State-Local Collaborative Planning: A Growing Trend in Coastal Zone Management

PREPUBLICATION DRAFT JULY 1978

Prepared for: **U.S. DEPARTMENT OF COMMERCE**
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management & Office of Sea Grant

COLLABORATIVE LAND USE PLANNING:

A GROWING TREND IN COASTAL ZONE MANAGEMENT

Prepublication Draft

Jens Sorensen

Institute of Marine Resources

University of California, San Diego

July 1978

This report is derived from a Doctoral Dissertation in Environmental Planning, University of California, Berkeley.

COLLABORATIVE LAND USE PLANNING:

A GROWING TREND IN COSTAL ZONE MANAGEMENT

TABLE OF CONTENTS

I. California
J. Wisconsin Coastal County Zoning Administrators Interview
K. Washington Master Program Survey
L. Responses to a Survey of Coastal Cities and Counties in Washington State

1. INTRODUCTION

The concept of this report emerged in 1975 during discussions with staff of the California Coastal Zone Conservation Commission on possible organizational arrangements and authorities to implement the then forthcoming *California Coastal Plan*. One suggestion was to involve local government as an equal partner in the process of coastal planning and management. More specifically, local government would develop coastal plans based on state Coastal Commission guidelines and policies; these local plans would be subject to review and approval (or disapproval) by the Coastal Commission. If an adequate plan was not developed by the local government in a timely fashion, the state could impose sanctions. Once the local plan was approved, it would be implemented by local government subject to appeal to the Coastal Commission on proposals deemed inconsistent with the plan. For reference, this state and local government arrangement has been termed the "Collaborative Planning Process" or "CPP."

In 1975, several coastal states had already created a state-local collaborative planning process. The thought came to mind, if California used such an arrangement what could it learn from the experience of states that had already been through at least part of the process? The U.S. Office of Coastal Zone Management also expressed interest in supporting analysis of state and local government arrangements, since a number of states besides California were considering involving local governments in implementing coastal zone management programs.

1.1. Objectives

As with most long term research projects--this one spans more than two years--the objectives evolved as information was collected and analyzed. Eventually the dissertation was directed to address five objectives

- Determine if there was a common process that states were using to develop and implement land use plans.
- Define the common procedural components of the process and the extent of variation among states.
- Develop an analytical framework for assessing strengths and weaknesses in the process.
- Test the analytical framework by analyzing two components of the process.
- Identify criteria for evaluating whether the process achieves its objectives.

The first two objectives are self-explanatory. The third objective--developing an analytical framework--seeks to determine whether the collaborative planning process can be used to structure a program evaluation and information exchange procedure. More specifically, is there sufficient commonality (in terms of common components and common problems) in the CPP among the various states using the approach to develop a process enabling states to learn--and perhaps benefit--from each others' experience? It was then decided that at least two components of the CPP should be analyzed with a sufficient degree of detail to determine whether the process could be used to encourage information exchange and comparative evaluation on an interstate basis. The fifth objective--identifying evaluation criteria--was formulated well after the research had been initiated (as described in the next sub-section).

1.2. Research Design

Figure 1.1 illustrates the steps and analytic components of the research design over the last two years. In the spring of 1976 nine coastal

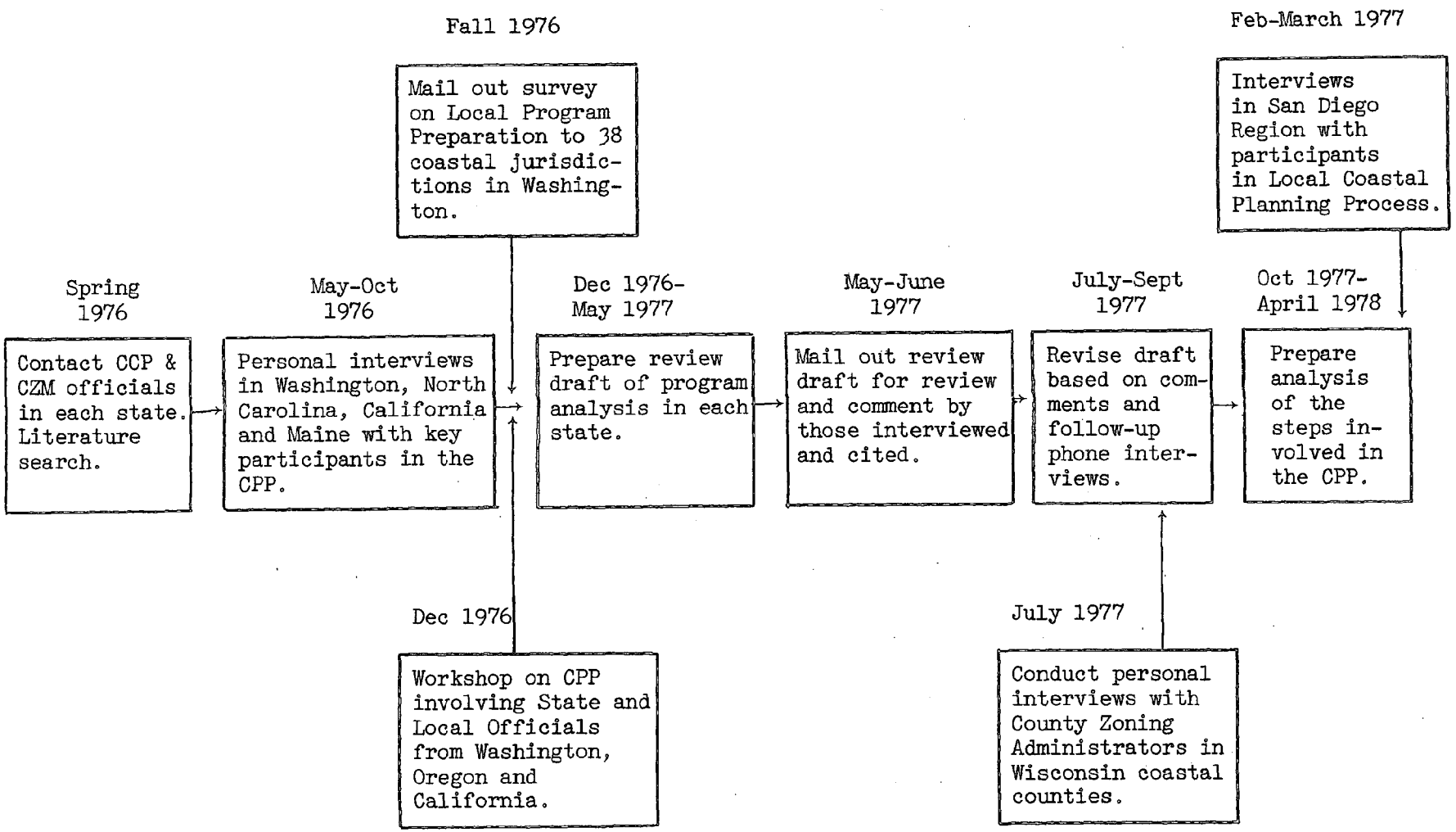


FIGURE 1.1: Research Design

states were selected for analysis: Wisconsin, Minnesota, Michigan, Maine, Washington, Oregon, North Carolina, Florida, and California.* Of the thirty coastal states, these nine, with the exception of California, had all enacted legislation creating a similar state-local collaborative planning process.** Since then, Alaska, South Carolina, and California have passed statutes enacting the same arrangement. It might have been interesting to analyze Wyoming 's collaborative planning process to determine the extent to which coastal location influences the process (see Figure 2.1). Wyoming , however, was not analyzed.+

Contacts were made with the offices in each of the nine states that administered the coastal zone management program and the collaborative planning program. In Oregon, Washington, North Carolina, and California, coastal zone management and the collaborative planningprocess are one program (it is the same statute).

The acts creating the collaborative process were obtained for all states, in addition to guidelines, manuals, program analyses, workbooks and public information brochures that were produced in conjunction with the process. A literature search was conducted for books, journal articles, and professional papers written on any aspect of the collaborative planning process or similar state-local planning arrangements (such as HUD 701 planning,

---

*The U.S. Coastal Zone Management Act of 1972 defines coastal states to include those abutting the Great Lakes as well as the Atlantic and Pacific Ocean.

**In California's case, a bill to enact such a process (SB 1579) had been introduced into the 1976 legislative session.

+The passage of the U.S. Coastal Zone Management Act (CZMA) in 1972, and the provision of grants for local government planning and management have affected only *coastal* states. Nevertheless, in Wisconsin, Minnesota, Maine, Florida, Oregon, and Washington the collaborative process is mandatory on a state-wide basis, not just for coastal jurisdictions.

and water or air quality management programs).* The documents identified were critically reviewed. One of the first findings of the research was that little had been written on the collaborative process--either in the states that were pursuing it or as a national phenomenon. Telephone interviews were conducted with state staff in both the collaborative planning and coastal zone management programs. Also, a few local government officials and draftors of the enabling legislation were contacted in each state to obtain their perspectives on the process.

Initial review of the literature collected and notes from the phone interviews revealed that motivating factors for creating of a collaborative planning process were common to most, if not all, of the nine states. Section 3 of the dissertation--rationale for collaborative planning--is the expression of this realization. Delineating the motivating factors for collaborative planning is a necessary foundation for program evaluation. The motivating factors suggest appropriate criteria to assess whether the CPP either has achieved or is achieving its objectives.

A second decision was made, after reviewing the information collected. Analysis would be concentrated in five states: Wisconsin, Maine, North Carolina, Washington, and California. Wisconsin was selected because it was the first state to enact the process and therefore had the longest

*The literature review concentrated on scanning journals and newsletters, over the last five years, that contain articles on land use management and state-local government relations, such as: the *Journal of the American Institute of Planners, Planning, Journal of Politics, Environmental Comment, Environment and Planning, Ecology Law Quarterly, Water Resources Bulletin, State Government, Water Resources Research, American Political Science Review, Journal of Coastal Zone Management, Public Administration Review*.

history. North Carolina was the only state that required all governments to develop programs simultaneously. Washington was the first state with the authority to reverse local government approvals of development proposals deemed inconsistent with the enabling act *or* a local program prepared pursuant to the Act. Washington was also the first state to have its coastal zone management program approved under the Federal Coastal Zone Management Act. California was included because of its extensive experience with mandatory local comprehensive planning and the innovative features of its Coastal Act.

In the fall of 1976, twenty personal interviews were conducted in Washington, 32 in North Carolina, and 12 in Maine. Those interviewed were from two groups:

(1) the key actors in the passage or state administration of collaborative planning program

(2) a cross section of local officials and planners that were involved in preparing and implementing local programs.

A cross section of local officials and planners meant representation both in the interviews, along the continuum from large cities and urban counties to small towns and rural counties, *and* along the spectrum of full support for the CPP to entrenched opposition. On the latter phenomenon, it was difficult to find individuals who were both opposed to the collaborative process *and* were able to articulate substantive reasons for their opposition, beyond the rhetoric of stock anti-government regulation phrases. Owing to this, critics of the CPP are underrepresented in the sample of actors interviewed.

The questions asked in the interviews were generally of the same type in all states, dealing with the perceived problems and opportunities in the process. In order to determine the extent to which the responses obtained

from the interviews were, in general terms, similar for all local planners, a mail survey was developed for distribution in Washington and North Carolina. The survey also was intended to serve the customary purpose of gathering information from those who could not be personally interviewed because of time and funding constraints. Furthermore, there was interest in determining the extent to which a mail survey itself could be used as a program evaluation technique.

Unfortunately, funding and personnel problems prevented mailing the survey in North Carolina. In the fall of 1976, however, a mail survey was sent to all of the 15 coastal counties and the 23 coastal cities in Washington that had prepared their own master shoreline program. The survey contained 46 questions, most of them open-ended in nature. Its questions dealt with master program development, implementation and administration. Appendix K is a listing of the questions and Appendix L is a compendium of responses. Responses were obtained from eleven of the fifteen counties and ten of the 23 coastal cities. Staff from the four largest coastal cities responded to the questionnaire, as well as three of the smallest coastal cities. The ten cities that did respond represent a cross section of city size and coastal distribution. It was determined that in most cases, the surveys were filled out by the person primarily responsible for master program preparation and implementation.

In California, telephone interviews were conducted during the spring of 1977 with planning staff in the ten cities and counties that undertook pilot planning exercises to test the implementation arrangement of the California *Coastal Plan*. These interviews were followed-up in a two day workshop held in Berkeley, December 13 and 14th. The workshop brought together local planners who had participated in California's pilot plans

with local and state planners from Oregon and Washington who had been involved in those states' collaborative planning efforts.

In the summer of 1977 interviews were conducted with the zoning administrators in eight of the twelve Wisconsin counties that border on Lake Michigan or Lake Superior. The county zoning administrators are responsible for implementing Wisconsin's shoreline management program. The interview questions and a compendium of responses are included as Appendix J.

The last set of interviews reflected in this analysis were conducted between January and March 1978 in eight of the nine ocean front jurisdictions in San Diego County (San Diego County, the Port of San Diego and seven cities). A number of interviews were conducted in each jurisdiction with local planners, elected officials, and opponents as well as proponents of California's state-local collaborative arrangements.

An analysis of each of the nine state programs was completed in June 1977. A review draft was sent to each person who was interviewed to verify the points in the text where they were cited as well as to check the overall accuracy of the analysis. Comments generated by the review draft, plus an updating of events occurring between spring and fall 1977 were incorporated into a final analysis of the nine state programs. Of course, programs such as collaborative planning, which are continuous in nature, preclude a final analysis unless the programs are terminated. New events will require a continuous updating of an analysis to keep the conclusions relevant with the times.

---

*The interviews were done by seniors majoring in political science at the University of California, San Diego, in conjunction with a seminar on local government planning and administration.

For purposes of this analysis, with the exception of California, the cutoff point for inclusion of new events was September 1977. California's cutoff point was extended to March 1977 to include findings derived by a winter term seminar in local government administration and planning. Setting a cutoff point has been particularly troublesome because California, Oregon, Florida and North Carolina during 1977 and 1978 are crossing a number of important thresholds in program development.

In North Carolina, Michigan, Maine and Oregon, the analysis was the first critical assessment that had been done of the state program. This is somewhat remarkable, considering that Maine's program has been in effect seven years and Michigan's for eight.

The research soon indicated that the nine states had a sufficient number of procedural components in common to characterize a common process. The following ten *components* of the process were distinguished:

1. Development of state level objectives, policies, and guidelines
2. Preparation of local programs
3. State review and evaluation of local programs
4. Negotiation to resolve conflicts and program approval of denial
5. Sanctions imposed if an acceptable program is not approved
6. Local implementation of programs
7. Monitoring program implementation
8. Appeal of actions deemed to be inconsistent with a local program
9. State review of proposed amendments to local programs
10. Sanctions imposed if local program is not adequately implemented

The first four components listed generally follow one another in sequential fashion. The sixth, seventh, eighth and ninth components listed occur concurrently after the local program is approved.

Figure 1.2 indicates that most states have not progressed beyond the second component (local program preparation). Accordingly, there is considerably more data and literature on the first two components of the process than the last eight. For this reason it was decided to use an analysis of "state development of objectives, policies and guidelines," and "preparation of local programs" to assess the potential of the CPP as a framework for information exchange and comparative evaluation.

Figure 1.2 also shows that none of the eleven coastal states with a CPP arrangement has all ten components listed above.* The components that distinguish the CPP from other planning and management approaches are discussed in the next section.

---

*Boxes marked "NA" (not applicable) signify that neither the enabling act or the state guidelines require the component.

FIGURE 1.2

Extent to Which States Have All Ten Components and Progress to Date (As of April, 1978)

STATES / CPP STEPS	Dev. of Objectives Policies, Guidelines	Prep. of Local Programs	Review of Programs	Negotiation to Resolve Conflicts	Program Prep. Sanctions	Local Implementation of Programs	Monitoring Implementation	Appealing Inconsistent Actions	Review of Amendments	Program Implementation Sanctions
WISCONSIN, 1966	■	■	■	■	○	■	■	NA	■	NA
MINNESOTA, 1969	■	■	☒	☒	*	☒		NA		
MICHIGAN, 1970	■	☒	☒	☒	*					
MAINE, 1971	■	■	■	■	✓			NA		NA
WASHINGTON, 1971	■	■	■	■	○	■	■	■	■	NA
OREGON, 1973	■	☒			*					
NORTH CAROLINA, 1974	■	■	■	■	✓	☒				
FLORIDA, 1975	■	☒			*					NA
CALIFORNIA, 1976	■				*					NA
SOUTH CAROLINA, 1977	☒				*					NA
ALASKA, 1977	☒				*					NA

■ = Complete or nearly complete

☒ = Partially done (more than 15%--less than 50%)

NA = Not applicable (procedure not in enabling Act or State guidelines)

* = State has not reached the stage in the process when sanctions may be employed

✓ = Sanctions employed

○ = Sanctions not employed

2. DEFINITION AND DEVELOPMENT OF THE COLLABORATIVE PLANNING PROCESS

Land use planning traditionally has been the responsibility of local government. Historically, state governments have delegated their constitutional powers to manage land use to local governments. During the last decade, however, more and more states have reasserted their powers to manage land use. By 1973, 48 of the 50 states had either enacted or proposed state land use powers.[1] This ten-year trend has been the subject of numerous reports and books.[2]

With the passage of the national Coastal Zone Management Act (CZMA), coastal states have an additional incentive for asserting control over land and water uses

> The CZMA takes its place as the first federal legislation to deal directly, in a critical segment of our natural environment, with the re-allocation of development control authority between the states and their local governments. Although little publicized and scarcely noticed outside the official circle of those concerned with coastal problems, the CZMA is a significant congressional initiative in the emerging area of state-based controls over land and water uses.[3]

Changes in land use management relationships between state and local government have often produced conflict and uncertainty for both levels of government. There is continuing contention over whether primary responsibility for land use planning should be vested in state or local units of government. Advocates of local government sovereignty usually resort to the ideologies of home rule, local autonomy and government that is close to the people.

> These concepts and the supporting rhetoric are used as weapons in the struggle between the state and local governments, and frequently employed by private interests wishing to escape threatened state controls, thus attesting to the existence and potency of the home-rule philosophy.[4]

Debate over state and local management of land use often boils down to divergent views on the relative merits of centralized and decentralized government. Advocates of local government control argue for a decentralized approach to planning in which cities and counties would initiate and implement land use programs. Regional and state plans would be a collection of local government plans (the so-called "bottom-up" approach). A decentralized, bottom-up arrangement would tend to promote public participation, public access and governmental responsiveness.[5]

Advocates of a strong state role in land use planning argue for a centralized or top-down approach. Under this arrangement, state agencies would establish policies as a basis for state development and implementation of land use plans at the local government level. A centralized, top-down approach would favor governmental efficiency, professionalism, and the use of advanced technologies in addition to providing a statewide prespective.[6]

In the emerging field of coastal zone management, the issue of centralization has become a major point of contention as states have moved to regain land use powers delegated to local units of government.

> Centralization or decentralization of decisionmaking is perhaps the overriding issue for institutional change in coastal zone management. It is paraphrased by such expressions as conflict between "parochial vs. regional interests" or "local vs. cosmopolitan concerns."[7]

In many states, such as California, a standoff has emerged between advocates of the two approaches concerning the future direction of land use planning. State agencies and local units of government commonly act as adversaries to each other's land use or public works plans. Local governments for instance, frequently resist state public works projects that would either stimulate population growth or significantly affect the land

use pattern within their community. Conversely, state policies or programs for conservation of agricultural lands or protection of water or air quality are often subverted by local land use planning programs. Since state-local confrontation on land use planning can be counterproductive and may interfere with effective implementation of programs, a collaborative planning approach involving both levels of government has frequently been suggested.[8] By definition, a collaborative approach means that state and local units of government would work jointly to prepare and implement local, regional, or state land use plans. More specifically, five key *components* serve to distinguish the collaborative process (CPP) from other arrangements for land use planning and management:

1. State agency issues objectives, policies, and guidelines that local units of government are expected to use in the preparation of local programs (or plans).
2. Local units of government prepare within a set time period land use programs based on a common methodology. Grants-in-aid or technical assistance are usually provided by one or more state agencies.
3. State reviews local coastal plans and approves those plans it deems to be consistent with state objectives, policies, and guidelines.
4. Sanctions are imposed by the state if local units of government do not develop an acceptable plan within the specified time period.
5. State reviews those projects considered to be inconsistent with approved plans.

2.1. Context With Other Planning and Management Arrangements

The collaborative planning process has emerged through two different legislative routes: mandatory local *comprehensive* planning and *specific* shorelands or coastal zone protection. As of December 1975, 13 states had enacted legislation requiring local governments to prepare comprehensive plans. (See Figure 2.1.) Two elements characterized these 13 statutes:

- Requirement that all jurisdictions in the state which exercise land use regulatory powers develop a comprehensive plan.

- Minimum statewide guidelines and standards were set for localities to meet in developing a plan.[9]

Shorelands or coastal zone management legislation developed on a parallel time track with mandatory comprehensive planning. (See Figure 2.1.) By December 1977, 15 states had passed statutes that both:

- established a set of state policy criteria and/or planning process for determining the appropriate use of land in a defined shoreland (or coastal) zone
- provided for state regulatory control of development in the shoreland zone in accordance with the policy criteria and/or plan.[10]

It should be noted that the CPP has been used to a lesser and more limited extent in wetlands programs (e.g. Virginia) and critical area programs (e.g. Florida).

Figure 2.1 illustrates how the five key components of the CPP relate to both the 13 mandatory local comprehensive planning programs and the 15 shoreland or coastal zone management programs. The figure shows that only 7 state programs have all the key components and therefore represent the *full* collaborative planning process.

Five states are missing just the fifth component. The state lacks the authority to deny projects deemed to be inconsistent with the enabling act or an approved local program. The 5 states missing the fifth component could be said to have a *partial* collaborative planning process. To make matters more complex (and the typologies less distinct), a number of states with a partial CPP have the authority in other legislation to override local government approval of projects not deemed to be in the state interest. Maine's Board of Environmental Protection, for example, has the authority to deny local government premits of large scale development activities. This authority, however, is not directly coupled with the State's Shorelands Zoning Act, although the Board of Environmental Protection could deny a

FIGURE 2.1

THE EXTENT TO WHICH STATE MANDATORY LOCAL COMPREHENSIVE PLANNING PROGRAMS OR SHORELEND MANAGEMENT PROGRAMS ARE AN EXPRESSION OF THE COLLABORATIVE PLANNING PROCESS

	The Five Key Components of the CPP				
	State issues, objectives, policies & guidelines	Local units of Government prepare a local program	State reviews local plans, approves or rejects	Sanctions imposed if local governments do not develop adequate plan	State reviews projects seemed inconsistent with act or approved local program
Mandatory Local Comprehensive Planning					
California 1947, 1965	x	x	x		
Arizona 1971	x	x			
Colorado 1972	x	x			
Rhode Island 1972	x	x	x*		
Nevada 1973	x	x		x	
Oregon 1969, 1973	x	x	x	x	x
South Dakota 1974	x	x	x		
Virginia 1975	x	x			
Idaho 1975	x	x			
Wyoming 1975	x	x	x	x	x
Montana 1975	x	x			
Florida 1975	x	x	x	x	
Nebraska 1975	x	x	x	x	
Shorelands or Coastal Zone Management					
Wisconsin 1966	x	x	x	x	
Minnesota 1969	x	x	x	x	
Michigan 1970	x	x			
Rhode Island 1971					x
Vermont 1971	x	x			x
Washington 1971	x	x	x	x	x
Maine 1971	x	x	x	x	
Delaware 1972					x
Alabama 1973					
North Carolina 1974	x	x	x	x	x
Hawaii 1975	x	x			
Montana 1975					x
California 1976	x	x	x	x	x
Alaska 1977	x	x	x	x	x
South Carolina 1977	x	x	x	x	x

*no explicit review but local plans must be consistent with state plans

project based on potential conflict with the local government's shoreland zoning ordinance. In other words, states with the first four elements of the CPP could graft on the fifth element from other state authorities in order to review development activities, thereby activating the full process.

Two state authorities and *one analytical procedure* distinguish the collaborative planning process. First, in the CPP, the state has at least one potent sanction (such as imposition of a state-prepared plan) that it may employ if the local governments do not develop plans that meet state standards. By contrast, in most planning programs, the only way a state can influence local governments' preparation of plans is through allocation of state and federal grants.

Second, the state has authority to review proposed projects, usually on an appeals basis, and reverse local decisions when it determines that a project is inconsistent with an approved local plan or with state policies (the former should be an extension of the latter). This is the key implementation feature of the CPP. Where the state lacks authority to reverse local decisions most local plans have either been ignored or slowly drowned by a continual stream of variances and amendments. Under CPP, the state has the authority to overturn local government permits that may compromise those aspects of the local plan that are an expression of state policies and guidelines.

The third point of distinction between the usual planning process and the CPP is the rigorous analytic basis for judging the degree of compliance between land use designations in local plans and state mandated policies. The state's critical review and evaluation of the local plan is the watershed point of the collaborative process. This review would be expected to include an in-depth analysis of the data and methodology used

in preparing the local plan. The impact of the local plan would be evaluated in context with measures and standards derived from the objectives and policies of the state's program (including the enabling legislation). By contrast, state review of local plans was usually a simple pro-forma exercise of checking to determine if all the required components had been submitted. The focus was largely on procedure, upon whether the final product had all the parts. Little attention was paid to the process of constructing the product or to the quality of its contents.[11]

The state's authorities to impose sanctions and to substantively review proposals and plans gives the CPP teeth. These authorities represent an evolutionary step beyond past state mandates to local governments, which lacked provisions for administrative surveillance, review of performance, or any form of enforcement. A case in point is California's progression from mandatory general plans in local coastal programs--as described in Appendix I.

Collaborative planning is a mid-point compromise between a centralized, top-down and a decentralized, bottom-up approach. It is designed to involve cities and counties significantly without relying on them so heavily that important regional and statewide goals are compromised. The specific factors that motivate a collaborative planning process (as discussed in Section 3) must be strong enough to overcome the friction generated by interfacing two different levels of government.

A recent critique of the *California Coastal Plan* concludes that the state-local collaborative approach proposed by the Coastal Commission for implementing the plan was "a brilliant strategy."

