patrick Noonan, President, Conservation Fund; Steve Snyder, Director, Planning and Certification, South Carolina Coastal Council; and Eugene Wright, Manager, Old Woman Creek National Estuarine Research Reserve.

A variety of techniques for addressing nonpoint source pollution were presented by the panelists. The techniques ranged from buffers along waterbodies to regulatory approaches and technical assistance.

The Greenways Program, promoted by the Conservation Program Fund, is a cooperative effort between state CZM programs and non-profit organizations to preserve open space corridors along streams and other linear features. These open space areas serve as buffers for protecting waterbodies. A key feature of the program is the acquisition of waterfront property.

In South Carolina, stormwater management guidelines provide adequate protection from surface runoff during a five-year storm event. Early interaction between the South Carolina CZM program and developers ensures that new development projects incorporate appropriate stormwater management techniques for the type, intensity, and proximity of the development.

In Ohio, the Old. Woman Creek National Estuarine Research Reserve has a demonstration project underway to determine the best land use techniques to identify and develop management techniques for nonpoint source pollution. The small size of the watershed (27 square miles) has enabled the establishment of monitoring sites that measure approximately 97 percent of the water flow in Old Woman Creek. This monitoring program provides a valuable tool for studying land use impacts on water quality.

5. Coastal Hazards: Reform of the National Flood Insurance Program, FEMA Community Rating System, Implications of Hurricane Hugo on South Carolina

Moderator: Marcella Jansen, Coastal Hazards & Technical Assistance Coordinator, CPD-OCRM

Panelists: Crane Miller, Author/Attorney; H. Wayne Beam, Executive Director, South Carolina Coastal Council; Onaje Jackson, Director, U.S. Virgin Islands Coastal Program; Ross MacKay, Senior Policy Officer, Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA); and Christopher Tulou, Legislative Director of Congressman Tom Carper (D-DE.)

The panelists discussed various provisions of the National Flood Insurance Program (NFIP), including certain inadequacies under the program. A

report on the wind damage from Hurricane Hugo, which was prepared by Crane Miller, was summarized. The report revealed that while most structures in South Carolina met NFIP requirements for elevation, winds caused much of the damage. Furthermore, the NFIP does not regulate building standards for wind resistance. In this regard, the Miller report indicated the need for improved building standards, both in local building codes and NFIP regulations.

In South Carolina, the NFIP constitutes a Federal subsidy to beach development and is inconsistent with the State's efforts to control development in hazardous areas.

On St. Croix, Virgin Islands, 95 percent of the buildings sustained major structural damage, caused mostly by wind, which is not covered under the NFIP. Also, there was an expressed need for better assistance after a disaster such as Hurricane Hugo. For example, there should be a clearinghouse for resources available after a disaster. FEMA provided such information to the Virgin Islands government, but only after major relief efforts were concluded.

It was noted that a major flaw in the NFIP relates to exemptions for existing structures and a flat rate structure that does not consider regional differences. To rectify these deficiencies, FIA has proposed the "Community Rating System"(CRS). The CRS would categorize communities by risk and modify rate structures accordingly, impose stringent building standards, and require retrofitting of existing structures.

Currently, a proposal to reform the NFIP is pending before the Congress. The proposal considers erosion rates, as well as other risk factors, better participation in the program (less than 50% of eligible homeowners participate in the NFIP), and consideration of mitigation and prevention funding in place of the current insurance program.

The panelists called for improved technical assistance and information on hazards mitigation and revisions to the NFIP to provide better coverage and use as a management tool.

6. Wetlands Protection: Update of National Policy and Role of CZM Programs in Attaining No-Net-Loss

Moderator: Marjorie Ernst, Program Specialist, North Atlantic Region, CPD-OCRM

Panelists: Suzanne E. Schwartz, Director, Regulatory Activities Division, Office of Wetlands Protection, EPA; E. Zel Steever, Chief, Technical Section, Regulatory Branch U.S. Army Corps of Engineers; Robert Piel, Manager, Bureau of Inland Regulations, New Jersey Department of Environmental Protection; Shamus Malone, Wetlands Protection and Coastal Hazards Specialist, Pennsylvania Coastal Zone Management Program; and Alan Pendleton, Executive Director, San Francisco Bay Conservation & Development Commission.

This Federal-State panel discussed various wetlands protection activities and efforts to meet the President's policy of no-net-loss of wetlands. Federal agencies

and states are already taking steps to achieve this goal. EPA has stepped up its wetlands protection program by increasing enforcement activities, completing a wetlands delineation manual, negotiating a Memoranda of Agreement with the U.S. Army Corps of Engineers (COE), and using new Federal guidelines for sentencing violators. EPA is also encouraging stronger state and local programs by promoting greater use of 401 certifications under the Clean Water Act, providing grants to states to develop freshwater wetlands protection programs, and using state personnel to assist Federal enforcement.

