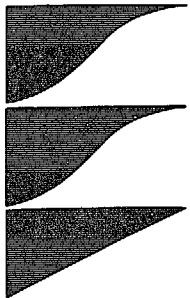


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SUGGESTED PERFORMANCE STANDARDS AND CRITERIA  
FOR FEDERAL APPROVAL OF STATE  
COASTAL ZONE MANAGEMENT PROGRAMS

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Office of Coastal Environment  
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U. S. Department of Commerce

To assist in the implementation of the  
Coastal Zone Management Act of 1972 (P. L. 92-583)

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## TABLE OF CONTENTS

### Subpart A -- General

1. Broad Evaluation Principles Guiding Secretarial Review and Approval . . . . . 2
2. Utilization of Performance Standards and Criteria . . . . . 5
3. Relationship of the Management Program Approval Process to Program Development . . . . . 6
4. Definitions . . . . . 7

### Subpart B -- Adoption of State Coastal Zone Goals, Objectives and Unified Policies

11. General . . . . . 8
12. National and State Policies and Objectives . . . . . 8
13. Measurable Objectives . . . . . 9

### Subpart C -- Key Substantive Management Program Elements

21. General . . . . . 10
22. Geographic Areas of Particular Concern . . . . . 11
23. Designation of Priority Uses Within Specific Areas Throughout the Coastal Zone . . . . . 12
24. Permissible Land and Water Uses Which Have a Direct and Significant Impact on Coastal Waters . . . . . 13
25. Boundaries of the Coastal Zone Subject to the Management Program. . . . . 13

### Subpart D -- Organizational Requirements and Program Authorities for State Coastal Zone Management

31. General . . . . . 16

Table of Contents, cont'd.

32.	Authority to Develop and Implement Integrated Policies, Plans, and Program Elements . . . . .	16
33.	Techniques to Control Land and Water Uses Affecting the Coastal Zone . . . . .	18
34.	Authority to Acquire Interest in Lands and Waters of the Coastal Zone . . . . .	18
35.	Organization for Coastal Zone Management . . . . .	19
Subpart E -- <u>Intergovernmental and Interagency Coordination</u>		
41.	General . . . . .	21
42.	Intergovernmental Consultation . . . . .	21
43.	Interagency Cooperation and Coordination . . . . .	23
Subpart F -- <u>Public Participation</u>		
51.	General . . . . .	24
52.	Public Participation During Program Development . . . . .	24
53.	Public Participation Prior to Program Approval Submission . . . . .	27
Subpart G -- <u>Management Program Adoption and Modification</u>		
61.	General . . . . .	28
62.	Adoption of the Management Program . . . . .	28
63.	Approval of Segmented Management Programs . . . . .	29
64.	Review and Modification of the Adopted Management Program . . . . .	29
Subpart H -- <u>Compliance with the National Environmental Policy Act of 1969 (NEPA)</u>		
71.	General . . . . .	30

PERFORMANCE STANDARDS AND CRITERIA FOR  
FEDERAL APPROVAL OF STATE COASTAL ZONE MANAGEMENT PROGRAMS

Notice is hereby given that the program review and approval standards and criteria set forth below are proposed by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA). These regulations are proposed to fulfill the requirements of the Coastal Zone Management Act (P.L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act." Specifically, this proposed rulemaking focuses upon the requirements contained in Section 306 of the Act. Under Section 306, the Secretary is authorized to make annual Administrative Grants to the states if he approves such programs "... based upon rules and regulations promulgated by the Secretary." (Sec. 306(b))

These proposed regulations supplement and emphasize implementation of the final regulations concerning "Coastal Zone Management Program Development Grants" (15 CFR, Part 960). The performance standards and criteria proposed herein are designed to provide further guidance to the states as they develop management programs. They also prescribe the minimum accomplishments of management program development that will qualify the states for Federal program approval.