> It exploits the current ideological trend in favor of decentralization and localism. It neutralizes some of the anti (state coastal) plan arguments that one might have expected from the local government lobby.[12]

The CPP closely approximates the American Law Institutes (ALI) *Model Land Development Code.*[13] The only major departure from the Code is ALI's recommendation that local land use planning be done on a voluntary basis. In the CPP local government plans are mandatory. If the local government does not choose to prepare a plan the state is authorized to prepare a plan and impose it on the jurisdiction. ALI's asserts that mandatory planning is that it will merely result in bad plans from those local governments that are forced into the process. The issue of whether it is better to have no plan at all or a bad plan is discussed in the concluding section (8.5)

In the event that local governments do not voluntarily prepare a plan, the ALI Code would authorize the state government "to undertake a land development planning process for the state as a whole or any region thereof."[14] Also, the ALI Code would authorize specific methods by which the state can regulate geographic areas and categories of development that present potential problems.

> Having this power available the state need not try to coerce cooperation from unwilling local governments since it can exercise the necessary power directly.[15]

It could be argued that state preparation of plan for a region in which the local government does not voluntarily prepare a plan is not all that different from the CPP option of the state preparing a plan and imposing it on a local jurisdiction.

2.2. Appeal of the Process

The appeal of the collaborative planning approach is attributable to several features--features which by-in-large are responses to the motivating factors discussed in Section 3. The state's interests are expressed at the outset of the planning process and provide the context for

evaluating completed local plans. The state uses its authority only to override local plans that are not considered to adequately reflect statewide or regional interests. Detailed planning remains with the local units of government. Applying generalized state objectives and guidelines to a highly variable set of localized conditions is a local government responsibility.

In the CPP, local units of government usually have at least three incentives for preparing detailed plans: assistance by the state in the form of grants or services, consistency of state and federal programs with an approved local plan, and avoidance of sanctions that may be imposed by the state.*

The assemblage and integration of various state and local guidelines into a single specific local land use plan provides a mechanism by which those with stakes in coastal resource development and conservation can predict with greater certainty how their interests will be affected. The specified time period limits the possibility of indefinitely extending the planning process as a means of deferring plan adoption.

In California and North Carolina, the state-local composition of the state commission administrating the coastal zone management program has been cited as an incentive for local government participation in the collaborative planning process.[16]

2.3. An Exercise in Partisan Mutual Adjustment

After observing the dynamics of the collaborative planning process for the last two years, its operation can be described by Lindblom and

---

*A fourth incentive in California is the removal of interim regulatory controls within the coastal zone portion of the local jurisdiction once a local coastal program is certified by the state.

others' theories on partisan mutual adjustment.* In the CPP neither the state nor local governments is in complete control. The process is an exercise in shared authority and responsibility. If the arrangement is to work, both parties must participate and be willing to negotiate, bargain and make trade-offs (all forms of adjustment described by Lindblom). Local governments will enter into this mutual adjustment process because they anticipate they will gain more than they will lose from the outcome (as outlined in Section 3). It can be expected that the majority of local governments will go along with the process and prepare local programs. They will be attracted by the incentives and avoidance of sanctions plus the willingness of the state administrative agency to work out differences with local government in order to minimize confrontation and its attendant political reverberations. Of course, it can also be expected there will be the occasional hold out locality that is unwilling to participate in mutual adjustment with the state on land use management. (See discussion of Carteret County in Appendix G and opposition to Oregon's program, Appendix F.) As long as the holdouts and opponents do not constitute more than a small minority of all local governments, program preparation component of the collaborative process will continue to operate.

At first glance it may appear that the CPP gives the state substantial control over local governments and the outcome of the process. In the states that have enacted a collaborative planning process, there has clearly been a net power shift upward from local to state control. In the long run, though, local governments can alter, subvert, or torpedo the process if enough of them decide to resist, particularly if their

*Lindblom distinguishes three types of adaptive adjustment (in which X seeks no response from Y) and 9 types of manipulated adjustment (in which X as a condition of making his decision, induces a response from Y). All nine types adjustment have been observed to occur in the CPP.[17]

resistance is a collective action. In this regard, local governments have three major strengths; their number, their proximity to development activity and their connections to the governor's office and the legislature.

On a day-to-day basis, the state will have to rely on the local government implementing its own plan. The number of jurisdictions and amount of development activity in each jurisdiction makes it exceedingly difficult for the state to ensure adequate implementation at the grass roots level. The state administrative agency will be fortunate if it has enough manpower to detect and redress gross violations, or blatant examples of long-term, inadequate implementation.

Local governments have recourse to the governor and the legislature to act as a third party in disputes with the agency administrating the CPP.* In all nine states, the legislature or the governor (and sometimes both) have acted in this capacity. For example, local governments in Oregon succeeded in having the enabling act amended to partially meet their objections.

The state agencies administering the CPP have not been blind to local government's potential political force and have accordingly revised procedures and policies in response to critical reaction from cities and counties. In the majority of the nine states it has been clearly demonstrated that collective action by local governments, or even suggestions of collective action, can strongly influence the objectives and direction of the collaborative process.

2.4. Evolution of the Process

The history of the CPP can be traced back to the inception of mandatory local planning and shoreland protection. The first mandatory general

---

*The "in direct manipulation" type of partisan mutual adjustment.

planning law was enacted in California in 1947. Wisconsin passed the first shorelands protection legislation in 1966. In general, shoreland legislation passed by Wisconsin and other states was intended to make local governments plan and manage water bodies and a relatively narrow contiguous shoreland strip (usually not in excess of 1000 feet inland) in a manner that would achieve state water quality and water recreation objectives.

The California legislation, like most mandatory local comprehensive planning statutes subsequently passed in other states, *neither* gave the state explicit sanctions to impose on local government if an adequate plan was not developed *nor* authority to reverse local decisions found to compromise those aspects of the local plan that were an expression of state policies and guidelines. Not until Wisconsin passed its Water Resources Act in 1966 did a state assume explicit sanctions to impose on local government if an adequate plan was not developed. In Wisconsin's case, the sanction was state preparation and imposition of plan. (This has since come to be the sanction in most states with CPP legislation.) Wisconsin included the sanction in the statute because it anticipated that a number of rural counties would not prepare a plan unless the threat of state imposition hung over their heads.

The passage of Washington's Shoreline Management Act in 1971 marked the first enactment of the collaborative planning process in its full form--with all five elements. The Act created a State Guidelines Hearing Board with the authority to reverse local government approvals of development. In fairly rapid succession since Washington broke the ice in 1971, five states have enacted collaborative planning legislation in its full form (Oregon in 1973, North Carolina in 1974, California in 1976, Alaska and South Carolina in 1976). Passage of the Federal Coastal Zone Management Act in 1972 was

the primary motivation for CPP legislation in North Carolina, South Carolina and Alaska. Illinois, Louisiana and Ohio have drafted legislation incorporating the CPP as a means of implementing coastal management programs developed under the Federal Act. The passage of the Federal Act also means that shorelands management legislation will probably not be initiated in any more coastal states. The CZMA's concerned with management of a wider geographic area that encompases the breadth of coastal resources. This precludes a focus on a shoreline step to achieve just water quality and water recreation objectives.

In sum, Figure 2.1 shows the evolving trend in state land use governance. In both mandatory local comprehensive planning and shorelands or coastal management, states are moving from programs that incorporate the first three or four elements of the CPP to programs with all five elements. The CPP trend in state coastal zone management programs is directly attributable to provisions of the Federal Act.

2.4. Context with the Federal Coastal Zone Management Act

With two exceptions, the CPP is very similar to the state-federal program development and administration process laid out by the Coastal Zone Management Act of 1972. First, under CZMA, states are voluntary participants and therefore *no* sanctions are imposed if the state fails to develop an acceptable program. And second, the Secretary of Commerce does *not* review on appeal state actions deemed to be inconsistent with the CZMA and its guidelines. The Secretary, however, can review federal actions deemed to be inconsistent with a state program (under Section 307 of the Act, commonly referred to as the "consistency clause"). Many of the problems the U.S. Office of Coastal Zone Management has had with states developing acceptable coastal zone management programs are mirror reflections of the difficulties

states have had in getting local governments to develop acceptable programs.

The CZMA proposed three alternative arrangements between state and local units of government for implementing a management program. Section 306(e)(7) of the Act specified:

> (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;
>
> (B) Direct state, land and water use planning and regulations; or
>
> (C) State administrative review for consistency with the management program of all development plans, projects, or land or water use regulations, including exceptions of 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.

Although the Federal Act clearly intends that states be the focal point of coastal zone management, local governments are expected to have a substantial role in program development. Prior to approving a state's coastal zone plan, the Secretary of Commerce must find that a state has developed its management program so as to allow local governments an opportunity to fully participate. In the 1976 Congressional session, this section of the Act was amended to provide for a continuing consultation mechanism for local government participation.

> (The state) management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send notice of such management program decision to any local government whose zoning authority is affected thereby.[18]

The House report on the bill stated that the congressional intent of this section "is to provide a balance between state and local prerogatives in the sensitive area of land and water use decisions"[19].... and to protect the interests of local units of government."[15] Any state program

developed by the collaborative planning process would be expected to achieve the congressional intent of the amendment since, after all, the process is specifically designed to strike a management balance between state and local government. The local government notification requirement of Section 306(e)(2)(B) is not especially relevant to states that use the collaborative planning process for program development. Indeed, since the state is bound by the program that local government developed (and that the state itself reviewed and approved) it is hard to conceive that the state would initiate actions that would conflict with local plans without local governments' knowledge.

CZMA is built on the premise that local governments are unable to manage coastal resources in an effective manner. Two of the Act's requirements underscore this premise:

- unified policies, standards, and process for managing coastal resources that are applicable *state wide* (emphasis added)
- state authority to govern land and water uses of *more than local concern* (emphasis added).

It is noteworthy that the only consolidated opposition to the federal coastal zone management effort prior to enactment of the Act came from the local government lobby, who foresaw an erosion of their authority to control land use.[20] Three recent national analyses of the federal coastal zone management effort have observed that local government opposition to relinquishing (or sharing) authority is one of the major reasons for the delays all coastal states are encountering in program development.[21]

> In our opinion, resistance (to coastal planning efforts) exists because (1) local governments may regard coastal zone management as an example of Federal-State interference in planning decisions traditionally made by localities and (2) the public, especially coastal landowners, contend that State management programs infringe on their private property rights and affect property

> value by restricting yhe uses of which their land can be put. For instance, California has felt resistance even though the public established the State's coastal zone management by popular initiative in 1972. According to State and regional officials in Michigan, there is strong local opposition to expansion of State land-use powers. A State coastal zone management program official said there has been substantial local resistance to the somewhat limited State regulatory powers that currently exist.[22]

The local government notice and consultation provision in the 1976 amendments to CZMA represent a shift in emphasis. From the original concept in 1971 that state agencies would be better able to reach balanced discussions on coastal resources management and nondependence on property tax revenues, there is now a trend toward providing the local governments with a stronger role in coastal decision-making in the coastal management program. The 1976 amendment of CZMA reflects this trend.

REFERENCES

1. Rosenbaum, Nelson, *Land Use and the Legislatures; The Politics of State Innovation*, The Urban Institute, 1976.

2. See for example; *The Quiet Revolution in Land Use Control, Land Use in the States, Land use and the Legislatures; The Politics of State Innovation.*

3. Mandelker, Daniel and Sherry, Thea, "The National Coastal Zone Management Act of 1972," *The Urban Law Annual*, 1973, Vol. 8, p. 120.

4. Jones, Victor; Magleby, David and Scott, Stanley, "State-Local Relations in California," *Institute for Governmental Studies, Working Paper #16*, University of California, Berkeley, 1975, p. 30.

5. Porter, David and Olson, Eugene, "Some Critical Issues in Government Centralization and Decentralization," *Public Administration Review*, January 1976.

6. *Ibid.*

7. Heikoff, Joseph, *Coastal Resources Management; Institutions and Programs*. Ann Arbor Press, 1977, p____.

8. Scott, Stanley, *Governing California's Coast*, Institute of Governmental Studies, University of California, Berkeley, 1975; Heikoff, *Coastal Resources Management;* The American Law Institute, *A Model Land Development Code*, April 1975.

9. Rosenbaum, Nelson, *Land Use and the Legislatures*, p. 18.

10. *Ibid.*, p. 71.

11. Webber, Melvin, "Comprehensive Planning and Social Responsibility: Toward an AIP Consensus on the Profession's Roles and Purposes," *Journal of the American Institute of Planners*, Vol. 29, November 1963.

12. Bardach, Eugene, "The California Coastal Plan as a Constitution," *The California Coastal Plan: A Critique.* Institute for Contemporary Studies, San Francisco, 1976, p.30.

13. The American Law Institute, *A Model Land Development Code*, April 1975.

14. *Ibid.*, p. 143.

15. *Ibid.*

16. Interviews conducted in California and North Carolina--see Appendices G and I.

17. Lindblom, Charles, *The Policy-Making Process*, Prentice Hall, 1968.

18. Coastal Zone Management Act Amendments of 1976 (P.L. 94-370), Section 306(C)(2)(B).

19. U.S. Congress, House of Representatives, *Coastal Zone Management Act of 1976*, Report No. 94-878, 94th Congress, 2nd Session, p.37.

20. Curlin, James and Rigby, Richard, "Comprehensive Oceans Policy Study" Review Draft, U.S. Department of Commerce, February 1978

21. Curlin and Rigby, "Comprehensive Oceans Policy Study"; National Advisory Council on the Oceans and the Atmosphere, *Sixth Annual Report*, June 1977; U.S. General Accounting Office *Coastal Zone Management: An Uncertain Future*, 1976.

22. U. S. General Accounting Office, *Coastal Zone Management*, p. 27.

3. RATIONALE FOR COLLABORATIVE PLANNING

Recent experience in land use planning indicates at least seven factors have motivated the adoption of the collaborative planning approach:

- decrease uncertainty in plan-making
- develop an affirmative policy position
- streamline the regulatory process
- manage systems which span local jurisdictions
- manage resources of state or regional concern
- accommodate local variation among jurisdictions
- facilitate accountable and representative decision making

3.1. Decrease Uncertainty

Developers and conservationists are both calling for more certainty in land use plans. The present degree of uncertainty is costly to both parties. A recent update of *The Quiet Revolution in Land Use Control* cites nationwide examples of uncertainty costs.

> The developer of Florida's Three Rivers spent more than $200,000 on planning before his application was denied. Drawings, soil studies, drainage plans, wildlife surveys, economic impact studies, and the services of attorneys and planners are far from inexpansive.[1]

At the hearings on the California Coastal Act, many hardship stories were told by developers about the expense and frustrations of trying to obtain a permit from the Coastal Commission. Sea Ranch, California's nationally known residential development, has invested more than $35 million in its development program.[2] To date, only half of the money has been recovered. Whether Sea Ranch will recover the rest largely depends on a forthcoming review of its expansion plans by Sonoma County and various state agencies, particularly the Coastal Commission. Possible lawsuits by conservation groups are still another threat.

The multitude of state and local agencies empowered with land use

regulatory authority increases the uncertainty of the nature and timing of future development. A development proposal that conforms with the local government's land use plan may not be approved by the many local, regional, or state agencies with permit review or funding authority. Indeed, a land use planning system which is based only upon veto power over local decisions offers developers little guidance prior to the submission of a specific proposal. In California, all major development proposals must run a gauntlet of local, state, and federal reviews that is thirty to forty permits long.* Just one permit denial during the review process can kill a project.** For example, Dow Chemical's proposal to construct a 500 million dollar petro-chemical refinery on San Francisco Bay required more than 60 permits to obtain full approval. The company withdrew its proposal after stating that

> the process for obtaining governmental permits for massive development has proved to be so involved and expensive... that it is impractical to continue with this project.[3]

Dow said it spent two years seeking approval and spent $4 million in preparing required environmental studies before abandoning its proposal. Although such a statement may be both a literal and figurative smoke screen (Dow knew early on in the process its operations could not meet the air quality standards), obtaining 60 permits, usually in long sequential chains, does impose excessive and unnecessary costs.

When state and local regulatory agencies review proposed development, they usually rely upon policy plans. But these plans seldom offer any solid clues to conservations and developers, who want to know in advance how their interests in a particular parcel of land or a specific

---

*One evident side effect of the combined costs of meeting agency permit requirements and uncertainty on ultimate approval has been the exclusion of the "little guy" from the development business. Another significant benefit of the collaborative planning process could be to increase opportunity equity among large and small scale developers.

**For example, see Bosselman (1976), which presents an in-depth analysis of the permit explosion as well as potential means of resolution.[4]

resource will be affected if relevant policies are applied. The policy plans are often vague, lacking appropriate criteria, measures, standards and analytic methods that would enable interested parties to predict when and to what extent various policies might be applied.*

An anchor point of the collaborative planning process is the reduction of uncertainty through state and local government agreement on the criteria, measures, standards and analytic methods that will be used to apply policies to specific geographic areas and resources. Building state-local agreement on the policy application components will be a dynamic process involving several iterations between the levels of government as policies, measures and standards are proposed and tested, modified, reconsidered, and tested again. Of course, methods other than the collaborative planning process can be and have been used to produce the same result. The enactment of legislation aimed at a specific problem, such as areas of critical environmental concern, can successfully unite state and local governments under a common policy.

3.2. Develop an Affirmative Position

Agencies that regulate land use by permit-letting usually operate in a reaction mode. Ordinarily, agencies can only respond to project proposals, determining where activities cannot locate or why proposed designs cannot be executed. Management by permit denial introduces uncertainty into the oper-

*In this land use policy context, criteria are defined as the measurable objective of the policy (e.g., water quality); measure as the quantitative means of assessing the criteria (e.g., ppm of dissolved oxygen); standard as the socially set level(s) which the criteria should attempt to meet (e.g., state water should have at least 5 ppm dissolved oxygen); and an analytic method is the procedure used to compute the extent to which an action will result in a measurable change of criteria (e.g., mathematical model for estimating dissolved oxygen concentration). Criteria, measures, standards, and analytic methods will, for simplicity, be referred to as the "policy application components."

ation of regulatory agencies as well as the developers.

This negativism of permit-letting has political consequences. Property owners and investors frustrated by the permit process repeatedly asked the California Coastal Commission to identify sites that could be developed. A regulatory agency that builds a "thou shall not" posture will eventually tend to alienate its constituency and generate a cadre of opposition groups. A policy statement on the proposed coastal legislation issued by city council of Arcata, California, concluded that "the permit procedure has only succeeded in alienating coastal residents from the concept of coastal planning."[5]

Collaborative planning should enable a management agency to indicate the type, intensity and timing of development that will be permitted. Commonly called indicative planning, this affirmative position appears to be catching on in those states where the negativism of regulation is being felt.

> Perhaps the most interesting feature of Vermont's (land use regulation) experience is that the policy has evolved over time. The lawmakers have moved from the strictly regulatory approach of environmental standards to modifying incentives by a capital gains tax, and then to considering indicative planning for the growth of towns (long-term capital budgeting) and for the overall development of the state (land classification).[6]

Three notable deterrents discourage government adoption of indicative planning: the amount of technical information required, the diminished discretion of management agencies and the difficulty of reaching consensus among management agencies. In most cases, extensive inventories must be conducted and many analyses performed before any agency can make a determination on the siting, design, and timing of a development scheme. Indicative planning also makes it difficult for an agency to *"hide the ball."* Required to present a planning program in explicit detail, the agency has less

opportunity to conceal its objectives and little flexibility to change its program in mid-stream. Also, state and Federal agencies responsible for capital works programs must reach a consensus on the type, size and timing of government supported projects within the planning area.

3.3. Streamline the Regulatory Process

In recent years, the number of state, regional and local agencies with land use regulatory powers has increased dramatically. In California, approximately 25 state agencies and 40 Federal agencies regulate various coastal zone resources and activities.[7] Five years ago, the landmark analysis, *The Quiet Revolution in Land Use Control*, predicted that

> As the states move toward more balanced systems of land use regulation that are not weighted exclusively toward the prevention of development, it will be increasingly necessary to merge both state and local regulations into a single system with specific roles for both state and local government in order to reduce the cost to the consumer and taxpayer of duplicate regulatory mechanisms.[8]

The *California Coastal Plan* envisions that the implementation of state policies by local units of government should consolidate the review of development proposals among the many agencies that regulate land use. This bureaucratic streamlining should reduce the time and money costs to all parties involved in the permit review process. Studies of coastal zone management programs in Washington state and New Jersey support both these hypotheses.*[9]

In North Carolina, streamlining the existing federal-state regulatory process, particularly for wetlands permits, was offered as a main quid-pro-quo feature of the Coastal Area Management Act to gain local government

---

*Richardson's study on residential development costs as a function of state administrative processing concluded that if the New Jersey Department of Environmental Protection reviewed a proposed single family development simultaneously with preliminary plan submission to the local government, the state review cost the developer an additional $135; if the state entry occurred subsequent to final plan approval, the figure was $534.

acceptance for expanding state authority into coastal land and water use planning. The ultimate stage of streamlining, "one-stop shopping," was repeatedly advocated by development oriented organizations during the many hearings on the California Coastal Act. Yet streamlining, and especially one-stop shopping, may reduce representation among the diverse social groups *with various* vested interests in coastal zone resources.*

In 1973, political pressure in favor of streamlined state regulation of land and resource use led Washington State to pass the Environmental Coordination Procedures Act. Other states, including California, have since passed similar legislation.

3.4. Manage Systems Which Extend Beyond Local Government Boundaries

It is well recognized that environmental and public service systems are most effectively planned and managed on a system-wide basis. Watershed, river basin, and air basin planning efforts are common examples. It is also clear that the jurisdictional boundaries of local governments are not normally congruent with environmental or public service system boundaries. This mismatch creates a situation commonly known as interjurisdictional spillover, and occurs in diverse forms, such as when development activity in towns upstream on a watershed pollute the estuary adjoining downstream towns, or when a large scale shopping center in one city generages traffic that congests the streets of neighboring cities. Effective management of systems--watersheds, air basins, regional agricultural resources, highway service areas, and water and sewer services--depends on coordinating the planning programs of the local government units within each respective system.

---

*Comparative analysis of land use regulatory arrangements indicates that a consolidation of authority on one agency (versus a concurrent system of regulation) reduces decision making costs at the expense of broad inclusion of diverse interests and fuller representation, among various social groups.[10]

Without system-wide planning, the cumulative impact of development activities will often exceed environmental or public service capacities. In order to maintain desired levels of environmental quality or use of public services, state and regional policies are needed to allocate development among the various jurisdictions that comprise a system.

Allocating development within a system that includes many jurisdictions often means restricting development sought by one jurisdiction (such as large-scale shopping center) so as to preserve resources located in another, or to protect resources of regional or statewide value. An analysis of the governing of California's coast noted:

> It is impossible for local governments acting along, or only through voluntary associations, to implement policies on controversial regional and statewide matters. Expecting local governments to accomplish statewide objectives is a futile hope in the absence of strong state decisions that can override local action--or inaction when necessary.[11]

A necessary component of the collaborative planning process is state analysis and monitoring of environmental and public service systems which span two or more local jurisdictions. The *California Coastal Plan* proposed to accomplish this task by establishing subregional planning programs for selected coastal systems where cumulative impacts of coastal development were a major issue.* Once development has been allocated within a particular system, the collaborative planning arrangement should provide the state with authority to assure compliance by the affected local governments.

Previous state and federal top-down planning programs have often set capacities and standards for public works that limit regional growth. These

---

*It should be noted that specific requirements for sub-regional planning contained in the California Coastal Act (SB1579) were dropped in final versions of the bill. Without specific requirements for sub-regional planning, and the politically difficult problem it presents, it is doubtful if many local governments will undertake sub-regional planning voluntarily. Initial work program submissions and pilot studies carried out by the Commission support this conclusion.

regional growth limits frequently conflict with local communities' planned expectations for increased tax base and population. Ideally, the collaborative planning process will enable state agencies and local government to concur on the specific type, intensity, and timing of development within a community. Agreements on growth-inducing development will be especially important, such as public works or industry that creates substantial employment. Such agreements will also force the various state agencies involved in capital works projects (e.g., highway, water, wastewater, parks) to develop a consensus on conservation and development for each coastal system.

3.5. Manage Resources of Regional or State Concern

State authority to override local plans is often required to protect resources valued by the state or region. Protection of tidelands, wetlands, prime agricultural lands, scenic resource areas and recreational areas usually requires direct state intervention. Often a resource is of regional or state concern simply because it extends beyond the boundaries of one or more local governments.

It has been well documented that local governments' dependence on property taxes and parochial politics will often promote development without adequate regard for its adverse effects on state or regional resources.

> ... the entire pattern of land development has been controlled by thousands of individual local governments, each seeking to maximize its own tax base and minimize its social problems, and caring less what happens to all others.[12]

Certainly it can be argued that local government should give primary attention to the community it was constituted to serve. Who else will champion local interests, if not the city or county government? The collaborative planning process is built on two premises: city and county government will

forcefully argue for local interests *and* the state will equally represent those concerns that extend beyond local government boundaries.

It has often been recommended that a state's entire coastal zone, or at least the shorelands portion, ought to be considered a resource of more than local concern. During hearings on California's Coastal Act (1976), conservation and recreation groups repeatedly pointed out that, without the Coastal Commission, inland residents would be disenfranchized from decisions made by local coastal communities regarding resources that are of regional or statewide concern.[13]

Although it is generally conceeded that state or regional government agencies should be directly involved in managing impacts and resources of greater than local concern, an obvious problem arises in determining which concerns are of true state or regional interest, and exactly when a concern transcends the local level of government.

> The problem of isolating the types or areas of development that have a significant state or regional impact does not seem headed for an easy solution... the need is apparent for some method of concentrating state efforts on major land use issues if the burdens of regulation are not to exceed its benefits.[14]

3.6. Accommodate Local Variation

In drafting state-level policies and guidelines, a basic dichotomy arises between the desire to reduce uncertainty through plan making and the need to allow for local variation in plan making. Commissioners recognized this predicament, often asking the rhetorical question, "Should planning policies be vague and sinister or specific and outrageous?" during their deliberations on the *Coastal Plan*.

In order to reach a level of specificity in plan making that virtually removes uncertainty, designations would have to be placed on each parcel of

land indicating the specific type and intensity of permitted land use, the performance standards of the permitted use, and the timing of development.

Given the constraints of time, funding, and knowledge of local conditions, it is unlikely that a state level planning operation, such as the Coastal Commission, could develop a land use plan which comes close to parcel-by-parcel specificity without creating an ill-fitting imposition on existing local land use patterns and processes. States, and particularly large ones like California, would be ignorant of local variation in environmental conditions, socio-economic factors and community values at the local government level unless they spent an incredible amount of time and money on continual inventories and analyses.

California's coastal zone,* for example, spans 1,300 miles in a north to south direction and includes about 2,550 square miles of coastalands, 15 counties, 54 cities, and more than 200 service districts. Within its 2,550 square miles of coastlands there is enormous variation in natural and economic factors, particularly when measured at the local government level. It is difficult, if not impossible, to draft state policies and guidelines with a degree of specificity relevant both to small rural jurisdictions dotting the north coast and to the quilt of urban complexes that spreads across the south coast.