The COE's new programmatic direction includes an increased budget and new personnel. In addition, the COE adopted a new policy, entitled the Strategic Direction for Environmental Engineering Memo, in which environmental considerations will be given equal weight with the COE's traditional mission goals. During FY90, COE's budget for the Clean Water Act Section 404 program was increased to $2 million; in FY 91 the 404 program budget will be $7-8 million. The COE's Public Works Division is beginning creation and restoration of wetlands. Also, the COE is soliciting input from state CZM managers regarding public interest review, advanced planning, Special Area Management Plans and advanced identification, revisions to nationwide permits, and the details of a no-net-loss program.

Using a variety of state and local regulatory and administrative programs, many states are aggressively protecting wetlands. For example, in New Jersey, the Tidal Wetlands Law, Coastal Area Facilities Review regulations, Section 401 Water Quality Certifications, and local and county wetlands ordinances provide the basis for the State's regulatory programs. New Jersey would also like to assume authority under Section 404 of the Clean Water Act to simplify the regulatory system and to achieve no-net-loss of its wetlands.

The Commonwealth of Pennsylvania is working with the U.S. Fish & Wildlife Service to prepare a digital inventory of the Commonwealth's wetlands, establish status and trends and pre-delineate wetlands in the path of future development. As a networked CZM program (i.e., the CZM agency has no direct statutory authority), Pennsylvania is faced with certain constraints regarding its regulatory programs. To alleviate this problem, states with networked CZM programs may want to undertake independent monitoring efforts. This could be accomplished by enlisting the COE and EPA for site verification and enforcement and allowing the agencies to pick the sites they want to monitor.

Through the efforts of the San Francisco Bay Conservation and Development Commission's (BCDC) wetlands mitigation policy, the state of California requires that wetlands may only be filled if there are no alternatives and the public benefit outweighs the loss. Through strict implementation of this policy, BCDC has been successful in exacting a good deal of compensatory mitigation (e.g., two acres lost yields 238 acres to be replaced) from developers. Furthermore, fill is usually only allowed in open water areas.

Growth Management: State and Local Techniques for Controlling Growth to Protect Coastal Resources

Moderator: Laurie McGilvray, Assistant Regional Manager, Pacific Region, CPD-OCRM

Panelists: David Brower, Research Professor, Center for Urban and Regional Studies, University of North Carolina; Michael Neuman, Area Planning Manager, New Jersey Office of State Planning; Sarah Taylor, Executive Director, Chesapeake Bay Critical Areas Commission; and George Stafford, Director, New York State Coastal Management Program.

A general overview of growth management was provided. It was emphasized that growth management is not a no-growth response to development, but a deliberate government program to influence the characteristics of development or redevelopment (i.e., amount, rate, location, and timing). An important question to resolve when developing a growth management program is what or whose goals the program will maximize. For more balanced development in coastal areas, growth management falls into four basic categories: regulatory controls; administrative practices; taxation schemes; and land acquisition. There are many ways to achieve the community goals using a combination of these techniques. It was agreed that most if not all growth management techniques can be successful and legally defensible.

Representatives from three state CZM programs -- New Jersey, Maryland and New York -- described their growth management efforts. The New Jersey initiative focuses on the development of a state growth management plan that involves a "cross acceptance" process whereby both the state and local governments develop plans. Criteria that is based on statewide goals for development to redevelopment then undergo a comparison. A final policy plan is then negotiated between the state and local governments which includes economic, fiscal, environmental assessment, criteria and implementation ordinances. Coastal policies are included as an individual element of the planning process, with input from the local governments and the New Jersey Coastal Management Program. Although lengthy, this five-year process is raising program visibility and citizen awareness.

In Maryland, the Critical Area Program (CAP) is the state's primary regulatory tool for managing coastal growth. The CAC requires the state to develop criteria to guide local governments in developing and implementing local Critical Area Plans. Several elements are essential to the success of this program. These include: strong leadership, well defined goals, extensive public participation, and consistent standards for all localities. Problems with the CAP center on the lack of development controls throughout coastal watersheds beyond a 1,000 foot boundary and significant program costs -- $1.2 to $1.5 million per year.