The performance standards and criteria have developed from a variety of sources. Interpretation of the Act itself and its legislative history was undertaken as a first step by the Office of Coastal Environment, (OCE) NOAA. This was followed by preparation of a Working Paper that highlighted the issues and approaches to the establishment of approval criteria. OCE then convened a series of eight informal regional discussion

sessions throughout the country to review and exchange opinions on the working paper, and to provide a timely forum for surfacing any other concerns about the direction of the Coastal Zone Management Program. Responsive and diverse participation and comment was given by governmental officials, technicians, interest groups and the public. The valuable oral and written commentary presented at these sessions has been taken into account in preparing the draft regulations. Finally, representatives from all of the coastal states who will administer the management program have participated throughout the formulation of this notice of proposed rulemaking.

Prior to adoption of the proposed guidelines, consideration will be given to comments that are submitted in writing to the Office of Coastal Environment, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland, 20853, before .

#### Subpart A - General

##### 1. Broad evaluation principles guiding Secretarial review and approval

- (a) In reviewing and evaluating programs submitted by the states for approval, the Secretary will focus upon reasonable supporting evidence that states have complied with the overall policy of the Act. A central theme of this policy is expressed in the Act. "...The program must give full consideration to ecological, cultural, historic and aesthetic values, as well as the needs for economic development." (Sec. 303(b)).
- (b) Major consideration will also be given to demonstration by the state, through law, policy, management plans, program organization and

operations, etc., that management capability and the means to actively apply the management program have been established. This demonstration encompasses all relevant sections of the Act, not only those explicitly covered in Section 306.

- (c) The Secretary will evaluate required individual program elements; he will also assess the relationship of elements to one another and their unification or integration into a coherent and comprehensive program whole. Language in the Senate Report--Section by Section analysis--(No. 92-753) that accompanied S-3508 reinforces this direction as a basic guide to Secretarial approval evaluation: "The key to more effective use of the Coastal Zone in the future is introduction of management systems permitting conscious and informed choices among the various alternatives (emphasis added). The aim of this legislation is to assist in this very critical goal."
- (d) While recognizing that there will be significant diversity among state approaches, evaluation also will consider the demonstrated adequacy of the state's process of program development and continuing effectiveness, especially the citizen participation and coordinative elements.
- (e) Secretarial evaluation for program approvals will take into account a number of specific management elements recommended by the Congress that are not specifically cited in the Act, but are evident in legislative deliberations. As recommended by Congressional Committee Reports, these include the following representative considerations:

- "(1) Tides and currents, including their effect upon beaches and other shorelines areas;
- (2) Floods and flood damage prevention;
- (3) Erosion, land stability, climatology, and meteorology;
- (4) Ecology, including estuarine habitats of fish, shellfish, and wildlife.
- (5) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming, and pleasure boating;
- (6) Open space, including educational and natural preserves, scenic beauty, and public access to the coastline and coastal and estuarine areas, both visual and physical;
- (7) Navigation;
- (8) Commercial fishing;
- (9) Present uses, known proposals for changes, and long-term requirements;
- (10) Present ownerships, including administration of publicly owned properties;
- (11) Present laws and regulations on land and water uses, and activities by all levels of government;
- (12) Present population and future trends, including impact of population growth on the coastal and estuarine zone environment; and
- (13) Such other factors as may be considered relevant." (Senate Report No. 92-753)

The House Report contains a similar set of representative coastal zone management program elements as follows: "recreation, transportation, housing, fishing, power, communication, industrial, and mineral resource needs; protection requirements for water quality, fish and wildlife habitats, open space and aesthetic values; present and long-range use requirements which will not foreclose options for future generations; flood control and shoreline erosion prevention; and all other matters impacting upon coastal zone resource conservation."

Thus, one consideration of the adequacy of management programs for approval purposes will rest upon whether a demonstrable effort has been made by each state to identify and adequately consider the wide range of problems and issues that should emerge from an effective program development effort.