The need for general policies that allow for local variation must be balanced against the desire for specific policies that enable projections of the nature and timing of future development. Perhaps the strongest argument for the CPP is that it allows local government to translate general-level state policies into land use plans that achieve parcel-by-parcel

---

*as defined by the California Coastal Act of 1976

specificity while accommodating local variation. State policies and guidelines should be specific enough to assure consistent interpretation and application among the spectrum of local governments in a manner that will achieve state land use planning objectives. However, there must be enough flexibility in state policies and guidelines to enable local governments to prepare plans that accommodate local variation. A proven means to achieve a working balance between specificity and flexibility is to give local governments the opportunity to comment on preliminary versions of state policies and guidelines. In this way, cities and counties can test whether state policies and guidelines are appropriate to the socio-economic and environmental conditions that characterize their community.

3.7. Facilitate Accountable and Representative Decision Making

The proliferation of regulatory agencies at the state and federal level has made it increasingly difficult for community residents or interest groups to determine how land use decisions will be made and the basis for those decisions. The multitude of agencies with land use regulatory powers, often with overlapping jurisdictions, has created a decision-making maze. There are two common areas of confusion: determining the scope of various agencies' regulatory authority in respect to a specific issue, and predicting the sequence in which these agencies will exercise their authority.

It is becoming even more difficult for community residents to influence regional and state land use policy makers through customary electoral processes, because most boards or commissions with regulatory powers are appointive, such as the Coastal Commission. Advocates of home rule persuasively argue that land use regulation by multiple layers of regional and state appointive bodies is undemocratic. Local residents, they claim, have lost the power to influence the fate of their own communities--"Government is no longer close to the people, home rule has been sacrificed."

The Chairman of the North Carolina Coastal Resources Commission claims that the opportunity to bring decision-making closer to the people was the primary reason for passage of the state's coastal management act.[15] North Carolina's program required all coastal cities and counties to actively involve the public in determining future patterns of population growth and land use allocation. The coastal management program was, for most of the cities and counties, their first experience with public participation in community planning. Nevertheless, the leader of one of the opposition groups to the coastal program felt that, despite public participation in local plan making, the little guys will get penalized and the big guys will get the breaks (since they make the rules).[16]

North Carolina and most of the other eight coastal states following the collaborative planning process make it a practice that once the state has approved a county or city's plan, projects proposed by the state (and to some extent those proposed by the Federal agencies) should be consistent with the approved plan. This consistency clause appears to be a strong incentive to many local governments seeking to gain some control over state and federal projects within their jurisdiction. Another incentive to local plan making under the CPP arrangement is the delegation of state regulatory authority back to local governments, once the local plan has been approved. The California Coastal Act allows aggrieved parties to appeal to the Coastal Commission all substantial development approvals granted by local governments while the local coastal plan is being prepared. Once the local plan is approved by the state, substantial limits are placed on the type and geographic location of projects that can be appealed to the Coastal Commission.

In order to keep citizens involved in community planning, local units of government must have enough latitude and powers to interpret and apply state policies in a way that will be sensitive to local variation. Local

governments should be able to meet the spirit of the law, establishing the CPP arrangement without necessitating a lock-step compliance with all the specific provisions of the act and the associated guidelines. For its part the state should allow deviations from its policies or guidelines if a local government can demonstrate that the departure will better accommodate local variation *and*, in the long run, better serve to achieve the objectives of the CPP.*

In order to encourage public participation, the process for local government interpretation and implementation of state policies and guidelines must be clearly stated so that the public understands how land use plans are to be developed and implemented, and how they may become meaningfully involved in the steps of plan making. The collaborative planning process should be structured to achieve both these objectives.

---

*Allowing deviations based on local variation that better serve the purpose of state programs is an expression of the new principle of "local option" that local governments are now promoting. "The principle of local option is today's alternative (to home rule) by which public expectations can be satisfied after the restrictive perimeters of state and federal laws and regulations have been relaxed."[17]

REFERENCES

1. Healy, Robert, *Land Use and the States*, Johns Hopkins University Press, 1976, p. ____.

2. Johnson, Reverdy, "Testimony to the California Senate Committee on Natural Resources and Wildlife," March 26, 1976.

3. Dale Champion, *San Francisco Chronicle*, January 20, 1977, p. 2.

4. Bosselman, Fred; Feurer, Duane; and Siemon, Charles, *The Permit Explosion: Coordination of the Proliferation*, The Urban Land Institute, 1976.

5. Arcata City Council, Policy statement submitted to the Senate Committee on Natural Resources and Wildlife, March 26, 1976.

6. Healy, *Land Use in the States*, p.____.

7. Gamman, John; Towers, Shavaun; and Sorensen, Jens, *State Involvement in the California Coastal Zone: A Topical Index to Agency Responsibility*, University of California Sea Grant Program, May, 1975; and *Federal Involvement in the California Coastal Zone: A Topical Index to Agency Responsibility*, University of California Sea Grant Program, 1974.

8. Bosselman, Fred; and Callies, David, *The Quiet Revolution in Land Use Control*, Prepared for the U.S. Council on Environmental Quality, 1971, p.

9. McCrea, Maureen; and Feldman, James, *Washington State Shoreline Management: An Interim Assessment*, Program in the Social Management of Technology, University of Washington, January, 1976.

   Richardson, Dan, *The Cost of Environmental Protection: Regulating Housing in the Coastal Zone*, Center for Urban Policy Research, Rutgers University, 1976.

10. Boschken, Hermann, "Interorganizational Considerations in Coastal Management," *Coastal Zone Management Journal* Volume 4, No. 1, 1978.

11. Scott, Stanley, *Governing California's Coast*, Institute of Governmental Studies, University of California, Berkeley, 1975, p.____.

12. Bosselman and Callies, *The Quiet Revolution in Land Use Control*, p.____.

13. Edmiston, Joseph, Sierra Club Coastal Coordinator. Testimony before the California Senate Committee on Natural Resources and Wildlife, March 26, 1976.

14. Bosselman and Callies, *The Quiet Revolution in Land Use Control*, p.____.

15. Stick, David, Chairman of North Carolina Coastal Resources Commission. Letter to Jens Sorensen, July 27, 1977.

16. Interview with Thurman Lawrence, Chairman of Citizens to Save Our Lands, September 30, 1976.

17. County Supervisors Association of California, *Design for Decision*, 1974.

4. STATE APPROACHES

There are considerable geographic differences among the nine state programs in respect to: miles of shoreline or coast regulated, width of the jurisdictional area, population in the planning area, and number of local governments involved --as illustrated by Figure 4.1. Six of the states have not calculated either the total area regulated or the population within the planning area. This is an interesting comment on the states' concern for this type of data. It is assumed that all six states would like to have the population and areal coverage figures for arguing increases in the program budget, but have not yet found the data important enough to make the calculations.

The purpose of each state's enabling legislation serves to distinguish three types of collaborative planning efforts: shoreland zoning, coastal zone management, and comprehensive planning.

4.1 Shoreland Zoning

As section 2-4 mentioned, shoreland zoning is the development of plans and implementing ordinances for a relatively narrow shoreland strip and contiguous state waters. The CPP programs in Wisconsin, Minnesota, Michigan, Maine, and Washington are shoreland zoning efforts. What distinguishes shoreland zoning from coastal zone management is the limited inland extent and the scope of the objectives. The jurisdictional area of shoreland zoning rarely goes beyond 1,000 feet inland of mean high tide or the mean extent of state waters -- as indicated by figure 4.1.

The focus of the program -- as the name implies -- is on the shoreland. Accordingly, the objectives of the program are specific to

FIGURE 4.1

Geographical Differences Among States

STATE	Jurisdiction under which special shoreland/coastal planning or regulation to be executed by local government. Total miles of shoreline to planned or regulated	Total area regulated	Minimum and maximum distance inland from the shoreline	Number of municipalities and counties a planning program and/or an ordinance is required	Number of municipalities and counties with Great Lakes or salt water frontage	Population within planning or regulatiory area
Wisconsin	G 620 S & L —* T 33,620*		300'(s) 1000'(l)	M na C 71 T 71	M 33 C 14+ T 47	
Minnesota	G S & L — T 55,000		300' 1000'	M 615 C 85 T 700	M 6 C 3 T 9	
Michigan	G 214** T 214		- 1000'	M 156 C 37 T 193	M 264 C 41 T 305	
Maine	O 4,058 S & L — T		250' 250'	M 440 C na T 440	M 76 C 13 T 89	
Washington	O 2,337 S & L — T		200' 200'@	M 185 C 39 T 226	M 38 C 15 T 53	
Oregon	O 352 — T 352	7,811 sq. miles	3 miles 45 miles	M 37 C 13 T 50	M C 8 T 8	160,000
North Carolina	O 308*** — T 3,308	13,000 sq. miles	9 miles 105 miles	M 43 C 20 T 63	M 33 C 20 T 53	549,060
Florida	O 11,000 — T 11,000	13,360 sq. miles	1 mile 25 miles	M 228 C 38 T 266	M C 38 T 38	7,600,000
California	O 1,349 — T 1,348		1500' 5 miles	M 55 C 15 T 70	M 50 C 15 T 65	

*does not include mileage around 800 lakes and ponds
**designations to date, additional shoreline to be designated
***directly fronting the Atlantic, inland side of barrier islands
@inland from ordinary high water, also includes all wetlands, deltas, and floodplains
G=Great Lakes; S & L=Streams and lakes; O=Salt water (ocean and estuarine); T=Total
M=Municipalities (cities, villages and towns which regulate land use); C=Counties; na=not applicable
s=streams; l=lakes
+ does not include Milwaukee County

problems associated with shoreland environments, namely:

- control septic tank pollution from parcels adjacent to state waters;
- control of point source pollution into state waters;
- provide greater access to state waters and state lands;
- enhance and protect the visual quality of shorelands;
- protect natural areas -- particularly wetlands -- from adverse impacts that would degrade their wildlife, recreational, and esthetic values.

It is noteworthy that all five shoreland zoning programs were initiated prior to enactment of the Federal Coastal Zone Management Act (CZMA) in October 1972.

In all five states, shoreland zoning involves placing all shorelands in one or more land classification categories (see page 6-45). Zoning ordinances are then developed to implement the land classification arrangement. Given narrow width of jurisdiction and the limited scope of objectives, shorelands zoning is a less difficult procedure than either coastal zone management or comprehensive planning.

4.2 Coastal Zone Management

The Federal Coastal Zone Management Act has obviously had a strong effect on state initiatives in this direction. California's program was initiated in the same year yet independently of the Federal Act. The draftors of the California initiative, however, anticipated the passage of the Federal Act in terms of the budget projections. Passage of North Carolina's program in 1974 was clearly influenced by the Federal Act.

Alaska and South Carolina have chosen the CPP arrangement to implement state coastal zone management programs prepared pursuant to the Federal Act. Other states are expected to follow suit since the Act specifically provides that a CPP arrangement is one means a state may use to implement a coastal zone management program.

Figure 4.2 illustrates the greater inland extent of coastal zone management compared to shoreland zones (Figure 4.1). The states with shoreland zoning programs have incorporated these efforts into the coastal zone management package -- as described in the analyses of Wisconsin, Minnesota, Michigan, Maine, and Washington. The comprehensive planning programs in Florida and Oregon have likewise responded to CZMA by developing a coastal management component.

4.3 Comprehensive Planning

In terms of scope and geographic coverage, comprehensive planning is certainly the most ambitious approach to the collaborative process. Many planning theorists have viewed comprehensive planning as an exercise in wishfull thinking. Each element of the comprehensive plan has objectives which inherently conflict with objectives of the other elements -- such as housing and recreation. Furthermore, the comprehensive planning process assumes that the planning department has the capability to analyze all possible policy outcomes for each objective- a difficult, if not impossible task.

Section 6.5 (page 6-38) discusses the program element approach of Oregon and Florida to comprehensive planning.

FIGURE 4.2

Coastal Zone Planning Area Under U.S. CZMA

STATE	Miles of Coast (a)	(b)	(c)	Total Area of Coastal Zone (sq. miles)	Inland Extent of the Boundary (minimum and maximum)	Number of Municipalities and Counties in the Coastal Zone	% of State Area	Population	% of State Population
Wisconsin[a]			620	10,318[1]		M 33 C 15 T 48	33%	309,182	43%
Minnesota[a]			200	66	10 miles 20 miles	M 6 C 3 T 9		less than 100,000	4%
Michigan[a]			3280		1000'				
Maine	228	3478	4058	3,984	10 miles	M 139 C 13 T 152	12%	485,380	47%
Washington	157	3026	2337	2,800		M 100 C 15 T 115	29%	2,200,000	66%
Oregon	296	1410	352	7,811	8 miles 45 miles	M 37 C 13 T 50	8%	160,000	6%
North Carolina	308	3375	3065	13,000	9 miles 105 miles	M 43 C 20 T 63	19%	549,060	10%
Florida	1350	8426	11000	13,360	1 mile 25 miles	M 228 C 38 T 266	27.6%	7,600,000	74.7%
California	840	3427	1348	1,972	1500' 5 miles	M 53 C 15 T 68	1%		

(a) is the general coastline as measured by NOAA ("The Coastline of the U.S., 1972")

(b) is the tidal shoreline as measured by NOAA ("The Coastline of the U.S., 1972")

(c) is the shoreline length used in state coastal zone management documents

[a]NOAA only measured marine tidelines, not Great Lakes shorelines

[1]does not include Milwaukee County

5. PROCEDURAL COMPONENTS OF THE COLLABORATIVE PLANNING PROCESS

Review of the various collaborative planning processes developed to date indicates that -- in the fully developed form -- there are ten discrete components.

- -Development of state level objectives, policies and guidelines
- -Preparation of local programs
- -State review and evaluation of local programs
- -Negotiation to resolve conflicts and program approval of denial
- -Sanctions imposed if an acceptable program is not approved
- -Local implementation of programs
- -Monitoring program implementation
- -Appeal of actions deemed to be inconsistent with a local program
- -State review of proposed amendments to local programs
- -Sanctions imposed if local program is not adequately implemented

Figure 2.1 on page 2-5 illustrates that most states do not have all ten components specified in their enabling legislation or guidelines. Figure 2.1 also illustrates that a collaborative planning process has evolved over time and, generally is becoming more complex in structure. Newer legislation has more components. In the first state, Wisconsin, the process was relatively simple, involving counties and the state agencies following eight components of the CPP. The section of the enabling act authorizing the CPP is 2 pages in length and covers four policy areas. By contrast, California has a very complex arrangement interacting the Coastal Commission with other state agencies, local

units of government, port districts, and special districts. The California Coastal Act runs on for 38 pages, has 9 of the 10 CPP components, and addresses 63 policy areas.

5.1. Development of State Level Objectives, Policies, and Guidelines

Since this first component of the CPP is the subject of section six, it is just mentioned here for context with the other ten components.

The state agency administering the collaborative planning arrangement gets the process started by drafting policies and guidelines to form the ground rules for local program development and implementation. For semantic clarity, policies are defined to include both the goals and objectives of the program. They may be very general in nature, such as Oregon's nineteen statewide planning goals, or drafted in specific terms, as are most of the 63 policies in California's Coastal Act. In most cases, local governments and other affected entities are required by the enabling legislation to follow the state policies. State guidelines are usually the procedural and technical means by which a local government and other affected entities should comply with the policies. More often than not, guidelines are advisory recommendations, and not legally binding on local governments.

States have drafted policies and guidelines to achieve three interrelated purposes:

- -to construct an operable framework for the preparation of local programs that achieve the goals and objectives of the enabling act.
- -to determine the extent to which government programs comport or conflict with the state's policies.
- -to establish a basis both for evaluating local programs submitted for state approval and for monitoring local program implementation.

5.2. Preparation of Local Programs

In the second procedural component or step of the process, local governments prepare programs that both reflect the objectives and policies of the enabling act and follow the associated guidelines. Program preparation is certainly the most arduous step in the collaborative planning process. More importantly, it is also the keystone of the process, because local programs tie the rest of the steps together. The enabling act usually specifies the various components of the local program. Since this second procedural step is the subject of section seven, this brief description should suffice to place preparation of programs in context with the other ten CPP components (see also section 8-1).

5.3. State Review of Local Programs

State review and evaluation of draft and final local coastal plan is one of the most difficult steps of the CPP. The step essentially involves the state administrative agency as well as other relevant state and federal agencies critically reviewing draft and final local programs against numerous criteria, including; the CPP enabling legislation and guidelines, relevant state and federal acts, and their associated guidelines. Figure 5.1 lists the various state approaches to reviewing local programs.

There are several evident problems with state evaluation of local programs. The state of ten has difficulty in evaluating the integration and cumulative impact of two or more local programs that are components of the same environmental or public service system. This is particularly true if the programs are prepared with an inconsistent format or submitted at different times. Often the state lacks

FIGURE 5.1

State Approaches to Review of Local Programs

	Review and Evaluation Requirements	Time Schedule	Date Completed
WISCONSIN	DNR reviews local programs		
MINNESOTA	DNR reviews ordinance against its checklist for compliance of County Shoreland Ordinance DNR reviews existing regulations in incorporated areas DNR sends notifications to municipalities of any deficiencies DNR reviews ordinance against its checklist for Compliance Municipal Shoreland Ordinances		
MICHIGAN	DNR reviews zoning ordinances		
MAINE	DEP/LURC (Shoreland Task Force) reviews ordinances and suggests changes; allows opportunity for local officials to respond		
WASHINGTON	DOE reviews master programs		

5.2. Preparation of Local Programs

In the second procedural component or step of the process, local governments prepare programs that both reflect the objectives and policies of the enabling act and follow the associated guidelines. Program preparation is certainly the most arduous step in the collaborative planning process. More importantly, it is also the keystone of the process, because local programs tie the rest of the steps together. The enabling act usually specifies the various components of the local program. Since this second procedural step is the subject of section seven, this brief description should suffice to place preparation of programs in context with the other ten CPP components (see also section 8-1).

5.3. State Review of Local Programs

State review and evaluation of draft and final local coastal plan is one of the most difficult steps of the CPP. The step essentially involves the state administrative agency as well as other relevant state and federal agencies critically reviewing draft and final local programs against numerous criteria, including; the CPP enabling legislation and guidelines, relevant state and federal acts, and their associated guidelines. Figure 5.1 lists the various state approaches to reviewing local programs.

There are several evident problems with state evaluation of local programs. The state of ten has difficulty in evaluating the integration and cumulative impact of two or more local programs that are components of the same environmental or public service system. This is particularly true if the programs are prepared with an inconsistent format or submitted at different times. Often the state lacks

FIGURE 5.1

State Approaches to Review of Local Programs

	Review and Evaluation Requirements	Time Schedule	Date Completed
WISCONSIN	DNR reviews local programs		
MINNESOTA	DNR reviews ordinance against its checklist for compliance of County Shoreland Ordinance DNR reviews existing regulations in incorporated areas DNR sends notifications to municipalities of any deficiencies DNR reviews ordinance against its checklist for Compliance Municipal Shoreland Ordinances		
MICHIGAN	DNR reviews zoning ordinances		
MAINE	DEP/LURC (Shoreland Task Force) reviews ordinances and suggests changes; allows opportunity for local officials to respond		
WASHINGTON	DOE reviews master programs		

	Review Requirements	Time Schedule	Date Completed
OREGON	County Land Use Coordination reviews and coordinates local plans and ordinances	after 1/75	annual
	LCDC annually reviews progress in developing local plans and ordinances	after 1/75	annual until plans completed as provided
NORTH CAROLINA	CRC reviews land use plans	7/15/76	by 7/15/76
	CRC reviews local implementation and enforcement programs	8/15/77	
	CRC reviews all local ordinances and regulations not affecting AEC for consistency with land use plans	8/15/77	
F L O R I D A	DER comments on coastal element	before adoption	
	DSP comments on plan, coordinates comments of other state agencies	before adoption	
	Regional planning agency comments on plan	before adoption	
	County planning agency comments on plans of municipalities within it	before adoption	
CALIFORNIA	Regional commission reviews local coastal program (lcp)	within 90 days	
	CC reviews lcp where no regional commission or, first review by regional commission and then by coastal commission	within 90 days	

the basic information or expertise on systems characteristics and dynamics to tie local jurisdictions together into a regional framework.

In those states which the coastal management agency has permit letting powers during the development of the local programs (such as Washington and California), day to day contact maintained in assessing proposed projects should provide reviewers with a grass-roots knowledge of the specific issues and background conditions in each jurisdiction. Knowledge of the specific problems and background conditions will enable state reviewers to have a clearer picture of the extent to which the local program may resolve the specific management issues confronting the jurisdiction.

Quality vs. Quantity

Washington, Maine, and North Carolina use a similar procedure for evaluating programs. The enabling legislation and guidelines in all three states require that the local programs contain a specific set of components. The state conducts a pro-forma review to determine that all the required components have been submitted and that each component has been prepared according to the proscribed format.

The three states also facilitate plan review by requiring that the coastal planning area in each jurisdiction can be divided into a number of uniform environmental districts such as natural, conservancy, rural, and urban -- as described in section 7.8.

If states use environmental districts as a basis for reviewing local plans, measures and standards will have to be developed to evaluate whether a jurisdiction's listing of permissable land uses within each district (e.g., agriculture or recreation in a conservancy district) conforms to the enabling legislation and guidelines. For example; will the

recreational development permitted in a conservancy district by a local plan exceed the traffic capacities set for various coastal highways, or degrade intertidal habitats by allowing easy access to state tidelands?

Conformance of local plans to state guidelines will be difficult to objectively evaluate if appropriate measures and standards have not been developed for each guideline. However, in many policy areas, such as public access, visual quality, and social equity, it is not yet possible either to establish quantitative measures which are both valid indicators and cost-effective to calculate, or set to standards that are both politically and scientifically acceptable.

In California certification of local coastal plans delineated by the Coastal Act of 1976 is a far more significant step than in other coastal states using the collaborative planning process. In Washington, Maine, North Carolina, and Wisconsin, the state's permit review authority does not change with state certification of local coastal plans. California's certification step is intended to substantially reduce the number of proposed projects the Coastal Commission will be able to approve or deny.

The reduction in the Commission's project review powers and limiting appeals to projects that do not conform to the priority use designation will mean that the local coastal plans in California will have to be very specific in order to limit local government's degree of discretion in project review. The local plans have to be specific enough to restrain local governments from permitting projects that could not be overturned or modified by the Coastal Commission, even though the project would substantially conflict with the Commission's policies (as embodied in the Coastal Act). Furthermore, this need for specificity in the local coastal plans together

with the reduction in the scope of the Commission project review powers, will increase the degree of scrutiny and critical analysis that will be given to local coastal plans before they are certified by the Commission.

> The first law of political prudence concerns the conservation of political capital. A prudent coastal agency, with an eye to maintaining the integrity of its capital over the long haul, must therefore exert great pressure on local governments to formulate (Local Coastal Programs) that the agency can realistically enforce once they are certified. At the level of tactics, this strategic principle implies that the agency must concentrate on holding down ambiguity in the (Local Coastal Programs). Operationally, this implies forcing as much as possible into zoning maps and ordinances and leaving as little as possible to guidelines and "programs." In practice this operating rule will mean that after all the to-ing and fro-ing that the agency and a local government engage in prior to striking a final bargain, when the coastal agency has to choose between a good map and a great guideline it will go for the map.[1]

Oregon, like California, will also have a problem developing criteria, measures and standards to evaluate the degree to which comprehensive plans are in compliance with state goals. The generality and the number of conditional statements (escape clauses) in the State's goals and guidelines, will make it difficult to employ a set of measurable criteria to determine plan compliance. Because of this, plan evaluation will likely concentrate on procedural matters--such as public participation, and government co-ordination--rather than whether the plan will actually resolve resource use conflicts and socio-economic issues. Compounding difficulties will emerge in deciding priority among goals when achieving one goal may mean conflict with one or more other goals. Oregon's Act will test an ambitious, comprehensive planning scheme; determining whether it will succeed or bog down under the load of procedural requirements, or be washed out by a continual stream of compliance schedules.

5.4. Negotiation to Resolve Conflicts and Program Approval or Denial

Obviously, negotiation between the state administrative agency and local governments tends to be the most politically charged step in the collaborative planning process. Figure 5.2 lists the various state approaches to negotiation and program approval. Most states have developed a time schedule for review and response by the state. A number of states also have a resubmission schedule for those programs that are not approved the first time around.

Local governments' willingness to negotiate with the state will be contingent on a number of factors, including:

- -information that the state has developed to demonstrate the inadequacies of the program as submitted -- particularly the extent to which a local program may conflict with state policies and greater than local interests;
- -state's need to approve the program to show progress is being made with the CPP;
- -scope and quality of information supporting the local programs policies;
- -degree of wide-spread public support for the local program;
- -effective sanctions that may be imposed if an adequate program is not approved.

An interesting example of the negotiation process was Washington's rejection and reconsideration of the City of Seattle's shoreline master program. The major point of contention was the City's intent to allow non-water dependent commercial uses (i.e., a high-rise office building and hotel) to be permitted within a special planned unit development district (PUD) on the central waterfront. The City argued that the state's water-dependent criteria for shoreline uses precludes the only economically viable means presently available for redeveloping the blighted central waterfront. The State administrative agency (Department

FIGURE 5.2

State Approaches to Negotiations and Program Approval

	Negotiations and Approval Requirements	Time Schedule	Date Completed
WISCONSIN	DNR discusses with counties any program inadequacies	Ongoing (Intensive program for 20 counties)	
	DNR sets time limit for compliance for laggard counties	9/70	
	DNR issues certificate of compliance for approved programs	Ongoing	12/71 (14 out of 14)
MINNESOTA	DNR approves or disapproves local program		
MICHIGAN	DNR approves or disapproves ordinance	within 30 days	9 as of 1/77
	Locality requests a hearing (optional)	within 30 days	
MAINE	DEP/LURC may reject local ordinance		
	(Formal state approval is not required)		
WASHINGTON	DOE must notify local government of approval or specific changes	within 90 days	
	Local governments may resubmit master programs	after 90 days	
	Local governments may appeal DOE's denial of a master program it prepared or a master program prepared by DOE		

	Negotiations and Approval Requirements	Time Schedule	Date Completed
OREGON	Localities request acknowledgements of compliance		
	LCDC issues plan compliance acknowledgement		
	LCDC advises locality of non-compliance and recommends requesting an extension		
NORTH CAROLINA	CRC must notify local government of approval or specific changes to be made in land use plan	7/15/76	by 7/15/76
	CRC must notify local government of approval or specific changes to be made in local implementation and enforcement programs	within 45 days	
	Disapproved land use plans and local implementation and enforcement programs may be resubmitted in same manner as the original program		
FLORIDA	Local government responds to any objections to plan by reviewers	within 4 weeks	
	Local government waits before adopting plan	2 weeks	
	DSP grants extensions to planning agencies if necessary	up to 2 years	
CALIFORNIA	Locality appeals regional denial to state commission Locality revises disapproved plan and resubmits it	within 10 days	
	Regional commission reviews revised plan		
	CC decides whether substantial review issue exists	within 21-45 days	
	CC certifies or denies local coastal programs	within 60 days	

of Ecology - "DOE") eventually approved the Seattle program including the hotly argued Central Waterfront PUD. The state did, however, obtain revisions on other less objectionable parts of Seattle's program -- particularly a PUD proposal for Lake Union.

