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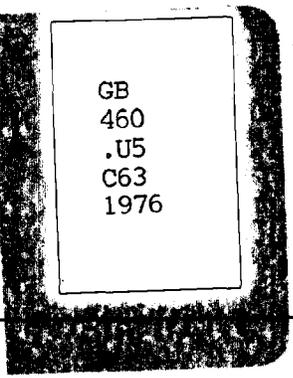
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**COASTAL RESOURCES
MANAGEMENT
INTERGOVERNMENTAL AND
INTERAGENCY COMMUNICATION**

August, 1976

Michigan Dept. of Natural Resources. CZM Prog.



SOUTHEAST MICHIGAN COUNCIL OF GOVERNMENTS

COASTAL RESOURCES MANAGEMENT
INTERGOVERNMENTAL AND INTERAGENCY COMMUNICATION

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PREFACE

This study was conducted at the request of the Michigan Department of Natural Resources, Land Resource Programs Division, to investigate the impact of coastal zone management program implementation upon the need for, and the adequacy of existing mechanisms for intergovernmental and interagency information exchange. It is suggested that new opportunities must be provided for communication in conjunction with the implementation of a comprehensive program to protect and manage coastal resources. The use of the basic mechanism recommended in this report would provide the state with areawide and local input on certain projects occurring in the coastal zone. This proposal was developed as a part of the ongoing process of management program development. The results of this study, of other analyses performed, and of those yet to be completed will provide the Department with a definite framework within which to implement a coastal management strategy in Southeast Michigan.

Introduction

In Southeast Michigan decisions concerning the use and protection of air, water, and land resources are made, and are influenced by officials of all levels of government. Federal, state, and local units of government and agencies regularly make decisions regarding the use of these resources to satisfy demands for public goods and services. Furthermore, federal and state officials regulate and control activities which are considered to be of statewide or national significance. They also exercise authority over activities involving resources whose use and conservation are declared to be of concern to the people of the state or nation. Officials of local governmental units control and regulate those uses of resources occurring within the local community.

Interagency and intergovernmental communication has become an important factor in resource use decisions as a result of this multiplicity of jurisdictions. In each decision made it usually is necessary to consider an array of interests represented by officials of other levels of government. Furthermore, the capability to manage resources is enhanced if mechanisms are available which permit representatives of local, state and federal levels of government to consult with each other. The regular exchange of information with other public officials enhances each's ability to identify issues and problems, to resolve conflicts, and to improve regulatory and administrative efficiency.

Most mechanisms for intergovernmental and interagency communication are products of legislative action at the state or federal level. When an act or law alters the existing distribution of powers and responsibilities specific provisions usually are incorporated to insure the consistent action of all levels of government and to minimize duplication of effort. In response to these legislative mandates a variety of mechanisms and procedures have been established for information exchange on matters where two or more jurisdictions are involved.

With the approval and subsequent implementation of a coastal zone management program in Southeast Michigan officials of local, state, and federal units of government and agencies will continue to be involved in, or affected by coastal resource use decisions. It, therefore, is necessary to maintain and possibly enhance existing levels of intergovernmental and interagency communication. Furthermore, additional opportunities for information exchange must be provided in response to anticipated changes in intergovernmental and intra-agency relationships to insure the consistent action of all levels of government in matters related to coastal resource use and protection.

The impact of the implementation of a coastal zone management program upon the need for, and the adequacy of existing mechanisms for information exchange is examined in this report. State, regional and local communication is of primary concern. Federal and state relationships will only be examined

to the extent that they influence the need for information exchange between the other levels of government. Similarly, the effects of potential changes in the relationships of Department of Natural Resources Divisions will be considered only to the extent that they affect the need for intergovernmental communication. In this regard it is assumed that a Division of the Department of Natural Resources will the Department of Natural Resources will act as a liaison between local/regional and federal agencies and will receive from and disseminate information to these governmental units, as appropriate.

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Background

The coastal zone management program in Southeast Michigan will be designed to serve as a means of addressing current coastal problems and encouraging future growth in a pattern that will best combine available resources to protect natural and cultural systems. To attain this goal it will be necessary to unify the programs and to coordinate the actions of state and federal agencies and a very large number of local units of government. An important factor to the success of the program, therefore, will be the level of intergovernmental and interagency communication which is achieved. Initially levels of information exchange will change in response to changes in intergovernmental and intra-agency relationships.