New York has experienced minimal success with various regional and local growth management initiatives. They include the Hudson River Scenic Areas

Program, Suffolk County Transfer of Development Rights, and various land acquisition programs. Many of these local initiatives lacked focus, were not adequately coordinated, were reactive rather than proactive, and were not undertaken at the proper geographic or political level. Lessons learned from these efforts include developing a regional strategy, developing better criteria for local planning and permitting, setting minimum standards for state-wide decisions, and providing greater use of incentives and disincentives.

The panelists believe growth management programs should be based on clear goals and at a minimum should address a region or preferably a watershed area. Input from both the state and local levels are essential. There are numerous examples of effective and legally defensible growth management programs. However, these programs tend to be time consuming and costly to develop. Nevertheless, such programs may be the only way to truly deal with escalating coastal development.

8. Federal Consistency: Innovative State Applications

Moderator: Judy Kelly, Regional Manager, Gulf Region, CPD-OCRM

Panelists: Bryan Cullen, Associate Counsel, NY Department of State; Robin Smith, Assistant Attorney General, State of North Carolina; and Dave Worley, Manager, Florida Coastal Management Program.

The panelists discussed unique Federal consistency applications in their states. Florida has improved overall permit coordination by using the Department of Environmental Regulation (DER) permit process to improve consistency reviews. Through a memorandum of understanding (MOU), Florida uses the state clearinghouse process to involve state agencies in Federal consistency reviews. If an agency objects to the permit, it is responsible for representing itself in the overall state review process and must defend its position in any legal proceedings.

North Carolina has expanded its consistency reviews over various military activities in or affecting the state's coastal zone. Of primary concern is North Carolina's efforts to effect the military use of airspace. This raises several legal issues including: Federal preemption of state standards, state regulation of impacts not covered under Federal statute, and preemption of one Federal statute by another Federal statute. Also, North Carolina described how it was able to require the necessary environmental information for consistency review of the Mobil OCS plan of exploration through a MOU with the U.S. Minerals Management Service.

New York has successfully used its water dependent facility policy in Federal consistency decisions. Further, the water dependency policy was supported by the Secretary of Commerce in two consistency appeal decisions, which set a precedent. A remaining problem is the lack of enforcement by the Federal agency once the consistency appeal has been decided.

There was general consensus among the panelists on several issues, including: early involvement by Federal agencies in a state consistency objection to a Federal permit is essential; the timetable for issuing consistency appeal decisions by NOAA/DOC takes too long and the CZMA may need to be amended to allow state enforcement of consistency appeal decisions; Federal consistency reviews in networked programs can be enhanced through a state clearinghouse process, which makes objecting agencies responsible for subsequent legal proceedings; states may be able to influence Federal activities on Federal land even if they are regulated under another Federal statute; and the consistency regulations should be changed to clarify the Presidential Proclamation on extension of the territorial sea.

9. Outer Continental Shelf Issues: Presentation of Five-Year OCS Leasing Schedule and the Recommendations of the President's Task Force on the OCS

Ed Cassidy, Deputy Director of the Department of the Interior's Minerals Management Service (MMS), described MMS's two most critical responsibilities: 1) to make offshore energy resources that belong to all Americans available to all Americans, and to do so in an environmentally sound manner; and 2) to provide the public in the affected area an opportunity to contribute to the ongoing dialogue and decisionmaking on controversial OCS issues. The challenge for MMS is to balance these two tasks, according to Mr. Cassidy.

At the time of the program managers meeting, MMS was awaiting the President's decision on the recommendations from the OCS Task Force. However, the planning process for the next OCS Five-Year Plan, (1992-1997) was still continuing. MMS is considering a new approach called the basin-wide approach, wherein the proposed sale area reflects the actual geology. This contrasts with the current "areawide" approach. Also, an increased effort related to resource evaluation is underway at MMS. Mr. Cassidy petitioned the state CZM managers to work more closely and cooperatively with the MMS and agreed that MMS would do likewise.

10. Presentation of the Section 309 National Study of the Coastal Management Program

David Brower, Research Professor, Center for Urban and Regional Studies at the University of North Carolina (UNC), and David Owens, Associate Professor, Institute of Government, UNC, reported on the national study: entitled "Valuing Coastal Zone Management". The study was prepared by the Center for Urban and Regional Studies at UNC Chapel Hill for the National Coastal Resources Research and Development Institute (NCRI) in Newport, Oregon. It focuses on assessing the value of the coastal zone and the economic contribution of the Federal CZM program to the Nation's gross national product (GNP). The report is divided into three major parts: 1). An overview and analysis of the state CZM programs; 2). An overview and analysis of the Federal CZM program; and 3). An analysis and determination of the value

of the coastal zone, and the economic contribution of the Federal CZM program.