Review of Seattle's negotiation and other jurisdiction's to-ing and fro-ing with the state indicates that local governments will -- on occasion -- use a quid pro quo or "bargaining chip" strategy. For example, a city might submit a program which contains four provisions that it expects will be challenged by the state as inconsistent or in conflict with the enabling legislation or the guidelines. The city has a strong commitment to one of the provisions and weaker commitments to the other three provisions. The provision with the strong commitment will get through without major modification when the city uses the other three provisions as bargaining chips. The state, by gaining concessions on some provisions, would allow the city to have the provision it really wants as a quid pro quo arrangement. It has been observed that Seattle did not anticipate it would get state approval for the PUD provision for Lake Union, as proposed, but intended to use the Lake Union PUD as a bargaining chip to gain approval of the Central Waterfront PUD.

Time is on the side of local governments. Local governments are often able to win certification of their programs by simply being tenacious -- as evidenced by holdout jurisdictions in Washington and North Carolina. The state wants to approve programs to show that progress is being made. Moreover, the administrative agency wants to avoid adverse publicity; such as news stories about the state shoving a program down local government's throat or rejecting a program on which the local community worked long and hard -- and represents their best effort.

The state is going to find it difficult to substantively criticize -- much less reject -- a local government's submission if it does not have the reliable information to demonstrate that the program as submitted will probably not achieve the minimum state standards for approval. Furthermore, it is to be expected that the reasonableness of standards for program approval will be questioned. To the extent that the standards do not have scientific backing or broad base public support, the state will slide into fall-back positions -- a descending series of lowered expectations.

It can be expected that the state administrative agency will lower its expectations and standards after reviewing the front running programs -- as well documented in the Washington and North Carolina analyses of program review negotiation and approval. This lowering of expectations and standards will be motivated by at least five pervasive factors:

- -desire to demonstrate reasonable progress is being made
- -anticipating inadequacies will be corrected in further iteration of planning
- -lack of hard information to support the state's position
- -avoiding collective action by frustrated governments
- -not forcing a program that local governments will find difficult to implement.

Given the political and pragmatic necessity of accepting many programs that have major inadequacies, the state will adopt conditional approval and segmented approach strategies. These strategies allow keeping the CPP effort moving forward without accepting substantive flaws in local programs that would compromise objectives of the enabling act. Full approval might also preclude or weaken the state's ability to appeal projects which take advantage of a significant flaw in the program (step

8). Furthermore, the conditional and segmented approach strategies are in the interests of both local governments and the state administrative agency. Arrangements of multiple certifications, geographic segmentation and conditional approvals allows needed flexibility and reduces the hazards of brinksmanship.

5.5. Sanctions Imposed if an Acceptable Program is not Approved

A state may impose several different types of sanctions if local government does not complete an adequate program (as indicated by Figure 5.3), these include: a moratorium on development activities, state preparation of a local plan which is imposed on the jurisdiction, assumption of permit power by the state, reduction or loss of planning grants, and the deferral of state public works proposals.

Since collaborative planning is *a mandatory* effort the state must have the authority to impose sanctions if a local government either:

-decides at the out-set not to prepare a program;

-is unable or unwilling within the statuatory time limits to develop a program that the state can find acceptable.

Sections 7.1 and 7.2 points out the reasons why most local governments will prepare their own program. This is fortunate for the state because the sanction of state program preparation and imposition on local government will not work if a sizable number of jurisdictions fail to meet deadlines or refuse to even submit a local program for state review, unless the state program requirements are simple to impose and amount to a de-facto moratorium -- as in Maine's case.

Experience to date in Wisconsin, Minnesota, Main, Washington, and North Carolina, with imposing sanctions if adequate programs are developed, indicates that states will attempt to give an extra margin to

FIGURE 5.3

State Sanctions if an Acceptable Plan is Not Approved

	Sanctions	Time Schedule	Date Completed
WISCONSIN	DNR writes local program	after 1/68	not done as yet
MINNESOTA	DNR adopts local ordinance if locality fails to or if its ordinance is found inadequate		
MICHIGAN	DNR reviews development proposals, in absence of approved ordinance	after formal designation	
MAINE	BEP/LURC imposes ordinances on municipalities that fail to adopt suitable ones	by 1/76	8/74 (for 201 municip.)
WASHINGTON	DOE shall prepare and adopt a master program if local government fails to complete its program or indicates it will not prepare a master program DOE may develop and adopt an alternative program for shorelines of state significance if local government's master program for those areas is deemed inadequate		done for two counties and six cities

	Sanctions	Time Schedule	Date Completed
OREGON	LCDC issues an order requiring local government to bring its plan into conformance with state planning goals (mandamus proceedings)		
	LCDC seeks court injunction on activities that may prejudice or contravene the order		
NORTH CAROLINA	CRC shall prepare and adopt a local land use plan if local government fails to complete its plan or indicates it will not prepare a land use plan		
	Secretary of DNER shall issue permits for local governments that do not intend to be a permit letting agency		
FLORIDA	County applies its plan to a locality within it, which fails to plan	7/80	
	DSP prepares plan for a county that fails to plan	no time limit	
	(The Act does not give the state explicit authority to impose sanctions if local governments do not develop an acceptable plan)		
CALIFORNIA	CC prohibits locality from issuing development permits		
	CC issues development permits		

local governments that are making reasonable progress toward plan development. In states where the administrative agency has interim permit authority, the local government usually has more incentive to develop an acceptable program than the state, and get out from under the state's thumb. If states without interim permit authority impose sanctions, the action will likely alienate local governments and will call attention to the fact that the collaborative planning process is not working as well as expected.

The states will use sanctions only as a last resort in the event that negotiations to resolve conflicts totally break down. It has been evident to the states without interim permit power that imposing state programs in-lieu of unacceptable local programs could pose insurmountable implementation problems.

> It was obvious that if the Commissioner used a 'big stick' and adopted an ordinance for a county, the county would probably be reluctant to actively administer and enforce it. Without the support of the county government a shoreland ordinance isn't worth the paper it's written on and obviously the goals of the Shoreland Management Act would be difficult if not impossible to achieve.[2]

If the program is not a product that the local government can comfortably live with and support, it is wishful thinking to expect a city or county will have sufficient commitment to adequately implement the program. It is better to let local government develop a program the community will support, despite flaws, than to force a city or county to prepare a technically correct program it could not or would not enforce.

5.6. Program Implementation

All the states require some form of implementation and enforcement as a component of their local program as depicted by Figure 5.4. In Section 6.5, Figure 6.6 distinguishes between the states that do not specify implementation methods and those states that require a zoning ordinance or permit regulations. In North Carolina, the Act only requires local governments to prepare an implementation and enforcement plan. The state guidelines interpret this to mean a zoning ordinance and permit regulations.

Florida's Act only requires that local programs contain *specific* policy recommendations for complementing each program element. For example, the coastal zone protection element must propose "management and regulatory techniques." The local officials guidebook presents a variety of management and regulatory techniques local governments may use to meet the broad implementation requirements. Oregon is a bit more specific in its implementation requirements. Each of the state's goals has a set of implementation policies.

Zoning Ordinance

The city planning profession was founded on the zoning ordinance. After two generations of use, and despite growing criticism, the technique is still the implementation vehicle for most municipal plans.

In the shoreline zoning states the ordinance essentially constitutes the local program. Wisconsin, Minnesota, Maine, and North Carolina drafted model ordinances to delineate the minimum content and standards that would constitute an acceptable program. Local governments were encouraged to go beyond the minimum level of the model ordinance -- and

FIGURE 5.4

State Approaches to Local Implementation

	Implementation Requirements	Time Schedule
WISCONSIN	Zoning administrator issues permits for development and performs inspections	
	Board of adjustment rules on appeals, special exceptions, and variances	
	Planning agency accepts or rejects subdivision plans	
	County counsel or D.A. goes to court against violations	in at least 20 counties
MINNESOTA	Zoning administrator implements ordinance	
	Board of adjustment rules on appeals and variances	
	County Attorney institutes legal action against violations	
MICHIGAN	Locality administers its zoning ordinance	
	DNR goes to circuit court against violators	
MAINE	Code enforcement officer or planning board issues necessary permits	
	Board of appeals hears requests for variances and appeals to local administrative decisions	
	Any party may appeal Board decision to Superior Court	
	Code enforcement officer enforces ordinance	
	Municipal officers institute legal or equitable procedures against violations	
	State Attorney General seeks court order to force local enforcement of ordinance, if necessary	

	Implementation Requirements	Time Schedule
WASHINGTON	Local governments shall issue permits for substantial development (including state projects) that propose to locate within the the shorelines jurisdiction	
	Local government may seek injunctive declaratory, or other actions as necessary to enforce the Act. Violators of the Act shall be guilty of a gross misdemeanor and shall be subject to a fine and/or imprisonment	
OREGON	Locality administers its zoning and other ordinances	
	LCDC or Local Governing Body or District Attorney or Aggrieved Party go to court to enjoin or correct violation	
	Special districts shall enter into co-operative agreements with cities or counties	
	Locality reviews plan and ordinances to see if revisions are necessary	every 2 years
NORTH CAROLINA	Local governments shall issue permits for minor developments in areas of environmental concern	3/1/78
	CRC issues permits for major developments in areas of environmental concern	3/1/78
	CRC may assess fines against violators of the Act	
	Violators of Act may be fined or imprisoned	
FLORIDA	Developers act consistently with adopted plan	
	Local government enacts only land development regulations consistent with plan	
	Local planning agency reports to governing body on effectiveness and status of plan	every 5 years
CALIFORNIA	Locality has development review authority	
	Anyone asks for relief to restrain any violation of Act	

a number of them did. If a local government chooses not to spend any effort on the local program preparation, it has only to fill in the blanks of the model ordinance with the jurisdiction's name and submit it to the state.

In Maine and other states where a model ordinance was drafted, the clamor among municipalities for specific guidance was reduced, because all aspects of the final product had been presented. To many municipalities, the model ordinance demonstrated that the CPP would not be as burdensome as they expected. The model ordinance also allows the state to easily impose it on local governments that fail to develop an adequate ordinance within the required time period -- as was the case in Maine.

The model ordinance works well when a few straightforward objectives are involved, such as shoreline appearance or control of septic tank pollution. It is particularly appropriate when local governments have had little or no previous experience with planning and drafting ordinances. In states with programs involving a broad scope of objectives and a sizeable geographic area, it is appropriate to draft a model ordinance for specific issues requiring regulation, such as grading, public accessways, or appearance and design. California intends to draft a series of such issue-oriented model ordinances to assist local governments in developing an implementation package.

Permit and Variance Regulations

Regulations on permit letting, conditional uses, and variances are vital parts of the implementation vehicle. With the exception of Florida, all states either have or are in the process of developing guidelines on governments issuing permits and granting variances. In

most cases, such state guidelines closely reflect provisions of the enabling act. Usually the legislation specifies the extent to which a state agency can establish procedures and criteria for local governments to follow in reviewing permits, granting variances, and allowing conditional uses. This legislative direction contrasts with the broad latitude given to the state administrative agency's design of a process for program preparation. Most of the problems of local implementation and state appeals stem from ill-conceived provisions, faulty language, or omissions in the enabling legislation. Maine, Wisconsin, Michigan, Minnesota and Washington require permit regulations to be an integral component of the program that is submitted for approval. California and North Carolina have separated the components of a coastal program into two steps: land use plan and implementation arrangement. First, the state reviews and approves or denies the land use plan. Depending on the outcome of the land use plan review, an implementation arrangement consisting primarily of zoning ordinances is then prepared. In California and North Carolina, a year or more may pass between submission of land use plans and submission of the implementation arrangement. The two step process and the time delay may cause some problems, as discussed in Section 7.9.

The enabling acts and guidelines of shoreline zoning states are quite specific on the types of activities that must be regulated as well as criteria and minimum standards for obtaining a permit. Wisconsin, Minnesota, and Maine have set standards on minimum lot size, placement of structures in proximity to the water, vegetation removal, and waste disposal facilities. The three states also require an administrative structure for issuing permits and granting variances from the state's minimum standards.

Relationship between Program Development and Implementation

Local governments often look ahead to implementation mechanisms before deciding on land use designations that would significantly lower or restrict development expectations (as described in Section 7.9). Many public policy analysts have observed that "there is no point in having good ideas unless they can be carried out."

> The great problem is to make the difficulties of implementation a part of the initial formulation of policy. Implementation must not be conceived as a process that takes place after, and independent of, the design of policy. Means and ends can be brought into somewhat closer correspondence only by making each partially dependent on the other.[3]

There are two parts to the means-ends connection. The local government must know how to translate a state policy into language or a map that will function as an operative part of the local program. Secondly, the implications of applying a policy must be assessed *and* shown to be capable of being accommodated within the political milieu of local government. Cities and counties are -- with good reason -- reluctant to prepare, adopt, and implement a land use plan that significantly restricts or decreases the expectations of local property owners or developers without being reasonably assured that a package of techniques (particularly acquisition or compensation funds) and the state's legal backing will be available to buttress the plan.

Important Variables

Review of the states that have reached the stage where local governments are implementing programs indicates at least 5 variables are important in the success or failure of the operation.

-Belief by local government officials, influential leaders, and local interests that the program -- if implemented -- will be in their net benefit (or wide-spread public support)

-The information that state and local governments have to base permit decisions that carry out the local program

-The staff and technical capabilities of the local government and state agencies to review permit proposals and determine compliance on those permits that have been granted

-The legal devices and penalties that the state and local governments can use in the advent of a potential violation or an alleged violation

-The willingness of the state to prosecute willfull and/or flagrant violators of the local program in those jurisdictions that cannot afford to take adequate action.

The legal remedies that constitute the program's enforcement authority are a particularly troublesome aspect of implementation and merit a brief review.

Enforcement Authorities

Figure 5.5 depicts the variation in enforcement authorities among states. As one would expect the earlier states passing CPP legislation had weaker enforcement authorities than the latter states. The American Law Institute's recently proposed Model Code has one of the stiffest sets of enforcement authorities.

FIGURE 5.5 ENFORCEMENT AUTHORITY

	Fines	Prison	Equitable Remedies	Enforcers	Other
Wisconsin			Yes	-County Board	Discretionary by County Board.
Minnesota	Punish as Misdemeanor		Yes	-Local Govt. -State Agency -Any Taxpayer (Mandamus)	
Michigan					Commission shall make whatever rules necessary to implement Act's purposes. Court shall issue whatever order necessary to enforce.
Maine	$100 ($500)	No	Yes	Local and State Agency	
Washington	$25-1,000 (subsequent violations: $500-10,000)	90 days	Yes	Local/State	Attorney fees at court's discretion.
Oregon	$100 (1,000 limit) per day or $500 (if single offense)		Yes	State Agency Local. Any person with interest in real property	
North Carolina	$100-1,000 civil - $1,000 (willful - $1,000)	60 days	Yes	Local/State	State agency can assess $1,000 fine and additional $1,000 for "wilfull violations."
California	$10,000(civil) $50-5,000 per day for intentional violation & exemplary damage		Yes	Any person	Exemplary damages allowed and court uses its discretion.
ALI Model Code	$500 and up to $200 per day	No	Yes	-Local Govt. -Specified Priv. Parties	Persistent offenders can be fined up to twice the pecuniary gain. Power to enter and repair at owners expense.

A basic consideration to the enforcement issue is identifying the desired effects or purposes. Specifying the purpose of a statute under which a sanction is imposed is not often an easy task. Furthermore, the existence of multiple and perhaps even conflicting purposes injects additional confusion into the process. A clear understanding of purposes is essential nonetheless to assist administrators in exercising discretion when applying the statute and Judges in specifying the type and nature of the sanctions themselves.

A statutory sanction, should be closely "tailored" to the statute's purposes (i.e. the desired effects). A sanction which is perceived by administrators to be too harsh will not be rigorously enforced. On the other hand, a too lenient sanction will fail to provide adequate compliance incentives.

Once the purposes of the collaborative planning act have been identified, a number of legal devices are available to promote compliance and to assist in the implementation of statutory objectives. Menetary fines may provide economic compliance incentives. The size of the fine largely determines its efficacy as a sanction. A minimal fine will often be treated as a mere "cost of doing business", whereas an excessive fine may not be applied because of its perceived "harshness." Modern statutes, such as the ALI Code and the California Coastal Act, provide some degree of judicial flexibility in setting certain types of fines in order to take account of local conditions and extenuating circumstances.

Prison sentences provide social and psychological compliance incentives. Statutes in North Carolina, Washington, and Florida allow for the imposition of prison sentences for certain intentional violations. Prison sentences may be too harsh in light of the nature of the offense and thus

not rigorously imposed by administrators. The higher standards of proof required to convict, and greater procedural protections add more burdens to administrators and thus further reduce efficacy of enforcement. However, for certain types of offenders (e.g. intentional, repeated) prison sentences may still be an effective and desirable sanction. Prosecution of the Jacobson violation in Washington is a case in point. (Appendix E, p.___).

Civil damages remedies—which may include the cost of restoring the affected area to its pre-violation state--serve the dual purpose of providing strong economic compliance incentives and eliminating damages done by the violation. Some statutes (Washington) specifically authorize private civil remidies for violations of the acts, although in other jurisdictions a civil remedy may be implied. Litigation costs may also be assessed against the violator providing a substantial economic compliance incentive, while at the same time, by creating a lucrative "stake", a highly effective enforcement incentive for private attorneys (making highly qualified legal help available).

Various forms of equitable relief including temporary restraining orders, preliminary and permanent injunctions, and declaratory judgements can also be effective sanctions. These devices can be used to preserve an often fragile status quo, preventing irreparable harm while the underlying issues are litigated. A strong economic compliance incentive may also be created because of the often increased project costs due to inflation, rising materials and labor costs etc. Bonding requirements, on the other hand, serve to counterbalance this incentive.

Statutes may also grant the local government the power to enter the land and repair or abate the violation at the owners expense (as provided by the ALI Code). Use of this power removes control

from the owner over costs and nature of the repairs, therefore, a strong compliance incentive exists.

A number of other procedural devices can substantially affect enforcement and sanctioning. Liberal class action rules increases the stakes involved for both defendant's and plaintiff's attorneys. Broad grants of standing expands the class of enforcers. Reduced bonding requirements for certain forms of injunctive relief also minimizes burdens on the class of plaintiffs and reinstitutes the economic compliance incentives mentioned above. Judicial or statutory manipulations of burdens of proof and presumptions can assist (or hinder) enforcement. These should be kept in mind in analyzing overall enforcement and sanctioning strategies.

ALI Code

Primary enforcement powers are held by the local government. Specified private parties are authorized to bring a civil action to prevent, restrain, correct or abate Code violations. However, only the local government may prosecute violations of its enforcement orders.

The first step toward enforcing Code compliance is the issuance of an enforcement order by the local government. If the required actions specified in the order are not met by a certain time, a fine not exceeding $500 may be imposed. Continued failure to comply can result in an additional fine up to $200 per day. Persistent offenders (two or more convictions) can be subject to additional fines not to exceed "...double the pecuniary gain derived from the offense." The "Note" following this section describes subsection 2 as designed to permit the imposition of an aggravated fine on the offender who regards it as a "business expense."

The Code also authorizes the local government to enter the land, correct the violation, and collect from the landowner. Varying degrees of judicial overview are presented among these alternative constructions.

Wisconsin

The County Board has the primary enforcement responsibility for Wisconsin shoreland zoning. The Board may establish whatever rules and regulations and whatever fines and penalties it desires. Any injunctive relief necessary to enforce compliance is also expressly authorized in the Act.

Minnesota

Enforcement of shorelands regulations is vested in both the local government entity and the state Commission of Natural Resources. Violations of the Act are punishable as misdemeanors. Particular municipalities may enact penalties for violations of municipal ordinances. Other forms of relief for violations of planning or zoning are also available. Any taxpayer of the county may institute mandamus proceedings to compel enforcement by local officials.

Michigan

The state commission may promulgate whatever rules necessary to implement the purposes of the Act. Upon a showing by the commission that a violation of its rules has occurred, a court shall issue any necessary order to correct or prevent the violation.

Maine

Primary enforcement authority under each of the acts is granted to the local governments. However, if the local governments fail to properly enforce the ordinances created pursuant to the acts, the state can intervene.

In the Shorelands act, the Attorney General is directed to seek a court order requiring the municipal officers to enforce the ordinances. State guidelines for local implementation authorizes any legal actions to enforce the ordinance but establishes a minimum fine of $100.

Washington

Enforcement responsibility rests with the Attorney General and local governments. They are statutorily authorized to bring "injunctive, declaratory or other actions" to insure compliance. Civil actions may be brought by the above-mentioned officials for damages to public property, and by private parties on their own behalf. The court may require restoration of the affected area and has the discretion to award attorney's fees and costs.

Willful violators may be found guilty of a gross misdemeanor, punishable by fines ranging from $25-$1000, and up to 90 days in prison. Subsequent violations are punishable by increased fines up to $500-$10,000.

Oregon

The State Land Conservation and Development Commission, local government or any person whose interest in real property is or may be affected by the violation may bring an action to enforce land use regulations. Equitable relief (including restoration costs) can be obtained by any of the above-mentioned parties. Violations are punishable by fines of $100 per day of violation up to a maximum of $1000. If the offense is non-continuing, the maximum fine is $500.

North Carolina

Enforcement is deemed a concurrent state-local responsibility. Primary responsibility rests with the local government. However, if they fail to

administer or enforce an approved management program, the State Coastal Resources Commission with the resources of the Attorney General's Office assumes enforcement authority.

Knowing or willful violation of the Article is a misdemeanor with a fine of $100 to $1000 and not more than 60 days imprisonment. Any appropriate civil actions including injunctive and declaratory relief are expressly authorized in the Article. These civil actions may be brought by the Department of Natural and Economic Resources (for any violations) or by a local government (arising from permits for minor developments). Civil penalties of up to one thousand dollars may be assessed by the Coastal Resources Commission for specified violations. An additional $1000 penalty may be assessed by the Commission for willful violations. Each day of continuous violation constitutes a separate offense.

California

In addition to enforcement by the appropriate governmental entities, any person may maintain an action for declaratory or injunctive relief to enforce the duties imposed upon any government entity by the Act, or to recover civil penalties.

Civil fines up to $10,000 may be imposed for any violation. For intentional and knowing violations, an additional fine of $50-$5,000 per day may be imposed. The Coastal Commission may maintain an action for exemplary damages, the size of which is left to the discretion of the court. The Act directs the court in exercising its discretion to "...consider the amount of liability necessary to deter further violations."

5.7. Monitoring Program Implementation

Figure 5.6 indicates that states have not given much consideration to monitoring local program implementation. In fact, Wisconsin, Minnesota, Michigan, Maine, and Florida do not even require local governments to forward copies of permit decisions to the administrative agency. However, if the state received copies of all the permits that implemented the local program, in most cases, there are not enough staff members to handle the task of reviewing such a pile of documents in a systematic fashion appropriate to program monitoring.

There are two dimensions and two levels to local program monitoring. The two dimensions are:

- -determining if the impacts of the program are exceeding desired standards;
- -assessing the extent to which the local government is complying with the certified coastal plan.

The two levels of monitoring are:

- -detection by local government of violations;
- -detection by the state of violations by various cities and counties (either in not obtaining a permit or not complying with conditions of the permit).

A system for monitoring local programs also has the advantage of providing information on the actual casue and effect dynamics of systems. Monitoring provides the data necessary to develop and refine models for quantitatively predicting impacts--particularly cumulative impacts. To date, only Washington state has developed a monitoring system.

> Maintained by the Department of Ecology, the system contains a computerized record of the 4000-plus shoreline permit applications submitted to date. While no claims of perfection are made, the information is a gauge of trends since passage of the Shoreline Management Act, and can serve as an aid to enforcement.
>
> For each application, information on the physical location of the proposal is recorded, along with the intended and existing uses, environmental designation, the lineal feet of shoreline affected, and even whether the client is a public agency or private entity or individual.
>
> The system was organized in 1973, two years after the shoreline substantial development permit system had gone into

FIGURE 5.6

State Approaches to Monitoring Local Implementation

	Monitoring Requirements	Time Schedule
WISCONSIN	DNR periodically reviews and evaluates administration of regulations DNR receives copies of amendments, variances, plan approvals, appeal cased from counties	periodically
MINNESOTA	DNR informed of any variance or conditional use decisions by county or municipality DNR informed of any approved plans and proposals for plans inconsistent with the ordinance by locality	10 days before hearing and 10 days after action
MICHIGAN	DNR field staff monitors activities in designated areas	
MAINE	SPO receives copies of variances granted by Boards of Appeals	
WASHINGTON	DOE shall review any master program under its jurisdiction	periodically

	Monitoring Requirements	Time Schedule
OREGON	DLCD reports monthly to legislative land use committee	monthly
	County L.U. Coord. reports annually to LCDC; reviews local plans annually	annually
	DLCD reports biennially to legislature	biennially
	LCDC reviews local programs (see step 3)	annually
NORTH CAROLINA	CRC reviews all local ordinances not affecting AEC's for consistency with land use plans. If inconsistency determined CRC shall transmit recommendations for modification to local governments	
	CRC shall review AEC's biennially for addition or deletion	
	CRC reviews local government administration and enforcement of approved implementation and enforcement programs	
FLORIDA	Local government sends report for state and regional review	every 5 years
CALIFORNIA	CC evaluates implementation of Act and reports to Governor and Legislature biennially	every 2 years
	CC reviews lcp every five years	every 5 years

> effect. The department hired temporary personnel to code information on applications already processed. Simultaneously, the regional office staff took on the task of providing the information, a task they handle routinely today.
>
> While limited use has been made of the data, the potential is significant. For example, by using the legal description of a piece of property, it is possible to within minutes ascertain if a permit has been obtained for ongoing work.
>
> It is also possible to learn quickly how many applications have been approved for a particular use--such as marinas.[4]

Washington's Shoreline Management Information System *may* be able to achieve the four objectives of a monitoring system listed above. A similar system ("Scorecard") was set up and operated by the University of Southern California for recording permit-letting decisions of the South Coast Regional Commission. The operating costs, the limitations of the data to achieve the four objectives of monitoring, and political repercussions; forced discontinuance of the Scorecard operation.

