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# Report to the Congress on Coastal Zone Management

July 1974 through June 1975

Public Law 92-583

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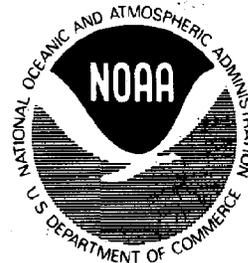
U.S. DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Office of Coastal Zone Management

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# Report to the Congress on Coastal Zone Management

July 1974 through June 1975



Public Law 92-583

April 1976

COASTAL ZONE  
INFORMATION CENTER

UNITED STATES  
DEPARTMENT OF COMMERCE

Elliot L. Richardson, Secretary

National Oceanic and  
Atmospheric Administration

Robert M. White, Administrator

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**THE SECRETARY OF COMMERCE**  
Washington, D.C. 20230

April 8, 1976

The President  
The White House  
Washington, D.C.

Dear Mr. President:

I have the honor to submit herewith the Annual Report for Fiscal Year 1975, as required by Section 313 of the Coastal Zone Management Act of 1972 (P.L. 92-583).

Respectfully,

A handwritten signature in black ink, appearing to read "Elliot L. Richardson".

Elliot L. Richardson

Enclosure

## PREFACE

Report to the President from the Secretary of Commerce, November 1975,  
on the Implementation of the Coastal Zone Management Act of 1972

This report to the President on coastal zone management is submitted in accordance with Section 313(a) and (b) of the Coastal Zone Management Act of 1972 (Public Law 92-583) signed on October 27 of that year.

The first year of implementation of the program came during Fiscal Year 1974 and is covered in the annual report for that period. The preparatory work is outlined in the Fiscal Year 1973 report.

During Fiscal Year 1975, all of the 30 states eligible to participate, and three of the four territories, began first- or second-year development of their coastal zone programs. This report discusses the Federal and State actions for this period as states worked to meet the fall 1977 deadline suggested by the Act for submission of their programs for Federal approval and matching assistance to carry out the programs.

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## I. HIGHLIGHTS OF ACTIVITY, FISCAL YEAR 1975

- The focus by states and localities on the environmental and socio-economic implications of major energy facilities, particularly new offshore oil and gas installations, brought increased attention to, and support for, the coastal zone effort.
- The Administration requested and Congress passed a \$3 million supplemental appropriation to enable states to speed preparation for onshore impacts from offshore oil and gas operations.
- The first state coastal zone program to be processed, from the State of Washington, received preliminary approval.
- All 30 states have voluntarily applied for and received matching grants to prepare their comprehensive coastal programs, as have three of the four eligible territories.
- Twenty-two states received second-year program development funding, most with revisions in their objectives based on the first year's experiences.
- The Nation's first marine sanctuary was designated under a program administered by the Office of Coastal Zone Management (OCZM).
- The first formal interagency agreement between OCZM and another Federal entity, the Department of Housing and Urban Development (HUD), regarding related management planning assistance programs was executed.
- Enactment of the first amendments to the Coastal Zone Management Act of 1972 was accomplished.
- Approval of funding for the Nation's second estuarine sanctuary was given.
- The Third Annual Coastal Zone Management Conference was conducted.
- Three meetings of the Coastal Zone Management Advisory Committee were held.

## II. SUMMARY OF THE YEAR'S ACTIVITIES

It became increasingly clear during Fiscal Year 1975 that the Nation's energy requirements demanded that the country develop new domestic sources of oil and gas. It likewise was clear that the best prospects for new fields lie off our coasts in previously unexplored areas.

Recognition by state and local governments in areas along the Atlantic, Pacific, and Alaskan coasts that they very soon might be faced with the presence of the offshore oil industry caused concern among some of the citizenry. Some reacted favorably, looking to the new development to provide a needed economic shot in the arm. Others registered a negative reaction, fearing oil spills, unplanned development, or destruction of rural or small community lifestyles.

During the year, concern, first at the local and state levels and then at the national level, centered on the shoreside implications of the introduction of the offshore industry into areas without previous experience with such a major undertaking.

Whereas in the past concern has centered by and large on the danger to the marine environment and recreation areas from oil spills from offshore activities, the focus of discussion by state and local authorities was now on the landside or onshore impacts. There is general agreement that a temporary phenomenon, such as the offshore petroleum industry, may present real problems for some areas of the country.

While concern was triggered by the prospect of introducing the offshore industry into new areas, the broader question of the impacts of all major energy facilities on the coastal zone received increased attention.

There is general agreement that the balanced approach of the coastal zone effort provides a good way to conduct the careful planning required to minimize impacts from major energy facilities in the coastal zone.

From the standpoint of industry, for instance, the coastal zone program offers some degree of certainty about what type of facilities can be located where on the coasts and thus permit its planning to proceed.

For the state and local governments affected, the coastal zone program promises to give them a means of affecting Federal decisions in the energy area. Once a state has an approved coastal zone management program, Federal actions affecting the coastal zone must be consistent with the state program. This "Federal consistency" clause is a strong incentive for states to participate voluntarily in the coastal zone management effort.

For the Federal Government, having the state and local governments work out decisions together with Federal cooperation on the future of their coastal areas will facilitate national decisionmaking as it affects the coastal zones.

TO THE CONGRESS OF THE UNITED STATES:

I am transmitting herewith the third annual report from the Secretary of Commerce covering the significant developments that took place during the second full year of implementation of the Coastal Zone Management Act of 1972. The period covered is Fiscal Year 1975, when the states began full development of their coastal programs.

The country's urgent need for new domestic sources of energy and our concern for minimizing environmental damage and community disruption have combined to underscore the importance of the effort put forth in the coastal zone program. The program points out the importance of cooperation at the state and federal level in order to provide appropriate and timely solutions to these important problems.

COASTAL ZONE  
INFORMATION CENTER

GERALD R. FORD

THE WHITE HOUSE,  
MAY 27 1976

The Nation's Governors, meeting on February 20, 1975, adopted a resolution about offshore development that laid heavy stress on the need for coastal zone planning. The National Governor's Conference statement neither opposed Outer Continental Shelf (OCS) operations nor early exploration to determine the extent of the resources. The statement, approved by a 30-to-1 vote, said:

"Development, production, transportation and onshore facility plans should be submitted for approval to the Department of the Interior, but only after the potentially impacted coastal States have reviewed such plans in order to ensure consistency with state coastal zone management plans and other applicable state statutes and regulations. Since the plans should be reviewed for consistency with state coastal zone management programs, the Governors believe that adequate time, as determined by Congress, should be afforded states to develop such coastal zone programs before any OCS production commences."

The current schedule calls for most states to have completed development of their coastal zone programs by the fall of 1977, well in advance of any OCS production even if no delays are encountered in the current leasing schedules. The best estimates are that it will be several years before the first production begins offshore in the new frontier OCS areas, such as the Atlantic and Alaskan Coasts.

During Fiscal Year 1975, four programs were submitted for examination by OCZM. Of the four, one from the State of Washington received preliminary approval from the Secretary of Commerce in May. The purpose of the preliminary approval is to provide formal recognition to a state that it has developed a management program that is in substantial compliance with the Coastal Zone Management Act and its implementing regulations. Once the state remedies the deficiencies identified pursuant to the secretarial review under the preliminary approval, the state is eligible for final approval pursuant to Section 306 of the Act. With an additional several months' work, it is anticipated that the State of Washington program will be ready for final approval by the Secretary, the first such program in the Nation.

The other three programs submitted for examination by OCZM--from Oregon, the San Francisco Bay area, and the midcoast region of Maine--are all continuing program development work. It is expected that several state programs, or major geographic segments thereof, will be submitted during the current fiscal year for final program approval.

Final program approval makes a state eligible for Federal matching funds with which to operate the program (Section 306 of the Act) and means that the Federal consistency provision (Section 307) takes effect.

During Fiscal Year 1975, a total of 22 states received second-year funding to continue work on preparation of their programs. This matching funding (two-thirds Federal, one-third state) is authorized by Section 305 of the Act. All but a few dollars of the \$9 million available in regular appropriations was obligated for this purpose during the year (see Appendix A).

First-year program development grants were made to the States of Indiana, New York, and Virginia, as well as to Guam and the Virgin Islands. Their entry into the program brought total participation as of June 30, 1975, to 33 of the 34 eligible states and territories. Only American Samoa is not taking part, due to its inability to provide the required matching funds.

States that did not receive second-year continuation grants during Fiscal Year 1975 will do so during the current year. By and large, these six states and territories were late in starting program development. It is expected that these states will receive their second-year funding early in Fiscal Year 1976.

Second-year programs for the most part represented a refinement and an advance from the programs outlined in the first year (see Fiscal Year 1974 annual report for summary of state programs). State coastal zone program offices have developed a capability for dealing with coastal zone issues as they have successfully gone about the task of assembling basic information about the coastal areas. These issues, whether they be erosion control, industry-recreation conflicts, or the need for control of coastal water uses, have come into sharper focus as a result of the first year's effort.

Just as the national concerns about energy issues led to a greater recognition of the coastal zone program, many state program efforts have become better known. This was particularly true among various interest groups.

For the most part, states were able to achieve the objectives they had established for themselves in their first year. Where delays were encountered, they were attributable to the difficulty of finding suitable personnel or to uncertainty about where the coastal program effort should fit within a state's executive apparatus. Some states found certain of their objectives more complex than they had anticipated and some tasks easier than expected, and have adjusted accordingly.

It is expected that increased attention will be given during second-year program development to the legal authorities available and to possible legislative requirements in order to achieve an approvable program. Also, attention will, naturally, come to focus on the state-local government relationship, which will be the key to successful coastal management programs.

Efforts to better involve the general public in coastal area program development will also take place during second-year program development. As states are better prepared to receive and digest public input, educational efforts will also be stepped up during many second-year state efforts.

The management program review procedure put into effect for the first time for the State of Washington application, including the issuance of an environmental impact statement and the conduct of a public hearing on same, proved to be an instructive process.

The review and comment on the Washington proposal pointed up the necessity of early and close communication between the state and local officials on the one hand and the units of the Federal Government on the other. The fact that future Federal actions would be subject to the policies drawn by state officials is a new concept, which has only gradually been gaining acceptance by Federal officials.

An extensive effort has been mounted, discussed in more detail below, to involve and obtain the views of Federal agencies and their field offices on the progress of states in developing coastal zone programs and the impact of this progress on them.

The State of Washington's coastal program encountered opposition from some Federal agencies that felt their interests were not adequately taken into account. The additional period given the state to perfect its program will provide time to accommodate these and other points made during the public discussion and evaluation of the program.

The Office of Coastal Zone Management also prepared an environmental impact statement on the coastal zone proposal of Maine dealing with its midcoast region. The process pointed up the necessity of having close working relationships between state officials and local governments.

In its second year, the Maine program is going to concentrate on greater participation by local officials to meet the objections raised by local governments about their roles during the consideration of that state's management proposal.

The two state programs most advanced during Fiscal Year 1975, Washington and Maine, served as reminders of the difficulties of putting the coastal zone management concept into practice.

Not only is control of private and public property decisions involved, but the program entails a restructuring of relationships between state and local units of government dealing with sensitive questions about future land and water uses in the valuable coastal areas.

## Summary

The experience of Fiscal Year 1975 featured a greatly increased public visibility for the coastal zone program. Fiscal Year 1975 was also a year of growing recognition that successful implementation of the program will take a major effort and give-and-take by all involved parties.

Beyond the increased public attention for the program and the successful processing of a state program to near-final approval, the following major developments took place during Fiscal Year 1975 in the course of administering the Coastal Zone Management Act of 1972.

### III. OTHER MAJOR ACCOMPLISHMENTS AND ACTIVITIES

#### Interagency Coordination

A major effort of the Office of Coastal Zone Management during Fiscal Year 1975 was to develop points of contact in Federal agencies with responsibilities in the coastal zone, obtain their involvement in state programs as they are being developed, and establish written agreements on means of coordinating Federal agency programs with the state activity sponsored by the Office of Coastal Zone Management (OCZM).

The first agreement between OCZM and another Federal entity was perfected and signed during Fiscal Year 1975. Under a joint agreement signed by officials of HUD's Office of Community Planning and Development and the Office of Coastal Zone Management, an approved coastal zone management program will enable a state to satisfy the eligibility requirements for assistance under a planning grant program operated by HUD.

Specifically the agreement, executed February 19, 1975, in the Office of the Chairman of the Council on Environmental Quality, states that HUD will accept an approved coastal zone program as meeting the eligibility requirements for assistance under the 701 Comprehensive Planning Assistance program as of August 1977. Approved coastal zone programs will constitute accepted portions of and will be incorporated into the full HUD land use element required for participation in 701 planning assistance programs. The agreement also specifies certain other means of coordinating the efforts of the two agencies.