The approval and subsequent implementation of a coastal zone management program will not significantly alter the basic distribution of roles and responsibilities. In defining the geographical limits of the management area the Michigan Department of Natural Resources has attempted to identify those lands in close proximity to coastal waters which strongly interact with this set of resources without regard to jurisdiction. Since no new legislation concerning coastal resources is contemplated, public officials of local, state, and federal levels of government will continue to exercise the basic authorities previously delegated to regulate resource use and to carry on activities.

While the program will not affect federal or state jurisdiction, responsibility, or rights, existing relationships between state and federal agencies will be significantly influenced by the approval of Michigan's Coastal Zone Management Program by the Secretary of Commerce. With program approval the state will participate in the decisions concerning the issuance of federal permits or licenses and the provision of federal assistance. State involvement will include a determination of the relationship of the proposed project to the provisions of the management program. The Coastal Zone Management Act of 1972 provides that federal agencies cannot approve a project occurring in the coastal zone that is found to be inconsistent with an approved management program, except upon a finding by the Secretary of Commerce that the project is consistent with the purposes of the Act or necessary in the interests of national security.

The approval and implementation of a coastal zone management program also may affect the relationships among the divisions of the Department of Natural Resources. The management of Michigan's coastal resources must be on a comprehensive basis if the fundamental provisions of the federal act are to be satisfied. This implies that before making a decision the Department of Natural Resources must characterize the potential impacts that can result from proposed state actions or resource uses requiring state permits or licenses. To comprehend the short and long-term consequences of a proposed activity the department must integrate its existing regulatory programs and practices.

Local units of government and regional agencies must participate in the decisions made by the state concerning project consistency and state decisions regarding coastal resource uses. As noted previously, the high level of interdependence between these levels of government means that the decisions made by the state will affect the interests and range of possible actions at the local and regional level. Representatives of local units of government and regional agencies, therefore, should be afforded the opportunity to comment on the potential effects of a proposed project upon resources and uses of local or regional significance. These officials also will be able to provide information concerning whether or not a proposed project conflicts with ongoing regional and local planning. This input serves to help implement the plans and, thus, promotes the rational development of facilities and services. Finally, local and regional involvement also will insure that a project is not based upon inaccurate information or is otherwise deficient. The coastal zone encompasses a set of dynamic natural and cultural systems which are constantly changing. Regional agencies and local units of government can supply state officials with first-hand information concerning changes in resource character and uses that may influence a project consistency decision.

Proposed Information Exchange Procedures

In Southeast Michigan state and regional agencies and local levels of government probably can exchange information regarding projects of national or state significance occurring in the coastal zone using existing mechanisms and procedures. A mechanism to provide for local and regional involvement in state decisions concerning activities occurring in the coastal zone, however, cannot be set forth. The preparation of the state's coastal management organizational structure has been delayed due to the reorganization of the Department of Natural Resources. Available information does not indicate how the Department intends to coordinate its activities. It is probable, however, that one of existing mechanisms established to provide the state with local and regional input on certain resource use decisions can be modified and implemented on a comprehensive basis to satisfy coastal management requirements.

Regional and local involvement in the process of project certification can be accomplished using the procedures established to administer and carry out the responsibilities of the A-95 Project Review and Notification System. A-95 review and comment serves as a mechanism for providing area-wide and local input into the federal assistance process. The same procedures could potentially facilitate increased coordination among all levels of government in matters related to coastal resource use, if, among other items, the state is provided with information concerning whether or not

a proposed activity is consistent with regional and local interests.

The mechanism established for the preapplication review of proposed projects involving federal assistance could be used by SEMCOG to provide the state with areawide and local input. The procedures established for the review of Notices of Intent are described in detail in Appendix A. The potential application of this mechanism in the process of project certification is outlined below.