(f) It is recognized that setting standards and criteria applied to diverse state settings, necessarily dynamic management processes and in the current flux in Federal and state policies is complex and calls for flexibility. This is nowhere more evident than in Secretarial and Federal agency responsibility to take national concerns and interests into account in approving state management programs. The Secretary, together with other interested Federal agencies, is responsible for articulating to the states these concerns and interests, many of which remain illdefined or are being formulated. Some are spelled out in the Act, specifically Federal policies concerning water and air quality (§307(f)) and the siting of facilities (§306(c)(8)). In terms of management program evaluation and approval, this must be a shared process between the states and the Federal government. Individual instances of conflict resolution as programs develop are likely to further clarify what Federal and state interests are. However, OCE will attempt to act as a catalyst by identifying significant Federal interests early during the management program development phase and seeking to clarify and mediate any disagreements or misunderstandings that may arise.

## 2. Utilization of Performance Standards and Criteria

(a) Selection of performance standards as the focus of Secretarial and Federal review of state management programs is deliberate. While seeking to provide clear policy guidance to the states in effecting approved programs, exhaustive discussion with the interested coastal zone management

community has developed one area of consensus: detailed specification and/or quantification of the exact requirements for program approval should not be, indeed probably cannot be rigidly cast at the beginning period of program development. The use of performance standards, rather than a series of detailed task requirements, reflects Secretarial recognition that developing adequate comprehensive management programs is an involved process with significant room for innovation, diversity and approach. Thus, the approval performance standards apply to demonstrated activity, output and results. Ultimately, Secretarial judgments will rely upon assessment of all program elements collectively.

- (b) In applying these performance standards, the Secretary will generally use the following steps in assessing approval submissions:
  - (1) The legislative history and statutory findings, definitions and policies.
  - (2) Consistency with Congressional and state objectives.
  - (3) The cumulative progress achieved during the program development period.
  - (4) The relationships between and among the various program elements.
- (c) Performance standards and criteria will be subject to revision, modification and further clarification as the overall program develops.

3. Relationship of the Management Program Approval Process to Program Development

Substantial guidance was provided concerning the essential linkages between the policies and regulations governing program development and program approval in the Program Development Grants regulations (15 CFR, 960). It is sufficient for the purposes of these proposed regulations to reiterate that the performance

standards for approval will be applied: (1) to accomplishments, not simply proposals; (2) to the adequacy of program implementation mechanisms; and (3) to the whole range, not only parts, of the overall management program.

#### 4. Definitions

(NOTE: OCE may wish to reiterate here the key definitions contained in 15 CFR, 960; for purposes of brevity they were not copied in this draft. However, we have added three additional, operational definitions that may prove useful after thorough review and refinement.)

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

- (a) "management entity" encompasses any one or a combination of state organizational configurations (i.e., agency, board, inter-agency council or commission, governor's office, etc.) that satisfy the Act in terms of the required powers, authorities and coordination to carry out the management program.
- (b) "performance standards and criteria" are statements set forth to clarify and evaluate minimum state actions required for Federal approval of management programs.
- (c) "regional benefit" are those land and water uses that typically provide benefits to a significant area beyond the boundaries of a single local government.

## Subpart B

### Adoption of State Coastal Zone Goals, Objectives and Unified Policies

#### 11. General

Identification and development of state coastal management goals and objectives, "... to guide public and private uses of lands and waters in the Coastal Zone" (§304g), is a basic requirement for approval of initial and subsequent program development grants (15 CFR, §920.45(c) and §920.48(a)(3)). Thus the measurement of state progress toward specific objectives set within the broad policies of the Act is central to the review and approval process. Of equal importance is the articulation by the states of coherent and unified policies for "...dealing with land and water use decisions of more than local significance" (§302(h)). Therefore, in assessing programs for approval the Secretary, in consultation with other interested Federal agencies, will closely examine such programs to determine if appropriate objectives and policies have been adopted and are in force at the time of submission. For guidance purposes, the following paragraphs set forth key aspects of goals, objectives and policies that will be evaluated in considering approval of state management programs, primarily drawing on Sections 302 and 304 of the Act.