In a similar manner, the coastal zone office and the Environmental Protection Agency (EPA) during the Fiscal Year 1975 worked out an understanding of how state water quality programs administered by EPA will be coordinated with state coastal zone programs, as mandated by the Act (Section 307(f)). A joint letter between the two agencies was issued August 1, 1975, in which it is stated:

"This basic agreement (incorporating the requirements of the Federal Water Pollution Control Act in coastal programs) can only be fulfilled by close and continuing consultation with water programs at the State and substate levels of government during (coastal zone) program development and implementation, and by integrating water quality considerations into the process of designating permissible and priority uses. Water quality agencies must also recognize that their planning, construction and management activities should be carried out in close cooperation with (coastal zone management) programs and that they must be consistent with approved (coastal zone) programs which are consonant with water quality standards."

Beyond these two specific working agreements with key Federal agencies, the coastal zone office organized a listing of contacts with all the

relevant Federal agencies, including their field offices, in order to speed Federal-State discussions during the preparation of state programs. During the consideration given the proposed management program from the State of Washington, the coastal zone office conducted a briefing in Washington for agency representatives to bring them up-to-date on the progress of the overall coastal zone program and to discuss the specific submission from the State of Washington.

After assembling and analyzing the Federal agencies' reactions to the State of Washington program, the coastal zone office submitted a detailed response to the comments. Although not specifically required by the Act or the regulations governing the program approval process, the response was felt to be in keeping with the spirit of Section 307(b) of the Act, requiring that adequate consideration be given the views of affected Federal agencies.

The Office of Coastal Zone Management also individually worked with representatives of Federal offices based in Washington to have headquarters acquaint personnel in field offices with the status and possible impact of the coastal zone effort. For instance, the Federal Energy Administration and the Bureau of Land Management, Department of the Interior, each sent out instructions about coastal zone management during the fiscal year.

In a similar manner, the coastal zone office has worked closely with the Navy, especially to ensure that adequate consideration is given national defense interests in the development and implementation of coastal zone programs.

#### Legislative Action

The first amendments to the Coastal Zone Management Act of 1972 were enacted during Fiscal Year 1975. President Ford signed Public Law 93-612 on January 5, 1975.

The Main provisions were an increase in the authorization for program development grants (Section 305) from \$9 million to \$12 million annually. Congress found and the President agreed that the task of preparing comprehensive coastal zone management programs was a considerable one for state and local governments and that energy-related considerations had added to the complexity. The increased authorization was employed in the enactment of a \$3 million supplemental appropriation for Fiscal Year 1975.

The coastal act amendments, sponsored originally in the House of Representatives by Congressman Thomas Downing (D-Va.), also provided an extension of the estuarine sanctuary program (Section 312) until 1977. The extension brings this provision in line with the rest of the program and permits a possible future appropriation beyond that made available previously (\$4 million).

The other changes were of a technical nature, replacing percentage limits on how much or how little individual states and territories might receive with dollar limits.

During the year, the Office of Coastal Zone Management participated in a number of congressional hearings, some of which dealt with possible additions to the program because of energy-related impacts and others with questions associated with a proposed expansion of OCS oil and gas operations.

Hearings were conducted in the summer and fall of the fiscal year on OCS matters by the National Ocean Policy Study. The coastal zone office took part, dealing with the problems raised by potential onshore impacts in coastal areas lacking experience in dealing with petroleum industry stimulated activities.

Hearings were conducted by the House Merchant Marine and Fisheries Committee in December on a legislative proposal which would give coastal state Governors a veto authority over OCS activity seaward of a sanctuary area. The Office of Coastal Zone Management opposed the veto concept in testimony.

Joint Senate hearings in March on both OCS and coastal zone legislation were addressed by the Administrator of the National Oceanic and Atmospheric Administration (NOAA) accompanied by the Assistant Administrator for Coastal Zone Management.

Another round of hearings in the House was conducted in April on proposed changes to the coastal zone act. In June, both the Administrator of NOAA and the head of the coastal zone office accompanied Secretary of Commerce Rogers Morton in his initial appearance in that capacity before the House Ad Hoc Select Committee on the Outer Continental Shelf. The Secretary gave strong support to the coastal zone program. Said the Secretary: "I am sure we all share the belief that strong state coastal zone management programs are the key to permitting us to go forward with offshore exploration and production with a minimum of environmental and socio-economic disturbance."

### Interest Group Briefings/Information

During Fiscal Year 1975, the Office of Coastal Zone Management conducted two series of briefings for different interest groups in order to increase awareness of the coastal zone program.

In October, three separate meetings were held for representatives of the industry or trade associations, for the fishing industry, and for conservation groups. The presentations on the status of the coastal zone program and its immediate prospects were made by the coastal zone office.

In June, similar sessions were held on separate days for private sector personnel and public interest group representatives.

In response to a request, a briefing was also given to legislative assistants working for congressional committees and individual Members of Congress.

A successful two-day meeting of personnel from the Office of Coastal Zone Management and state program directors and key members of their staffs was held in November near Washington. After presentations on various aspects of the program by the national office, state program personnel were given the opportunity to discuss and comment upon the direction and content of the program.

Beyond these person-to-person sessions to explain the coastal zone management program, a number of efforts directed at increasing basic public understanding were initiated during Fiscal Year 1975.

Two basic brochures outlining the purposes of the coastal zone management program were issued, one for the general public and the other more technical in approach.

A 28-minute film, including interviews with people with different views of the values of coastal areas, was produced by the coastal zone office and will be ready for distribution early in Fiscal Year 1976. Also, radio tapes describing how people can find out more about the coastal zone management effort were produced and distributed. Production was begun on a narrated slide show that was completed in early Fiscal Year 1976.

### Technical Assistance

A variety of materials were prepared and sent to state coastal zone program managers during Fiscal Year 1975. With the problems associated with the need to expand offshore oil and gas operations, a major effort during the year was devoted to sharing information on the OCS petroleum operations.

One of the major products of the year, in fact, was an extensive paper on the leasing process, aimed at acquainting states in frontier areas facing offshore leasing for the first time with the relevant Federal regulations and offices. Included was an extensive bibliography so that interested state personnel could become better acquainted with the offshore oil industry, likely onshore impacts, and the Federal OCZ leasing process. Since November 1974, the Office of Coastal Zone Management distributed five sets of materials dealing with the offshore issues to states.

Other technical support efforts undertaken during the year have centered on topics of general interest to the states in which clarification and elaboration from the national office was felt to be helpful. State coastal program offices are currently being surveyed for their suggestions on this year's effort.

Special technical studies launched during Fiscal Year 1975 have included a first mailing of general information on energy facility siting and the coastal mapping handbook which is a joint product of the coastal zone office, the National Ocean Survey (NOS) of NOAA and the U.S. Geological Survey (USGS) of the Department of the Interior.

Other projects in the technical support effort include: (1) a discussion of water use management considerations that state programs need to include in addition to the standard land use planning controls, (2) an elaboration of the requirement of the Act that states define what permissible land and water uses in the coastal zone shall be, (3) a paper on the topic of coastal recreation, and (4) an examination, produced with the cooperation of both the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service of the Department of the Interior, of coastal zone requirements regarding living marine resources.

#### Annual Conference

The Office of Coastal Zone Management sponsored a third national meeting on the coastal zone topic in May 1975, bringing together approximately 450 Federal, state, and local officials as well as representatives of various interest groups, scholars, and media personnel.

The meeting was conducted at Asilomar, California. The complete proceedings, including the question and answer sessions, will be available during the current year.

Previous conferences were held in Annapolis, Maryland, and Charleston, South Carolina.

### Advisory Committee

Three meetings of the National Advisory Committee on Coastal Zone Management were held during Fiscal Year 1975.

The Third meeting of the 15-person group to be held took place in Milwaukee, Wisconsin, on July 11 and 12, 1974. The focus there was on the problems particular to the Great Lakes including, for instance, high water levels and resulting shoreline erosion.

The second meeting of the year, and the fourth of the Committee, was held in Washington in November. A feature of the discussion was a presentation on the Sea Grant Program and its contributions to coastal zone management. Also heard was a discussion by key congressional staff members of the legislative outlook for the year and the coming congressional session.

The Committee met on March 6 and 7 in New Orleans, Louisiana, where the principal topic was the OCS oil and gas issue. Committee members were taken to an offshore platform and drilling rig as well as to an onshore refinery during their meeting. Resolutions about the importance of offshore petroleum to the Nation and on the need to reform present leasing procedures were adopted by the Committee (see Appendix B).

At the end of the fiscal year, nominees for the first round of replacements on the Committee were received and forwarded to the Secretary for action. In addition to a resignation, the initial terms of eight members expired in October 1975.

It was decided to raise the status and visibility of the Committee by naming NOAA Associate Administrator Dr. John Townsend, Jr., as the chairman of the Committee, effective at its next meeting.

### NOAA Relations

During Fiscal Year 1975, agreements on how three of the principal components of NOAA could assist and enhance the coastal zone program were executed.

Understandings were worked out between OCZM, NMFS, NOS, and the Environmental Data Service (EDS). In addition, there have been discussions with the other components of the Agency on ways in which the state coastal zone management offices can take advantage of the expertise available within NOAA. An agreement with the Office of Sea Grant, discussed in last year's annual report, was signed also.

In the agreement dated October 30, 1974, with NMFS, that Agency's responsibilities for living marine resources and their habitats are recognized. The aim of the understanding between the two offices is to give significant attention to living marine resource considerations.

The Fisheries Service will advise states and the coastal zone office on the impacts that could be expected from proposed policies on fisheries, their habitats, and water quality.

In a similar fashion, the services of NOS are discussed in a working agreement dated January 1975. For instance, it is noted that the survey office is involved in the following coastal zone activities: marine boundary definitions, coastal zone mapping, nautical navigation, charting, nearshore water dynamics, oceanographic instrumentation, continental shelf topography, and marine geophysical data.

Close cooperation between NOS and officials in the states working on such questions as coastal zone boundaries is encouraged. In addition to such consultations states have been made aware of the availability on a cost-sharing basis of special charts and maps as well as other products and services.

As noted above, USGS, NOS and the coastal zone office are preparing a coastal zone mapping handbook due to be available early in Fiscal Year 1976.

A coordination paper dated March 5, 1975, states that EDS is a repository of extensive scientific and technical data on solid earth, marine, atmospheric, solar, and astronomy factors. The service also has extensive editorial, publishing, and library capabilities.

In the agreement between the two offices, the EDS states it will keep the coastal zone office informed of its information services and try to identify coastal zone management information needs and to be responsive to them. The coastal zone office in turn will keep state program developers aware of the capabilities of the data service in NOAA.

Available to the states, for example, is a computer retrieval service on the literature available in the environmental sciences and on marine and coastal resources. Information from EDS has been used in such matters as power plant siting, marine dumping, oil and gas operations, deepwater ports, and environmental monitoring. The Coastal Zone Information Center serves as a source of coastal information for the data service.

In another action affecting the coastal zone office and NOAA, on February 2, 1975, the head of the office was elevated from Director, Office of Coastal Zone Management, to Assistant Administrator for Coastal Zone Management within the NOAA hierarchy. This action recognizes the increased attention and greater responsibilities being given the Office of Coastal Zone Management and its program.

#### IV. SANCTUARIES PROGRAMS

##### Marine Sanctuaries

During Fiscal Year 1975, the Nation's first marine sanctuary was established under authority of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (Public Law 92-532). The program is administered by the Office of Coastal Zone Management.

The overall purposes of the marine sanctuary program are to set aside certain ocean, coastal or Great Lakes waters to preserve their unique characteristics, whether for recreation, conservation, ecological, or esthetic reasons. Designations may be made to protect valuable marine life or special oceanographic or geological features. Marine sanctuaries can be named to complement and protect national seashores. Fisheries research or other marine resource analysis can be aided by the setting aside of certain water areas. The general advancement of understanding about the marine environment is still another of the purposes for which marine sanctuaries can be named.

On January 30, 1975, at ceremonies at the Department of Commerce, the site of the wreck of the Civil War vessel USS Monitor received this designation. The date marked the 113th anniversary of the vessel's launching. The sanctuary lies off the coast of North Carolina, and was nominated for marine sanctuary status by the Governor of North Carolina. The effect of the designation was to provide a means of protecting the wreck from souvenir hunters of ill-advised research programs. This action came after researchers had announced their discovery of the wreck, which was later verified by Navy-sponsored investigations by television camera. The announcement had led to at least one attempt to bring to the surface part of the vessel and had raised concerns that additional such efforts could ruin future research.