The report concludes that although the coastal zone is only 13 percent of the U.S. land area, coastal related economic activities account for 28 million jobs, and 31.7 percent of the total U.S. GNP. The coastal zone is expected to accommodate 59 percent of the Nation's projected future growth in population between the years 1980 and 2000. It was also reported that combined state and Federal CZM spending is an extremely small amount (0.004 percent) of the value of goods and services produced in the coastal zone. State and Federal CZM funding is very important for national economic growth and prosperity, as every one dollar of CZM-related funds is associated with a $25 increase in coastal GNP. Therefore, despite its low funding, the CZM program has provided an excellent economic value to the Nation.

II. Federal Consistency: Appeals, Litigation, and General Counsel Opinions

Margo Jackson, Assistant General Counsel for NOAA's Ocean Services (GCOS) reported on the status of Federal consistency appeals pursuant to the CZMA. According to Ms. Jackson, since 1982, the number of appeals has significantly increased with a high in 1988 of 43 appeals. Ms. Jackson noted that the appeals are time consuming, but indicated that several improvements have been instituted in the appeals process over the last year. These include: 1) GCOS now has the authority to review all appeals, not just on a case-by-case basis; and 2) the authority to make appeal decisions was delegated from the Secretary of Commerce to the Under Secretary for Oceans and Atmosphere. Since the last CZM Program Managers' meeting in 1989, two Federal Consistency appeals were decided:

o Texaco appealed an objection by the California Coastal Commission regarding its proposed activities for a lease offshore Santa Barbara County, California. The Commission objected to Texaco's consistency certification for its proposed plan of exploration and its National Pollution Discharge Elimination System (NPDES) permit to discharge drill needs. While the CCC did not object to the plan of exploration, it asserted that the permit was "inextricably linked" to the exploration plan. The DOC ruled that the objection to the NPDES permit was invalid because it did not describe how that permit was inconsistent with the approved CZM program. DOC overruled the CCC's objection, finding that the project was consistent with the objectives or purposes of the CZMA.

o Exxon appealed an objection by the New Jersey Coastal Management Program regarding the fill of approximately 5,660 square feet of wetlands for the construction of a gas station entranceway. DOC found that the adverse effects to natural resources of the proposed fill outweighed the proposed activity's contribution to the national interest.

Ms. Jackson also summarized other issues that the GCOS addressed during the past year. These include:

o The South Carolina Coastal Council's (SCCC) request to review a proposed development project, which required a Corps of Engineers permit, by LJ Hooker on the Savannah River in the State of Georgia. The SCCC contended that dredging activity within 300 feet of South Carolina's coastal zone would have an adverse impact on the State of South Carolina. Regarding the right of one state to review an activity in another state for consistency, NOAA's General Counsel took the position that South Carolina could review the activity. The Department of Justice supported the Corps' contention that the SCCC did not have this right.

o GCOS provided an interpretation of the President's Territorial Sea Proclamation extending the territorial sea from three to 12 miles. The issue in this case concerns the extension of the seaward boundaries of the state coastal zone management program. GCOS found that the intent of the Proclamation does not justify an extension of the CZM boundary to 12 miles.

GCOS was involved in one mediation request. The Alaska Coastal Management Program (ACMP) requested mediation services to resolve a conflict with the U.S. Forest Service (USFS) over five-year timber harvesting plans and the ACMP's request to review each phase of the plan. The ACMP and USFS are currently developing a Memorandum of Understanding to resolve this dispute.

An informal request was made by the North Carolina Coastal Management Program to use mediation to resolve its disputes with the Department of the Navy regarding the Navy's military activities.

12. Policy and Administrative Changes to NOAA Grants Management

Desmond McLearen, Chief of NOAA's Grants Management Division, National Capital Administrative Support Center, discussed the recent reorganization of NOAA's grant operations. The reorganization involves the consolidation of five regional grants offices into one centralized office which is located in Silver Spring, Maryland. Initially, no new staff were hired for the increased workload. As a result, there has been a tremendous backlog of grants and other related actions. Recently, the Grants Management Division hired 13 new staff, bringing the total number of staff to 20. Many of the past problems with timeliness and other issues are expected to be eliminated shortly.

Mr. McLearen indicated that grant recipients should now receive better service by the NOAA Grants Division.

Mr. McLearen stressed the importance of open communication between the Grants Management Division and the grant recipients. In an effort to further communications, the Grants Management Division is publishing a newsletter, entitled "Open Channel". Mr. McLearen supports the Paperwork Reduction Act and the delegation of some authority to grant recipients. Questions from the recipients focused on problems with timeliness and the lack of clear direction from the Grants Management Division. The CZM program managers questioned the large amount of information now being required for grant applications and grant amendments.