#### 12. National and State Policies and Objectives

The Act and its legislative history firmly establish that the coastal zone management process is inherently intergovernmental in nature. Recognition of

this fact should be readily apparent in state policies and objectives developed for their programs. The national purposes in the Act that should be translated into adopted state objectives and policies, after adequate early and continuing public participation, and shall include as a minimum:

- (a) Goals and objectives to be reached in terms of enhancing management capability at the state and sub-state levels, including planning, issue and problem identification, conflict resolution, regulation, administrative efficiency, etc.
- (b) Policies for the protection, conservation, regulation and utilization of coastal zone natural systems, cultural, historic and scenic areas, renewable resources, and coastal zone area restoration.
- (c) Objectives concerning interagency and intergovernmental cooperation, coordination and institutional arrangements.
- (d) A framework policy seeking to unify all required program elements into a single comprehensive program.

### 13. Measurable Objectives

The Secretary encourages the States, and will review program submissions in this light, to develop objectives the progress toward which can be measured. While recognizing that many essential coastal zone management problems and issues are not quantifiable (e.g., use conflicts, public aspirations, "quality of life"), others are and should be set forth in measurable terms (e.g., shore erosion, beach access, recreational demand, energy facility requirements). Identifying and analyzing these measurable problems and issues during the program development period should allow the formulation of measurable objectives. This process is strongly recommended.

## Subpart C

### Key Substantive Management Program Elements

#### 21. General

The Act specifies four major substantive program elements that must be addressed by the states in establishing management programs. These four elements involve the definition, description, interpretation, relationship, and management implications of determining: (1) geographic areas of particular concern; (2) designation of priority uses within specific areas throughout the coastal zone; (3) permissible land and water uses which have a direct and significant impact on coastal waters; and (4) boundaries of the coastal zone subject to the management program. These elements are critical subjects of study, analysis and policy formulation that underpin the effective application of state management authorities, organizational arrangements and intergovernmental-interagency coordination. Taken in combination, the four elements address the central concerns of the Act and its legislative history: the increasing demands upon the lands and waters of the coastal zone made by man's various and often competing uses of coastal resources; the adverse environmental consequences of past unmanaged uses of the zone; the urgent need to protect and give high priority to natural systems in the coastal zone, as well as its developmental potentials; and the need to give full consideration to ecological, cultural, historic, and aesthetic values as well as to needs for economic development. (Sections 302 and 303).

Thus these elements must address management of the dynamic interactions between uses and natural resources in the coastal zone.

The elements are interconnected both methodologically and in terms of the decisions and actions that their study and analysis should guide. Direction concerning various ways in which states may approach these elements is found in the regulations for Management Program Development Grants at CFR 960.11, .12, .13 and .15. More specific technical assistance to states in addressing these complex subjects is being prepared and distributed to the states as a continuing aspect of OCE's program support function. The purpose~~s~~ of this subpart is to set forth, as succinctly as possible, those standards or tests the Secretary contemplates using in evaluating state program approval submissions. The full context within which this evaluation shall take place will be developed during the program development period.

## 22. Geographic Areas of Particular Concern

In assessing state management programs for approval, the Secretary will be guided by the following performance standards and criteria:

- (a) States shall demonstrate that they have conducted a thorough inventory and analysis of their coastal resources and present or projected uses of such resources. The objectives, approach, techniques and results of the inventory should be made clear. A major concern in such an inventory that should be evident is the requirement in Section 306(c)(9) that such an inventory provide the basis for "...procedures whereby specific areas

may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or aesthetic values."

- (b) The state shall have designated geographic areas of particular concern for management purposes in their coastal zone program.
- (c) The inventory, analysis and designation of geographic areas of particular concern shall be accompanied by statements describing how such designations contribute to or influence the overall management program.

23. Designation of Priority Uses Within Specific Areas Throughout the Coastal Zone

Priority uses for management purposes will be assessed in the following manner:

- (a) State policies reflecting an identification and ordering of relative use priorities in specific coastal zone areas shall be articulated. Such policies shall be part of the program as adopted and approved by the state.
- (b) The ordering of priority of uses in specific areas will be checked for consistency with management program objectives.
- (c) Particular evaluation attention will be focused upon the application of various use priorities within areas designated as those of "particular concern."
- (d) States shall identify low priority (i.e., least desirable) uses in specific geographic areas in their coastal zone.