After the Monitor site was designated, regulations governing future activities in the sanctuary were published (see Appendix C). Based on these regulations, the first application for a research permit was denied on the basis that it lacked specificity. It is expected that future research activity under the resubmitted application will involve extensive photographic exploration of the wreck, sonar mapping of the site, and collection of oceanographic measurements in the area.

The overall objective of the marine sanctuary designation for the Monitor site is to ensure that the vessel is not disturbed in any future research activity and that such activity be carried out in a well-designed manner.

There are several other sites under consideration for marine sanctuary designation, one of which is likely to achieve this status early in Fiscal Year 1976.

A nomination is presently being processed for an ocean area adjoining the Florida State John Pennekamp Coral Reef State Park. Its specific purpose will be to curb activities now taking place adjacent to the park that are damaging to the coral. A draft environmental impact statement describing the proposal and its effects was circulated for comment in August 1975.

A nomination has been received for an area in South Carolina in Port Royal Sound in Beaufort County for preservation purposes. The site was under Federal and state review at the end of the fiscal year.

Still under examination are two similar proposals, one for Puget Sound to protect the killer whale and the other for the coastal area adjoining several California coastal counties.

#### Estuarine Sanctuaries

The Nation's second estuarine sanctuary was designated in Fiscal Year 1975 with a grant of \$1.5 million from the Office of Coastal Zone Management to Georgia to acquire a portion of Sapelo Island. In addition, \$325,000 Federal matching fund expansion (over and above \$823,965 awarded in Fiscal Year 1974) of the first estuarine sanctuary in Oregon along with an alternate management system from that originally conceived was negotiated.

The estuarine sanctuary program (Section 312 of the Coastal Zone Management Act) provides for the purchase of estuarine areas for scientific study purposes. Specifically, the program contemplates acquisition of examples of the major estuarine types in the country (18 in number) for preservation in their natural state to be available for ecological research and to provide basic information useful to the coastal zone management program.

The 6,150 acre Sapelo Island area, which adjoins a wildlife refuge and contains a marine research center of the University of Georgia, is to be acquired with State of Georgia matching funds (at least 50 percent) as well as a Federal grant.

The Sapelo Island's estuarine sanctuary will serve as a natural field laboratory for Carolinian biogeographic types. The sanctuary will be owned by the Georgia Department of Natural Resources, and research policies will be established through the University of Georgia.

While primarily to be used as a research area, the sanctuary will be available for light recreational use as it is at present. Camping, fishing, and crabbing, as well as beach use, are contemplated at light levels so as not to disturb the natural environment of the area.

A Research Advisory Committee is to be established to assist in the establishment of a research policy. There will also be a Management Advisory Committee and a Citizens Advisory Committee.

Prior to the approval of the site, a public meeting was held in the county seat of Darien, Georgia, on December 2, 1974, and a public hearing on the draft environmental impact statement describing the project was held May 8, 1975, in the same community. The final impact statement was issued June 13, 1975, and the grant was made to Georgia on June 27.

In Oregon, a revised agreement was negotiated during the year providing for a revised and expanded boundary to the previously designated sanctuary on the South Slough of Coos Bay.

A management committee formed by the state proposed a three-tier management system where activity levels would be guided by potential impact on the sanctuary's natural state. An effect of the three-tier system is to allow a greater amount of commercial timbering in a second-tier area adjacent to the area immediately surrounding the estuary. The state can control activity in this area by less than outright acquisition through special use agreements, easements, or other devices. The third-tier would be an area where activity would be controlled by strict enforcement of existing laws. The net effect is an addition of 130 acres to the 4,200-acre site.

The reason for a three-tier system is to offset the major (\$1.5 million) increase in the total cost resulting from the fact that the timberland in the original sanctuary turned out to be far more valuable than calculated. The total cost is now estimated to be (avoiding to the extent possible outright purchases) \$3,805,130, of which the Federal share is \$1,148,965.

The objective of the estuarine sanctuary designation in Coos Bay remains unchanged by the alterations in the contractual agreement worked out in June 1975. The objective continues to be to maintain the integrity of the estuary in order to preserve it for long-term educational and scientific uses. The scientific objectives are to gain a better understanding of estuarine ecosystems, to establish a baseline against which to measure impacts in other similar areas, and to provide information for the state's coastal zone management effort.

## V. LEGISLATIVE SOLUTIONS

The legislation authorizing appropriations under 305 (program development), 306 (program management) and 312 (estuarine sanctuary program) carries a termination date of the end of Fiscal Year 1977.

In order to assure states of continuing funding under each of these three activities, it will be desirable to enact with as much advance time as is feasible extensions of the authorizations of the three sections.

In addition, experience with the program since activation in 1973 may well suggest additions or changes in mechanisms provided in the Coastal Zone Management Act.

APPENDIX A

Status of Grant Awards, Office of Coastal Zone Management, June 1975

<u>FY 1975</u>					
<u>Section 305</u>					
<u>State or Territory</u>	<u>Date Awarded</u>	<u>Federal Share</u>	<u>Matching Share</u>	<u>Total Program</u>	<u>Grant Beginning Date</u>
Alabama	5/29/75	\$120,000	\$60,000	\$180,000	6/30/75
California	4/8/75	900,000	450,000	1,350,000	1/1/75
Georgia	6/18/75	349,250	191,745	540,995	6/30/75
Guam	3/27/75	143,000	71,500	214,500	4/1/75
Hawaii	6/5/75	400,000	200,000	600,000	6/30/75
Illinois	6/12/75	384,000	192,000	576,000	6/30/75
Indiana	6/20/75	220,000	110,000	330,000	6/1/75
Louisiana	6/23/75	342,000	171,000	513,000	6/30/75
Maine	3/26/75	328,870	164,435	493,305	3/1/75
Maryland	6/18/75	400,000	208,600	608,600	6/30/75
Massachusetts	6/24/75	382,000	204,812	586,812	6/30/75
Michigan	6/17/75	400,000	200,000	600,000	6/30/75
Minnesota	6/13/75	150,000	75,000	225,000	6/30/75
Mississippi	5/29/75	127,038	63,519	190,557	6/30/75
New Hampshire	6/6/75	120,000	60,000	180,000	6/30/75
New Jersey	6/23/75	470,750	235,375	706,125	6/30/75
New York	11/8/74	550,000	275,000	825,000	11/1/74
North Carolina	6/10/75	503,000	251,500	754,500	6/30/75
Oregon	2/11/75	298,811	154,406	453,217	1/1/75
Pennsylvania	6/13/75	225,000	112,500	337,500	6/30/75
Puerto Rico	6/16/75	350,000	175,000	525,000	6/30/75
Rhode Island	6/24/75	304,440	152,227	456,667	6/30/75
South Carolina	6/4/75	230,000	117,794	347,794	5/1/75
Texas	5/23/75	620,000	448,401	1,068,401	6/1/75
Virgin Islands	11/26/74	90,000	45,000	135,000	12/1/74
Virginia	8/14/74	251,044	125,522	376,566	8/1/74
Wisconsin	5/30/75	340,600	171,700	512,300	6/1/75
Totals		\$8,999,803	\$4,687,036	\$13,686,839	
<u>Section 312</u>					
Georgia	6/27/75	\$1,500,000	\$1,500,000	\$3,000,000	6/30/75
Oregon*	6/27/75	325,000	1,832,200	2,157,200	(6/30/74)
Totals		\$1,825,000	\$3,332,200	\$5,157,200	

\*Supplement to grant awarded in FY 1974.

APPENDIX B

Resolution No. 1 Adopted by Committee:

- (1) OCZM should attempt to deal with energy facility siting in the OCS problem within the context of comprehensive CZM programs. Energy facility siting should not be dealt with separately.
- (2) OCZM should continue to work on the concept of the separation of development from exploration through the requirement of a specific Federal approval of a development plan with strong state involvement.
- (3) We should work to strengthen Federal consistency in the CZMA with regard to OCS and energy-related matters if that is shown through legal analysis to be necessary.
- (4) Some type of assistance to the states to offset onshore impacts is not only fair but essential to provide the means for a CZM program and we should work towards that end.

March 6, 1975

APPENDIX C

Reprinted from FEDERAL REGISTER

MONDAY MAY 19, 1975

WASHINGTON, D.C.

Volume 40 ■ Number 97

PART I



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**DEPARTMENT OF  
COMMERCE**

**National Oceanic and  
Atmospheric Administration**

■

**MONITOR  
MARINE  
SANCTUARY  
Final Regulations**

**federal register**



## RULES AND REGULATIONS

of Title III of the Act ("Marine Sanctuaries"); and that it can be carried out within the regulations promulgated under section 302(f).

The authority of the Secretary to administer the provisions of the Act has been delegated to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (hereafter the Administrator, 39 FR 10255, March 19, 1974).

On February 5, 1975, the Administrator published in the FEDERAL REGISTER interim regulations applicable to the MONITOR Marine Sanctuary (40 FR 5347), and invited comments on these regulations until March 7, 1975. Comments which have been received have suggested six changes in the regulations as follows:

1. That § 924.2, the description of the Sanctuary, be somewhat shortened and revised to read:

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'23" north latitude and 75°24'32" west longitude.

2. That § 924.3, which prohibits "bottom anchoring" in the Sanctuary, be revised to read:

Anchoring in any manner, stopping, remaining, or drifting without power at any time:

3. That § 924.3(i), which prohibits the "discharging of waste material" into the waters of the Sanctuary, be revised to read:

Discharging waste material into the water in violation of any Federal statute or regulation.

It was stated that this change was felt to be desirable because of the breadth of the original language, and the difficulty of enforcing a prohibition which could be construed to extend to routine operational discharges from vessels—such as bilge, sanitary and galley wastes—which discharges would have no adverse impact on the MONITOR.

4. That § 924.4, which lists penalties for the commission of prohibited acts within the Sanctuary, be revised to read:

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any citizen of the United States for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes proceedings *in rem* against any vessel used in violation of the penalty described above. See also 15 CFR 922 (published at 39 FR 23284, 23287, June 27, 1974), for details applicable to any instance of a violation of these regulations.

Essentially this change substitutes "the penalty described above" for "Any such regulations" at the end of the first sentence of the interim regulations; and rephrases the second and third sentences without substantially changing their meaning.

5. That so much of the last part of § 924.5 as provides that "except that, no permit is required for the conduct of any activity immediately necessary in con-

nection with an air or marine casualty" be revised to read:

except that, no permit is required for the conduct of any activity necessary for the protection of life, property or the environment.

The suggested change would appear to add an environmental casualty, such as oil spill, to the air and/or marine casualties already contemplated by the regulation.

6. That § 924.7, having to do with certification procedures, be revised so as to require any Federal agency which, as of the effective date of the regulations, has authorized any prohibited activity in the Sanctuary, be required to notify the Administrator of that fact in writing. The change was from "activity," as stated in the interim regulations, to "prohibited activity." It was stated that the Secretary's concern should be with any prohibited activity, not with an activity not prohibited.

Except as noted below, and for the reasons there set out, the Administrator has decided to accept these suggested changes, and they have been incorporated into the final regulations. With regard to the suggested changes in § 924.4 (paragraph 4, above), it is felt that the substitution of "penalty" for "regulations" somewhat misstates the thought involved, since the violation in question is of the regulations, not of the penalty. Otherwise, the suggested changes do not alter the meaning of the interim language. Therefore, § 924.4 will be retained in its present form. With regard to the suggested change in § 924.5 (paragraph 5, above), it is felt that there must be an immediate and urgent need for the activity if it is to be conducted without a permit. Therefore the words "immediately and urgently" will be added before "necessary." At the same time, it is felt that a permit should be required for any activity to be conducted in a sanctuary pertaining to an air or marine casualty already passed, in regard to which there is no need for immediate entry into the sanctuary, such as in relation to salvage or recovery operations. Therefore § 924.5 (a) (2) has been appropriately modified. Finally, the Administrator felt it desirable to provide for the extension of the various time limits prescribed in § 924.8 for good cause shown. This has been done by the addition of a new paragraph (e).

There having been no other comments, and the Administrator being of the view that no additional changes in the regulations are necessary at this time, there are published herewith final regulations pertaining to the MONITOR Marine Sanctuary to become effective May 19, 1975.

15 CFR Part 924 is revised as follows:

Sec.	
924.1	Authority.
924.2	Description of the Sanctuary.
924.3	Activities Prohibited Within the Sanctuary.
924.4	Penalties for Commission of Prohibited Acts.
924.5	Permitted Activities.
924.6	Permit Procedures and Criteria.

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

PART 924—MONITOR MARINE SANCTUARY

Final Regulations

On January 30, 1975, the Secretary of Commerce designated as a marine sanctuary an area of the Atlantic Ocean around and above the submerged wreckage of the Civil War ironclad MONITOR pursuant to the authority of section 302 (a) of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052, 1061, hereafter the Act). The sanctuary area (hereafter the Sanctuary) is about 15.10 miles south-southeast of Cape Hatteras (North Carolina) Light.

Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. This section also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes

Sec.

924.7 Certification Procedures.  
924.8 Appeals of Administrative Action.

**AUTHORITY:** Secs. 302(f), 302(g), 303, Marine Protection, Research and Sanctuaries Act of 1972.

**§ 924.1 Authority.**

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of the Act. The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

**§ 924.2 Description of the Sanctuary.**

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'23" north latitude and 75°24'32" west longitude.

**§ 924.3 Activities prohibited within the Sanctuary.**

Except as may be permitted by the Administrator, no person subject to the jurisdiction of the United States shall conduct, nor cause to be conducted, any of the following activities in the Sanctuary:

- (a) anchoring in any manner, stopping, remaining, or drifting without power at any time;
- (b) any type of subsurface salvage or recovery operation;
- (c) any type of diving, whether by an individual or by a submersible;
- (d) lowering below the surface of the water any grappling, suction, conveyor, dredging or wrecking device;
- (e) detonation below the surface of the water of any explosive or explosive mechanism;
- (f) seabed drilling or coring;
- (g) lowering, laying, positioning or raising any type of seabed cable or cable-laying device;
- (h) trawling; or
- (i) discharging waste material into the water in violation of any Federal statute or regulation.

**§ 924.4 Penalties for commission of prohibited acts.**

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes a proceeding *in rem* against any vessel used in violation of any such regulation. Details are set out in Subpart (D) of Part 922 of this Chapter (39 FR 23254, 23257, June 27, 1974). Subpart (D) is applicable to any instance of a violation of these regulations.

**§ 924.5 Permitted activities.**

Any person or entity may conduct in the Sanctuary any activity listed in § 924.3 of this Part if: (a) such activity is either (1) for the purpose of research related to the MONITOR, or (2) pertains to salvage or recovery operations in connection with an air or marine casualty; and (b) such person or entity is in possession of a valid permit issued by the Administrator authorizing the conduct

of such activity; except that, no permit is required for the conduct of any activity immediately and urgently necessary for the protection of life, property or the environment.

**§ 924.6 Permit procedures and criteria.**

(a) Any person or entity who wishes to conduct in the Sanctuary an activity for which a permit is authorized by § 924.5 (hereafter a permitted activity) may apply in writing to the Administrator for a permit to conduct such activity citing this section as the basis for the application. Such application should be made to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Upon receipt of such application, the Administrator shall request, and such person or entity shall supply to the Administrator, such information and in such form as the Administrator may require to enable him to act upon the application.

(b) In considering whether to grant a permit for the conduct of a permitted activity for the purpose of research related to the MONITOR, the Secretary shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the research method(s) envisioned to the purpose(s) of the research; (3) the extent to which the conduct of any permitted activity may diminish the value of the MONITOR as a source of historic, cultural, aesthetic and/or maritime information; (4) the end value of the research envisioned; and (5) such other matters as the Administrator deems appropriate.

(c) In considering whether to grant a permit for the conduct of a permitted activity in the Sanctuary in relation to an air or marine casualty, the Administrator shall consider such matters as (1) the fitness of the applicant to do the work envisioned; (2) the necessity of conducting such activity; (3) the appropriateness of any activity envisioned to the purpose of the entry into the Sanctuary; (4) the extent to which the conduct of any such activity may diminish the value of the MONITOR as a source of historic, cultural, aesthetic and/or maritime information; and (5) such other matters as the Administrator deems appropriate.

(d) In considering any application submitted pursuant to this Section, the Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, as he deems appropriate; except that, he shall seek and consider the views of the Advisory Council on Historic Preservation.

(e) The Administrator may, in his discretion, grant a permit which has been applied for pursuant to this Section, in whole or in part, and subject to such condition(s) as he deems appropriate, except that the Administrator shall attach to any permit granted for research related to the MONITOR the condition that any information and/or artifact(s) obtained in the research shall be made

available to the public. The Administrator may observe any activity permitted by this section; and/or may require the submission of one or more reports of the status or progress of such activity.

(f) A permit granted pursuant to this Section is nontransferable.

(g) The Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely, if, in his view, the permit holder (hereafter the Holder) has acted in violation of the terms of the permit; or the Administrator may do so for other good cause shown. Any such action shall be in writing to the Holder, and shall set forth the reason(s) for the action taken. Any Holder in relation to whom such action has been taken may appeal the action as provided in § 924.8 of this Part.

**§ 924.7 Certification procedures.**

Any Federal agency which, as of the effective date of these regulations, already has permitted, licensed or otherwise authorized any prohibited activity in the Sanctuary shall notify the Administrator of this fact in writing. The writing shall include a reasonably detailed description of such activity, the person(s) involved, the beginning and ending dates of such permission, the reason(s) and purpose(s) for same, and a description of the total area affected. The Administrator shall then decide whether the continuation of the permitted activity, in whole or in part, or subject to such condition(s) as he may deem appropriate, is consistent with the purposes of Title III of the Act and can be carried out within these regulations. He shall inform the Federal agency of his decision in these regards, and the reason(s) therefore, in writing. The decision of the Secretary made pursuant to this section shall be final action for the purpose of the Administrative Procedure Act.

**§ 924.8 Appeals of administrative action.**

(a) In any instance in which the Administrator, as regards a permit authorized by, or issued pursuant to, this Part: (1) denies a permit; (2) issues a permit embodying less authority than was requested; (3) conditions a permit in a manner unacceptable to the applicant; or (4) amends, suspends, or revokes a permit for a reason other than the violation of regulations issued under this Part, the applicant or the permit holder, as the case may be (hereafter the Appellant), may appeal the Administrator's action to the Secretary. In order to be considered by the Secretary, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefore; and shall be submitted within 30 days of the action(s) by the Administrator to which the appeal is directed. The Appellant may request a hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Secretary may request, and if he does, the Appellant shall provide, such additional information and in such form as the Secretary

may request in order to enable him to act upon the appeal. If the Appellant has not requested a hearing, the Secretary shall decide the appeal upon (1) the basis of the criteria set out in §§ 924.6 (b) or 924.6(c) of this part, as appropriate, (2) information relative to the application on file in NOAA, (3) information provided by the Appellant, and (4) such other considerations as he deems appropriate. He shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 30 days of the date of his receipt of the appeal.

(c) If the Appellant has requested a hearing, the Secretary shall grant an informal hearing before a Hearing Officer designated for that purpose by the Secretary after first giving notice of the time, place, and subject matter of the hearing in the FEDERAL REGISTER. Such hearing shall be held no later than 30 days following the Secretary's receipt of the appeal. The Appellant and any interested person may appear personally or by counsel at the hearing, present evidence, cross-examine witnesses, offer argument and file a brief. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Secretary based upon the considerations outlined in paragraph (b) of this section and based upon the record made at the hearing.

(d) The Secretary may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Secretary shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 15 days of his receipt of the recommended decision of the Hearing Officer. The Secretary's action, whether without or after a hearing, as the case may be, shall constitute final action for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this Section may be extended by the Secretary for good cause, either upon the Secretary's own motion and upon written notification to an Appellant stating the reason(s) therefore, or upon the written request of an Appellant to the Secretary stating the reason(s) therefore, except that no time limit may be extended more than 30 days.

R. L. CARNAHAN,  
*Acting Assistant Administrator  
for Administration.*

[FR Doc. 75-13009 Filed 5-16-75; 8:45 am]

APPENDIX D

ADVISORY COMMITTEE FOR COASTAL ZONE MANAGEMENT

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PART I



# federd register

## 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 MANAGE-**  
**MENT 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-

## RULES AND REGULATIONS

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.  
923.22 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 inter-agency 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 92-763 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 program 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, intra-state 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 over-emphasized 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 do 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 mechanism 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

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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 inter-agency 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 develop-

ment 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 con-

sultation 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 consultative 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 . . . (1) the 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 seg-

ments 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 (1) the boundaries of the coastal zone for the entire State have been defined (pursuant to § 923.11) and (2) 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 simul-

taneously 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 f.a. through k., Part III, Section B—Budget Categories of Form CD-292.

## RULES AND REGULATIONS

(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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**PART I**



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**DEPARTMENT OF  
COMMERCE**

**National Oceanic and  
Atmospheric Administration**

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**COASTAL ZONE  
MANAGEMENT  
FEDERAL-STATE  
COORDINATION**

**SECTION 307 INTERIM REGULATIONS**

**federal register**



Title 15—Commerce and Foreign Trade  
 CHAPTER IX—NATIONAL OCEANIC AND  
 ATMOSPHERIC ADMINISTRATION, DE-  
 PARTMENT OF COMMERCE

PART 925—STATE COASTAL ZONE  
 MANAGEMENT PROGRAM

Interim Regulations

The Coastal Zone Management Act of 1972 requires, as a condition of the approval of a state's coastal zone management program by the Secretary of Commerce (by delegation, the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce) that, in the development of a state program, there has been "the opportunity of full participation by relevant Federal agencies . . ." (section 306 (c) (1)); and that the "views of Federal agencies principally affected by such program have been adequately considered" (section 307(b)).

The Act further provides that, in the case of a "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" (section 307 (b)).

There are published herewith interim regulations for the implementation of the cited provisions of the Act. Comment on these regulations is invited through March 31, 1975.

Comment should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following the close of the comment period, and after review of comments submitted, the Administrator may amend these regulations so as to reflect such comments. The Administrator shall then publish final regulations in the FEDERAL REGISTER.

Pending the issuance of final regulations, these interim regulations are effective. Over eighty percent of the states eligible for state program development grants have received them. Coordination between federal and state agencies in the development of a state program is an essential part of the development process. Therefore, it is desirable to provide the guidance set forth herein as rapidly as possible. These considerations constitute "good cause," within the meaning of that phrase in 5 U.S.C. 553(d)(3), for making these interim regulations effective pending the issuance of final regulations.

- 925.1 Authority.
- 925.2 Definitions.
- 925.3 Relevant Federal Agencies.
- 925.4 Federal-State Cooperation.
- 925.5 Washington Level Coordination of a State Program.
- 925.6 Mediation of Federal-State Disputes.

AUTHORITY: 86 Stat. 1280, 88 Stat. 1974 (1975).

§ 925.1 Authority.

Section 314 of the Act requires the Secretary to develop such rules and regulations as may be necessary to carry out the provisions of the Act pursuant to 5 U.S.C. 553.

§ 925.2 Definitions.

In these regulations:

(a) "Act" means the Coastal Zone Management Act of 1972, as amended (86 Stat. 1280, 88 Stat. 1974 (1975)).

(b) "Administrator" means the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230;

(c) "OMB" means the Office of Management and Budget within the Executive Office of the President;

(d) "OCZM" means the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration;

(e) "relevant Federal agency" means a Federal agency, the interests of which (1) are "relevant" to a state coastal zone management program within the meaning of Section 306(c)(1) of the Act; and/or (2) are, or could be, "principally affected by" the implementation of a state coastal zone management program within the meaning of section 307(b) of the Act.

(f) "state agency" means a unit, or units, of a state government, or of more than one state governments, responsible for the development of a coastal zone management program; and

(g) "state program" means a state coastal zone management program adopted by a coastal state in accordance with the provisions of the Act and setting forth objectives, policies and standards to guide public and private uses of lands and waters in the coastal zone.

§ 925.3 Relevant Federal agencies.

(a) The Federal agencies which are relevant to a given state program may vary from state program to state program. However, the Administrator has determined that the Federal agencies listed below are relevant to each state program.

Department of Agriculture.  
 Department of Commerce.  
 Council on Environmental Quality.  
 Department of Defense.  
 Department of Health, Education and Welfare.  
 Department of Housing and Urban Development.  
 Department of Interior.  
 Department of Justice.  
 Department of Transportation.  
 Environmental Protection Agency.  
 Energy Research and Development Administration.  
 Nuclear Regulatory Commission.  
 Federal Energy Administration.  
 Federal Power Commission.  
 General Services Administration.

The Administrator shall determine, for each state program, any relevant Federal

agency in addition to those listed above. He shall provide each state agency with the name, street address and telephone number of the appropriate office of each Federal agency listed above, and of each Federal agency which additionally he determines to be relevant.

(b) Early in the development of its state program, each state agency should contact the office of each relevant Federal agency, listed or determined pursuant to paragraph (a) of this section, for the purpose of arranging for the participation of that Federal agency in the development of the state program. Such Federal agency shall advise the state agency as to procedures to be followed in dealing with the Federal agency in relation to the development of the state program; and the state agency shall comply with these procedures. If any state agency has any question with regard to (1) any aspect of its work with a given Federal agency in the development of its state program, or (2) with regard to the appropriate office of a Federal agency with which it should work, such agency should call or write the Administrator for his advice (ATTN: OCZM).