There was some discussion on the appropriate channels of communication among the Grants Management Division, OCRM, and the recipients.

13. Informal Discussion on OCRM's Proposed Changes to Grants Administration, Performance Report Guidance, Section 312 Evaluations, and CZMA Regulations

Moderator: Timothy Keeney

Panelists: Timothy Keeney, OCRM Director; Ben Mieremet, Acting Evaluation Officer; Jim Lawless, Chief, Ocean Minerals and Energy Division, OCRM; Joe Uravitch, Chief, Marine and Estuarine Management Division, OCRM; and Jim Burgess, Chief, Coastal Programs Division, OCRM

Proposed changes to OCRM's administration of the CZMA include new staff to perform section 312 evaluations and an effort to make evaluation documents more effective. While the Ocean Minerals and Energy Division is primarily concerned with Ocean Thermal Energy Conversion (OTEC), ocean mineral development and Law of the Sea issues, they are mindful of the state CZM programs in carrying out their respective responsibilities. The National Estuarine Research Reserve (NERR) and Marine Sanctuary Programs are progressing in the mandate to actively designate special areas for research, education and conservation purposes. Six new reserves in Virginia, Delaware, South Carolina, New York, and San Francisco Bay are being considered and 10 new marine sanctuary sites are to be designated or studied for possible designation.

Coastal Programs Division (CPD) changes include enhancing technical assistance to the states and providing public information on CZM benefits. Another major policy direction is to work with the states on innovative solutions for improving coordination with Federal agencies. CPD will also comment on new guidance prepared by the NOAA Grants Management Division, streamline the 306A grant process for states, improve performance report guidelines, integrate CZM and Sea Grant activities, and prepare to write regulations in response to the CZMA reauthorization process.

14. Briefing/Roundtable Discussion on the Gulf of Maine

Moderator: Patricia L. Scott, Assistant Manager, North Atlantic Region, CPD, OCRM

In conjunction with the CZM Program Managers' Meeting, Dave Keeley, Director, Maine CZMP; Dave Hartman, Director, New Hampshire CMP; and Jeff Benoit, Director, Massachusetts CZMP, briefed Congressional staff members and NOAA staff on the Gulf of Maine (GoM) Initiative. The purpose of the briefings was to: 1) update the progress and status of efforts under the Initiative; and 2) obtain information from NOAA on its various activities in the GoM. Under this collaborative, international Initiative, three New England States, Maine, Massachusetts and New Hampshire, and two Canadian Provinces, Nova Scotia and New Brunswick, have

engaged in a comprehensive management effort to conserve and restore the valuable resources of this important ecological area.

Using funding from a variety of sources, including the CZMA Section 309 Interstate Grant program, the GoM Initiative has fostered a unique proactive management approach towards managing the Gulf as a single ecosystem rather than a series a separate political jurisdictions. Unlike most previous efforts to manage large waterbodies, this Initiative seeks to create a management regime to protect this important area before it sustains considerable environmental damage.

At a conference on the GoM held in December 1989 in Portland, Maine, the three Governors and Premiers signed an agreement on conservation of the marine environment of the GoM. The Agreement creates a GoM Council on the Marine Environment which is tasked to develop a 10-year Action Plan for the GoM. The GoM Council members were appointed and the first Council meeting was scheduled for April 1990 in Nova Scotia.

To continue this management effort, technical assistance and funding for various elements of the program are required. Conceivably, this Initiative can serve as a model for managing other large or regional waterbodies.

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A P P E N D I C E S

NATIONAL COASTAL PROGRAM MANAGERS' MEETING

Omni Shoreham Hotel
2500 Calvert Street, N.W.
Washington, D.C. 20008

March 25-28, 1990

Sponsored by:
National Oceanic and Atmospheric Administration
Coastal States Organization

AGENDA

Sunday

Registration and informal get-together.
5:30 P.M. - Suite 440

Monday (Hampton Room)

8:00 - 8:30 A.M.	-	Registration
8:45 - 8:50 A.M.	-	Introduction of Under Secretary John A. Knauss by Virginia Tippie, NOAA Assistant Administrator for Ocean Services and Coastal Zone Management
8:50 - 9:00 A.M.	-	Welcoming Remarks: Dr. John A. Knauss, Under Secretary for Oceans and Atmosphere and NOAA Administrator
9:00 - 9:15 A.M.	-	Welcoming Remarks: Sarah Taylor, Chair Coastal States Organization
9:15 - 9:30 A.M.	-	Timothy R.E. Keeney, Director Office of Ocean and Coastal Resource Management