Washington state (Department of Ecology, "DOE") is also developing another type of monitoring operation; a coastal atlas.

> The goal ... is to provide an information resource for the management of the coastal zone program including shoreline impact assessment, permit issuance, comprehensive planning, and program revision. Furthermore, the information in map form will provide a general resource for the development of overall policies and guidelines regarding the coastal zone.[5]

Information is to be collected at a scale of 1:24,000, which DOE believes will permit relatively detailed single site analysis. The atlas will cover the entire 2,300 miles of coast (except for federal or Indian lands). The area mapped will extend from approximately 30 feet below mean sea level to approximately 2,000 feet inland of the mean high tide. The inland limit will be extended where there are significant coastal related features or conditions which might affect the caostal zone. The atlas map will be computer automated and reproduceable in colors. The

total cost for automated production of the atlas is estimated to be $466,000. It is noteworthy that coastal planners in local governments were actively involved in the decisions on atlas map categories, scale, coverage, and production system. DOE wanted to make sure that such a costly endeavor is directly relevant to local government's permit letting and revision of master programs and monitoring the implementation of the Shoreline Management Act.

On a nation-wide basis, numerous monitoring systems have been developed for specific environmental characteristics or public services (such as air quality, water quality, or transportation networks). Numerous governmental research reports have recommended that comparable systems be established for monitoring changes in land use plans and associated effects. It is somewhat surprising that more monitoring work has not been done in states following the CPP arrangement. The states, however, that recently passed CPP legislation will soon have to develop monitoring systems as a means of program evaluation.

In California, at least once every five years, the Coastal Commission will review the implementation progress of each local coastal program. If the Commission finds that implementation does not conform with the law, the Coastal Act provides that it may ask the Legislature for assistance. The Commission must report to the Legislature and Governor every two years on the progress toward carrying out the Act.

Monitoring is a key and substantial feature of the Oregon process. Both the county and Land Conservation and Development Commission ("LCDC") are to review all local plans annually to ensure that they are still in conformity to LCDC guidelines, and LCDC may revoke a compliance acknowledgement. Several reports on progress toward implementing the Act are

to be made:

- Annually, by county coordinating bodies and by the Department of Land Conservation and Development (DLCD).
- Monthly, to the Joint Legislative Land Use Committee. Biennially, by DLCD to the Legislature.

5.8. Appealing Actions Deemed to be Inconsistent with the Certified Program

A point of debate is the extent to which the state should have authority to overrule local government decisions that are determined to be inconsistent with the certified local program. Figure 5.7 illustrates that Washington, Oregon North Carolina and California have this authority.

A spokesman for the California League of Cities argued before the legislative hearings on the California Coastal Act that the appeals procedure is a key step in collaborative planning process.[6] The appeals process is a key step because it determines which governmental unit has the final say in review of proposed projects. The agency with the final say will be the focus of attention for project propónents and opponents. For those development proposals in which the state authority has final say, local governments, when they have their turn for reviewing the proposal, will be more or less bypassed in terms of information presented and action involved in support or opposition.

It is far more common for a state to have the authority to overrule permit approvals granted by local government *than* permit denials. With the increasing tendency by local governments to practice exclusionary

FIGURE 5.7

State Approaches to Appealing Actions

	Appeal Requirements	Time Schedule
WISCONSIN	DNR receives copies of local appeal notices from counties (The state does not have appeal authority)	
MINNESOTA	(This authority is absent)	
MICHIGAN	Citizen or locality appeals state area designation to an administrative judge	within 8 weeks
	Citizen or locality appeals state disapproval to NRC	within 30 days
	(State appeal authority of local decisions is absent)	
MAINE	(This authority is absent)	
WASHINGTON	Any person aggrieved by the granting or denying a permit may seek a review from the Shorelines Hearing Board DOE or the AG may obtain a review by the Shorelines Hearing Board of any final order issued by local government that grants or denies a permit	
OREGON	LCDC hears and acts on appeals of actions taken by state, city, county, or special district considered to be in conflict with statewide goals	

	Appeal Requirements	Time Schedule
NORTH CAROLINA	Permits issued by local government or the Secretary of DNER may be appealed to CRC	
FLORIDA	(This authority is absent)	
CALIFORNIA	Anyone appeals certain actions taken by local governments to the commission Anyone requests judicial review of local government actions not appealable to the commission	

zoning, however, states are assuming the authority to overrule local denials and impose projects on unwilling jurisdictions. For example, the California Coastal Act enables the Commission to reverse local government denials of energy facilities and public service projects (highways, water supplies, etc.).

Determination of program inconsistency by the state as the basis for overruling a local government decision will again be a matter of developing measures and standards to assess a project's deviation from the certified program. Determining whether implementation of the certified program is exceeding or may exceed desired standards will require the development of analytic techniques to monitor or predict incremental effects of projects as well as the cumulative effects of all potential projects within the same system.

If the state *has* the power to overrule local government decisions, criteria for taking such an action will have to be established. A particular problem in this regard is setting the threshold for appealing actions. If all projects can be appealed, regardless of size or potential impact, very little authority will have been delegated to local governments as a result of the collaborative planning process. This will be a disincentive for local government participation in the process. Setting a high threshold for appeals increases the likelihood that the state will not be able to intervene to control projects that will cause incremental or cumulative impacts that are inconsistent with the certified program.

5.9. Amending or Decertifying Local Programs

Assuming that planning is a dynamic and evolving process, local programs will require amendments to update provisions. The states have taken different approaches to the need for making amendments--as illus-

trated by Figure 5.8. States may have to impose a limit on the number of times the plan could be amended in one year. Otherwise the state may be inundated with a steady stream of amendments. The opposite situation may also occur, instead of too many amendments there may be too few. After working with an approved local program, the state may determine that substantial or more detailed planning is needed to correct evident defects or policy conflicts. However, states do not have the authority to require a program to be amended. In lieu of this authority the state may have powers to decertify an approved local coastal program discussed in the next subsection and illustrated by Figure 5.9.

The state can require local governments to critically review their programs at least once every two years or so. The critical review would be done as one aspect of the monitoring component (Section 5.7). The review should identify amendments that would better achieve both the objectives of the enabling act and the goals of the local program.

Wisconsin, Minnesota and Maine have had limited success in reviewing amendments to local programs. In these states, the local governments are not legally required to submit copies of proposed amendments to the administrative agency prior to adoption. Consequently, the state program administrators often learn about amendments after the fact.

The present trend is to use basically the same procedures for amendments as were used for local program preparation. The scale and detail of the procedures, of course, may be scaled down somewhat to match the significance of the amendment.

FIGURE 5.8

State Approaches to Reviewing Proposed Amendments

	Amendment Requirements	Time Schedule
WISCONSIN	County amends ordinance (optional) and sends it to DNR for approval (back to step 3) County amends ordinance to comply with any changes in regulations	
MINNESOTA	Municipality sends notice of amendments Commissioner of Natural Resources approves variances for smaller lot sizes than ordinances allows	10 days before hearing and 10 days after adoption
MICHIGAN	Locality amends ordinance (optional) and sends it to DNR for approval (back to step 3)	
MAINE	Municipality notifies SPO of amendments BEP/LURC may reject amended ordinances and impose their own (back to step 3)	
WASHINGTON	Any permit for a variance or a conditional use by local government must be submitted to DOE for approval or disapproval Local governments shall submit any proposed adjustments to the approved master program to DOE for review. No adjustments shall become effective until it has been approved by DOE	
OREGON	Locality brings plans into conformity with any new or revised state goals and guidelines	within 1 year

	Amendment Requirements	Time Schedule
NORTH CAROLINA	CRC reviews amendments to land use plan in same manner as review and approval of land use plan	
FLORIDA	DSP and county planning agency review amended plan in same manner as plan review (back to step 3)	
CALIFORNIA	Locality amends lcp (if desired) and sends it to commission for review (back to step 3) Public works or energy projects request commission to adopt an amendment	

5.10. State Sanctions if a Local Program is not Adequately Implemented

A number of state and local planners have observed that recalcitrant local governments can clearly circumvent the intent of the CPP if their actions are not obvious. If their actions are obvious Figure 5.9 shows what recourses states may take.

Four of the nine states do not have any explicit authority to impose sanctions. The absence of decertification powers may not be a substantial issue if there is a low threshold for state appeal of local development permits that are deemed to be inconsistent with an approved plan--such as the case in California. To the extent that a state can not decertify a program it will place more attention on appeals and take a harder position on granting approvals or denials.

FIGURE 5.9

State Sanctions if Local Government Does Not Adequately Implement its Plan

	State Authority	Time Schedule
WISCONSIN	DNR decertifies programs no longer in compliance	
MINNESOTA	Sanctions imposed if local program not adequately implemented. DNR adopts ordinance for locality, if feels existing ordinance is not compatible with regulations	
MICHIGAN	(No explicit authority)	
MAINE	The Attorney General shall make an order of the Superior Court of the county in which the municipality officials to enforce the zoning ordinance	
WASHINGTON	(No explicit authority)	
OREGON	LCDC withdraws plan compliance acknowledgement	
NORTH CAROLINA	If local government has not taken corrective action upon receipt of notification from CRC of administration deficiencies, CRC shall assume enforcement of implementation and enforcement program	90 days after notification
FLORIDA	(No explicit authority)	
CALIFORNIA	(No explicit authority)	

REFERENCES

1. Bardach, Eugene, "The California Coastal Plan as a Constitution," *The California Coastal Plan: A Critique*, Institute for Contemporary Studies, 1976. p. ____

2. Minnesota Department of Natural Resources, "Minnesota's Shoreland Management Program." p. ____

3. Pressman, Jeffrey and Wildavsky, Aaron, *Implementation*, University of California Press, 1973. p. ____

4. Washington Department of Ecology, *Shoreline/Coastal Zone Management*, Volume II, no 6, December 1977. p. ____

5. Washington Department of Ecology, "The Washington Coastal Atlas: An Overview," December 1976. p. ____

6. Beatty, David, Testimony before the California Assembly Committee on Energy, Resources, and Land Use, July 1976. p. ____

6. STATE DEVELOPMENT OF POLICIES AND GUIDELINES

For semantic clarity, policies are defined to include both the goals and objectives of the program. They may be very general in nature, such as Oregon's nineteen statewide planning goals, or drafted in specific terms, as are most of the 63 policies in California's Coastal Act.* In most cases, local governments and other affected entities are required by the enabling legislation to follow the state policies. State guidelines are usually the procedural and technical means by which a local government and other affected entities should comply with the policies. More often than not, guidelines are advisory recommendations, and not legally binding on local governments.

The state agency administering the collaborative planning arrangement gets the process started by drafting policies and guidelines to form the ground rules for local program development and implementation.

Figure 6.1 lists the approaches used by the nine states in developing policies and guidelines. In most cases the approach was dictated by the enabling legislation. The figure also illustrates that states occasionally failed to meet statuatory deadlines for adopting policies and guidelines.

States have drafted policies and guidelines to achieve three interrelated purposes:

- to construct an operable framework for the preparation of local programs that achieve the goals and objectives of the enabling act.
- to determine the extent to which government programs comport or conflict with the state's policies.

---

*The usual distinction between goals and objectives is that goals are highly generalized "motherhood" statements, and objectives are the more specifically focused intentions to achieve the goals.

- to establish a basis both for evaluating local programs submitted for state approval and for monitoring local program implementation.

A review of the approach the nine states have taken toward preparing policies and guidelines indicates that there are six procedural considerations in the initial step of the collaborative planning process.

- establish a state administrative structure.
- establish communication channels with local government.
- estimate local government's planning capability.
- estimate potential costs and assistance.
- develop a framework for program preparation, evaluation, and review.
- test the framework.

The following analysis of state development of policies and guidelines has been organized according to the six procedural considerations.

Figure 6.1

State Approaches to Development of Policies and Guidelines

	State Development of Objectives, Policies and Guidelines	Time Schedule	Date Completed
WISCONSIN	DNR sets standards and criteria for shoreland development.*	not stipulated in Act	11/67; rev. 8/70
	DNR prepares model ordinance (Shoreland Proptection Ordinance).	1/68	12/67
	DNR prepares manual (Shoreland and Floodplain Protection Manual.)	1/68	8/67
MINNESOTA	DNR classifies water bodies in unincorporated areas		/70
	DNR sets statewide standards and criteria for unincorporated areas	by 7/70	7/70
	DNR prepares a model shoreland management ordinance for unincorporated areas (Cons 77)	by 7/70	7/70
	DNR classifies water bodies in incorporated areas		1/76
	DNR sets statewide standards and criteria for incorporated areas	by 4/74	3/76
MICHIGAN	DNR identifies high risk areas to be regulated	4/72	
	DNR promulgates rules for high risk areas	4/72	12/73
	DNR identifies environmental areas	4/72	6/72
	DNR designates high risk areas	on-going	
	DNR designates environmental areas	on-going	
	DNR identifies flood risk areas	1/75	
	DNR promulgates rules for flood risk areas	1/75	3/76
	DNR prepares overall State plan (A Plan for Michigan Shorelands)		

	State Development of Objectives, Policies and Guidelines	Time Schedule	Date Completed
MAINE	BEP/LURC adopt guidelines	by 12/73	12/73
	Department of Inland Fisheries and Game identifies waterfowl breeding areas	by 1/73	
	SPO identifies rivers under Act's jurisdiction	by 11/73	9/73
WASHINGTON	DOE prepares and adopts guidelines	6/24/72	6/20/72
OREGON	LCDC sets statewide land use goals and guidelines	by 1/75	1/75
	OCCDC develops initial coastal policies, necessary & recommended actions	by 1/75	3/75
	LCDC sets land use goals and guidelines for coastal resources		12/76
	LCDC may develop model ordinances		
	LCDC prepares an evaluation workbook		9/76
NORTH CAROLINA	CRC prepares and adopts guidelines	1/27/75	1/27/75
	CRC may amend guidelines from time to time		
	CRC designates areas of environmental concern (AEC)	3/1/78	6/22/77
	Secretary DNER develops criteria for local implementation and enforcement programs		
	CRC shall adopt criteria for local implementation and enforcement programs	3/1/76	2/19/77
FLORIDA	DCA prepares guide for local governments		9/76

	State Development of Objectives, Policies and Guidelines	Time Schedule	Date Completed
CALIFORNIA	CC prepares Coastal Plan	by 12/75	12/75
	Leg. adopts Coastal Policies	by 8/76	8/76
	CC adopts mapped Coastal Zone	by 3/77	3/77
	CC adopts guidelines and common methodology	by 4/77	5/77
	CC adopts schedules for processing local coastal programs	by 1/78	
	CC designates sensitive coastal resource areas	by 9/78	

6.1. Establish a State Administrative Structure

The enabling act usually specifies the institutional arrangement for state administration of the program. The formation of a state administrative network is a prerequisite for initiating the collaborative planning process. In at least three states, fragmentation of state administration substantially hindered progress on the first two steps of the CPP. Enabling laws of Maine, North Carolina and Florida either did not clearly specify which agencies would administer various aspects of the law, or divided responsibility among several institutions. In Maine the state was unable to develop guidelines for local program preparation, much less establish communication channels with local government, until the enabling act was amended to assign clear administrative responsibilities to the state agencies. A description of North Carolina's evolution in administering its Act (CAMA) illustrates the effect organizational arrangements can have on state-local communications.

The Secretary of North Carolina's Department of Natural and Economic Resources (DNER) and other highranking officals decided very early in the development of the CAMA program not to create a separate administrative and technical organization to provide the Coastal Resources Commission (CRC) with its own staff capability. It was argued that State government was large and departmentalized enough without creating another bureaucracy for coastal zone management. Instead, personnel from 3 divisions of DNER (particularly the Division of Community Assistance), the Office of State Planning, the Office of Coastal and Marine Affairs, the state universities, and federal agencies, were borrowed from their existing positions to form an ad hoc advisory staff for CRC. Staffing such a "hydra-headed" administrative arrangement with part-time or on-loan employees led to some

monumental coordination problems. Since state agencies could not readily agree on program direction, local governments were often left in the dark or received confusing instructions. By late 1975 it was decided that CRC needed a full-time staff directly accountable to the Commission in order to resolve state coordination problems and disseminate information to local governments in a timely manner.

There is a close connection between establishing an administrative arrangement and forming communication channels with local government. Cities and counties will have enough problems coping with the state's various policies, guidelines, directives, and information without the added confusion caused when state agencies send out uncoordinated and sometimes contradictory signals.

6.2. Establish Communication Channels with Local Governments

State efforts to establish communication channels with local government have been complicated by three factors: the number of jurisdictions, the diversity among localities, and resistance to the basic tenets of collaborative planning.

The state agency will have to deal with a swarm of city and county governments and special districts, as well as an array of state and federal agencies. Indeed, the total number of local governments that some of the nine states must work with is amazing:

Wisconsin - 72 counties (cities exempt)

Minnesota - 87 counties and 613 cities

Michigan - 41 counties, 74 cities and 190 townships

Maine - 442 cities and towns (counties do not have planning authority)

Washington - 39 counties and 190 cities

Oregon - 36 counties and 241 cities

North Carolina - 20 counties and 43 cities

Florida - 67 counties and 389 cities

California - 15 counties and 54 cities

Establishing communication channels may be more appropriately termed "initial" attempts to overcome local resistance. In most states, many local governments actively opposed the passage of the act establishing the CPP. This is an understandable position, since all organizations resist encroachments upon their authority. Predictably, local officials and legislators from affected jurisdictions made use of all the familiar arguments *for* home rule and *against* erosion of a government that is most responsive to local needs. A smattering of examples drawn from the state analyses illustrates the range of local resistance.

In Minnesota, counties felt that their present ordinances were sufficient to protect their lakes and rivers, and in others there was simply substantial grass roots opposition to any form of zoning controls -- especially any mandated from the state.

Maine, perhaps more than other rural states analyzed, is characterized by its residents' "independent-mindedness." There is concomitant distrust of land use regulation and state government programs. Several code enforcement officers interviewed pointed out that local officials and shoreland property owners were at first hostile to the Shoreland Zoning Act because they saw it as a state action that had been shoved down their throats.

The majority of Washington's counties and cities voted against the Shoreline Management Act when it appeared on the ballot as a voter initiative measure. Sentiment against the measure was strongest in rural counties and small cities, which compromise the majority of Washington's 295 local jurisdictions.

Sponsors of Oregon's statewide land use planning and management bill had to overcome the coolness of legislative leaders and the outright hostility of rural opponents, ever suspicious of state intervention in local affairs.

In North Carolina, legislators from coastal districts generally opposed the Act as an attempt by representatives of the more populous Piedmont regions to impose land use regulation upon coastal cities and counties for the benefit of inland residents. Despite a strong and well-organized opposition, proponents managed to maneuver passage of the bill during the legislative session's eleventh hour.

Opposition seemed to concentrate in two camps. Rural jurisdictions generally resented any state mandate as an invasion of big government and a loss of local self-determinism. Larger cities and urbanized counties were opposed to requirements forcing them to reconsititute existing planning arrangements or rework and amend already-established land use plans.

Relatively few local governments and affected property owners looked favorably upon the collaborative planning process when it was enacted into law. As a result, states have had to begin from a negative position and work hard at getting on the positive side of local government. They have used various communication techniques for selling the program. Figure 6.2 lists four of the more commonly used techniques. An analysis of Wisconsin's collaborative process strongly recommended that:

> County and state personnel whose operations interact need improved awareness of each other. Each needs to know who the interacting personnel are, what they can and cannot do; what they do and do not know; and each needs at least rudimentary knowledge of the bureaucratic/political environment within which the other operates. This can be accomplished by:
>
> a. Training/orientation programs for new employees and refresher courses for older hands.
> b. Attendance by county personnel at state agency briefings, agency meetings; and the converse.

c. Sharing of documents.
d. Establishment of newsletters bridging gaps between agencies and levels of governments.[1]

Given the hostility to state intervention in local affairs, one of the most significant actions an administrative agency can take at the outset of the process is to prepare and widely distribute a short, easy-to-read brochure explaining in layman terms what the program is and what it is not. A clear outline of what the program is *not* appears to be a hard necessity. Opponents of the program have been quick to play upon the apprehensions local officials, community groups and property owners have about state intervention by spreading distortions and half-truths on provisions of the enabling act.

California, North Carolina, Washington, Maine and Wisconsin have produced brochures as a reaction to expressions of outrage by individuals and organizations that were misinformed about provisions of the program. Yet instead of merely reacting, states should produce a brochure that anticipates the arguments and distortions of program opponents.

The nine states have taken a number of approaches to establishing communications links with local governments--as listed by Figure 6.2. States have used at least one of the organizational arrangements and one of the four communications techniques listed in the Figure. Interviews with state program managers indicate that local government representatives should have direct participation in state policy-making bodies. This has been achieved in two ways. Local government officials serve as members of a commission or board that administers the act (or its appeal provision) *or* serve on a board that advises the state agency administering the Act.

In California and North Carolina, the state-local composition of the administrative agency has been cited as an incentive for local govern-

FIGURE 6.2

Arrangements for Facilitating State-Local Communication

	WISCONSIN	MINNESOTA	MICHIGAN	MAINE	WASHINGTON	OREGON	NORTH CAROLINA	FLORIDA	CALIFORNIA
▶ ORGANIZATIONAL ARRANGEMENTS									
Regional offices or commissions	X	X	X		X	X	X		X
Local government representatives appointed to the administrative and/or appeals agency				X	X	X	X		X
Local government representatives on a board to advise the state administrative agencies			X				X		
Local government advisory board						X			
Organize or support a task force or ad hoc group of local government officials to advise the state administrative agencies					X				
Hiring local government planners on the state's administrative staff					X	X	X		
Assist in forming an association of local program managers	X				X				
▶ COMMUNICATIONS TECHNIQUES									
Widely distributed brochures and media presentations on the program	X			X	X		X		X
Organizing workshops or seminars for local program managers	X		X	X	X			X	X
Publish a newsletter on local program development			X	X	X		X		
Program preparation mannual(s)						X		X	X

ments participation in the collaborative planning process.* Local governments should have some degree of confidence and rapport with a state agency whose members are often attuned to the realities of plan making at the grass roots level. It is also clear that local government representation on the state commission should strengthen the hand of locals negotiating with the state to develop a plan that is acceptable to both perspectives.

Most of the states have decentralized administration of their program into regional offices (commissions in California). It is argued that regional offices provide a greater opportunity for a close working relationship with cities and counties than does a centralized state administration, thereby increasing the likelihood of developing good rapport between the state and local levels of government.[2] In California, however, a number of local governments have established better relations in planning matters with the state Coastal Commission than their regional commission.

State sponsored workshops have provided a relatively successful means of establishing and maintaining state-local communication. California intends to hold a series of workshops with local planners during program development. These will cover the various procedural and technical aspects of the state policies and guidelines.

Maine's principal approach to state-local communication has been to convene workshops on a region-wide basis. These sessions were also designed

---

*Under the California Coastal Act of 1976 the State Coastal Commission will consist of 15 members, six of which will be a combination of county supervisors or city councilpersons. In North Carolina, the Coastal Resources Commission also consists of 15 members, three of which are to be appointed by the governor from a group of nominees submitted by cities and counties. In Washington, the six member Shorelines Hearing Board is composed of one representative from the Association of Counties and one from the League of Cities.

to allow local officials to ask questions and discuss the problems their municipality was having in applying the program to their jurisdiction. Thirteen workshops were hold over a two-year period. One month prior to each workshop, a letter is sent to the town selectmen or city councilmen, the planning board, and the town manager, if one exists. If the state has any specific concerns about the ordinance these are outlined in the letter so that the town or city is aware of potential problem areas ahead of time. Representatives from the three state agencies administering the Act meet on an individual basis with representatives from the municipality (usually a selectman, a planning board or conservation commission member, and the code enforcement officer). The individual sessions may last an hour or more and the meetings have sometimes been conducted over a two-day period, with most of the sessions held in the evening. Meetings have been scheduled with as many as twenty-six towns during the two days.

Wisconsin's Department of Natural Resources was instrumental in establishing a state-wide association of county zoning administrators. One reason for forming the association was to facilitate information exchange among the local officials in charge of the Shorelands management program.

In Washington's Puget Sound area, a particularly successful communication arrangement has been developed. County and city planners who directed the preparation of the local programs have met on a periodic basis to discuss common problems. The resulting Puget Sound Shoreline Planners Group has met about once every two months, and during the last four years has served as a sounding board for Department of Ecology proposals, as well as an initiator of ideas to improve the development and implementation of local programs.

An analysis of Wisconsin's program pointed out that communication channels should:

> help rid state-county relationships of frictions caused by one or both parties being ignorant or misinformed about the other. Frictions based on parties *disagreeing* with the accurately perceived positions of the other are another matter.[3]

Disagreements between accurately perceived positions of local and state government is to be expected since it is the catalyst of the collaborative planning process.

Developing Mutual Respect

Any organizational arrangement or technique used to facilitate communication may be useless if the state staff develops a superiority complex and does not attempt to establish a relationship of mutual respect. A local program director in Washington State observed:

> If the local government people are the primary agents for carrying out the program, they must have dependable support from the state, federal and academic people with similar missions. This support must occur in all phases and aspects. The latter 3 groups must put their "superiority complex aside and start treating local staff as colleagues, professionals."[4]

The California analysis also concluded that establishing local rapport will require the commissioners and staff to shed their apparent distrust of local governments, present a position on local questions that is consistent and unified (regional and state), work with local planners, and support local officials who take appropriate but unpopular stands. One point repeatedly made by many local planners interviewed was that the key to a successful collaborative process lies in the development of mutual respect between the Coastal Commission staff members and the local planners involved in a local coastal program.

North Carolina's Coastal Resources Commission (CRC) recognized the need for diplomacy after many local governments took offense to the harsh

and condescending language of critiques on their draft programs. Critiques were delivered in informal letters, and many were harshly worded ("like a teacher scolding a child").

North Carolina found out that the point of contact with local government can also be a trouble as well. In most of the coastal cities and counties the elected board or council was kept informed of CRC guidelines and land use plan criticisms by the planning director or the hired planning consultant. The executive secretary of CRC believes that the biggest lesson learned while land use plans were being prepared was the need for direct contact with both local planners and government officials. It was wrong to rely solely upon the local planners to convey information between the state and elected officials. "To the maximum extent possible, CRC should have communicated directly with county commissioners and city councilmen."[5] Also, the Coastal Resources Advisory Council* (CRAC) failed to provide the link in all the counties it should have because of poor attendance by its members. Local planners and planning consultants, caught between state directors and local government politics, tend to play both ends off against the middle. Local officials will be told what they want to hear, not necessarily what CRC said (or the full context in which it was said). Similarly, local officials' reactions to state guidelines and criticism may be interpreted by the local planner so as to give CRC a more favorable impression of local plan development than local conditions might warrant.