**§ 925.4 Federal-State cooperation.**

A state agency and a relevant Federal agency shall establish, and shall maintain throughout the development of the state program, such relationships and communications with one another as will enable each to be fully informed of the other's views in relation to the program as it is developed. A state program is in the development stage until it has been approved. In order to be considered by the Administrator, a state program must contain a list of the Federal agencies with which the state agency has worked in developing the state program, including the names of the principal contacts in each Federal agency, and an entry in regard to each such agency as to its principal views.

**§ 925.5 Review and approval of a State program.**

(a) The state agency shall submit the state program to the Administrator. The Administrator shall review the program for compliance with the criteria prescribed in section 306 of the Act and the implementing regulations (15 CFR Part 923). If the Administrator determines that the program appears to comply with these criteria, he shall prepare a draft environmental impact statement. He shall send a copy of such statement and a copy of the state program concurrently to, among other persons or entities, each relevant Federal agency for that agency's review and comment.

(b) Each receiving Federal agency, or other person or entity, shall provide its comments, if any, on the state program and/or on the draft environmental impact statement to the Administrator within 45 days of the date upon which each of these documents was received by such agency, or other person or entity.

(c) Paragraphs (a) and (b) of this section shall apply to the initial submis-

sion to the Administrator of a state program by a state agency, whether such submission is for preliminary or final approval (as authorized by 15 CFR 923.3 (a) and (b)). If the initial submission by the state agency was for preliminary approval, then, upon receipt of a state program submitted for final approval, the Administrator shall review any new material in such program for compliance with the criteria prescribed in section 306 of the Act and the implementing regulations. If the Administrator determines that such program appears to comply with these criteria, he shall send a copy of any new material in such program to each Federal agency which received a copy of the state program as submitted for preliminary approval for that agency's review and comment. If, in the Administrator's view, a state program submitted for final approval contains substantial changes from the program as initially submitted for preliminary approval, or contains significant new information, the Administrator shall amend or supplement the draft or final environmental impact statement, as the case may be, pertaining to the state program so as to reflect such changes or new information. He shall consult with the Council on Environmental Quality with respect to the possible need or desirability of recirculating the statement for the appropriate period. Concurrently with his sending any new material to Federal agencies as required above, the Administrator shall send such amended or supplemented environmental impact statement to, among other persons or entities, each such Federal agency. Each receiving Federal agency shall provide its comments, if any, on the new material within 30 days of its receipt of that material. Each receiving Federal agency, or other person or entity, shall provide its comments, if any, on the amended or supplemented environmental impact statement within the number of days prescribed for such comment by the Administrator. The Administrator's instructions in this regard shall reflect his consultation with the Council on Environmental Quality as required above.

(d) After receiving and considering comments on the draft environmental impact statement pertaining to a state program, the Administrator shall prepare a final environmental impact statement pertaining to that program, and shall send a copy of such statement to each relevant Federal agency, and other person or entity, which received a copy of the draft statement for review and comment. Each receiving agency, person or entity shall provide its comments, if any, on the final environmental impact statement within 30 days from the date of its receipt of that statement.

(e) After receiving and considering comments on both the state program and the final environmental impact statement pertaining to that program, the Administrator shall approve or disapprove the state program. He shall pub-

lish his decision in this regard in the FEDERAL REGISTER.

(f) This section shall apply to any submission by a state agency which seeks approval of a modification of a state program which already has been approved by the Administrator.

**§ 925.6 Mediation of Federal-State disputes.**

(a) It is important that, in the development of a state program, the state and Federal agencies involved seek early identification of any point of relatively serious disagreement between them. Whenever such a disagreement is identified, the Federal and state agencies shall inform OCZM in writing, stating the point(s) of disagreement and the reason(s) therefore. Upon being so informed, OCZM shall endeavor, by appropriate means, to reconcile the disagreement.

(b) A disagreement between a state agency and a relevant Federal agency as to a developing state program which persists to that point at which the state and Federal agencies concerned, after having been informally assisted by OCZM as provided above, still are in disagreement, shall be considered a "serious" disagreement for the purposes of section 307(b) of the Act.

(c) Upon becoming informed of such a disagreement, the Administrator shall request from each disagreeing agency a statement of the disagreement. Its history—including any efforts made to resolve or reduce it—and the reason(s) for the position(s) taken. After receiving and reviewing the statements, and after receiving and reviewing any additional information which the Administrator shall request from any agency (which information the agency shall provide), the Administrator shall arrive at a recommended resolution of the disagreement, based upon the policies and provisions of the Act. He shall forward his recommendation, and the reason(s) therefor, to the parties to the disagreement for their review and comment. Concurrently, he shall inform OMB in writing of the fact of the disagreement, including necessary background information, and of his recommended resolution. The parties to the disagreement shall comment to the Administrator on his recommendation in writing within 30 days of their individual receipts of that recommendation.

(d) If the parties to the disagreement do not accept the Administrator's recommendation, in whole or in part, the Administrator shall so inform OMB, and shall provide OMB with any additional comment or recommendation(s) which he may have. After considering any comment or additional recommendation(s) of the Administrator, and after considering the comment of the disagreeing parties, OMB shall inform the Administrator that it agrees with his recommendation, or shall propose a different resolution.

(e) The Administrator shall send his recommended resolution, or the recommended resolution of OMB, as the case

may be, along with the reason(s) therefore, to the agency parties to the disagreement. If the recommended resolution does not resolve the disagreement, the Administrator shall determine the extent to which the inclusion in the state program of the state agency's position in the disagreement would affect his ability to approve the state program. He shall communicate his determination in writing, with the reason(s) therefore, to the parties to the disagreement.

(f) The foregoing does not preclude the simultaneous use of such informal means for the resolution of a serious disagreement as, in the view of the Administrator and/or OMB, may seem appropriate.

ROBERT M. WHITE,  
*Administrator.*

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# **federal register**



APPENDIX G

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PART V



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## **DEPARTMENT OF COMMERCE**

**National Oceanic and  
Atmospheric Administration**

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### **SECTION 305 ALLOCATION FORMULA, COASTAL ZONE MANAGEMENT PROGRAM**

for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone. Such grants shall not exceed 66 2/3 percent of the costs of the program in any one year and no State shall be eligible to receive more than three annual grants under section 305. In addition, no grant may be made under this section in excess of 10 percent nor less than 1 percent of the total amount appropriated under this section. However, the Secretary shall waive the 1 percent minimum requirement for any grant under this section, when a coastal State requests such a waiver.

Section 305(e) of the Act states in part:

Grants under this section shall be allocated to States based upon rules and regulations promulgated by the Secretary . . .

The rules and regulations set forth below establish the policy and means of allocating grant funds under section 305 to the coastal States and are to fulfill the above requirements of section 305(e). Such rules and regulations are intended primarily for allocation of funds made available for grants under section 305 in Fiscal Year 1975. Allocations to States in subsequent fiscal years may reflect changes in these rules and regulations; such changes, if made, will be duly published.

ROBERT L. CARNAHAN,  
Acting Assistant Administrator  
for Administration.

- Sec.
- 926.1 Purpose of rules and regulations.
- 926.2 Definitions.
- 926.3 Basis of allocation.
- 926.4 Allocation of non-distributed funds.
- 926.5 State allocation computation example.
- 926.6 State allocation.
- 926.7 Duration of allocation.

**AUTHORITY:** Sec. 305(e) of the Coastal Zone Management Act of 1972, as amended (Pub. L. 92-583).

§ 926.1 Purpose of rules and regulations.

Twelve million dollars has been appropriated by the Congress for Fiscal Year 1975 to implement the Coastal Zone Management Act of 1972 (Pub. L. 92-583) as amended. Of this amount \$9 million has been made available for coastal zone management program development grants-in-aid to the 34 coastal States and territories under section 305 of that Act. It is the purpose of this part to establish the rules and regulations for allocation of grant-in-aid funds under section 305 of the Coastal Zone Management Act of 1972, as amended (Pub. L. 92-583; 86 Stat. 1280; and Pub. L. 93-612; 88 Stat. 1974) pursuant to the requirements of section 305(e) which states:

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 percentum nor less than 1 percentum of the total amount appropriated to carry out the purposes of this sec-

tion: *And provided further,* That the Secretary shall waive the application of the 1 percentum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

§ 926.2 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, as amended by Pub. L. 93-612, 88 Stat. 1974.

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

(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. The term also includes specifically Puerto Rico, the Virgin Islands, Guam and American Samoa. This definition is interpreted as including the following States and territories:

- |                   |                    |
|-------------------|--------------------|
| 1. Alabama        | 18. Minnesota      |
| 2. Alaska         | 19. Mississippi    |
| 3. American Samoa | 20. New Hampshire  |
| 4. California     | 21. New Jersey     |
| 5. Connecticut    | 22. New York       |
| 6. Delaware       | 23. North Carolina |
| 7. Florida        | 24. Ohio           |
| 8. Georgia        | 25. Oregon         |
| 9. Guam           | 26. Pennsylvania   |
| 10. Hawaii        | 27. Puerto Rico    |
| 11. Illinois      | 28. Rhode Island   |
| 12. Indiana       | 29. South Carolina |
| 13. Louisiana     | 30. Texas          |
| 14. Maine         | 31. Virginia       |
| 15. Maryland      | 32. Virgin Islands |
| 16. Massachusetts | 33. Washington     |
| 17. Michigan      | 34. Wisconsin      |

(d) "Shoreline" means, in tidal waters, the length of "tidal shoreline" as defined by the National Ocean Survey, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, and published in that agency's brochure, "The Coastline of the United States." For purposes of computation of the nation's total "tidal shoreline", figures for the Canal Zone, Navassa, Swan Islands, and Baker, Howland, Jarvis, Johnston, Midway, Palmyra, and Wake Islands shall not be included. "Shoreline", in Great Lakes States, shall mean the length of shoreline as established by the Lake Survey Center, National Ocean Survey, NOAA, U.S. Department of Commerce, and contained in an unpublished manuscript entitled, "Shoreline of the Great Lakes and Connecting Rivers" by Robert Hagen and P. H. Judd, dated 1948, with additions made in 1952 by G. E. Ropes and E. F. Kulp, Jr. The total "shoreline" of the United States shall be the sum of the tidal shoreline and Great Lakes shoreline, as defined above.

(e) "Coastal counties" means those counties or parishes which appear, in the judgment of the Assistant Administrator for Coastal Zone Management, NOAA, to abut upon coastal waters. A listing of such counties is available for inspection at the Office of Coastal Zone Management, NOAA, U.S. Department of Commerce, Rockville, Maryland 20852.

Title 15—Commerce and Foreign Trade  
CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 926—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS, ALLOCATION OF FUNDS TO STATES

This document supersedes the previous allocation of coastal zone program development grants to State governments published April 2, 1974, in the FEDERAL REGISTER (15 CFR Part 926). For the purposes of allocating coastal zone program development funds pursuant to section 305(e) of the Coastal Zone Management Act of 1972, as amended (Pub. L. 92-583; 86 Stat. 1280 and Pub. L. 93-612; 88 Stat. 1974) for fiscal year 1975, this document shall be controlling.

Under section 305 of the Act, the Secretary of Commerce is authorized to make annual grants to any coastal State

## RULES AND REGULATIONS

## § 926.3 Basis of allocation.

(a) Funds available under section 305 will be allotted to the 34 coastal States and territories on the following basis:

(1) *Uniform allocation.* Each State will initially be allotted the legal minimum of 1 percent of funds available, regardless of size, length of coastline, population, or other factors.

(2) *Variable allocation.* The amount remaining after allocation of the uniform amount will be allocated as follows:

(i) *Shoreline criterion.* Forty percent will be allocated to the coastal States and territories on the basis of shoreline. Each State or territory will receive a shoreline allotment equal to the total amount available under this criterion multiplied by a factor equal to the ratio of that State or territorial shoreline divided by the total national shoreline (including Great Lakes).

(ii) *Population criterion.* Forty percent will be allocated to the coastal States and territories on the basis of coastal population. It is the intent of the Office of Coastal Zone Management to include that population which is included within the "coastal zone" as defined in section 304(a) of the Act and as used in the allocation system for grants under section 306 as described in section 306(b). However, since no State or territory has as yet formally identified its "coastal zone" pursuant to the Act, the Office will initially utilize the population of the coastal zone as recorded in the 1970 decennial U.S. Census contained within coastal counties (or parishes) as defined in § 926.2. Since this designation is judgmental, it is subject to change in subsequent fiscal years, based upon the inclusion or exclusion of certain counties, or upon definition of the coastal zone by a State. The coastal population used herein has been increased from that computed for FY 1974 by the inclusion of additional counties in California, Florida, Louisiana, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, South Carolina, Texas and Virginia.