The project certification process probably will be initiated when a potential applicant for a federal permit or assistance receives the necessary forms and is informed of the project consistency provision. When the necessary information is compiled the applicant will probably submit the required documents to the state, who, in turn, could transmit the information to SEMCOG. The areawide/ local review process would be activated when the document is received. The submitted information would be analyzed by staff and would be transmitted to local units of government and other agencies potentially affected by the proposed project. Upon completion of the analyses, both areawide and local comments would be forwarded to the state and the applicant.

Conclusions

'New' opportunities must be provided for the exchange of information between state and regional agencies and local units of government in conjunction with the implementation of the coastal zone management program. Local units of government and regional agencies, should participate in the decisions made concerning projects involving coastal resources.

The procedures to be implemented to provide the state with areawide and local input concerning coastal activities of state significance cannot be proposed. Additional information is required concerning the mechanism the Department of Natural Resources will establish to coordinate its activities. A detailed set of procedures should be developed in the next year after the state's coastal management organizational structure is set forth.

SEMCOG could provide the state with areawide and local input using the basic mechanism for the preapplication review of proposed projects. The existing mechanism for Notice of Intent review could be examined and a detailed set of procedures developed during the final phase of defined in response to the project consistency requirement.

APPENDIX A

A-95 PROJECT NOTIFICATION AND REVIEW SYSTEM

NOTICES OF INTENT

*Source: SEMCOG, "Areawide Clearinghouse A-95 Review Manual" (1975),
p. 6-8, 13-14.

PROCEDURES

"... Notice of Intent-The general procedures begin with the preapplication review by the state and areawide clearinghouses of the Notice of Intent. The usual review period is 30 days. The funding agency will inform the applicant of the requirements to submit a Notice of Intent and will supply the necessary forms or inform the applicant of the required information to be submitted for review. When the Notice of Intent arrives at SEMCOG it has the date stamped on it in the Council's Executive Office, thus beginning the review period. The material submitted for review is forwarded to the A-95 Office for recording on a chronological log and for routing to inhouse review staff for further processing. The Notice of Intent is then delivered to the appropriate program area staff for review...

"The SEMCOG review staff initiates a twenty day outside agency review and comment period by acknowledging receipt of the Notice of Intent to the applicant and by notifying concerned regional, county and local agencies and the Michigan Department of Civil Rights.

"The acknowledgment sent to the applicant informs the applicant of the assigned SEMCOG review staff, the date by which the review should be completed and the agencies notified with a request to furnish the information these agencies may request.

"The applicant should submit at least the following information with the Notice of Intent, most of which will be covered on the federal agency form, if such is provided:

1. Identity of the applicant agency, organization or individual.
2. The geographic location of the proposed project, including a map of general location, giving streets and highways.
3. A brief description of the project, covering:
 - a. Type
 - b. Purpose
 - c. General Size or scale
 - d. Estimated cost
 - e. Beneficiaries
 - f. Other characteristics which will enable the clearinghouse to identify the agencies or local, regional or state government having plans, programs or projects that might be affected by the proposed project.

4. A statement as to whether the applicant has been advised by the Federal agency from which assistance is being sought concerning the submission of environmental impact information in connection with the proposed project.
5. The Federal program and agency under which the grant assistance will be sought...
6. The estimated date by which the applicant expects to submit the completed project application...

"Participating concerned agencies will consider the impact of a proposed project on their sphere of influence. In all cases the County Planning Office (in Detroit, the City Planning Department) will be notified of the clearinghouse receipt of a Notice of Intent, as will the Michigan Department of Civil Rights, Detroit Area Office.

"The County Planning Office will coordinate a review for county agencies and local political units inside of the county. Local governmental units shall be directly contacted by SEMCOG for their review and comment on A-95 projects, if, they are not themselves the applicant and the project submitted for A-95 review will have a significant impact on them. The applicant should supply to the agencies the same information submitted to SEMCOG and any supporting data, of a reasonable nature, which will assist them in their review of the proposed project.

"The area civil rights agency, Michigan Department of Civil Rights, will review the project for its potential civil rights implications.

"These agencies and any other participating review agency are directed to respond to the clearinghouse in writing within a 20 day concerned agency review and comment time period. SEMCOG, as the areawide clearinghouse, will append any comments received with the official review letter.

"In the event that comments will be late the participating concerned agency should notify the clearinghouse or their comments will be regarded as waived.