States with permitting power and the authority to reverse local permits while the local program is being developed will have another communications channel between the two levels of government. To the extent

---

*Composed largely of local government officials.

that the state reverses local government decisions, and particularly those backed by strong popular support, the interim permit authority can damage state-local communications. The California Coastal Commission, for instance, appeared to have made more enemies than friends in local government during its four year history of permit-letting under Proposition 20.

6.3. Estimate Local Governments' Planning Capability

The collaborative planning process was initiated by rural states to develop a capability for planning and managing resources of state concern in non-urbanized counties and small cities. Except in California, collaborative planning is still largely a mechanism for getting laggard jurisdictions up to speed in environmental planning. In five states the majority of local governments did not have a planning department prior to passage of the enabling act--as illustrated by Figure 6.3.

A state can not expect local governments to simultaneously develop a planning institution and prepare a program that requires state-of-the-art planning. As a number of local planners in rural jurisdictions noted, "you can't expect much the first time around". The shoreline management program in Maine, Wisconsin, Minnesota and Michigan can be criticized for the simplistic approaches taken to resolving complex problems, but the programs did match the limited planning capabilities of local government at that time. It is doubtful the state could have gotten much more out of the small cities and rural counties, particularly in light of the meager state and federal assistance for program preparation. For example, the North Carolina Coastal Resources Commission requested local governments to conduct carrying capacity analyses of their environments and public service systems. Even if local government had the information and the time to conduct such analyses (which they did not), most of them did not have the

technical capability to make the calculations and relate the findings to the planning process.

Institutions enbarking on new programs, and especially a new agency created to implement a program (as in California, Oregon, and North Carolina will be conservative in drafting regulations lest they overstep their political bounds and provoke opposition from powerful, well-entrenched bureaucracies and interest groups.

Estimation of local governments' planning capability cannot be separated from assessing the political feasibility of the guidelines. Two questions must be asked--what can local government do, and what can local government live with--as illustrated by an analysis of the Minnesota program:

> First, the DNR's minimum standards had to be sufficiently simple for administration by rural county governments, some of which had had no experience with even the crudest forms of zoning, and few of which were likely to hire a large planning staff. In Cook County, north of Lake Superior--where there are more bears than lawyers--who needs a floating zone? Quite deliberately, the DNR's planners avoided every sort of procedural complexity. Too, they were inhibited by the novelty of statewide shoreland zoning: Even in Wisconsin the system was new, and the other states had no significant regulations or advice to offer. Third, the DNR realized that, without considerable support from rural officials and landowners, their standards might fail. Wisely, the authors of the shorelands bill had kept its language simple and bland, enabling the legislature to delegate power without having to endorse any specific regulations. Consequently, it was the bureaucrats, not the politicians, who had to decide which rules were politically acceptable. If they misjudged popular sentiments, the legislature could always retaliate.
>
> Conscious of this responsibility, the DNR discarded some ideas as too controversial. One such idea was to regulate shoreland farming. Scientifically, it makes no sense to regulate septic tanks while ignoring agricultural land use, which in some regions of the state appears to be a more significant source of pollution. Then too, the edge of the lake sometimes blends imperceptibly into marshes and sloughs that a farmer may wish to drain. So if the hypothetical lake map had depicted farmlands, they--like the houses in the cluster development--would probably have been separated from the lake by a buffer of marshes and trees. But farmers of course are an extraordinarily powerful pressure group. Already embroiled

FIGURE 6.3.

STATUS OF LOCAL GOVERNMENT PLANNING AT PASSAGE OF ENABLING ACT

	No. of jurisdictions which must prepare plans	% of jurisdictions with planning staffs	% of jurisdictions with comprehensive plan or zoning ordinance
Wisconsin	72 counties	28%	69%
Minnesota	87 counties	less than 50%	40%
Mighigan	41 counties		majority
Maine	442 municipalities	less than 30%	29% planning process 20% zoning
Washington	15 coastal counties 38 coastal cities	80% 30%	80% 100%
Oregon	277 cities & counties	less than 50%	50%
North Carolina	43 cities 20 counties	4% 20%	
Florida	389 cities 67 counties		66% 55%
California	54 cities 15 counties	88% 100%	95% 100%

> in a largely futile effort to curb agricultural drainage of wetlands, and well aware that in many counties opposition from farmers could force local governments to resist shoreland zoning, the DNR decided that it could not successfully control farming around lakes. Hence the statewide standards do not restrict agricultural pollution; nor do they prohibit drainage of wetlands adjacent to lakes.[6]

In drafting policies and guidelines, the state must keep one eye on the enabling act, legislative intent, and other relevant state programs; the other eye on local governments' capability to prepare a land use management program. In general, states have focused on the former, viewing the latter myopically. States have drafted policies and guidelines without comprehending local government's ability to follow them and develop the desired product. The task of estimating local governments' planning capability should be closely tied to testing the planning framework. The feedback the state receives from these tests will serve as a good indicator of whether cities and counties can do the job within the time and resources available. In order to obtain a better understanding of what really could be expected from local government and local planning operations, both Oregon and North Carolina hired planners that had been previously employed by cities or counties.

It is particularly important that the state develop guidelines that local governments can understand, since these will provide the first exposure local governments will have on the state administration of the program. For instance, Oregon's Department of Land Conservation and Development made a poor first impression with many local governments when it produced a handbook to assist program preparation. Local governments with little experience in planning found the handbook overwhelming, while cities and counties with established planning operations considered it too simplistic. Given the wide range in local government's previous

experience in planning, it is to be expected that a number of jurisdictions in any state will find the guidelines too simplistic or complicated. The state usually aims for the broad section of jurisdictions in the middle of the planning experience spectrum.

A number of local planners and several state administrators have suggested that urbanized areas with well established planning programs be given a different set of guidelines and planning framework then rural jurisdictions that are just setting up a planning institution. In urban areas the guidelines would primarily deal with integrating existing planning programs with the collaborative process. In rural areas the guidelines would primarily deal with integrating existing planning programs with the collaborative process. In rural areas the guidelines would focus on establishing a planning institution and conducting basic analysis. Minnesota developed a different set of regulations for municipalities than the predominantly rural counties. Oregon simplified its procedures for small jurisdictions so as to increase understanding.

Figure 6.3 also indicates that there are considerably more plans than than planning departments. Small cities and rural counties cannot support a planning staff. HUD 701 grants and occasional state assistance enable these jurisdictions to hire a consultant to prepare a comprehensive plan and zoning ordinance. Frequently, plans prepared in this way only amount to a paper exercise designed to obtain federal support of capital works projects.

A number of states have conducted surveys on the status of local government planning. In most cases the surveys merely identified readily available basic information, such as jurisdictions with planning departments, size of staff and budget, adopted plans and ordinances. With one

exception, states did not analyze the effectiveness of local planning activities. Wisconsin's coastal zone management program assessed the capabilities of county land regulation programs by means of personal interviews with county zoning administrators and planning directors, as well as content analysis of county zoning ordinances. The Wisconsin analysis indicated general problem areas in local government's planning capabilities.

> There is a good deal of variation with respect to nature and coverage of land use ordinances among Wisconsin's Coastal Counties. In some counties public policies, embodied in codes, are asserted fairly powerfully into the process of land use change. The net effect of the programs of other counties is to assert a feeble amount of government influence over land use decision-making. (Although even here, it seems to be true that most areas with little control are areas with little development pressure, and/or that a modest volume of regulations, when applied to a unique local situation, has an unusually large impact on development.[7]

6.4. Estimate Potential Costs and Assistance

There are four fairly evident reasons why the state should provide financial and technical assistance to local governments in preparing their programs. Assistance:

- helps overcome local government resistance
- improves the quality of the product
- reduces, delays and assists in timely completion
- enables a more critical review of the product

As discussed in section 6.2, local governments often resent the collaborative program as a requirement being shoved down their throats. Interviews in the states that have provided little or no financial assistance reveal (predictably enough) numerous complaints of the state placing the burden of program preparation on local government without adequate compensation. The argument is often phrased: "if the state wants it done, the state should pay for it." In response, state admin-

istrators often point out that the requirements are tasks that local governments should have already performed as guardians of the community's health, safety, or well being--tasks such as septic tank pollution control.

The state can't really expect local governments to prepare programs that meet the spirit of the Act, much less the letter, *and* do it within the required time period, unless they offer assistance and compensation.

There should be some fit between the effort the state administrative agency expects of local governments in preparing a program *and* the amount of support, in terms of grants and technical assistance, that state and federal programs will provide. The larger the extramural support to local government, the greater should be the state's expectations on what will constitute an acceptable local program. The state agency administering the collaborative programs will be on shaky political ground if it criticizes local programs for inadequacies that can be totally or even partially attributed to a lack of state assistance. It is futile for the state to draft guidelines containing a series of tasks that are beyond the financial and technical capabilities of local government. Moreover, dropping a financial burden on local government will provide cities and counties with potent ammunition for crippling or trimming the program in the legislature or the governor's office. In order to avoid burdening local government with a heavy financial load, the state should compare the costs of program preparation with the potential for state and federal assistance. If there is a wide disparity between the two, the administrative agency has three options: redraft the guidelines to bring down the cost of program preparation, seek additional assistance, or combine a redraft of the guidelines with additional assistance.

The state should calculate the cost of local program preparation, not only for testing the financial feasibility of its guidelines, but also

for responding to estimates made by local government associations or individual cities and counties. It is to be expected that the state estimate will be lower than estimates made by local governments.

As one would anticipate, state and local governments have had difficulty determining an adequate amount of assistance, particularly with direct grants. In Florida, the state blue ribbon committee that recommended the enabling legislation estimated it would cost at least $50 million to support all of the local governments that needed funding to prepare comprehensive plans. This committee recommended an initial appropriation of $3 million from the legislature, with the balance of the money to come from an increase in the surtax on real estate transactions (a similar arrangement to Vermont's funding of the state land use program). No funding was forthcoming for two years and state administrators were pessimistic about the willingness of local governments to pay for plans out of their own pockets. The manual to assist in program preparation (written prior to state appropriation of $750,000 on an annual basis) noted:

> Although the Act requires every local government to carry out an effective planning program, it provides no funds for this purpose. Therefore, each local government must fund its program through local revenues and available state and federal resources. While the lack of funding may be a deficiency of the Act, it can also help guarantee a meaningful planning process. Using their own resources, local governments may consider more carefully a planning program that relates directly to their needs.[8]

This optimism demonstrates how one can turn a problem into an attribute, albeit not a desirable one. Without state funding the local program will tend to be more parochial in nature.

Estimates have also been done in California and Oregon on the costs of local program preparation. The League of Oregon Cities calculated that

it would cost $28,000 for a city of 10,000 people to develop an acceptable plan. It is expected that the state and federal government will provide grants covering 80 percent of the funds necessary to prepare plans.

California's Office of Planning and Research estimated that local plan preparation would cost a minimum of $10,000 - $20,000 for jurisdictions with relatively little acreage and population in the coastal zone. Cities or counties with a considerable population and acreage within the coastal zone would spend upwards of $10,000. Several local governments have indicated that $100,000 was low and that their projected costs far exceeded this figure. Given that there are 69 coastal cities and counties, each jurisdiction would receive $24,000 per year if the monies were evenly divided. This will not happen, of course, but the $24,000 figure gives one a frame of reference for comparison of allocations.

The final environmental impact statement on the California Coastal Management Program notes that

> the total cost for all 75 affected jurisdictions to develop certifiable plans and programs may well exceed the 2 million to 2.5 million estimate in the *Coastal Plan.*[9]

In light of the $35 million spent by coastal governments on planning in FY 1976-77, even $2.5 million is a relatively modest sum.

The most difficult aspect of estimating local program preparation costs appears to be separating the tasks and costs required by the collaborative planning effort from the tasks mandated by other state and federal programs. In California, Oregon and Florida, the agency administering the collaborative process can claim that much of the work is already required by other state and federal statutes. It is work the local government would ordinarily have to do anyway, with or without the collaborative program requirements. Figure 6.4 shows the various programs in Florida that directly relate to the preparation of a coastal zone element. The

FIGURE 6.4 STATE FUNDING SOURCES IN FLORIDA

COASTAL ZONE PROTECTION ELEMENT

AVAILABLE RESOURCES AND APPLICABLE REQUIREMENTS

APPROPRIATE PROGRAMS & LEGISLATION	CONTACT AGENCIES		PLANNING ASSISTANCE			IMPLEMENTATION ASSISTANCE	REFERENCES			RECOMMENDED REVIEW [c]
	STATE	FED	FUND	DATA	TECH ASSIST		HALG [a]	OMB [b]	F.S.	
Beaches & Shores Preservation Act	DNR			●	●	●			161	
Beautification of Waterways						●			342	●
Florida Water Resources Act of 1972	WMD DER			●	●				373	●
Coastal Zone and Land Use Planning	DNR			●	●		NR-4			
Public Works & Devel. Facilities	DOC	DOC	●			●	EC-8	11.300		
Land & Water Conservation Fund	DNR					●	NR-11			
Tropical Forestry Assistance	DACS		●	●	●	●	NR-15			
Topographic Mapping Service	DOT			●			TR-6			
Fed. Coastal Zone Mgmt. Act	(RPA) DNR	DOC	●	●	●	●			370	●
Drainage & Water Management	WMD DER			●	●				298	●

[a] HALG - The Florida Handbook of Assistance to Local Governments, State Department of Community Affairs
[b] OMB - Catalog of Federal Domestic Assistance, Office of Management and Budget
[c] Review for Applicability during Preparation of Plan Element

collaborative process is just speeding things up and making local government more conscious of its responsibilities. Local governments have countered this argument by pointing out they were not adequately compensated for the other state or federal requirements imposed upon them.

The question of who should pay ultimately boils down to a determination of who benefits from preparing the program. If local residents will benefit more than the state, they will find it difficult to argue against funding their fair share of preparation costs. In California, the provision that stipulates local governments should be compensated for all preparation costs results from the good probability that in many jurisdictions the policies of the Coastal Act, if incorporated into local government plans, will be of greater benefit to non-residents than residents of the community. The residents of beach communities would not relish paying for a plan that calls for bringing in more recreationists, who are not only a tax liability, but also a burden upon local public services.

States have also had difficulty assessing potential assistance from various state and federal programs. Since the collaborative planning process cuts across many state and federal activities, it is first necessary to determine which agencies may provide assistance. Figure 6.4 illustrates potential sources of assistance in Florida. At the Federal level, HUD's 701 program, CZMA's 305 and 306 grants, EPA's 208 grants, and staff positions funded by the Comprehensive Employment Training Act ("CETA") have been major sources of assistance. Since the preparation of a local program usually takes two to three years, the state must speculate on how the budget picture and the funding priorities will change for each of the programs that may provide assistance.

A number of states have drafted guidelines promising specific types of technical assistance, such as base maps and population projections,

at appropriate points in the local program preparation process. Before making such commitments, the state administrative agency should be reasonably sure that it can deliver the technical assistance in a timely manner. Promising technical assistance in the guidelines and not delivering, such as North Carolina did, can turn a carrot into an onion. In many cases, the agency administering the program will have to depend on other state agencies to supply the data or technical assistance. This, dependency, of course, can create problems, particularly if the other agency does not have a contract to furnish the assistance or is not under the thumb of the hierarchy that administers the collaborative planning program.

6.5. Develop a Framework for Program Preparation, Evaluation and Review

The principal function of the state policies and guidelines is to develop a framework that lays out all the steps a local government should follow to develop an acceptable local program. The framework should dilineate how the state objections can be applied in context with each step.

Figure 6.5 indicates there are at least six factors the state administrative agency must consider when constructing a planning framework. The top three factors are embodied in the enabling act. The acts vary considerably on the extent that local programs contain specific components (such as zoning ordinances, land use maps, transportation elements); this is illustrated by Figure 6.6. North Carolina's Act, for example, only specified that coastal jurisdictions would prepare a land use plan and an implementation and enforcement plan with public participation in both efforts. The Coastal Resources Commission expanded upon these three requirements. Their guidelines required the land use plan to include:

Figure 6.5: Factors influencing development of a planning framework

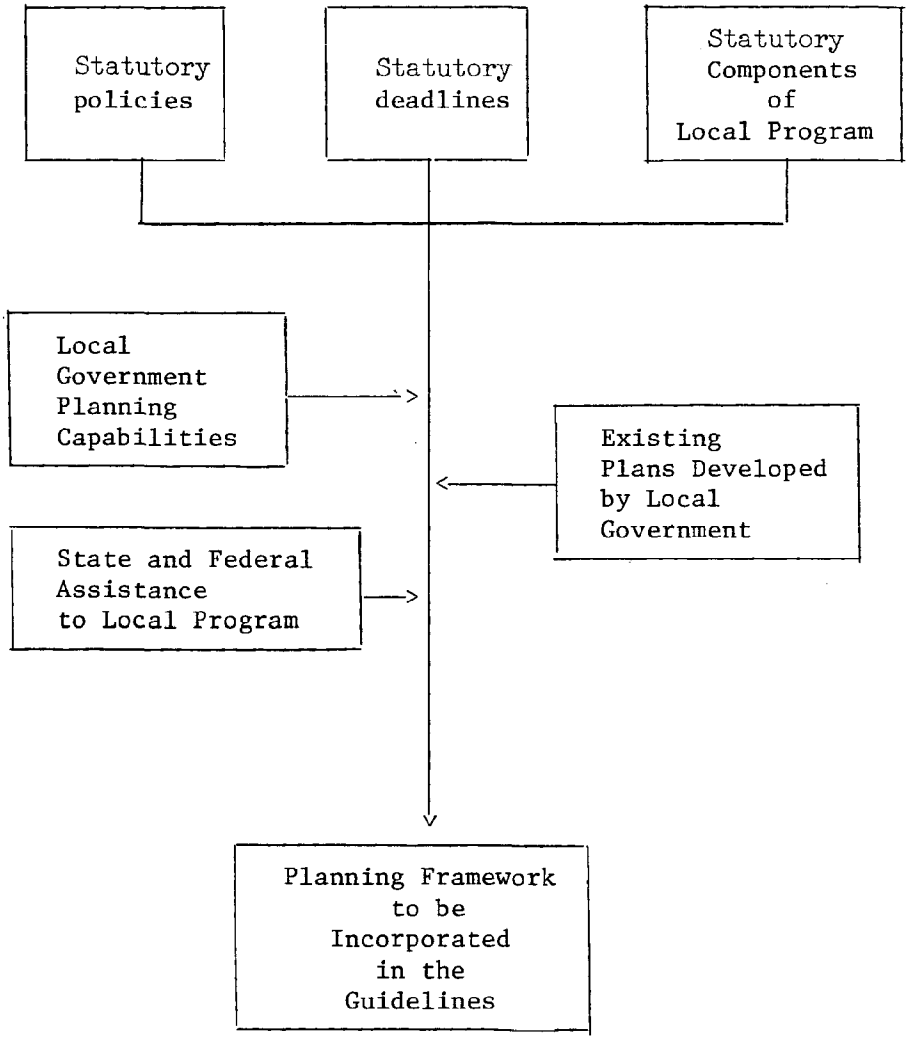


FIGURE 6.6

Procedures and Components of a Local Planning Framework

Specific state policies	WISCONSIN	MINNESOTA	MICHIGAN*	MAINE	WASHINGTON	OREGON	NORTH CAROLINA	FLORIDA	CALIFORNIA
						X[3]			X
Program elements					X			X	
Issue identification						X			X
Inventory		X[4]	X[4]		X	X	X		
Work program									X
Public participation					X	X	X	X	X
Local goals or policies					X		X		
Land classification	X	X		X	X		X		
Land use plan						X	X	X	X
Economic assumptions								X	
Intergovernmental coordination								X	
Implementation arrangements						X	X	X	
Zoning ordinance	X	X	X	X			X[1]		X
Permit and variance regulations	X	X		X[2]	X		X[1]		
Amendments		X[2]		X[2]					

1. Only for "areas of environmental concern."
2. In model ordinance.
3. Act requires policies to be developed by the state administrative agency.
4. Inventories conducted by the state.

* In context with the local zoning ordinance, not the statewide shoreland management plan.

an inventory, local goals, land classification map, as well as evidence of public participation.

The degree of discretion a state administrative agency will have in designing a planning framework will largely depend on the extent to which the enabling act specifies components of the local program and policies to guide program preparation. It has not been an easy task for states to weave the statutory components of a local program into a planning framework that will both achieve the policies of the act and can be followed by local governments, many of which have limited planning capabilities. As one local planner in Washington observed:

> Guideline elements were difficult to fit into a process for program development. All the pieces were there but local government had to put it together.[10]

Local governments with established land use planning programs have lobbied against a mandatory planning process and specific set of local program components (either in the enabling act or the subsequent administrative policies and guidelines). Cities such as San Diego, Los Angeles, Seattle, and Wilmington preferred to have the flexibility to adapt the new state requirements to their existing planning framework. Understandably, cities and counties that are not committed to a particular way of doing planning have been more amenable to state directives on how to prepare a program and what the products should be.

Figure 6.6 shows there is both similarity and variation among the states in procedures and components that constitute a planning framework. The shoreline zoning states, Wisconsin, Minnesota, and Maine, have the greatest degree of similarity in their planning process. Florida and California have a number of unique components. Problems that states have had with the various steps are discussed in the next chapter (Section 7.8).

The following subsections discuss the 14 procedures and components states have used to construct a planning framework. There is an extended discussion of specific state policies, since this approach is the current trend in state land use planning.

Specific State Policies

The Coastal Act's 68 policies form the basis for local government planning in California. Oregon's collaborative planning process is built on 190 policies, (19 goals, and 171 guidelines). To a lesser extent the other seven states rely upon a set of state policies to direct local program development and implementation. During the last 15 years or so there has been an increasing tendency for land use planning and regulatory programs to draft a set of policies to augment or in some cases replace comprehensive plans. Distinction is usually made between general or comprehensive plans which focus on a product--usually a set of land use maps and related zoning ordinances--and a policy plan which is designed to guide the process of land use decision making. Given the distinction, it is appropriate for a state level land use planning program to draft a set of policies that will guide preparation of comprehensive or general plans. By means of land use maps and zoning ordinances, these locally developed plans should provide the degree of specificity necessary to allow members of the public to know how their interests on a particular parcel of land will be affected by local application of state policies.

For the state policy and local comprehensive planning arrangement to work, the state must draft a set of policies that (1) cover all the major issues to be addressed in a local plan, (2) can readily be applied by local government in a consistent manner. As the administrator of Maine's program observed, there is no point in the state drafting pious phrases if

there is no means for local governments to translate these concepts into local programs.

The California Coastal Plan consisted of 162 policies which "were to form the framework of a management program." The 162 policies covered virtually all aspects of coastal resources management, from design standards for parking facilities to siting of refineries; from low-cost tourist facilities to restoration of degraded wetlands. The *Coastal Plan* could not be faulted for failing to address all the major issues pertinent to coastal zone management. Local governments, however, will have difficulties applying many, if not most, of the policies. Few policies contain criteria, measures and standards or suggest analytic methods which, collectively, enable local government and other affected entities to assess when, where, and to what extent a given policy might be applied.

Since a number of state policies--particularly those embodied in programs that are designed to develop a comprehensive plan--will, on occasion, conflict when applied, the guidelines should present means to resolve these conflicts. For example, a number of California Coastal Act policies encourage concentration and infilling of development in urbanizing areas already served by utilities. Case studies have shown, however, that concentration and infilling conflict in a number of locations with policies on preserving prime agricultural lands, protecting sensitive coastal habitats and avoiding geologic hazards. The state may either specify which policies take precedence when conflicts occur or encourage governments to develop alternative scenarios that give priority to the respective policies.

The criteria, measures, standards and analytic methods first established in context with program preparation have a central role in the collaborative planning process, since they also serve as the basis for the

subsequent steps of program review and monitoring program implementation. A number of local planners in Washington faulted the guidelines for not relating policies to the criteria the state would use to review and evaluate shoreline master programs.

Analysis of Oregon's and California's programs indicates that if states do not develop a set of guidelines to translate general policies into criteria, measures and standards, then the emphasis of local program development, evaluation and monitoring will be on procedural matters--such as public participation and governmental co-ordination--rather than the resolution of substantive issues, such as public access and low cost housing.

A discussion of the problem encountered in applying one of the policies from the California Coastal Act should illustrate the need for states to consider criteria, measures, standards and analytic methods when drafting a set of policies to guide local plan preparation. Section 30240 declares that:

> environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

The criteria in this policy is environmentally sensitive habitat areas. What measure of environmental sensitivity should cities and counties use to determine where these areas are located? The Coastal Act defines an environmentally sensitive area to be:

> any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

The "Local Coastal Program Manual" expands on this definition to include:

> areas of special biological significance as identified by the State Water Resources Control Board; rare and endangered species

habitat identified by the State Department of Fish and Game; all coastal wetlands and lagoons; all marine, wildlife, and education and research reserves; nearshore reefs; tidepools; sea caves; islets and offshore rocks; kelp beds; indigenous dune plant habitats; and wilderness and primitive areas.

The Coastal Commission has not provided local governments with a map or analytic methods to identify these habitats. Environmental sensitivity could be defined in a myriad of ways, depending on what species and what environmental stress factors one considers (e.g., sedimentation, temperature change, dissolved oxygen, noise, etc.). If one makes a broad interpretation of the number of species and environmental stress factors, the majority of the California's coastlands and coastal waters could be classified as an environmentally sensitive habitat area. The expanded definition in the Manual does little to narrow down the potential geographic coverage of the policy. Certainly it is a question of relativity, but in the absence of a means to measure environmentally sensitive habitats the policy is largely reduced to the proposition of "we will know them when we see them."

The Local Coastal Program Manual does not specify how cities, counties, and other units of government could assess the degree of potential disturbance from various proposed activities that seek to locate in a sensitive habitat areas--or, more difficult still--propose to locate in the vicinity of a sensitive habitat area. Should the local jurisdiction use the combination of a universal soil-loss equation, a peak discharge model and sediment distribution model to estimate the possible sedimentation impact that residential development will have upon oysters in a lagoon watershed?

The habitat policy specifies that the standard for management shall be protection against any significant disruption of habitat values. This is going to be another difficult determination for local government to

make without explicit state guidance on what constitutes a significant level of disruption on each habitat value. How much sediment of various types over time constitutes a significant disruption of oyster productivity?