(iii) *Needs criterion.* Twenty percent will be reserved for additional allocation to the coastal States and territories at the discretion of the Assistant Administrator for Coastal Zone Management, based upon demonstration of need for such funds in order to assure completion of work designated by the State or territory as necessary to the timely completion of a coastal zone management program. Examples of such need may include, but need not be limited to:

(A) States or territories which have a legislative mandate, or express a strong desire to complete development of their programs in less than three years and specifically require such funds.

(B) States or territories which contain geographic coastal areas with particularly pressing developmental problems whose resolution in a management program would be materially assisted by additional funds.

(C) States or territories which propose particularly creative or innovative ele-

ments in the management program development phase where there is apparent national applicability.

(D) States or territories where special institutional conditions exist which require additional funds and for which adequate account is not made in the shoreline and/or population criteria.

(b) The minimum figure shown for each coastal State or territory in § 926.6 represents the sum of the uniform allocation, and the shoreline and population criteria of the variable allocation only; it does not include any allocation under the needs criterion. Such funds will be available to them for Fiscal Year 1975, in the event they:

(1) Choose to participate in the program,

(2) Can provide the necessary matching funds,

(3) Submit a satisfactory application and work program pursuant to the conditions set forth in Part 920 of this chapter, and

(4) Otherwise meet the applicable requirements of the Coastal Zone Management Act of 1972, as amended.

States need not utilize nor be limited by the minimum amount allocated and applications may be made for any amount deemed appropriate: *Provided*, That the statutory maximum or minimum of 10 percent and 1 percent of all appropriations, respectively, is not exceeded, except upon request of a State for waiver of the 1 percent minimum.

## § 926.4 Allocation of non-distributed funds.

Those funds allocated to coastal States and territories which choose not to participate in the program as well as those funds which are allocated but which States or territories choose not to utilize, will be added to those funds to be distributed to the States and territories on the basis of the needs criterion, as will any amounts in excess of the 10 percent maximum limitation.

## § 926.5 State allocation computation examples.

The following computation indicates the procedure by which a State's minimum allocation is derived. As an example, the State of Massachusetts was selected.

## Basic information:

U.S. shoreline: 95,223 miles.  
Massachusetts shoreline: 1,519 miles.  
U.S. coastal population: 89,088,782.  
Massachusetts coastal population: 2,862,290.  
Total funds available for Sec. 305 grants in fiscal year 1975: \$9,000,000.

## National allocation by criteria:

Uniform allocation: 1 percent × \$9,000,000 × 34 States	\$3,060,000
Variable allocation:	
Shoreline criterion: 40 percent × (\$9,000,000 - 3,060,000)	2,376,000
Population criterion: 40 percent × (\$9,000,000 - 3,060,000)	2,376,000
Needs criterion: 20 percent × (\$9,000,000 - 3,060,000)	1,188,000
Total	9,000,000

## Minimum State allocation (Massachusetts):

Uniform allocation: 1 percent × \$9,000,000	\$81,000
Variable allocation:	
Shoreline criterion: 1,519 miles 95,223 miles × \$2,376,000	
Population criterion: 2,862,290 89,088,782 × \$2,376,000	76,270

Minimum Massachusetts allocation	204,048
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To this minimum allocation may be added an appropriate amount from the needs criterion funds.

## § 926.6 State allocations.

Using the method described in § 926.5 above, allocations (excluding needs criterion funds) for each eligible State and territory follow:

1. Alabama <sup>1</sup>	\$115,000
2. Alaska (maximum)	900,000
3. American Samoa	94,000
4. California	620,000
5. Connecticut	158,000
6. Delaware	114,000
7. Florida	446,000
8. Georgia	158,000
9. Guam	95,000
10. Hawaii	137,000
11. Illinois	248,000
12. Indiana	111,000
13. Louisiana	542,000
14. Maine	189,000
15. Maryland	249,000
16. Massachusetts	204,000
17. Michigan	301,000
18. Minnesota	101,000
19. Mississippi	105,000
20. New Hampshire	99,000
21. New Jersey	284,000
22. New York	567,000
23. North Carolina	188,000
24. Ohio	178,000
25. Oregon	158,000
26. Pennsylvania	169,000
27. Puerto Rico	190,000
28. Rhode Island	125,000
29. South Carolina	176,000
30. Texas	254,000
31. Virginia	222,000
32. Virgin Islands	98,000
33. Washington	233,000
34. Wisconsin	162,000
Subtotal	7,772,000
Needs criterion allocation <sup>2</sup>	1,228,000
Total	9,000,000

<sup>1</sup> Rounded to nearest \$1,000.

<sup>2</sup> Includes \$42,271 excess over 10 percent limit in Alaska.

## § 926.7 Duration of allocation.

The allocations as determined and computed above are published for the distribution of coastal zone management program development grants during Fiscal Year 1975, which is the second year for which these funds are available. NOAA will monitor the progress of States under this program and make an assessment during Fiscal Year 1975 of the relative financial needs of the States. This assessment may lead to alterations in the method of allocation and the allocation figures for fiscal years subsequent to Fiscal Year 1975. Such revisions will be duly published.

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# federal register



APPENDIX H

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PART I



## DEPARTMENT OF COMMERCE

National Oceanic and  
Atmospheric Administration



### AMENDMENTS TO SECTION 305 DEVELOPMENT GRANT REGULATIONS

**Title 15—Commerce and Foreign Trade**  
**CHAPTER IX—NATIONAL OCEANIC AND**  
**ATMOSPHERIC ADMINISTRATION, DE-**  
**PARTMENT OF COMMERCE**

**PART 920—COASTAL ZONE MANAGE-**  
**MENT PROGRAM DEVELOPMENT GRANTS**

**State Application Procedures**

The National Oceanic and Atmospheric Administration on November 29, 1973, published final guidelines pursuant to section 305 of the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereafter 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 programs.

The guidelines are for grants under section 305 to develop a management program that will meet the requirements of section 306 of the Act. Section 306 provides guidelines as to what must be considered in a management program while section 306 sets forth requirements that must be met before the Secretary can approve a state management program for administrative grants.

The National Oceanic and Atmospheric Administration is publishing herewith amendments to the section 305 regulations issued November 29, 1973 (15 CFR Part 920). The purpose for amending these regulations is to further clarify the application procedure used by a state in applying for section 305 development grant. Furthermore, these amendments have been promulgated on the basis of the Office of Coastal Zone Management's experience during the past year in reviewing and processing section 305 grant

applications. The following amendments will more fully complement the section 306 regulations published January 9, 1975, in the FEDERAL REGISTER (15 CFR Part 923). These amendments shall become effective on April 15, 1975.

E. *Application for Development Grants.* Section 920.40 *General*, Published November 29, 1973, is hereby repealed and the following substituted therefore:

§ 920.40 *General.*

(a) The primary purpose of development grants made under Section 305 of the Act is to assist a state in developing a comprehensive management program for their coastal zone that can be approved by the Secretary. 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, as amended. It has been designed as a tool for grantees, although it also 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 a grantee 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. 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 total cost of the development programs. Federal funds received from other sources cannot be used to match OCZM grants. No more than three annual management program development grants can be awarded to a State.

(b) Section 305(c) of the Act in part, provides:

In order to qualify for a grant under this section, the State must demonstrate to the satisfaction of the Secretary that such a grant 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 a management program.

Section 920.45 *Application for the initial management program development grant*, Published November 29, 1973 is hereby repealed and the following substituted therefore:

§ 920.45 *Application for the initial management program development grant.*

(a) The Form CD-288, Preapplication for Federal Assistance, required only for the initial grant, should 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.

(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 by 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. As used herein the terms costs and grant project pertain to both the Federal grant and the matching share. The allowability of costs will be determined in accordance with the provisions of FMC 74-4: Cost Principles Applicable to Grants and Contracts with State and Local Governments.

(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) In Part IV, Program Narrative, of the Form CD-292, the applicant should respond to the following requirements.

Applicants are urged to be clear and brief.

(1) Summarize the State's past and current activities in its coastal zone and describe the current status of coastal management and related activities.

(2) Discuss and rank by general order of importance the major coastal zone related problems and issues facing the State.

(3) Identify the goals the State expects to achieve by development of its coastal zone management program, and the objectives it has set to meet those goals.

(4) Describe the overall program design for developing the management program. This should be an outline of the State's plan of action, identifying the work to be accomplished, for developing an approvable management program. Briefly and generally describe how the overall program design is intended to meet the requirements set forth in §§ 920.11, 920.12, 920.13, 920.14, 920.15, 920.16 of Subpart B of this part. In developing the overall program design the applicant should also give early consideration to the more specific requirements for approval of a management program as set forth in 15 CFR Part 923, Subparts B, C, D and E. The applicant will also find in Subpart A, § 923.4 a general description of the factors considered in the evaluation of management programs submitted for approval. In addition the program design should specifically include:

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

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

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

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

(v) A mechanism for coordination with agencies administering excluded Federal lands that are in the coastal zone;

(vi) A tentative approximation of the boundaries of the State's coastal zone;

(vii) Identification of any other Federal and State 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 Federal, State, areawide, local, regional or interstate agencies, regardless of source of funding. Additionally the application shall reflect, and the coastal zone management program as it is developed will provide methods to integrate Federally assisted programs. Programs such as, but not limited to, those listed below as well as any Federally supported land use program which may be hereafter enacted should be considered. (The program numbers and titles listed on the next page are those contained in the 1974 Catalog of Federal Domestic Assistance).

## Public law references

Pub. L. 87-705; 91-343; 74-46.	Resource Conservation and Development.	(19. 901)
Pub. L. 89-136; 90-103; 91-123; 91-304; 92-65; 92-16.	Public Works and Economic Development Act.	(11. 802)
Pub. L. 88-309; 92-590; 90-551.	Commercial Fisheries Re- search and Develop- ment Act.	(11. 407)
Pub. L. 89-068; 89-454.	National Sea Grant Col- lege and Program Act.	(11. 417)
Pub. L. 90-448; 91-152; 92-224.	Flood Insurance and Flood Disaster Protec- tion.	(14. 001)
Pub. L. 83-560.	Comprehensive Planning Assistance.	(14. 203)
Pub. L. 88-578.	Outdoor Recreation State Planning.	(18. 401)
Pub. L. 80-304; 91-249.	Anadromous Fish Con- servation.	(15. 800)
	Fish Restoration.....	(15. 805)
	Wildlife Restoration.....	(15. 811)
Pub. L. 74-292.	Historic American Build- ings Survey.	(15. 908)
Pub. L. 80-665.	Historic Preservation.....	(15. 904)
Pub. L. 91-258.	Airport Planning Grant Program.	(20. 103)
Pub. L. 90-485; 91-605; 80-574.	Highway Research Plan- ning and Construction.	(20-205)
Pub. L. 91-453; 88-365.	Urban Mass Transporta- tion Technical Studies Grants.	(20-505)
Pub. L. 80-80.	Water Resources Plan- ning.	(65. 001)
	Air Pollution Survey and Demonstration Grants.	(66. 005)
	Solid Waste Planning Grants.	(66. 301)
	Water Pollution Control Comprehensive Plan- ning Grants.	(66. 401)
Pub. L. 88-206; 89-272; 89-675; 90-148; 91-004.	Air Pollution Survey and Demonstration Grants.	(66. 005)
Pub. L. 92-500.	Water Quality Manage- ment Technical Plan- ning Assistance.	(68. 023)
Pub. L. 89-272; 91-512; 93-14.	Solid Waste Technical As- sistance, Training and Information Services.	(66. 304)
Pub. L. 92-532.	Marine Protection Re- search and Sanctuaries.	
Pub. L. 92-419.	Rural Development Act.	

(5) Set forth a work program describing the work to be accomplished during the grant period. The work program should be consistent with the phasing of the overall program design and should include:

(i) A precise description of each major task to be undertaken, how it will be accomplished and who will do it.

(ii) For each task identify any "Other Entities" as defined in the "Manual," that will be allocated responsibility for carrying out all or portions of the task, and indicate the estimated cost of the sub-contract/grant for each allocation. Identify, if any, that portion of the task that will be carried out under contract with consultants and indicate the estimated cost of such contract(s).

(iii) 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 staff.

(iv) For each task indicate the percent estimated to be completed during the grant period.

(6) The sum of all task costs in subparagraph (5) of this paragraph should equal the total estimated grant project costs.

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

gories. Additionally indicate the number of new positions created in the two categories, as a result of the grant project.