24. Permissible Land and Water Uses Which have a Direct and Significant Impact on Coastal Waters

Evaluation of the adequacy of this management program element will be guided by Sections 305(b)(1) and (b)(2), 306(d)(1) and 306(e) and will take into account the following factors:

- (a) The state shall demonstrate that it has developed methods, information and analyses that measure and correlate various resource uses with their effects upon the shorelines and coastal waters.
- (b) The analysis in paragraph (a) immediately above should lead to a definition or explanation of what shall constitute permissible land and water uses in the coastal zone. It is possible that there will be no exclusion of potential uses from the zone or only in specific geographic areas therein; if that is determined to be the case, the state should explain why this is so and relate this finding to the ordering of use priorities in Section 23 above.
- (c) If specific uses or classes of use are excluded from the coastal zone, justification for such exclusions should accompany the submission of the program. These will be assessed particularly in light of the requirements for the state to adequately consider "...the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature." (Section 306(c)(8)).

25. Boundaries of the Coastal Zone Subject to the Management Program

The Secretary will be guided in his review of this element by the following performance standards:

- (a) The states must include the minimum land and water areas set forth in the Act as those within the Coastal Zone subject to the management program. These geographic areas include the "coastal zone" as defined in Section 304(a) and "Coastal Waters" as defined in Section 304(b). Thus the coastal zone for management purposes is specifically defined bio-geographically as including: shorelines, transitional and inertidal areas, salt marshes, wetlands and beaches; the coastal waters within the Great Lakes to the territorial jurisdiction of the U.S. including bays, shallows and marshes, and in other areas the territorial sea, sounds, bays, lagoons, bayous, ponds and estuaries.
- (b) Identification of adjacent shorelands inland from the minimum bio-geographic shoreline and water areas that must be included within the coastal zone boundary involves a determination of the direct and significant impact of uses on the coastal waters. Such a determination must be made by the states under Section 24, above, and applied to this element.
- (c) Areas where uses and activities occur outside the coastal zone as defined for direct management purposes, but nevertheless affect the zone, should be identified. While such uses will not be subject to regulation under the Act, the management program should identify coordinative, review or other mechanisms that will assure consistency of these uses with the management program.

- (d) While lands that are by law subject solely to the discretion of or which are held in trust by the Federal government are excluded from the defined coastal zone for regulatory purposes (Section 304(a)), the state in defining the zone should identify such lands and land uses as a basis for the state-Federal coordination and consistency called for in Sections 307(c)(1) and (2) of the Act.
- (e) The boundary will also be assessed for its adequacy to carry out the objectives, policies and overall management program elements accompanying the approval submission.

## Subpart D

### Organizational Requirements and Program Authorities for State Coastal Zone Management

#### 31. General

To a large degree the Act is process oriented; it recognizes that if coastal zone management is made a key state concern, coherent planning and management should ensue. It also recognizes that rational policies and programs are of little import without decision-mechanisms and governmental authorities adequate for their implementation. The Act emphasises these elements, but not in a prescriptive manner. The differences among the states in organization for and managing governmental programs is accepted. The structure and authorities for effecting coastal management, therefore, are largely stated in performance terms in Section 306. As a consequence, the criteria for management program approval in this regard are formulated to test the adequacy of the structures and authorities for implementing the management program. These criteria confirm that no single model shall be imposed.