"The Regional Clearinghouse Review Committee will monitor SEMCOG staff review activity. This committee composed of elected officials will receive the chronological log of grants received by SEMCOG and will have the option of reviewing any project expected to have significant impact in the region. They will review projects which have been negatively reviewed by staff and/or a participating local government review agency. The SEMCOG Executive Director as the Chairperson of this committee may also bring projects to their attention...

"SEMCOG may hold an applicant's conference if there is a possibility that negative comments or conditional comments can be mollified in this manner. The conference is an informal meeting arranged by the clearinghouse between the applicant and a critical reviewing agency. The Council will attempt to resolve matters of conflict and strengthen the proposed project. These conferences can be held within the 30 day Notice of Intent review period or anytime before the application is completed.

"The final appeal for the applicant is to the SEMCOG Executive Committee. The areawide clearinghouse review letter prepared by SEMCOG or Regional Clearinghouse Review Committee action on any Notice of Intent may be brought to the attention of this working policy body of SEMCOG for reconsideration. This appeal process is initiated by the applicant through formal request to the Executive Committee...

POLICY REVIEW AND APPEAL PROCESS

"The prescribed review procedures indicate...a policy level involvement. The Regional Clearinghouse Review Committee and the Executive Committee are composed of elected officials from the SEMCOG region. The Executive Committee is the working policy body of SEMCOG representing the General Assembly of member governmental units. This committee meets monthly to review planning and programming activities of SEMCOG staff and will act as the last appeal for applicants who wish clearinghouse comments modified.

"The committee responsible specifically for A-95 affairs is the Regional Clearinghouse Review Committee. The members of this committee will receive weekly a copy of the chronological log of reviews underway at SEMCOG. If any member of this committee wishes a staff presentation of a project, which seems to be significant on the regional level, a meeting may be scheduled within the review time limits. The SEMCOG Executive Director may call for a meeting of this committee for controversial projects. Also, any negative reviews issued by SEMCOG staff or any participating local unit of government will be subject to review by this committee.

"Procedures to be followed are briefly:

1. SEMCOG as the areawide clearinghouse identifies negative aspects of proposed project or receives negative comment from local governmental units;
2. SEMCOG determines whether or not an applicant's conference should be called;
3. SEMCOG notifies chairperson of Regional Clearinghouse Review Committee that a negative review is in order, if problems cannot be resolved through the conference mechanism;
4. Chairperson calls a meeting of the Committee to review staff comments or local governmental unit comments to either seek resolution or support the comments;
5. Applicant and commenting agencies are notified of meeting and may attend if desired;
6. SEMCOG prepares letter containing Committee recommendations and transmits it to applicant;
7. Applicant appends comments to application or appeals decision to Executive Committee;
8. Applicant contacts member of the Executive Committee to request that the review comments be overruled.

"Applicants for federal assistance projects under consideration by the Regional Clearinghouse Review Committee may present their case for an adjustment of the clearinghouse recommendation at the time of the meeting at which the project is deliberated. The committee composed of ten members elected by the General Assembly of member governments will either support the clearinghouse recommendation or require changes in the review letter which may overrule a SEMCOG staff or participating local unit of government review comment...

"If the decision of this committee does not satisfy the applicant, the Executive Committee of SEMCOG at the request of the applicant will consider an appeal for adjustment of the clearinghouse recommendation. The final decision as to the funding of the project under review will be made by the funding agency. However, the clearinghouse comments must be attached to the application when it is submitted for funding..."

ACKNOWLEDGMENTS

This document was prepared by the Land Use staff of the Southeast Michigan Council of Governments under the general direction of Daniel Snyder, Program Manager.

The project was coordinated by David J. Brouwer. Mr. Brouwer authored this report, in cooperation with Ruth Folit and other members of the Council's staff.

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The Southeast Michigan Council of Governments (SEMCOG) is a voluntary association of governments composed of elected officials from over 100 communities in Southeast Michigan. SEMCOG develops and coordinates regionwide planning for transportation, land use, recreation and open space, water supply, sewage disposal, storm drainage, housing and criminal justice. For further information concerning this report or the Council, please contact the Council's Information Services Office, (313) 961-4266.

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