(f) States may elect to utilize only two annual grants in developing a management program. In such cases the overall program design must encompass the requirements set forth in 920.45, 920.48 and 920.49 within a two year time frame. States should consult with OCZM early in the design stage of such programs for advice and guidance relative to meeting all requirements.

Section 920.46 *Approval of applications*, published November 29, 1973 is hereby repealed and the following substituted therefore:

#### § 920.46 Approval of applications.

(a) The application for a management program development grant of any coastal State 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 resubmission 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.

Section 920.47 *Amendments*, published November 29, 1973 is hereby repealed and the following substituted therefore:

#### § 920.47 Amendments.

Amendments to an approved application must be submitted to, and approved by, the OCZM 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.

Section 920.48 *Application for second year grants*, published November 29, 1973 is hereby repealed and the following substituted therefore:

#### § 920.48 Application for second year grants.

(a) Second year development grant applications will follow the procedures set forth in § 920.45 (c), (d), (e) (5), (6), (7) with the exception that the preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 920.45(b) will be followed. In any event the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed. Additionally, the program design (§ 920.45(e) (4)) shall be updated to:

(1) Describe how the past year's work and products contributed to the accomplishment of the overall program design and to meeting the requirements set forth in § 920.45(e). At this point clearly establish and identify the relationship between the tasks set out in the overall program design and the criteria established for approval of a coastal zone management program as set forth in 15 CFR Part 923, Subparts B, C, D and E.

(2) Examine and assess the need, if any, to modify the overall program design or the management program development goals and objectives or both in view of the above or of any emerging opportunities or problems.

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

(1) The progress made toward meeting management program goals and objectives;

(2) The progress demonstrated in completing the first year work program;

(3) The relationship identified between the program design and meeting the criteria required for Final approval of a coastal zone management program.

(4) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies.

(c) If the overall program design provides for developing a management program in two years, the application for a second year grant should be prepared in accordance with 920.49.

Section 920.49 *Application for third year grants*, published November 29, 1973 is hereby repealed and the following substituted therefore:

#### § 920.49 Application for third year grants.

(a) Third year development grant applications will follow the procedures set forth in § 920.45 (c), (d), (e) (5), (6), (7) with the exception that the preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 920.45(b) will be followed. In any event the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed. Additionally the program design (§ 920.45(e) (4)) shall be updated to:

(1) Describe how the second year's work and products contributed to the accomplishment of the overall program design and specifically to meeting the criteria established for approval of a coastal zone management program as set forth in 15 CFR Part 923, Subparts B, C, D and E.

(2) Examine and assess the need, if any, to modify the overall program design or the management program development goals and objectives or both in view of the above or of any emerging opportunities or problems.

(3) A projection as to when the State will submit a management program to the Secretary for review and Final approval or when a management program

will be submitted for preliminary approval in accordance with the provisions of 15 CFR Part 923, Subpart A, § 923.3 (b).

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

(1) The progress made toward meeting management program goals and objectives;

(2) The progress demonstrated in completing the second year work program;

(3) The cumulative progress, demonstrated during the first and second grant periods, toward meeting the criteria required for Final approval of a coastal zone management program.

(4) The applicability of the third year work program to the achievement of all criteria required for Final approval of a coastal zone management program.

(5) The effectiveness of mechanisms for insuring public participation and consultation with affected Federal, State, regional and local agencies.

**R. L. CARNAHAN,**  
*Acting Assistant Administrator  
for Administration.*

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PART I



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## DEPARTMENT OF COMMERCE

National Oceanic and  
Atmospheric Administration



### OUTER CONTINENTAL SHELF DEVELOPMENT GRANTS, COASTAL ZONE MANAGEMENT PROGRAM

# federal register



Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purposes of defining the procedures by which States can qualify to receive development grants under section 305 of the Act and policies for development of the management program.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of the immediate and potential value to the present and future well-being of the Nation. Present State and institutional arrangements for planning and regulation of 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 the allocation of funds to States based on a supplemental appropriation to section 305 of the Act. The reasons for the supplemental appropriation and its allocation to the States are set forth below.

There are published herewith interim regulations relating to the allocation of funds to States on the basis of the supplemental appropriation formula set forth below.

Comments upon these regulations are invited through June 30, 1975. Comments should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following June 30, 1975, any comments received will be reviewed. In the discretion of the Administrator, these interim regulations will be amended so as to reflect any such comments. The Administrator shall then publish final regulations in the FEDERAL REGISTER. As authorized by 5 USC 553(d) (3), these interim regulations are effective in order to allocate such funds to the States until final regulations become effective.

**PART 928—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT GRANTS, OUTER CONTINENTAL SHELF**

**Supplemental Appropriation, Allocation of Funds to States, Interim Regulations**

The National Oceanic and Atmospheric Administration (NOAA) on November 29, 1973, published final guidelines pursuant to section 305 of the

Sec.	
928.1	Background.
928.2	Administration proposal.
928.3	Intent of guidance.
928.4	Purpose of supplemental funding.
928.5	Nature of onshore impacts.
928.6	Regional approach.
928.7	Local governments.
928.8	Specific use of funds.
928.9	Miscellaneous.
928.10	Allocation of funds.

**AUTHORITY:** Pub. L. 92-583, 86 Stat. 1280.

**§ 928.1 Background.**

(a) Current plans by the Department of the Interior call for the leasing of extensive tracts of offshore seabed on the Outer Continental Shelf (OCS) over the next few years for the purpose of oil and gas extraction, in order to increase domestic energy production and diminish reliance upon foreign energy sources.

(b) Certain onshore areas of the coastal States lying adjacent to these tracts will be looked upon as potential staging points for offshore operations, as land-side terminal points for the transmission and storage of oil and gas, and as possible locations for refineries, industrial processing plants and electrical generating facilities. The coastal States are especially concerned that inadequate opportunity may exist for States and localities to plan for the onshore physical, social and economic impacts of OCS leasing and oil and gas production.

**§ 928.2 Administration proposal.**

(a) On November 13, 1974, President Ford announced to a meeting of coastal State governors a number of actions designed to ameliorate the concerns expressed by coastal States. Among these actions was the decision to request an additional \$3 million for FY 1975 for program development grants to coastal States under Section 305 of the Coastal Zone Management Act.

(b) While the President did not postpone the leasing of OCS tracts until State coastal zone management programs are completed, he pointed out that States will want to utilize the time between leasing and actual production to prepare for the shoreside impact of such activity, and that States would be asked to participate in the tract selection process. The \$3 million supplemental appropriation requests intended "to facilitate coastal State participation in this effort" and to accelerate State planning efforts. The President's FY 76 budget request to Congress also reflects this additional level of funding.

**§ 928.3 Intent of guidance.**

(a) The intent of this document is (1) to identify the purposes for which States may apply for grants awarded under this supplemental appropriation, when and if made, (2) to indicate how work elements so funded should be integrated into the ongoing development of State coastal zone management programs, and (3) to specify the method of allocating funds which may be thus available to the coastal States.

**§ 928.4 Purpose of supplemental funding.**

(a) The central focus of grants made under this supplemental appropriation shall be to improve State capabilities to plan for and manage the projected or potential impacts induced by Federal actions leading to or resulting from OCS production. A central objective should be to integrate such planning and management activities into the development of an approvable State coastal zone management program.

(b) Activities to be funded by these grants should fulfill the following general purposes:

(1) To determine the probable physical, social and economic effects of OCS leasing, exploration, production, and eventual shut-down on a State's coastal zone.

(2) Where those effects could include or lead to the establishment of land or water uses which have a direct and significant impact upon coastal waters, to make appropriate plans to take into account these effects and include them within the terms of the State's management program.

(3) To provide policy guidance and advice, based upon (1) and (2) above, to the State's governor and legislature.

**§ 928.5 Nature of onshore impacts.**

(a) In attempting to evaluate not only the environmental impacts on coastal areas resulting from OCS activities but the social and economic effects as well, it may be useful to divide them into the following categories.

(1) *Malfunctioning of the oil and gas production system.* Oil spills (accidental or chronic), blowouts, fires and other catastrophic events are major concerns in the minds of citizens of coastal areas. While they are obviously rare occurrences, States may wish to integrate planning for such contingencies into the development of their coastal zone management programs. It is not anticipated, however, that such planning activities will represent a significant portion of a grant under this supplemental, particularly in view of the limited amount of funding available, and work now being carried out by the Coast Guard.

(2) *Onshore activities and facilities which are required to service the construction of and production from OCS oil and gas facilities.* These would include oil platform fabrication sites, boat docks, storage yards, pipeline corridors, pumping stations, tank farms, intermodal transfer facilities and onshore pipelines, for example.

(3) *Onshore activities and facilities which are located in the coastal zone in order to take advantage of the availability of oil and gas produced from the OCS either as raw material or as a source of energy.* These would include oil refineries, petrochemical processing facilities, and electrical generating plants, for example.

(4) *Onshore activities and facilities whose presence has been induced by (a) (2) and (3) of this section.* These would include incremental additions to community facilities such as roads, sewers, schools, housing and transit facilities as well as to public services. The actual sites these facilities may occupy in the coastal zone will result from locational decisions influenced by both economic considerations of the private market and restraints exerted by Federal, State and local governments. The resulting pattern of facilities across the coastal zone will thus be irregular, and often very localized depending upon the economic requirements and physical characteristics of each facility. Some communities

may be likely to undergo disruptions, the severity of which will vary according to the size of the facilities and their relationship to existing development. Others, while not directly impacted, may nonetheless experience change as a result of activities in neighboring communities. Still others, perhaps the vast majority, may not be affected in any significant manner.

(b) Some impacts will be viewed as beneficial, others as adverse. These perceptions may be colored by the particular perspectives of various levels of government or the private sector. What are positive benefits to some may be negative to others. Also in some cases, the impact may be adverse at first and beneficial later, or vice versa. Examples of these impacts include:

- (1) *Beneficial.*
- (i) More jobs and lower unemployment;
  - (ii) Increased personal and corporate income;
  - (iii) Increased tax base;
  - (iv) Better job opportunities and mobility.
- (2) *Adverse.*
- (i) Additional costs of community infrastructure;
  - (ii) Potential oil pollution;
  - (iii) Environmental and esthetic damage;
  - (iv) Changes in the social and culture fabric of the community;
  - (v) Decline in traditional employment.

**§ 928.6 Regional approach.**

(a) Some offshore lease sale sites will induce onshore development in only one State, while others will affect a number of States adjacent to the site. Some States will welcome OCS development for what they perceive to be beneficial onshore impacts, while others will oppose it for the adverse effects. The "national interest" clause (section 306(c) (8)) of the Act is interpreted as meaning that States may not arbitrarily exclude or restrict the siting of facilities deemed to be of greater than statewide significance. In locations where regional groupings of States are likely to be affected, it is important that one State not be called upon to bear the entire regional burden of such facilities, nor should it expect to receive all of the benefits of such development. Siting decisions in such cases should be taken in the context of a broad regional approach which assesses both economic and social needs, environmental considerations and public desires in the affected States. The mechanisms for making such decisions in the coastal zone should be an integral part of the development or implementation of each State's coastal zone management program.

(b) Thus, where more than one State will be directly impacted as the result of the leasing of and production from OCS tracts, as will almost certainly be the case in New England, and the Mid and South Atlantic regions, it would be beneficial if all of the affected States were to be involved in cooperative re-

gional studies, which the individual States can then utilize to integrate OCS-related impacts into their State's coastal zone management program. The nature of these regional studies and the manner of carrying them out shall be left to the States involved. No specific regional organizations or cooperative mechanism shall be prescribed by OCZM, but clearly where such an entity is used, it should have the capacity to undertake the work contemplated and sufficient credibility throughout the region to assure public acceptance.

(c) While the regional interstate approach described here is desirable and strongly recommended, it is not mandatory. States within a region affected by OCS activities may choose not to utilize funds for regional studies, reserving them for developing an individual State response to OCS-related impacts and integrating them into the State's management program.

§ 928.7 Local governments.

Because of the nature of the potential onshore impacts, it is likely that local governments will need to be heavily involved in State planning activities. Whereas the aggregate impact on State government may be fairly nominal, the economies of individual communities and counties may undergo severe fluctuations and dislocations. Thus, it will be important that the planning of State and local governments be closely integrated and coordinated, and that local governments be provided, to the extent practicable and appropriate, with funds from these grants for such coordinated management program development.

§ 928.8 Specific use of funds.

(a) It is not the intent of OCZM to mandate the specific work elements to be funded under this appropriation. Each State should develop its own work program to fit both its own needs and the general purposes of the funding. It may prove helpful to States, however, to provide some examples of work which is considered eligible, as follows:

(b) Inventories and analyses. (1) Specialized surveys of coastal resources, public and private facilities and services and land and water uses, of a nature specific to OCS-induced impacts and of a detail not normally required for management program development.