9:30 - 10:45 A.M. - **Panel on CZMA Reauthorization (Part I): Views of the Administration and the Congress**

o James P. Burgess, Chief
Coastal Programs Division, OCRM

PANELISTS:

o Timothy R.E. Keeney, Director, OCRM

o Dan Ashe, Majority Staff
House Merchant Marine and Fisheries Committee

o Will Stelle, Fish & Wildlife Counsel
House Merchant Marine and Fisheries Committee

o Michael Nussman, Majority Staff
National Ocean Policy Study
Senate Commerce Committee

o Lisa Pittman, Minority Counsel
House Merchant Marine and Fisheries Committee

10:45 - 11:00 A.M. - BREAK

11:00 - 12:30 P.M. - **Panel on CZMA Reauthorization (Part II): The views of affected interest groups**

MODERATOR:

o James P. Burgess, Chief
Coastal Programs Division, OCRM

PANELISTS:

o Beth Milleman, Executive Director
Coast Alliance

o John W. Peschke, OCS Coordinator
American Petroleum Institute

o Gary Magnuson, Executive Director
Coastal States Organization

o Jack Archer, Environmental Science Program
University of Massachusetts at Boston

12:30 - 2:00 P.M. - LUNCHEON (Diplomat Room)

Remarks and introduction of Mr. Goss by
Jennifer Joy Wilson, Assistant Secretary for Oceans and Atmosphere and NOAA Deputy Administrator

Guest Speaker: Honorable Porter J. Goss
U.S. House of Representatives

2:00 - 3:30 P.M. - **Panel on Nonpoint Source Pollution: Overview of National Policies and Coordination of Existing Programs**

MODERATOR: Art J. Rocque, Director
Connecticut Coastal Zone Management Program

PANELISTS:

o Martha Prothro, Director
Office of Water Regulations and Standards, EPA

o Galen Bridge, Deputy Chief for Programs
Soil Conservation Service
Department of Agriculture

o Lynn Sprague, Northeast Representative
National Association of Conservation Districts

o George Stafford, Director
Division of Coastal Resources and
Waterfront Revitalization
New York Department of State

3:30 - 3:45 P.M. - BREAK

3:45 - 5:30 P.M. - Panel on Coastal Hazards: Reform of the National Flood Insurance Program; FEMA community rating system; implications of Hurricane Hugo on South Carolina.

MODERATOR:

Marcella Jansen, Coastal Hazards and Technical Assistance Coordinator, Coastal Programs Division, OCRM

PANELISTS:

- o H. Crane Miller, Attorney-at-Law
  Washington, D.C.
- o Dr. H. Wayne Beam, Executive Director
  South Carolina Coastal Council
- o Onaje Jackson, Program Manager
  Virgin Islands Coastal Management Program
- o Christophe Tulou, Legislative Director for
  Congressman Carper
- o Ross MacKay, Senior Policy Officer
  Federal Insurance Administration
  Federal Emergency Management Agency

5:30 - 7:00 P.M. - RECEPTION (Diplomat Room)

Tuesday (Hampton Room)

8:30 - 9:30 A.M. - **Techniques in Nonpoint Source Pollution: Case studies, state perspectives, and role of CZM programs and NERRS in addressing nonpoint source pollution**

MODERATOR:

- o William Millhouser, South Atlantic Regional Manager
  Coastal Programs Division, OCRM

PANELISTS:

- o Eugene Wright, Manager
  Old Woman Creek National Estuarine
  Research Reserve and President, National Estuarine
  Research Reserve Association

- o Steve Snyder, Director of Planning and Certification
  South Carolina Coastal Council

- o Patrick F. Noonan, President
  Conservation Fund

9:30 - 11:15 A.M. - **Panel on Wetlands Protection: Update of national policy and role of CZM programs in attaining no-net-loss**

MODERATOR:

Maggie Ernst, Program Specialist, North Atlantic Region
Coastal Programs Division, OCRM

PANELISTS:

- o Suzanne E. Schwartz, Director
  Regulatory Activities Division
  Office of Wetlands Protection, EPA

- o E. Zel Steever, Chief
  Technical Section, Regulatory Branch
  Office of the Chief of Engineers
  U.S. Army Corps of Engineers

- o Robert Piel, Manager
  Bureau of Inland Regulation
  Division of Coastal Resources
  New Jersey Department of Environmental Protection

o Shamus Malone, Wetlands Protection and Coastal Hazards Specialist
Pennsylvania Department of Environmental Resources

o Alan Pendleton, Executive Director
San Francisco Bay Conservation & Development Commission