Since local governments (and particularly rural counties and small cities), are not known for their staffs of natural resources scientists, they can't be expected to calculate potential stresses on environmentally sensitive habitats or set a scientifically acceptable standard on what constitutes a significant disruption of habitat values.

It is recognized that policies must have a high degree of generality if they are to set the framework for local planning over broad and heterogeneous geographic areas, such as a state's coastal zone or the entire state. As pointed out earlier, state policies must be general enough to be flexible and accommodate variation among local governments. Evidently, the environmentally sensitive habitat policy has enough generality to be applicable to California's entire coastal zone.

A recent analysis of Wisconsin's local planning efforts--particularly the shoreline zoning program--highlights the local variation and state standards problem.

> By their very nature, state agencies generalize and gloss over localized differences in a search for a happy medium and a uniform standard. By their very nature, local agencies see their local situation most clearly and think it indicative of situations everywhere. Out of these behavior patterns, arising from jurisdictional differences, flows the impression that state government is insensitive and local government is parochial. These beliefs cause people not to speak to, or listen to each other, which blocks communication even on points where there is not real disagreement.
>
> There can never be a total absence of disagreements over general standards vs. desired local variations. The same problem troubles state government as a "local" member of a federal union and county government as a generalizer facing demands from local towns and communities. Nevertheless, there can be moves toward greater harmony.

> It would be useful if state government would deal more thoughtfully and explicitly with the local variation question when it develops state standards. State legislation usually ignores the question entirely or employs a phrase which begs the question.[11]

Admittedly, it is a difficult task to draft policies that are general enough to allow for local variation and offer creative leeway for local government, yet specific enough to assure consistent interpretation and application in a manner that will achieve state land use planning objectives. To resolve the dilemma, guidelines are needed to translate the generality into terms local governments and other affected entities can understand. Ideally, the guidelines would lay out a set of criteria, measures, standards and analytic methods for each state policy. It is, however, also recognized that in many policy areas it is not yet possible either to establish quantitative measures that are both valid indicators and cost-effictive to calculate, or set standards that are both scientifically and politically acceptable. In these policy areas, the CPP should at least serve as a forum to discuss the pros and cons of various measures and standards that could be posed.

In a nationwide survey of local environmental management programs, a common criticism arose among local governments regarding state issuance of conflicting or unrealistic standards.[12] Standards are difficult to determine for many policy areas. How much public access to the coastline or low cost recreation attractions should a local government provide? The standard for both these policies is usually: "the more, the better." If local governments are required or strongly encouraged to use the same criteria, measures and analytic methods to apply a policy, the standard can be determined by comparative analysis. For example, assume that California's 69 coastal counties and cities each determined the percentage

of coastline accessible to the public, the number of people using the access ways, and the socio-economic composition of the users. With figures on these measures in hand, it would be possible to appraise whether each coastal community was providing more or less than its fair share of coastal access, particularly to disadvantaged socio-economic groups.

The coastal access example also serves to illustrate the difficulty of developing criteria, measures, standards and analytic methods that are both valid indicators and cost-effective in application. What should be the measure and analytic method for determining coastal accessibility? A common means of assessing access is to calculate the percentage of a jurisdiction's shoreline that affords access to the public. Percentage of accessable shoreline, however, is not usually a valid indicator of public access. Coastal access is far more a function of how many people have convenient access to a given stretch of the coastline than miles of publically accessible coastline. Although half of a state's coastline may be open to public access, 40% of the accessible coastline may be in remote locations, many hours drive from the state's coastal population centers. The vast stretches of public coastlands along California's north coast do little to alleviate the coastal access demand of inner city residents in Los Angeles and San Diego.

Assuming that the measure, analytical technique and standard are each a valid indicator of the policy objective, there is still the question of application costs. States should determine that local governments have the financial and technical resources as well as the time to use the policy application means proposed. Although it would be desirable to measure which socio-economic groups are using the beach, the origin of beach users, and the latent demand for beach access not being met by

present programs, the surveys necessary to acquire such data are ordinarily beyond the planning budgets and technical capabilities of most local governments. The state will often have to recommend measures, standards and analytic techniques that are less than completely valid indicators but can meet budget, technical or time limitations.

The state guidelines should impress on local governments that the policy standards are advisory in nature (unless specified in the enabling act). If local government finds it necessary to deviate from the standard it may do so if it can demonstrate in substantive terms that the deviation either better serves the objectives of the act or is necessary to avoid undue hardship on the local community. Section 7.8 recounts the experiences two North Carolina counties had in applying the state's standards, and illustrates the need to allow for deviation in special situations. On occasion, local government will want to go beyond the state minimum standards because of localized conditions and their commitment to a policy, such as control of septic tank pollution. In Wisconsin, over sixty percent of the counties enacted at least one shoreland provision which was more restrictive than the state minimum standards.

Program Elements

A standard technique used in comprehensive or general planning is to divide the plan into a set of functional elements. For example, California's mandatory general planning law has been amended over the years to require nine elements (land use, circulation, housing, open space, conservation, noise, safety, seismic safety, and scenic highways). Likewise, Florida's Local Government Comprehensive Planning Act requires plans to contain a similar set of elements: future land use, traffic circulation, sewer-water-drainage-solid waste, conservation, recreation and open space

housing, inter-grovernmental coordination and utility.* Comprehensive land use plans in Oregon are organized on the state's 19 statewide planning goals, which for the most part translate as functional elements (e.g., land use, public facilities, recreation, housing, transportation). The legislation introduced to enact the California Coastal Plan--and the precursor of the Coastal Act--divided a local coastal program into 14 elements. This provision was eventually deleted when local governments persuasively argued that specification of coastal program elements would be too burdensome as well as incongruent with the elements of the mandatory general planning act.

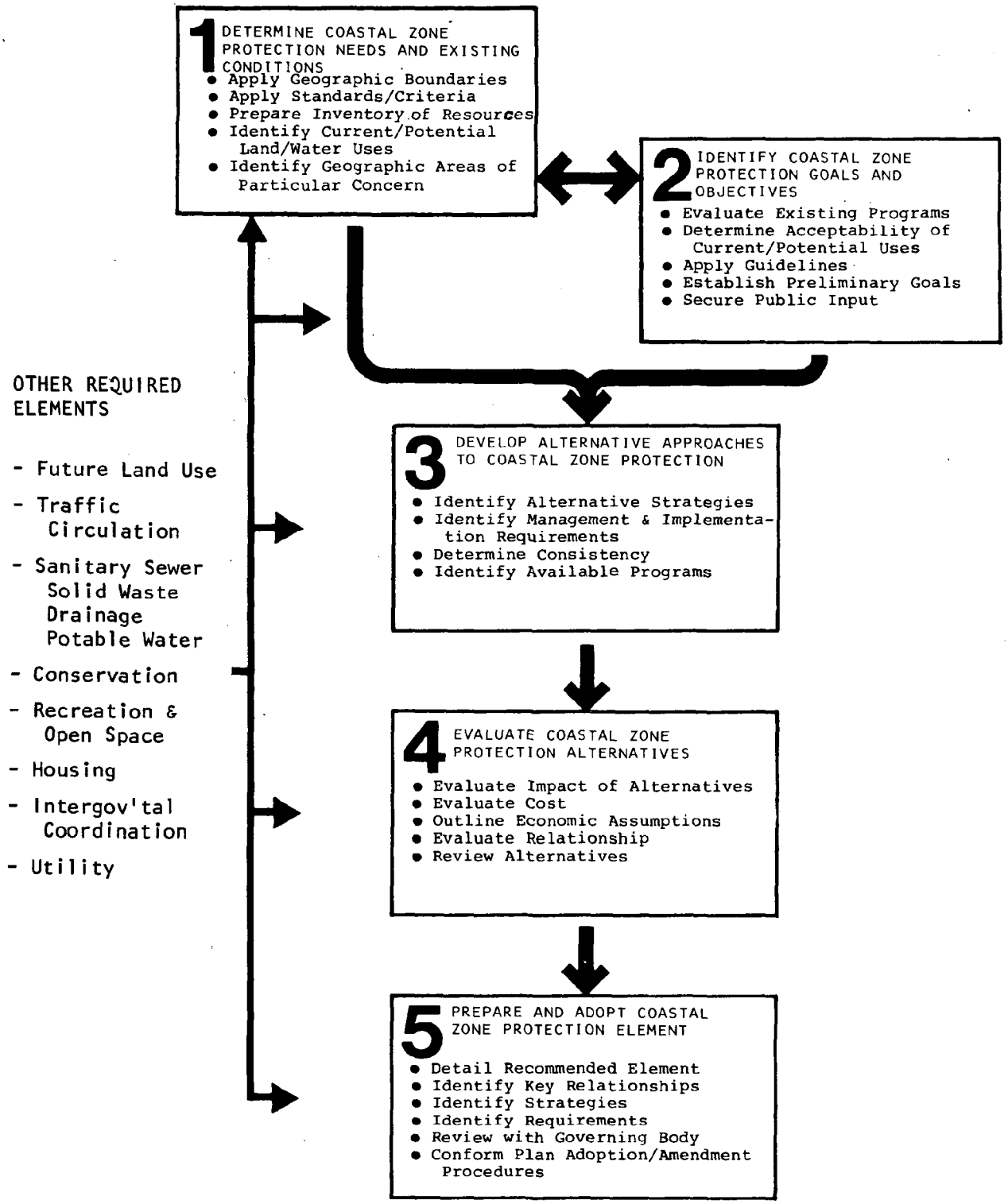
Division of a comprehensive planning program into several elements has the obvious attraction of dividing the total effort into a set of separable tasks that can be accomplished by specialists working along functional lines. The problem comes, as discussed in the next section, when decisions must be made on the dependent relationships among the elements (e.g. transportation plans require assumptions about housing and land use, and vice versa) *and* when all the elements must be put together into one comprehensive package. Figure 6.7 illustrates the process recommended by Florida for preparing a coastal zone protection element. On the left side of the figure, the other eight required elements are shown feeding into the preparation of the coastal zone protection element. The guidebook** from which the figure was taken does not explain how the nine elements are integrated. The *Oregon Land Use Handbook* is also silent on how planning activities conducted for each of the 19 state goals will

---

*In coastal cities and counties, a coastal zone protection element is required.

**A Local Officials Guide to the Local Government Comprehensive Planning Act.

Figure 6. 7 **STEPS IN PREPARING THE COASTAL ZONE PROTECTION ELEMENT**



will be integrated into one comprehensive program. In both Oregon and Florida, the integration element will probably be the land use plan.

Issue Identification

Issue identification is the first step in the planning process outlined by the California Coastal Commission. The purpose of issue identification is to:

> (1) determine the policies of the Coastal Act that apply in each jurisdiction; (2) determine the extent to which existing local plans are adequate to meet Coastal Act requirements; and (3) delineate any potential conflicts between existing plans and development proposals and the policies of the Coastal Act.[13]

This step is taken to focus energies and limited staff resources at the outset of the planning process. All too often, governments conduct inventories and analyses that are of marginal relevance to resolving the problems that motivated the creation of the planning program. Issue identification, by establishing a consensus between the local government and state agency on what will be analyzed, should avoid or minimize the likelihood that a program will be faulted during the review process for not having considered certain problems.

Inventories

Only three states required conducting an inventory as one of the first steps in local program preparation. Minnesota and Michigan conducted inventories at the state level and provided information to local governments. Since in most of the states the majority of local governments had little or no detailed mapped information on environmental and land use characteristics, an inventory was a logical first step. Washington emphasized the inventory step by setting a completion deadline, publishing guidelines on information collection, and reviewing the final work products.

Inventories should not only serve as a basis for plan making, but also as a foil for state review of the program when it is submitted. In order for the inventory to be used in a program review context, the data should be collected in a consistent fashion and presented in a common format. Consistency in data collection will permit comparative analysis between jurisdictions as a means of evaluating policy application (as discussed on page 6-36).

Work Program

The California guidelines require the local government to submit a work program that sets out a design to resolve the issues identified in the previous step. The work program is predicated on the assumption that the state will provide grants to cover the costs. According to the guidelines:

> the development of the total work program will enable the local government and the Coastal Commission to arrive at an agreement on the extent of analysis and work that appears to be needed for preparing the local Coastal Program and to allocate the funding accordingly.

In designing a work program, local governments are to use the "common methodology" presented in the guidelines. Local government must request and obtain the Commission's approval if it wants to use an alternative methodology. The common methodology--as in the case of consistent inventories--should enable the Coastal Commission to comparatively evaluate the local programs.

Public Participation

Actively involving the public in plan making has become a matter of gospel in recent years. Figure 6.6 shows the shift from the first four programs which did not explicitly require public participation. In

Washington, North Carolina and Oregon, citizen participation is touted as one of the cornerstones of the local program. The three states require the formation of citizen advisory committees to guide and assist in local program development. The first of Oregon's nineteen statewide goals is directed at citizen involvement in land use planning. California, Washington, Oregon, Florida and North Carolina prepared guidelines and booklets on how local governments should organize and conduct a public participation program.

State guideline requirements on the format and readability of the documents constituting a local program are one means of increasing public participation. North Carolina's Coastal Resources Commission decided that public understanding and involvement in land use planning would be enhanced if a summary statement was prepared for each plan. Also, separate synopses were required so that the plan could be widely distributed in a form that the public would understand. The guidelines stipulated that a synopsis should be no more than the equivalent of 20 double-spaced typewritten pages in length and written in a style the public could understand. The guidelines recommended that the country arrange to mail a copy of the synopsis to each listed taxpayer, perhaps enclosed with the annual tax bill (although simultaneous receipt of a tax bill and a land use plan summary would certainly not enhance the latter's image).

Local Goals or Policies

The formulation of community goals and policies is closely tied to public participation. North Carolina highlighted the formulation of community goals, since its program stressed citizen participation in plan making.

> From the outset the emphasis of the citizen planners--County Commissioners, city officials, Planning Board members and citizens serving on advisory committees--should be directed toward formulating the local development plan. This calls first for the involvement of a large segment of the citizens in determining what they want their area to be like for future generations, and finally for value judgments by the local governing body in the process of articulating the goals.
>
> Only when these general policies and goals have been set will the planning process move into the area of data analysis, map preparation and development of the specifics of the plan.[14]

Washington's guidelines attempted to focus community goals into policy statements.

> Because goal statements are often too general to be useful to very specific decision problems, the policy statements are to provide a bridge for formulating and relating use regulations to the goals also developed through the citizen involvement process. In summary, the policy statements must reflect the intent of the act, the goals of the local citizens, and specifically relate the shoreline management goals to the master program use regulations.[15]

It is noteworthy that only two states required local governments to formulate goals or policies as a component of their planning process. One might have expected more states to require this step since setting community objectives has been a standard component of comprehensive plans produced over the years with HUD 701 grants. The shoreline management Acts of Wisconsin, Minnesota, Michigan and Maine, however, have such a relatively limited set of objectives (e.g. control of septic tank pollution, protect shoreline aesthetics) that additional goals developed by local communities might have been a counter-productive exercise. In California, and to a lesser extent in Florida, local governments have already developed community goals under previous planning programs and going through the process again would not be very productive.

Land Classification

Land classification is an analytic procedure closely associated with the collaborative planning process. Basically, the technique involves placing all lands within the jurisdiction of the program in one or more land classes based on criteria specified by the state, such as type of environment, predominant land use activity, level of development, and provision of public services. For example, in most states using this system, wetlands would be given a natural or protection classification, and areas served by sewers would be given an urban or development classification. Figure 6.8 shows the similarity in the land classification defined by the six states.

Figure 6.8

Land Classification Categories

Wisconsin	conservancy recreation-residential general
Minnesota	special protection residential-recreational commercial-recreation
Michigan	high risk erosion flood plain environmental area
Maine	resource protection limited residential-recreational general development
Washington	natural conservancy rural urban
North Carolina	conservation rural community transition developed

In the six states that are using the land classification technique, it is the primary means of relating the state's objectives and policies to a local government's geographic conditions. According to Washington's guidelines, the land classification system "is designed to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas." The simple intent of land classification, as shown by Figure 6.8, is to place lands in categories according to the degree of environmental protection that will be exercised.

Considering that since six states are using the land classification approach, it must have a number of attractions. Perhaps its best attributes are the simplicity of the concept and the relative ease of application, expecially attractive in states where local governments have had little prior experience in land use planning. Another virtue of classification is its utility for program review. It is a relatively straightforward evaluation procedure for the state's local program reviewers to determine the extent to which the jurisdiction placed the different types of environments or patterns of development in the appropriate land classifications. To be sure, classification systems are not without their problems, and these are discussed in Section 7.8, pages 7-52 through 7-57, in context with local program preparation.

In Michigan and Minnesota, the state administrative agency is responsible for determining the appropriate classifications. In these two states, preparation of local programs must wait until the state has made the classification designations. Michigan and Minnestoa's classifications can be considered as part of the state's guidelines. In Wisconsin, Maine, Washington and North Carolina, the local governments, using state guidelines, make the classification decisions. State designation of areas has

the advantage that, at the outset of the process, it informs local governments and property owners of which lands will be regulated and what the general nature of the regulation will be. Michigan and Minnesota, however, have protracted the classification process into years. It took Minnesota two years to classify all public waters in unincorporated areas, and the state is still in the process of classifying water bodies for incorporated areas, four years after passage of the Act. The process in Michigan has been almost as slow.

If the state, as in the case of Minnesota and Michigan, does not have authority to control development during the extensive time period in which classification and local program preparation are underway, it is very likely that activities will occur that will conflict with eventual implementation of the local programs. In fact, developers who anticipate that state designation or local program restrictions will adversely affect their interests could be expected to try to beat the system by getting their projects started before program regulations become effective. Arguments for interim permit control are further discussed in Section 7.3. (pages 7-15 through 7-17).

In Michigan, the designations have also tended toward the cautious and conservative because the standards apply to individual property owners and, in many cases, will restrict development potential. The caution exercised by the state in making designations is very similar to the attitude local government takes in the same situation (as discussed on page 7-60).

Ultimately, the state may do a better job of classifying lands than local government, because it can draw upon staff expertise and work from an overview perspective that enables maintaining a higher level of consistency across jurisdictions. Nevertheless, if the state does not have

interim permit control and rampant development activity is expected, local governments may be more suited to the task--especially if this means avoiding delays and reducing the program preparation period. In addition, local governments would be more willing to implement classifications they have written themselves than those imposed by the state.

Land Use Plan

With the exception of Michigan, states require either a land classification map or a land use plan. The latter divides a jurisdiction into areas appropriate for specific types of land use activities. In North Carolina, a land use plan was interpreted to mean a land classification map. This is the exception rather than the rule. The key element of a land use plan is the map that indicates where specific activities will be permitted and the allowable intensity of use (e.g. 4 units per acre). The land use is appropriate for areas that have been substantially developed. As previously mentioned, states requiring a local program to consist of numerous elements, will likely use the land use plan as the means of integrating all elements into a final product.

Economic Assumptions

Florida's Comprehensive Planning Act requires the local government to lay out the economic assumptions on which the plan is based. According to the state's guidebook:

> Economic assumptions include marketing, growth, revenue, and expenditure projections. In addition, the fiscal impact of plan proposals must be identified.
>
> The requirement of economic feasibility is designed to assure that future plans reflect a realistic appraisal of the present fiscal situation and potential financial resources. All plans must relate directly to valid economic assumptions and specific fiscal resources.[16]

Oregon's goals on the economy of the state and public facilities also address the same economic feasibility points as Florida's program. North Carolina's guidelines required local governments to estimate the approximate cost of providing public services in locations where their land classification map indicated new development would need such services. States now recognize that local government's past problems in managing growth stemmed largely from failure to relate land use activities with public services planning. Relating land use and public services, in turn, depends on analysis of the community's fiscal conditions and economic opportunities.

Inter-Governmental Coordination

A second distinctive feature of Florida's program is the requirement that the local governing body must consider and set forth the relationships of its plan proposals to the plans of other jurisdictions (specifically adjacent municipalities, the county, adjacent counties, the region, and the state comprehensive plan). According to the guidebook, the coordination requirement should;

> assure that each local government will have full knowledge of the plans of other relevant jurisdictions during the time of plan preparation. Technical Advisory Committees, which must be established in each county, should facilitate coordination and the sharing of information.[17]

Oregon's Act attempts to achieve regional coordination of planning activities by requiring counties to act as integrators of municipal, special district and state plans. Unlike Florida, Oregon does not require the county to document coordination efforts for submission as an element of the local program. Most of the state administrative agencies have developed arrangements (as discussed in Section 7.7) to facilitate interjurisdictional coordination.

Implementation Arrangement

All the states require some form of implementation as a component of their local program. Figure 6.6 distinguishes between the states that do not specify implementation methods and those states that require a zoning ordinance or permit regulations. In North Carolina, the Act only requires local governments to prepare an implementation and enforcement plan. The state guidelines interpret this to mean a zoning ordinance and permit regulations.

Florida's Act only requires that local programs contain *specific* policy recommendations for complementing each program element. For example, the coastal zone protection element must propose "management and regulatory techniques." The local officals guidebook presents a variety of management and regulatory techniques local governments may use to meet the broad implementation requirements. Oregon is a bit more specific in its implementation requirements. Each of the state's goals has a set of implementation policies. For example, an implementation policy of the beaches and dune goal is local government, as well as state and federal agency, prohibition of:

> residential developments and commercial and industrial buildings on active foredunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding.[18]

Zoning Ordinance

The city planning profession was founded on the zoning ordinance. After two generations of use, and despite growing criticism, the technique is still the implementation vehicle for most municipal plans.

In the shoreline zoning states the ordinance essentially constitutes the local program. Wisconsin, Minnesota, Maine and North Carolina drafted

model ordinances to delineate the minimum content and standards that would constitute an acceptable program. Local governments were encouraged to go beyond the minimum level of the model ordinance--and a number of them did. If a local government chooses not to spend any effort on the local program preparation, it has only to fill in the blanks of the model ordinance with the jurisdiction's name and submit it to the state.

In Maine and other states where a model ordinance was drafted, the clamor among municipalities for specific guidance was reduced, because all aspects of the final product had been presented. To many municipalities, the model ordinance demonstrated that the CPP would not be as burdensome as they expected. The model ordinance also allows the state to easily impose it on local governments that fail to develop an adequate ordinance within the required time period--as was the case in Maine.

The model ordinance works well when a few straightforward objectives are involved, such as shoreline appearance or control of septic tank pollution. It is particularly appropriate when local governments have had little or no previous experience with planning and drafting ordinances. In states with programs involving a broad scope of objectives and a sizeable geographic area it is appropriate to draft a model ordinance for specific issues requiring regulation, such as grading, public accessways, or appearance and design. California intends to draft a series of such issue-oriented model ordinances to assist local governments in developing an implementation package.

Permit and Variance Regulations

The backbone of local program implementation is regulations on permit letting, conditional uses, and variances. With the exception of Florida, all states either have or are in the process of developing guide-

lines on governments issuing permits and granting variances. In most cases, such state guidelines closely reflect provisions of the enabling act. Usually the legislation specifies the extent to which a state agency can establish procedures and criteria for local governments to follow in reviewing permits, granting variances, and allowing conditional uses. This legislative direction contrasts with the broad latitude given to the state administrative agency's design of a process for program preparation. Most of the problems of local implementation and state appeals stem from ill-conceived provisions, faulty language, or omissions in the enabling legislation. Maine, Wisconsin, Michigan, Minnesota and Washington permit regulations to be an integral component of the program submitted for state approval. California and North Carolina have separated the components of a coastal program into two steps: land use plan and implementation arrangement. First, the state reviews and approves or denies the land use plan. Depending on the outcome of the land use plan review, an implementation arrangement consisting primarily of zoning ordinances is then prepared. In California and North Carolina, a year or more may pass between submission of land use plans and submission of the implementation arrangement. The two step process and the time delay may cause some problems, as discussed in Section 7.9.

The enabling acts and guidelines of shoreline zoning states are quite specific on the types of activities that must be regulated as well as criteria and minimum standards for obtaining a permit. Wisconsin, Minnesota and Maine have set standards on minimum lot size, placement of structures in proximity to the water, vegetation removal, and waste disposal facilities. The three states also require an administrative structure for issuing permits and granting variances from the state's minimum standards.

Amendments

Model ordinances in Maine, Minnesota and Wisconsin require local programs to include a section delineating the process to be used in making amendments. In California, North Carolina, Washington and Oregon, the enabling acts contain a specific provision on the process a local government must follow in amending its program, once it has been certified by the state. In these states the amendment process is not a required component of the local program.

6.6. Test the Framework

Local governments in North Carolina, Washington and Oregon encountered a number of structural problems with the planning framework recommended by the guidelines (or manual) on program preparation. Many cities in North Carolina and Washington, for example, found that the land classification system proposed by the state was not appropriate to the environmental condition and urbanization pattern of their jurisdiction. Obviously, the state will not get the CPP off to a good start if the planning framework proposed is ill suited to local government conditions.

It is assumed that state has already made a preliminary assessment of the local government's capability to plan (as recommended by Section 6.3) prior to drafting a framework for local program preparation. The question, then, at this point, is not whether local government can prepare a program but whether the proposed framework is the appropriate vehicle.

Prior to issuing the final set of guidelines on local program preparation, the state administrative agency should test the operability of the planning framework. Two means have been successfully used by states to obtain a feedback on potential problems. Draft copies of the guidelines have been distributed to local governments for review and comment. Local

planners have been urged to critically assess the appropriateness and workability of the policies and guidelines in context with their existing planning process, geographic characteristics and socio-economic conditions. One or more workshops with local planners were then scheduled to obtain feedback on the problems anticipated with the framework.

A second means of testing has been quick case studies in a cross section of jurisdictions. It is recognized that the state will be pressed for time to issue the guidelines within statutory deadlines. Time pressures will not permit in depth case studies. Nevertheless, the administrative agency--perhaps assisted by a university field study or cooperative extension project--should be able to conduct a one or two month concentrated effort in applying the proposed framework to several jurisdictions (at least one rural and one urban). Wisconsin tested its land classification system and standards with such a blitz effort. It is also recognized that the simpler the framework--such as shoreline zoning--the easier it will be to conduct a case study. California's coastal program, which has one of the more complex planning arrangements, had the luxary of a year between the *Coastal Plan's* recommendation for a CPP and legislative enactment of the recommendation. Within the year's hiatus the Commission funded pilot planning studies in 10 jurisdictions to assess local government's ability to prepare coastal programs in context with the policies of the *Coastal Plan* (3 counties and 7 cities). The localities chosen had a representative diversity of coastal issues and were a mix of small and large, urban and rural, city and county and partial and total jurisdictions within the coastal zone. The Coastal Commission staff and Commissioners, as well as the participating local governments, gained an appreciation of the difficulties and opportunities of collaborative planning--as discussed in Section 9.6.4 of Appendix I.