(2) Existing oil and gas distribution and processing systems;

(3) Locational aspects of existing land use and air and water pollution controls;

(4) Compilation of data on existing levels, types of employment, income, skills;

(5) Projections of physical, economic, social conditions in the absence of OCS development;

(6) Surveys of public sentiment.

(c) Required facilities and anticipated impact. (1) Formulation of assumptions on location and quantity of OCS oil and gas;

(2) requirements onshore to service OCS exploration, construction, production and shutdown;

(3) alternative patterns and timing of facilities to fulfill such requirements;

(4) environmental and socio-economic impacts of alternative siting options, at State, interstate and local levels;

(5) analyses of impacts and timing of additional induced growth at various levels;

(6) determination and distribution of costs to State and local governments of onshore impacts;

(d) Integration of coastal zone planning and OCS impacts: (1) Studies of carrying capacity and suitability of specific uses;

(2) Detailed analysis of areas of particular concern;

(3) Establishment of siting criteria;

(4) Identification of appropriate and inappropriate sites and conditions;

(5) Formulation of controls on siting and operation;

(6) Establishment of timetable for completion of management program and coordination with OCS field production plan;

(7) Establishment of management system for monitoring and altering plans as new or changing impacts as perceived.

(e) Policy guidance for governor and legislature: (1) Interpretation of detailed studies for popular consumption;

(2) Formulation of State strategy for dealing with OCS issues.

§ 928.9 Miscellaneous.

(a) With the exception of the items noted above, the procedures and regulations applying to section 305 program development grants, including A-95 project notification and review, shall also apply to funds under this appropriation. States may apply for supplemental funds either as a part of the regular application for section 305 grants or in a separate request, depending upon their own timetable. Unless modified by Congressional action, the statutory requirement of a one-third State matching share continues to apply.

(b) Funds received by the States may also be passed through to interstate bodies for regional studies, to local governments, to areawide planning agencies, to other State agencies, to universities or other such institutions, or to private or non-profit contractors.

§ 928.10 Allocation of funds.

(a) Funds available from appropriations in FY 1975 will be allocated to all coastal States considered to be impacted by OCS oil and gas development on the same general formula as earlier grants made under Section 305. That is, each grant made under the supplemental would be allocated funds on the following basis:

(1) *Uniform allocation*: Each affected State will be allocated 1% of the funds available (presumably \$30,000 for FY 1975).

(2) *Variable allocation*: Of the amount available after distribution of the uniform allocation,

(i) 40 percent will be distributed to affected States, based upon the ratio of any given State's marine shoreline to the

total of marine shorelines of affected States

(ii) 40 percent will be distributed to affected States, based upon the ratio of any given State's coastal population in marine coastal counties (the same counties, excluding those not on marine shorelines, earlier identified for allocation purposes) to the total population in marine coastal counties of affected States

(iii) 20 percent will be distributed on the basis of identified needs. Examples of such needs may include, but are not limited to:

(A) States which have chosen to participate with other States similarly impacted by development of the same offshore field in studies, inventories or analyses of regional needs and resources.

(B) States being impacted by OCS development for the first time (i.e., so-called "frontier" areas) and which have not had experience in dealing with these or similar issues.

(C) States where OCS-induced impacts will be felt earliest as a result of current leasing and production timetables.

(D) States where special physical, ecological, demographic or social conditions obtain to the extent that distribution of funds by the formula above creates obvious inequities.

(b) All impacted States are eligible to apply for funds appropriated for FY 1975. However, States will be limited to three grants under appropriations made for this purpose; States adjacent to fields scheduled for leasing in later years should be aware of this limitation and plan the development of work under the supplemental accordingly.

(c) Funds not obligated by the end of FY 1975 (June 30, 1975) will remain available. States thus should attempt to develop the strongest possible work program and not feel bound by time constraints imposed by the short time between the date of appropriations and the end of the fiscal year. Later in FY 1976, States which have not submitted application for such FY 1975 funds will be asked if and when they intend to apply. Funding of any given State under this supplemental will depend, of course, upon approval of a satisfactory application for such funds which carries out the terms of the Coastal Zone Management Act of 1972, and its associated regulations, including the guidance set forth herein.

(d) It is recognized that a number of States may have their coastal zone management programs approved by the Secretary of Commerce during the period for which the State may be receiving OCS supplemental grants. At present, the supplemental applies only to section 305 program development grants and program approval under the current statute would make the State ineligible for further section 305 grants.

(e) Basic allocations to States from the FY 1975 supplemental (rounded to the nearest \$1,000) without any distribution on the basis of need are indicated below. Also displayed are regional totals for groupings of States likely to be impacted by leasing and development of the

same field. Data and computations by which these allocations were determined are on file and questions should be directed to OCZM.

	<i>Basic Allocation (nearest \$1,000; excluding needs)</i>
Impacted States:	
Alabama .....	\$42,000
Alaska .....	300,000
California .....	300,000
Connecticut .....	65,000
Delaware .....	42,000
Florida .....	108,000
Georgia .....	59,000
Louisiana .....	143,000
Maine .....	73,000
Maryland .....	105,000
Massachusetts .....	86,000
Mississippi .....	37,000
New Hampshire .....	34,000
New Jersey .....	128,000
New York .....	228,000
North Carolina .....	73,000
Oregon .....	61,000
Pennsylvania .....	67,000
Rhode Island .....	47,000
South Carolina .....	68,000
Texas .....	107,000
Virginia .....	91,000
Washington .....	97,000
Total .....	2,447,000
Needs distribution .....	553,000
Total .....	3,000,000

<sup>2</sup> No State may receive more than 10 percent of the amount appropriated in any fiscal year for section 305 grants, or \$1,200,000 should the supplemental appropriation be enacted. In States where the previous maximum of \$900,000 has been or has a reasonable expectation of being awarded, exclusive of the supplemental, the additional funds cannot exceed \$300,000. As was done earlier, the difference of basic allocation and legal maximum has been applied to the needs distribution.

#### REGIONAL TOTALS

	<i>Basic Allocation (nearest \$1,000; excluding needs)</i>
South Atlantic Area:	
North Carolina .....	\$ 73,000
South Carolina .....	68,000
Georgia .....	59,000
Florida .....	98,000
Total .....	298,000
MAFLA:	
Mississippi .....	37,000
Alabama .....	42,000
Florida .....	98,000
Total .....	177,000
Georges Bank:	
Maine .....	73,000
New Hampshire .....	34,000
Massachusetts .....	86,000
Rhode Island .....	47,000
Connecticut .....	68,000
New York .....	114,000
Total .....	417,000
Baltimore Canyon:	
New York .....	114,000
New Jersey .....	128,000
Delaware .....	42,000
Maryland .....	105,000
Pennsylvania .....	67,000
Virginia .....	91,000
Total .....	547,000

<sup>3</sup> State likely to be impacted by two different fields. Allocation split evenly by region.

**R. R. HAGEMEYER,**  
Acting Deputy Assistant  
Administrator for Administration.

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APPENDIX J

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PART I



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**DEPARTMENT OF  
COMMERCE**

**National Oceanic and  
Atmospheric Administration**

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**SECTION 306  
ALLOCATION FORMULA,  
COASTAL ZONE  
MANAGEMENT PROGRAM**

**federal register**



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**Title 15—Commerce and Foreign Trade****CHAPTER IX—NATIONAL OCEANIC AND  
ATMOSPHERIC ADMINISTRATION, DE-  
PARTMENT OF COMMERCE****PART 927—COASTAL ZONE MANAGE-  
MENT PROGRAM, ADMINISTRATIVE  
GRANTS, ALLOCATION OF SECTION 306  
FUNDS TO STATES****Interim Regulations**

Notice is hereby given of the establish-  
ment of interim regulations regarding  
allocation of coastal zone management  
program administrative grants to State  
governments pursuant to section 306(a)  
of the Coastal Zone Management Act of  
1972 (Pub. L. 92-583; 86 Stat. 1280).

Under section 306 of the Act, the Secre-  
tary of Commerce is authorized to make  
annual grants to any coastal State for  
the purpose of administering the State's  
coastal zone management program if he  
approves such program in accordance  
with section 306 of the Act. Such grants  
shall not exceed 66 $\frac{2}{3}$  percent of the costs  
of administering the program in any one  
year. Federal funds received from other  
sources shall not be used to pay the  
State's share of costs. No annual admin-  
istrative grants made under section 306  
shall exceed \$2,000,000 for fiscal year  
1975, \$2,500,000 for fiscal year 1976, or  
\$3,000,000 for fiscal year 1977. In addi-  
tion, no such grant may be awarded for  
less than one percent of the amount so  
appropriated, except upon a request of a  
waiver of such provision by a coastal  
State.

Section 306(b) states in part:

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 of the plan,  
population of the area and other relevant  
factors \* \* \*

The interim regulations set forth be-  
low establish the procedure for allocating  
funds under section 306 to the coastal  
States and are intended to fulfill the  
above requirements of section 306(b).  
Such interim regulations are intended  
for allocation of funds made available  
for grants under section 306 in Fiscal

Year 1975 only. Allocation to States of such grant funds in subsequent fiscal years may reflect changes in these regulations; such changes, if made, will be duly published.

Comments upon these regulations are invited through June 30, 1975. Comments should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following the close of this 30 day period any comments received will be reviewed. In the discretion of the Administrator, these interim regulations will be amended so as to reflect any such comments. The Administrator shall then publish final regulations in the FEDERAL REGISTER. As authorized by USC section 553(d)(3), these interim regulations are effective in order to allocate such funds to the States until final regulations become effective.

Part 927 is added as set forth below:

**Sec.**

- 927.1 Purpose of rules and regulations.
- 927.2 Basis of allocation.
- 927.3 Allocation of non-distributed funds.
- 927.4 Duration of allocation.

**AUTHORITY:** Pub. L. 92-583; 86 Stat. 1280.

**§ 927.1 Purpose of rules and regulations.**

Twelve million dollars has been appropriated by the Congress for Fiscal Year 1975 to implement the Coastal Zone Management Act of 1972 (Pub. L. 92-583; 86 Stat. 1280). Of this amount, \$2.1 million has been made available for coastal zone management program administrative grants-in-aid to those coastal States and territories which have had coastal zone management programs approved by the Secretary of Commerce, pursuant to section 306(b) of the Act. It is the purpose of this part to establish the rules and regulations for allocation of grant-in-aid funds under section 306 of the Coastal Zone Management Act of 1972 pursuant to the requirements of section 306(b) which states:

Such grants shall be allocated to the states with approved program 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, That no annual grant made under this section shall be in excess of \$2,000,000 for Fiscal Year 1975, in excess of \$2,500,000 for Fiscal Year 1976, nor in excess of \$3,000,000 for Fiscal Year 1977: *Provided further*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

**§ 927.2 Basis of allocation.**

Coastal zone management program administrative grants under Section 306 may be awarded only to States whose

coastal zone management programs have been approved by the Secretary of Commerce, pursuant to requirements and standards set forth in various sections of the Act and subsequent administrative rules and regulations (see 15 CFR Part 923). To date, no coastal State has received such approval. NOAA's Office of Coastal Zone Management (OCZM), which has responsibility for administering the Act, has determined that a limited number of States are in a position to request such approval for all or a segment of their coastal zone, and further that, of this number, a maximum of two programs can be processed and approved in Fiscal Year 1975. Thus, with the prospect of approving only two, one, or no such management programs in Fiscal Year 1975, there does not appear to be a reasonable rationale for developing a formula allocation of section 306 administrative grant funds to all coastal States, to all States likely to apply for approval, or to those States actually applying. Therefore, for Fiscal Year 1975 only, OCZM will review applications from States with approved programs or which are deemed likely to receive such approval within that fiscal year, and will award administrative grants to States actually receiving approval in the fiscal year in amounts which take into account and bear reasonable relationship to the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors.

**§ 927.3 Allocation of non-distributed funds.**

Funds appropriated in order to make coastal zone management program administrative grants under section 306 remain available until expended, pursuant to section 315(a)(2) of the Act. Such funds not obligated during Fiscal Year 1975 will be carried over into Fiscal Year 1976 and added to such funds appropriated for that year.

**§ 927.4 Duration of allocation.**

The allocations as contained herein are published for the distribution of coastal zone management program administrative grants during Fiscal Year 1975, which is the first year for which these funds are available. Assessments regarding the relative needs of States for such grants may lead to alterations in the method of allocation for fiscal years subsequent to Fiscal Year 1975. Such revisions will be duly published.

ROBERT L. CARNAHAN,  
Deputy Assistant Administrator  
for Administration.

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COASTAL ZONE  
INFORMATION CENTER