11:15 A.M. - 11:30 - BREAK

11:30 - noon - **Policy and Administrative Changes to NOAA Grants Management**

PANELISTS:

o Desmond McLearen, Chief
Grants Management Division, NOAA

o Jean West, Chief
Grants Operations Branch, NOAA

12:00 - 1:30 P.M. - LUNCHEON (Ambassador Room)

Remarks and Introduction of Mr. Saxton by Jennifer Joy Wilson, Assistant Secretary for Oceans and Atmosphere and NOAA Deputy Administrator

Guest Speaker: Honorable H. James Saxton
U.S. House of Representatives

1:30 - 3:00 P.M. - **Panel on Growth Management: State and local techniques for controlling growth to protect coastal resources**

MODERATOR:

o Laurie McGilvray, Assistant Regional Manager
Pacific Region, Coastal Programs Division, OCRM

PANELISTS:

- o David Brower, Research Professor
  Center for Urban and Regional Studies
  University of North Carolina

- o Michael Neuman, Area Planning Manager
  New Jersey Office of State Planning

- o Sarah Taylor, Executive Director
  Chesapeake Bay Critical Areas Commission

- o George Stafford, Director
  Division of Coastal Resources and
  Waterfront Revitalization
  New York Department of State

3:00 - 3:15 P.M. - BREAK

3:15 - 4:15 P.M. - **Outer Continental Shelf Issues: Presentation on Five-year OCS leasing schedule and the recommendations of the President's Task Force on the OCS**

SPEAKER:

- o Ed Cassidy, Deputy Director
  Minerals Management Service
  Department of the Interior

4:15 - 4:45 **National Study on Public Trust**

SPEAKER:

- o Art J. Rocque, Director
  Connecticut Coastal Zone Management Program,

4:45 - 5:30 P.M. - Optional Regional or State Meetings

Wednesday (Hampton Room)

8:30 - 9:00 A.M. - **Presentation of the §309 Project - National Study of the Coastal Management Program**

PANELISTS:

- o David Brower, Research Professor
  Center for Urban and Regional Studies
  University of North Carolina

- o David W. Owens, Associate Professor
  Institute of Government
  University of North Carolina

9:00 - 9:45 A.M. - **Federal Consistency: Appeals, litigation, General Counsel opinions, inter-agency coordination**

SPEAKER:

Margo Jackson, Assistant General Counsel for Ocean Services, NOAA

9:45 - 10:30 A.M. - **Federal Consistency: Innovative State Applications**

MODERATOR:

- o Judy Kelly, Gulf Regional Manager
  Coastal Programs Division, OCRM

PANELISTS:

- o Bryan Cullen, Associate Counsel
  New York Department of State

- o Robin Smith, Assistant Attorney General
  State of North Carolina

- o Randy Armstrong, Director
  Water Management
  Florida Department of Environmental Regulation

10:30 - 10:45 A.M. - BREAK

10:45 - Noon - Informal discussion on OCRM's proposed changes to grants administration, performance report guidance, §312 evaluations, and CZMA regulations

CHAIR:

Timothy R.E. Keeney, Director, OCRM

TEAM:

- o Vicki Allin, Chief
  Policy Coordination Division, OCRM
- o James P. Burgess, Chief
  Coastal Programs Division, OCRM
- o James Lawless, Chief
  Ocean Minerals and Energy Division, OCRM
- o Joseph A. Uravitch, Chief
  Marine and Estuarine Management Division, OCRM

12:00 - 1:00 P.M. - LUNCH (on your own)

1:00 - 5:00 P.M. - Follow-up discussions on reauthorization and other topics. Conference rooms reserved at 1825 Connecticut Avenue (OCRM)

December 17, 1990

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Office of Ocean and Coastal Resource Management
National Ocean Service
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
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STATE COASTAL ZONE MANAGEMENT PROGRAM (CZM), COASTAL ENERGY IMPACT PROGRAM (CEIP) AND OUTER CONTINENTAL SHELF COORDINATION (OCS), HEADS OF RELEVANT AGENCIES AND PROGRAM MANAGERS

CZM — Agencies and personnel responsible for implementing approved coastal zone management programs under Section 306 of the Coastal Zone Management Act (CZMA). States with an asterisk (*) have approved programs.

CEIP — Agencies and personnel responsible for administering coastal energy impact grants to coastal states under Sections 308(c)(1), (c)(3), (b) and (d) of the CZMA for study of, and planning for, consequences relating to new or expanded energy facilities in or which significantly affect, the coastal zone.

OCS — Agencies and personnel responsible for administering grants to states under section 308(c)(2) to carry out state responsibilities under the Outer Continental Shelf Lands Act.