#### 32. Authority to Develop and Implement Integrated Policies, Plans, and Program Elements

The Act is predicated on the need for expanding state participation in the control of land and water use decision's in the coastal zone. The key to more

effective use of the coastal zone in the future is introduction of management systems permitting conscious and informed choices among various alternatives. This calls for a dynamic management process: one capable of adjustment as conditions warrant. In turn the adequacy of such a process is dependent on securing the necessary governmental authorities and powers for its execution. Central to the requirement is the capability to develop and implement intergated policies, plans and programs for coastal zone management as required under Sections 303, 306(c) and (d) and 307(b). To this end the state must demonstrate that the management entity:

- (a) has the power and is required to develop and/or integrate policies, plans, regulations and programs into a unified management program that will implement the goals and objectives for the state's coastal zone;
- (b) has the authority and is required to monitor all significant activities in the state's coastal zone on a continuing basis;
- (c) has the power to ensure compliance with adopted management programs by all public and private interests conducting activities within the coastal zone; and
- (d) has the responsibility and authority to develop and implement state standards and criteria for the control of land and water use within the coastal zone, including the authority to prescribe standards and criteria to assure that local land and water use regulations within the zone do not unreasonably restrict or exclude land and water uses of regional benefit.

### 33. Techniques to Control Land and Water Uses Affecting the Coastal Zone

(a) Section 306(e) authorizes any one or a combination of the following techniques for the control of land and water uses within the state's coastal zone:

- (1) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;
- (2) Direct state land and water use planning and regulation; or
- (3) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(b) In addition to the techniques provided for in (a) above, the Secretary will approve any other control mechanism which can be demonstrated that will achieve compliance with the management program and the land and water use standards and criteria developed for that purpose.

(c) Any techniques selected to ensure controls or guidance of land and water use decisions within the coastal zone in the management program must include the exercise of the authority in Section 32(d) above.

### 34. Authority to Acquire Interest in Lands and Waters of the Coastal Zone

Section 306(d)(2) requires the state to have the power to acquire fee simple and less than fee simple interest in lands, water and other property through condemnation or other means when necessary to achieve conformance with the management program. The power of eminent domain or other means for acquiring land must either be vested in the management entity or in some other unit of state government. If such power is not in the management entity the state must show that the unit or units of state government which are relied upon to have such power shall be able

and will exercise it in furtherance of the management program if necessary. If the selected power to acquire land and water interests is other than condemnation, the state shall show that such alternate approach will result in obtaining necessary property interest for the implementation of the state management program.

### 35. Organization for Coastal Zone Management

The legislative history of the Act makes it clear that the states should be given maximum flexibility in organizing for coastal zone management. As a consequence, the Act does not provide an organizational model which must be followed by every state. Rather, certain basic performance standards are set forth which ensure the formulation of integrated policies and that the requirement for their implementation to achieve a coherent coastal management program in each participating state. Thus, although several interstate organizations, state agencies, local governments or areawide councils may have specific, identified roles to play in the management program, the Secretary will assess the program for assurance that it constitutes a single, unified whole. Consistent with this principle, there must be a single point of responsibility for the program (although it may be made up of several entities). In those cases where a complex interagency-intergovernmental process is established, it is suggested that the state submit a detailed description of roles and responsibilities among and between the participants sufficient to demonstrate that a single program has been established.

Although the Act does not prescribe the creation of a central management agency at the state level, it does envision at least the creation of some type of coastal management mechanism which has legislative and/or executive sanction

to carry out the necessary powers and authorities mandated in the Act. In determining the adequacy of the states coastal management structure it must be demonstrated that:

- (a) A coastal management agency or mechanism has been designated or established under state law or proper executive regulation which has the authority to exercise the powers delineated in Sections 32 through 34 above; and
- (b) The Governor has designated a single agency to receive and administer the grants for implementing the management program. Such agency must be authorized to receive, account for and manage the states administrative grant and any subgrants or contracts made thereunder. This single state agency would ordinarily but need not be the management entity selected to develop and have responsibility for implementation of the management program.



## Subpart E

### Intergovernmental and Interagency Coordination

#### 41. General

The Act calls for full participation by relevant federal agencies, state agencies, local governments and regional organizations in the coastal zone management process. These various levels of government are essential to a successful state management program. The responsibilities of these levels of government in a state coastal zone management program will vary. However, there are certain intergovernmental principles specified in the Act which depict the basic responsibilities and prerogatives that must be accorded to these units of government. The purpose of this Subpart is to set forth the criteria for evaluating whether the state management process complies with these intergovernmental and interagency principles as set forth in Sections 306C(c)(1); 306C(2), 306(d), 306(C)(8), 307(b).

#### 42. Intergovernmental Consultation

(a) Section 307(b) provides that the Secretary shall not approve a state's management program unless the views of federal agencies principally affected by such program have been adequately considered. To comply with this requirement the state must demonstrate the following:

- (1) That state law or the management entity regulations require that the interests of appropriate federal agencies affected by the management program must be ascertained and where appropriate reflected in the state management program;

(2) That the state management program must incorporate or recognize the applicability of all requirements established by the federal government or by any state or local government pursuant to the Federal Water Pollution Control Act as amended, and the Clean Air Act as amended; and

(3) That the state law or administrative regulation which establishes the authority for the state's coastal zone management program must specifically require that the management program provide for adequate consideration of the national interest involved in siting of facilities necessary to meet requirements which are other than local in nature, including but not limited to large power plants, pipelines, port facilities etc.

(b) Intergovernmental consultation and involvement of local governments, regional agencies, interstate organizations and special districts in the formulation and implementation of the management program is required under Sections 306(c)(1) and (2). Their interests must be ascertained and where appropriate reflected in the management program in the same manner as provided for in the case of federal agency interests in Section 42(a)(2) above. In addition, the Act specifically provides one of the methods for reflecting these substate and interstate governmental interests. An annual review of the plans developed by local governments areawide and interstate agencies must be made. If the management entity finds that such plans are consistent with the goals and policies of the management program they shall be reflected in the program. Adherence to this procedure and policy will be required.

(c) Section 306(b)(2)(B) requires the establishment of an effective mechanism for continuing consultation of and coordination with local governments, regional agencies and interstate agencies within the coastal zone. This requirement can be met through the creation of a permanent intergovernmental

advisory agency or similar continuing consultative process involving such governments and agencies.

43. Interagency Cooperation and Coordination

To ensure state agency participation in and adherence to the management program as provided under Section 306(c)(1) and (d) the state coastal zone law or administrative regulation (and the management program) must evidence that the state management entity has:

- (a) Consulted with, and where appropriate incorporated the views of all affected state agencies in the formulation of the management program;
- (b) Provided for continuing involvement of affected agencies in the further development or implementation of the program; and
- (c) Developed a process and structure to resolve conflicts among competing coastal zone uses proposed in state agency policies or programs.

## Subpart F

### Public Participation

#### 51. General

Public participation is an essential element of development and administration of a coastal zone management program. Through citizen involvement in the development of a management program, public needs and aspirations can be reflected in use decisions for the coastal zone and public support for the management program can be generated. States, therefore, must seek to obtain extensive public participation in the development and administration of a coastal zone management program. While citizen involvement should be continuous, each state management entity must show that public participation was afforded in the development of the management program and prior to program approval and submission to the Secretary.

#### 52. Public Participation During Program Development

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

- (a) Notice. Notification of public hearing should provide the public the longest period of notice practical, but in no event should notice less than the 30-day statutory minimum be provided. Announcement of the hearings should be through media designed to inform the public--not merely to provide "technical notice."

- (b) Access to documents. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, the agenda for the hearing, and other data, must be made available to the public for review and study in the locale where the hearings are to be conducted.
- (c) Number of hearings. Each key management program element set forth in these regulations shall be the subject of public hearings. While it would be acceptable to hold a hearing at which more than one major element would be considered, in the interest of orderly sequential development of their programs, states should consider the advisability of holding separate hearings on:
- (1) Identification of the boundaries of the coastal zone, and
  - (2) designation of areas of particular concern.

States may wish to combine the definition of permissible uses and guidelines on priority of uses in one hearing. Similarly, one hearing may be appropriate to consider both legal authorities and institutional arrangements prior to approval of the entire management program.