FORMAL CORRESPONDENCE SHOULD BE SENT TO HEADS OF RELEVANT AGENCIES (WITH COPIES TO PROGRAM MANAGERS) AND INFORMATION OR TECHNICAL REQUESTS TO PROGRAM MANAGERS.

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and	and	and

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VIRGIN ISLANDS*

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and

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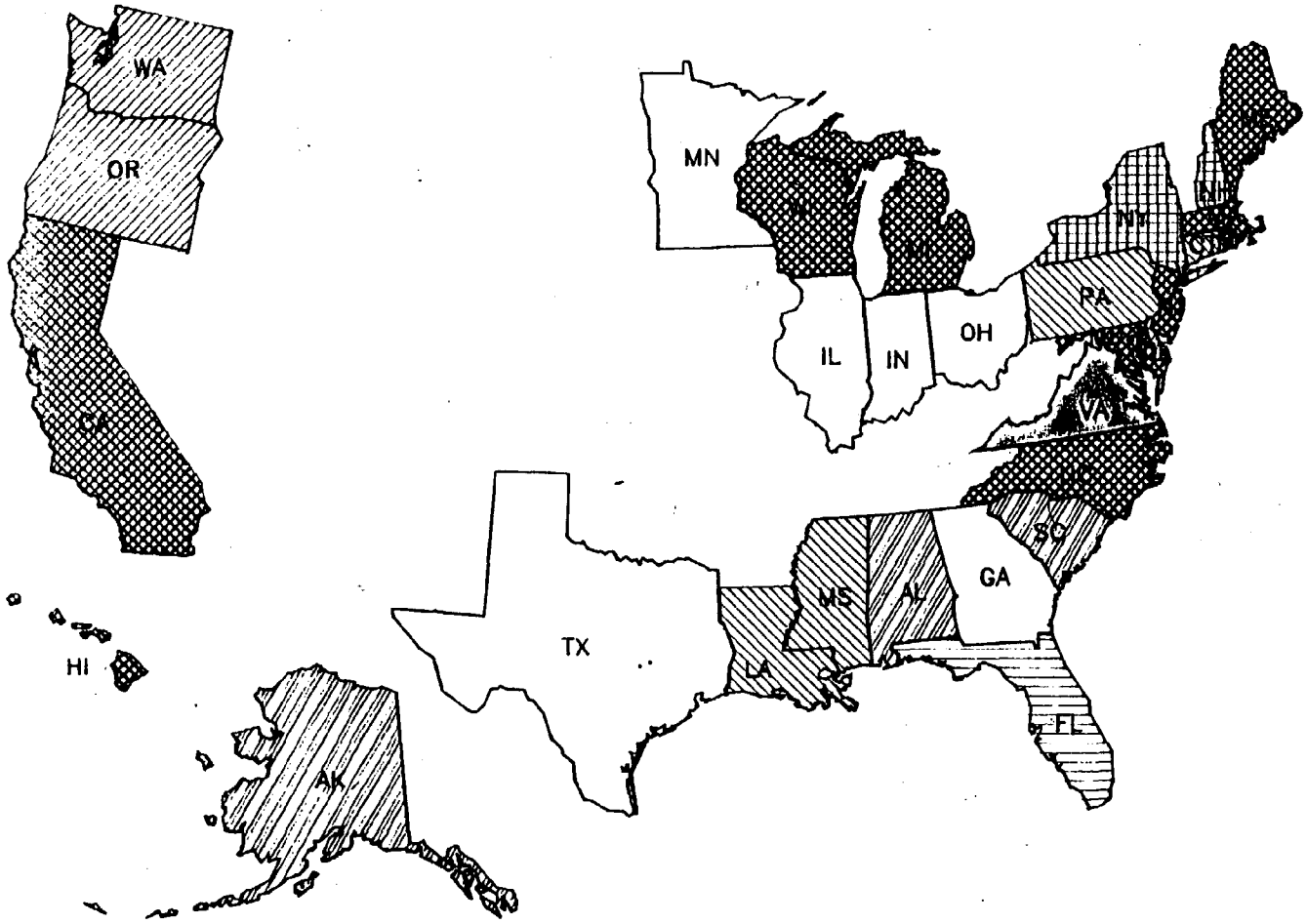
Participating Coastal States in the Federal Coastal Zone Management Program



Year Approved

- 1976 to 1978
- 1978 to 1979
- 1979 to 1980
- 1980 to 1981
- 1981 to 1982
- 1982 to 1986
- 1986 to 1988

Territories not shown:PR:78,VI/GU:79,NM/AS:80

APPENDIX C

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