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

- (e) Timing of hearings. In many cases, the population of the coastal zone fluctuates significantly with the seasons of the year. Efforts should be made to insure that hearings are held when those populations most likely to be affected are present.
- (f) Report. A verbatim transcript of the hearings need not be prepared but a comprehensive summary should be prepared and made available to the public within 30 days after the conclusion of the hearing. A copy of these summaries shall accompany the management program when it is submitted to the Secretary for approval.
- (g) Ordinarily, public hearings will not provide a fully adequate opportunity for meaningful public involvement. Accordingly unless the state can show that a public hearing process in and of itself adequately reflects the public sentiments on the management program the Secretary will require additional opportunities for public participation. The following are suggested methods for obtaining increased public participation, but any other method suggested by the state and approved by the Secretary will be deemed satisfactory in meeting this requirement.
- (1) Establish arrangements for exchanging information, data, and reports, among State and local government agencies, citizen groups, special interest groups, and the public at large, throughout the development and administration of the coastal zone program.
  - (2) Develop mechanisms in addition to public hearings to allow citizens and the public at large to effectively participate in the coastal zone program. The following are examples of some of the components that may be used in the participation process:
    - Citizen involvement in the development of the goals and objectives.
    - Citizen appointment by the agency to a Citizen's Advisory Committee.
    - Establishment of processes to review component elements of the management program by selected citizen groups and the general public.

53. Public Participation Prior to Program Approval Submission

Prior to formal adoption of the management program the state management entity shall provide for public hearing and such other public participation involvement utilized to meet the requirements in Section 52 above.

## Subpart G

### Management Program Adoption and Modification

#### 61. General

State coastal zone programs are integrated policy and executive management mechanisms and vehicles for intergovernmental and interagency coordination. In recognition of this fact, Sections 306(c)(1) and (c)(4) of the Act prescribe that the management program must be formally adopted by the state and approved by the Governor. It is anticipated that adoption of the program, insuring its standing and implementation, would be by the responsible management entity. If state law or executive regulation should determine otherwise, Secretarial approval would nevertheless depend upon the program having all adequate powers and authorities set forth in earlier subparts of this regulation.

#### 62. Adoption of the Management Program

As a condition for submitting a management program for approval by the Secretary, a state must certify that:

- (a) The state coastal management legislation or administrative regulations require that the management program be formally adopted by the state in accordance with the rules and procedures established by the state law or administrative regulations for such adoption; and
- (b) The adopted management program has been reviewed and approved by the Governor.



### 63. Approval of Segmented Management Programs

Authority is provided in Section 306(h) of the Act for state management programs to be developed and adopted in segments, with approval of the Secretary, so that immediate attention may be devoted to those critical geographic areas within the coastal zone which most urgently need management attention. If such an approach is selected by a state, the full array of management requirements called for in these regulations must be in force and applied to such geographic coastal segments.

Section 306(h) also states that adequate provision must be made for ultimate coordination of the various segments of the management program into a single unified program at the earliest practicable time. If a state determines to use this provision of the Act, the segmented management program must be adopted and approved in accordance with 62 above. Further, the state must evidence that such segmented management programs are authorized under state law or administrative regulation. A firm time and performance schedule for the application of the program to all geographic areas of the state's coastal zone, and the achievement of a unified program, must accompany such segmented submissions.

### 64. Review and Modification of the Adopted Management Program

Under Section 306(g) states are authorized to amend management programs as needed from time to time. Such modifications must be in accordance with the policies, standards and criteria of the Act and the Secretary's regulations. Minor modifications to the program are expected to be approved on an administrative basis. Significant modifications of a state program are subject to the procedures established in Section 62 above.

## Subpart H

### Compliance with the National Environmental Policy Act of 1969 (NEPA)

#### 71. General

After completing guidelines on the required elements, it occurred to us that these proposed regulations also ought to contain OCE policy on NEPA. In our view the states need more guidance than that contained in 920.10(c). This is particularly true if you intend to "fly" the generic impact statement approach which appears to be another first for OCE in the Federal establishment. Such a policy obviously would embrace more than the state program approval process, but these regulations may be an ideal means to articulate your position.

We would be pleased to assist you in this effort, if you so desire.