REFERENCES

1. Richard Lehmann, Paul Mueller and Paul Van Berkel, "Capabilities of County Land Regulation Programs in the Wisconsin Coastal Area", (Institute of Governmental Affairs, University of Wisconsin December 1976), p. 29.

2. Stanley Scott, *Governing California's Coast,* (Institute of Governmental Studies, University of California, Berkeley, 1975).

3. Lehmann et al, "Capabilities of County Land Use Regulation Programs", p. 29.

4. Roger Almskaar, Senior Planner, Whatcom County Planning Department, in response to a survey conducted of local coastal governments preparation and implementation of shoreline master programs, March 1977.

5. Interview with Ken Stewart, Executive Secretary, North Carolina Coastal Resources Commission, June 28, 1976.

6. David Bryden, "Rules and Variances: A Study of Statewide Zoning", prepublication draft, p. 24. Published as "The Impact of Variances: A Study of Statewide Zoning", *University of Minnesota Law Review,* May 1977.

7. Lehmann et al, "Capabilities of County Land Use Regulation Programs", p. 28.

8. Florida Department of Community Affairs, *A Local Officials' Guide to the Local Government Comprehensive Planning Act,* September 1976, p. 1-2.

9. U.S. Office of Coastal Zone Management, *State of California Coastal Management Program and Final Environmental Impact Statement,* August, p. 142.

10. Almskaar, response to survey, March 1977.

11. Lehmann et al, "Capabilities of County Land Use Regulation Programs", p. 29-30.

12. Carter, Steve, et al. *Environmental Management and Local Government.* Office of Research and Development, U.S. Environmental Protection Agency, 1974.

13. California Coastal Commission, "Local Coastal Program Manual", July 22, 1977.

14. North Carolina Coastal Resources Commission "State Guidelines for Local Planning in the Coastal Area Under the Coastal Area Management Act of 1974." October 15, 1975, p.8.

15. Washington Department of Ecology, "Final Guidelines Shoreline Management Act of 1971", June 20, 1972, p.3.

16. Florida Department of Community Affairs; *A Local Officials Guide*, p. 3-5.

17. Ibid, p. 3-6.

18. Oregon Land Conservation and Development Commission, *Oregon Coastal Management Program*, 1976, p. 204.

7. PREPARATION OF LOCAL PROGRAMS

In the second procedural step of the process, local governments prepare programs that both reflect the objectives and policies of the enabling act and follow the associated guidelines. Program preparation is certainly the most arduous step in the collaborative planning process. More importantly, it is also the keystone of the process, because local programs tie the rest of the steps together.

The enabling act usually specifies the various components of the local program. As the previous section points out, the guidelines can expand the number and complexity of components. Figure 7.1 lists the program components required by each state's act and guidelines. The figure illustrates that states which have *recently* enacted a collaborative planning process require more components, and components of more complexity, than states which were the first to mandate the process. The first four states involved in the CPP had the relatively modest objective of shorelines zoning. They also had additional authorities, such as wetlands and site location acts, to complement shorelines zoning or management.

Five states have gone through the program preparation step. A review of their history--along with interviews in Wisconsin, Maine, North Carolina and Washington and responses to the Washington survey--reveals that many factors have influenced program preparation. Those interviewed were *not* asked to rank the major problems in program preparation, even though in retrospect it seems this would have been a good question. Instead, the measure of a problem's importance was inferred from the emphasis respondents gave it and from the number of times it was identi-

Figure 7.1

State Approaches to Preparation of Local Programs

	Local Program Requirements	Time Schedule	Date Completed
WISCONSIN	County zones (into 3 recommended districts: conservancy, recreation-residential, general purpose)	1/68	1/72
	County adopts sanitary regulations	1/68	1/72 (13 out of 14)
	County adopts subdivision regulations	1/68	1/72 (12 out of 14)
MINNESOTA	County prepares a shoreland management ordinance (zoning, sanitary, & subdivision provisions) based on state's water body classification (special protection, residential & recreational, commercial & recreational, general use)	by 7/72	9/73
	Municipality prepares a shoreland management ordinance	by 7/75	
MI	Locality adopts zoning if desires (optional) based on state designation of areas (high risk erosion, floodplain, environmental area)	4/74 7/75	9 as of 1/77
MAINE	Municipality appoints appropriate municipal planning body	by 7/73	
	Municipality prepares comprehensive plan	by 7/74	
	Municipality prepares zoning ordinance (into 3 recommended districts: resource protection, general development, limited residential-recreational)	by 7/73 by 7/74	30 by 7/73 235 by 8/74

	Local Program Requirements	Time Schedule	Date Completed
WASHINGTON	Local government submits letter of intent	11/30/71	
	Local government conducts a comprehensive inventory	11/30/72	
	Local government submits a master program - all shoreline areas given environmental designation (natural conservancy, rural, urban)	6/20/74	as of 5/1/77 not all master programs have been submitted
OREGON	Locality required to have its plans in compliance by 1/1/76 or request an extension		
	Locality requests a temporary extension to evaluate plan and determine if it is complete or added work needed; and to put in place citizen & agency involvement programs		already complete statewide by 1/77
	Locality evaluates its plan	by 1/76	
	Locality prepares a comprehensive land use plan, zoning ord., subdivision ord., other ordinances and regulations	by 1/76 extensions OK	based on satisfactory progress findings
	Locality requests a planning extension to complete program from LCDC		
	LCDC grants extensions, where applicable		

	Local Program Requirements	Time Schedule	Date Completed
NORTH CAROLINA	County prepares letter of intent	10/29/74	11/1/74
	County or city prepares preliminary draft of land use plan with synopsis and submits to CRC for review	11/23/75	11/23/75
	County or city must adopt land use plans including a land classification map indicating developed, transition community, rural and conservation	5/21/76	5/21/76
	County or city must deliver certified copy of land use plan to CRC	6/1/76	6/1/76
	County or city letter of intent to be permit letting agency in areas of environmental concern	7/1/76	7/1/76
	County or city shall adopt an implementation and enforcement plan for areas of environmental concern	7/1/77	
FLORIDA	Local government designates local planning agency	by 7/76	436 out of 459 by 12/76
	Local planning agency prepares comprehensive plan with required elements (future land use, traffic circulation, sewer & water, drainage & solid waste, conservation, recreation, & open space, housing, intergovernmental coordination; and utility)	by 7/79	2 out of 459 by 12/76
CALIFORNIA	CC or locality prepares land use program	by 1/80	
	CC or locality prepares zoning map and ordinance	by 1/80	
	CC or locality prepares other ordinances for sensitive coastal resource areas	by 1/80	
	CC or locality issues interim development permits	by 1/77	

fied by those interviewed. The mail survey conducted among Washington's 38 coastal cities and counties asked respondents to identify the causes of delay in program preparations. Their responses indicated that public participation, size and training of local government staff, and inadequate data were the major impediments to program development.

The analysis of North Carolina program preparation efforts noted four predominant problems:

- Inadequate and uncoordinated state administration of the program.
- Untimely delivery of inadequate base maps and date required for local program preparation.
- Midstream changes of the guidelines and last minute directives.
- An inappropriate land classification system for structuring local land use plans.

In Maine, the interviews and a state evaluation of the program identified problem areas:

- The original enabling Act did not provide a workable state-level arrangement to administer the program nor require the state to prepare guidelines to assist municipalities in ordinance preparation and implementation.
- No funds were provided by the state.
- Public uninformed or misinformed about the nature and potential benefits of the program.
- Lack of technical expertise.
- Grass roots opposition to any form of state intervention.

Although California's collaborative planning program is just getting off the ground, the state *has* had a mandatory planning law on the books since 1947. Essentially, it requires local governments to prepare a general plan consisting of 9 elements. While it is not a true collaborative process (the State does not review and approve local plans), the problems

in local program preparation are similar to those experienced in other states. A recent analysis of California's mandatory planning program noted:

1) Many of the planning departments lacked staff or budgets to meet statutory deadlines or to prepare plan elements of at least adequate quality.

2) The technical requirements of the statutes and guidelines either were not readily intelligible or, conversely, were technically over articulated for some elements.

3) Some of the elements and guidelines are simply not relevant to many local conditions (e.g., scale, type and planning needs of local government.[1]

The analysis of the program preparation step has been divided into 10 considerations.

- Who prepares the program
- Deadlines
- Interim permit authority
- Relationship to existing planning program
- Extension, development and controversial projects
- State and Federal assistance
- Planning boundaries
- Planning framework
- Anticipating implementation arrangements
- Public participation

The problems states and local governments have encountered in preparing local programs are discussed in context with these ten considerations.

7.1. Who Prepares the Program

In most states, each local government is required to submit a notice of intent on whether it will or will not prepare a local program. It must do so within a set time period after passage of the enabling act or issuance of state guidelines. The notice of intent is a sensible procedure that allows the state to know at the outset of the process whether it will have to prepare programs for any number of jurisdictions. It is debatable whether a local government which declares it will not prepare a plan should be allowed to change its mind--particularly if the state is well into preparing a program for it. Although for political and budget reasons the state does want local government to prepare as many of the programs as possible, a city or county that jumps in when the planning process is in midstream could set back progress, particularly in respect to analytical studies and public participation. Nevertheless, the Florida Act has a provision that allows local government to assume planning responsibilities at any time. It will be interesting to see how this works.

In Washington State, six cities and two counties of the 229 jurisdictions covered by the Act notified the Department of Ecology that they would not prepare a plan. Three small cities in California decided not to prepare local programs and allowed the Coastal Commission to do the work. One county and one city in North Carolina decided not to adopt the plan they had prepared. Accordingly, the state's Coastal Resources Commission prepared a plan for each, using as a basis the plan which the local governments had developed but refused to adopt.

It is remarkable that so small a percentage of jurisdictions decided against preparing or adopting their own programs (3% in Washington, 3% in North Carolina, 4% in California). In Washington a number of planners

from the more urbanized jurisdictions have theorized that if local governments had known in advance the high costs and difficulties of preparing a master program, more would have allowed the state to prepare their programs.[2] The state supervisor of the program, however, feels that few locals would have given up this responsibility to the state, regardless of cost.[3]

If local program preparation is a substantial endeavor, (i.e., not a simple model ordinance like Maine's requirement), the state is in a bind if a significant number of local governments decide not to do it. Moreover, the state may not be able to shoulder the financial burden of preparing many local programs if adequate funds are not appropriated for this task or if the state cannot recover program preparation costs from the local government tax revenues. (Oregon had this cost recovery authority before the enabling act was amended last year.) Since Washington's act does not have a cost recovery provision, the state's Department of Ecology was very concerned during the early days of the collaborative process that many governments might decide to let the state do their programs.[4]

Clearly, the high percentage of local governments preparing their own plans indicates some willingness among cities and counties to get on with the job. At the least, it reveals local governments' unwillingness to allow the state to prepare their plans. In California, most local governments have sizable and well-established planning departments. Allowing the State to prepare a plan would appear as an admission of a local planning department's inadequacy for the task.

In Washington, Maine and North Carolina, state preparation of local programs has proven to be good experience, and has served as a useful prototype as well. When the state prepares a program, its staff gains an appreciation of the difficulties and realities involved in local planning..

The Department of Ecology's preparation of the Spokane County program made the staff sensitive to the problems that local planners were encountering.[5] Moreover, when state prepared programs are done early in the process, they can be used as prototypes to inform local governments of the nature of an acceptable product.

If the local unit of government does decide to play ball and prepare a program there are at least three options on who actually does the work: the state under contract to the local government, a private consultant also under contract, or the local government's own planning office. North Carolina, for example, used all three approaches.

One feature of state preparation of local plans under contract is the direct communication channel between the administrating agency and local government. In North Carolina, state planners under contract to local governments were, understandably, far more responsive to state recommendation and criticism than their counterparts in city or county planning offices. Given this responsiveness, one might expect that their plans would be superior--at least from the state's perspective--to plans prepared by consultants or local planning departments. Yet, interviews and review of a representative number of plans did not indicate that the choice of who prepared the plan--be it state, local government or private consultant--substantially affected the quality of the product. According to interviews, the quality of North Carolina's local plans was primarily a function of the *individuals* preparing the plan and the local community's acceptance of the planning program.

If there is any genius in the collaborative planning process, it is the give-and-take negotiation between the state administrative agency and the local government. The collaborative process is predicated on the assumption that local government will be looking out for its own interests.

The equal partner dynamics of hammering out a program will be severely constrained if local government does not have the in-house planning capabilities to assess the merit of positions advanced by planners under contract from the state or private consultants. If the state-local bargaining and trade-off dynamics of the collaborative planning process are to work, local governments must build their own planning institution. Furthermore, local governments will be more committed to implementing a program they have worked long and hard to prepare than a product put together by an outsider.

More research will be needed on the influence the program preparer has on the final product and its implementation, because many local governments will be contracting out the work in California, Florida and Oregon. To date, the California Coastal Commission's experience with consultants indicates that local governments would get much more for the dollar if they did not contract out the work. More importantly--and this is true for all states studied--contracting does little to develop a local government's own planning capability.

There was general agreement in the interviews conducted in North Carolina, Maine and Washington that it would be desirable for each city and county to establish its own planning office, and develop its own planning capability. Still, for small municipalities and rural counties in North Carolina and other rural states, limited budgets turn a planning office into an unaffordable luxury. OCZM grants for program administration may put the luxury of planning within reach of coastal jurisdictions.

7.2. Deadlines

All nine states have specified deadlines for the preparation of local programs. These are usually established by the enabling legislation.

Deadlines serve a number of purposes. They can build and maintain momentum in the state agency and local government to get the job done within the specific time period. This was particularly effective in North Carolina.

A deadline can curb the tendency to indefinitely extend the planning process as a means of deferring the plan adoption. A set time period also puts local government on notice that if they do not take the initiative and develop a program in what should be a reasonable amount of time, the state will do it for them--as in the case of Maine.

A recent analysis of Minnesota's shoreland management program observed that the statutory deadline for ordinance preparation exerted a pressure not only on the counties, but on the State Department of Natural Resources as well.

> The local politicians knew that they would eventually have to enact shorelands ordinances. The DNR, on the other hand, must have realized that procrastination by the counties might embarrass the Department, with its statewide constituency, and its overall responsibility for the system, more than the offending counties, whose citizens might be even more suspicious of zoning than their elected representatives. The counties responded by adopting ordinances, if not before the deadline, then within a couple of years thereafter. The DNR, for its part, gratefully accepted "substantial compliance," overlooking relatively minor departures from the statewide standards.[6]

Figure 7.2 shows the time periods for the various states. These vary between twelve months in Minnesota and 48 months in California. Oregon is the exception to the normal deadline arrangement. If local governments do not bring their plans into compliance with state goals within one year, a compliance schedule is established. As long as local governments are making reasonable progress according to their compliance schedule, the state will not intervene. Oregon anticipates that 85% of the local governments will complete plans within a four year time period.

FIGURE 7.2.

SUBMISSION OF LOCAL PROGRAMS BY DEADLINES

	Original Time Period for Preparation and Submittal of Local Program	% of Programs Submitted	Time Period with Extension	% of Programs Submitted	Time Period when all Programs Submitted by Local Governments
Wisconsin	18 months	14%			60 months
Minnesota	15 months[1] 12 months[2]	50% NA[3]			30 months
Michigan	NA[4]				
Maine	24 months	7%	36 months	25%	As of April 1977 (64 months after passage of the Act), 74% of the municipalities have submitted their own program
Washington	18 months	10%	24 months	53%	As of November 1976 (53 months after guideline adoption) 94% of the local governments have submitted programs
Oregon	12 months to submit plan or compliance schedule	40%--no plans only compliance schedules	NA		Predicted that 85% of localities will complete plans by 1980--48 months after goals adopted
North Carolina	10 months (300 days)	NA	16 months (480 days)	96%	
Florida	35 months[5]	NA			
California	48 months[6]	NA			

NA - not applicable

1. counties (unincorporated areas)
2. incorporated areas after classification of water bodies by DNR
3. DNR is still in process of classifying water bodies in municipal areas
4. date for submission of local programs amended three times--now six months after state designation of areas
5. deadline now set at July 1979
6. deadline now set at January 1, 1981, including one year extension that can be granted by the Coastal Commission

Figure 7.2 illustrates that all six states that have been through the local program preparation step have had problems with deadlines. In five states, 50% or less of the local governments submitted programs within the time period. Maine extended its deadline by a year, while North Carolina and Washington granted six month extensions. Even with extensions, only 25% of Maine's and 53% of Washington's municipalities submitted a program on time. One clear conclusion that can be drawn from the collaborative planning process is that it takes longer than anticipated.

In North Carolina a number of the Coastal Resources Commission members were against extending the deadline six months. "Extending the length of preparation time would not necessarily improve the quality of the plans, it would more likely result in a loss of momentum."[7] It was also conjectured that lengthening the planning period would increase the likelihood of cities or counties dropping out of the program. This observation implies that the more local governments know of the program, the less they will support it--in short, "get it over with quickly before they have a chance to give it a second thought."

In setting deadlines, legislators should consider two points:

- How much time is reasonably needed to do the job, considering the difficulty of the task, the amount of state assistance, and local government's existing planning capability?
- What are the potential consequences of allowing a local government a long time period in which to prepare, adopt, and implement an acceptable program?

The first point gets back to previous discussions on the guidelines section. (Section 6.3 and 6.4.) Since deadlines are usually set in the enabling legislation, initial consideration of task difficulty, state assistance, local resistance, and planning capability can not be put off until the guidelines step. Certainly, when legislators are drafting the.

Act they are not going to have very good information on any of these considerations, but the deadlines ought to be more realistic if some thought is given to what is being required and from whom. Knowledge of other states' experience with local government will help as well. Setting unrealistic deadlines is not going to engender good will, and it may give the impression that the state does not know what it is doing. A number of local planners in Washington noted that they considered the time period unrealistic and, accordingly, developed the program at their own pace. Figure 7.2 indicates that less than two years is not an adequate time period--although 96% of North Carolina's jurisdiction submitted adopted plans within 16 months. North Carolina, however, is an exception to the rule due to several features of the program to be discussed elsewhere.

The second point legislators should consider concerns the consequences of extending the time period until the program is eventually adopted. The importance of setting deadlines to ensure an expeditious effort hinges to a great extent upon whether the state has authority to control development activities during program preparation. In North Carolina, Maine, Wisconsin, Minnesota and Florida, the state does not have interim permit authority; owing to this, development activity cannot be controlled until a local program is approved and implemented. When there is no interim permit authority, each week that passes until the program is adopted increases the likelihood that development activity will compromise the program that is ultimately adopted. Furthermore, the impending adoption of a program has the tendency to stimulate development activity to escape new restrictions. One reason why North Carolina's counties and cities met the local program adoption deadlines was the Coastal Resources Commission's urgency to move on to the next step of regulatory activities in areas of environmental

concern. By contrast, Washington chose to let the 106 local governments which did not make the deadline proceed at their own deliberate pace. For the most part, this decision was made because the Department of Ecology was confident that it could control development that might compromise programs or conflict with objectives of the Act. For the same reason, California, Michigan and Oregon probably will not be greatly concerned if a number of local governments do not meet the deadlines.

Oregon, Minnesota and Wisconsin found compliance schedules to be an effective way to prod jurisdictions that failed to make the deadline. Counties that missed the deadline in Minnesota were required to submit compliance schedules, and within the next 15 months all of them had submitted acceptable programs. Wisconsin mailed out compliance orders to the twenty counties that had not submitted plans two years after the deadline, and in this case it took 18 months for all twenty counties to submit acceptable programs. As the discussion on sanctions points out (p. 5-14) the state will try, if at all possible, to avoid preparing a program for a local jurisdiction that fails to meet the deadline. Compliance schedules are a good way for the state to do this, and to prod program preparation by local governments.

7.3. Interim Permit Authority

The state's ability to control development activity during local program preparation--whether by overriding local government decisions or by permit issuance--could be considered as another step of the collaborative planning process. It was a matter of analytic convenience to subsume it under program preparation. As mentioned, four of the nine states have this authority (California, Michigan, Washington and Oregon). Numerous case studies on land use governance have concluded that the governmental

unit preparing a plan should have authority to control development during the process. There are four major arguments for interim permit authority--all of which have been borne out to a varying extent by the analyses of the nine states. State review of development proposals and local decisions:

- serves as a learning laboratory for the state administrative agency on "real world" issues that should be addressed in a local program.
- allows the state to test out policies it may use to guide local programs preparation or use in evaluating the programs submitted for approval.
- reduces the likelihood that the local program may be compromised and made obsolete, especially by projects trying to beat the deadline before the program is adopted.
- allowing local governments to complete programs at their deliberate speed and avoid being rushed into completing half-baked efforts to meet statuatory deadlines.

Despite these four arguments, many state legislatures (particularly those influenced by the local government lobby) have been unwilling to empower a state agency with interim permit authority. For these states, requiring local government to prepare and submit a program for state approval is a big step, as far as they want to go at one time.

It should also be noted that interim permit authority can be a very expensive operation, as demonstrated by the experience of the California Coastal Commission. At least half of the approximately 10 million spent by the Coastal Commission between January 1973 and January 1977 was expended on permit review.[8] Furthermore, the exercise of interim permit authority in California and Washington has been shown to make more enemies than friends.

The California Coastal Act enables the Coastal Commission to delegate its permit issuance authority to local governments if they use the state's procedures and criteria. Nevertheless, during the first year of the Act's application not one of the sixty-nine coastal counties and cities has

requested a delegation of the permit authority. Santa Barbara County decided against making such a request after assessing the potential costs of issuing permits. The Planning Department concluded that it would be more efficient to apply all of its resources to preparing the local coastal plan and let the Coastal Commission bear the costs of permit letting until its plan was ready for implementation.

If a state decided to exercise interim permit authority, a determination will have to be made of the types and size of development activity that will require a permit. In order to reduce administrative as well as political expenses, the state may decide to exclude certain types of development or place a minimum threshold on the size of development. Yet states should be aware of the potential impacts that categorical exclusions and minimum thresholds may have on the plan-making effort. The Washington program has frequently been criticized for its exemption of single-family-owner-occupied dwellings, associated docks and bulkheads from permit requirements. The cumulative impact of these exempted developments, since they are quite prevalent, are expected to adversely effect such coastal and shoreline management objectives as public access to state tidelands and beaches.

7.4. Relationship to Existing Planning Programs

The local government's response to preparing a program will be strongly influenced by the relationship between its land use planning institution and the state requirements for the collaborative effort. There are at least three important dimensions to this relationship:

- local government's existing planning capability
- local government's commitment to previous land use plans
- congruence between the jurisdictional boundaries

Existing Planning Capability

In rural counties, where zoning and planning are often non-existent or exist only on paper, local planners have a relatively clean slate on which to draft a collaborative program. They are not encumbered by an existing plan. The majority of local governments in all states but California appear to fit into this category (as discussed in Section 6.3). On the other hand, these governments usually have the disadvantages of a double-headed endeavor. Analyses in Maine, North Carolina and Washington confirmed the observation that setting up a planning institution saps resources required to prepare a local program. The former Assistant Secretary of North Carolina's Department of Natural and Economic Resources observed:

> Most of the local governments in our coastal zone would probably fail any test that might be used to assess their capability to accept responsibility for a major planning program. There are a lot of reasons for this. The basic one is that they don't have any experience at planning. What we are doing is starting from scratch with people who do not have any real experience with planning. This obviously makes development of a planning effort difficult. Therefore, one of our major thrusts has been to stimulate interest in planning at the local government level. It is time-consuming to do this, but it is necessary. Potentially there is no way one can hope to implement a coastal management program without dealing with local government and its frequently limited ability. One might just as well recognize this fact.[9]

The conclusion of the North Carolina analysis noted that the efforts to simultaneously build a local planning institution and develop a coastal management program compromised both objectives. Nevertheless, the most notable achievement of the collaborative effort in North Carolina, as well as Wisconsin, Minnesota and Maine, has been the creation of an institution and an incentive for planning at the local government level.

It is expected that this will also be true in Michigan and Oregon after local governments are immersed in program preparation.

> Establishment of a staffed code administration program in all Wisconsin counties is emerging as a prime accomplishment of the last decade (and of Wisconsin's shoreland protection program). From this beachhead, now fortified and expanded, there is the potential to build a partnership of progress between the local staff that knows the territory but needs back-up from state government, and state-level reformers who want to guide local programs, (and are willing to avoid doing so in a heavy handed manner), but lack the requisite credibility and trust among local people.[10]

Analysis of Wisconsin and other states revealed that, subsequent to the preparation of a collaborative program, as required by law, local governments adopted comprehensive zoning ordinances or made major revisions in their general zoning ordinances on their own initiative. In many cases, the preparation of a collaborative program has encouraged local governments to become seriously involved in land use management.

> Although counties have had the authority to regulate rural land use for decades in Wisconsin, it was not until the state required counties to regulate shorelands that many of them began to pass and administer countywide land use controls.[11]

During the time it takes to establish a local planning institution and get it up to speed, the newly appointed staff are likely to be in a learning phase and, as such, more receptive to state guidance and information than planners in established departments. The California analysis observed that local planners in old line departments have usually developed a routine way of conducting planning operations and may not readily embrace, or may reject outright, new planning techniques recommended by the Coastal Commission.

As the local government planners become more savvy at the business of planning, and necessarily become more attuned to the politics of state-local relations, their attitude toward state guidance can be expected to

change. The state administrator of Wisconsin's shoreland program believes that state and local relations were at their best level of partnership in 1970.

> Seven years ago counties were not confident or in control of their programs and relied on DNR (Department of Natural Resources) for help. Now the counties have gained confidence and often have an attitude of: who needs the state? They just slow us down anyways. Give us the money and we will do a good job. But it would be helpful if DNR provided us with data.[12]

Commitment to Previous Plans

The collaborative process has had predictable difficulties in large cities and urbanized counties. Many of these municipalities have labored long and hard to develop general plans and zoning ordinances, and would not be expected to substantially alter their previous efforts in favor of an untested set of regulations derived from a new state-mandated program. Several local planners in California recommended tying in the local coastal program more with the existing general plan structure rather than beginning an entirely new effort. The California Office of Planning and Research, which administers grants for comprehensive planning, is also very concerned that the Coastal Commission will not strongly encourage local governments to develop coastal programs that are closely integrated with comprehensive plans.[13] Ideally, the two planning programs should be mutually supportive--as discussed in Section 6.3.

As a result of the long history of building activity, as well as the intensity of development, planning departments in urbanized areas have usually become well-entrenched institutions. The City of Los Angeles Planning Department employs 134 persons and in 1975 its annual budget was $4,364,000. The Department's staff is two-thirds the size of the Coastal Commission's entire staff (about 200) and its 1975 budget was at least

twice as large as the total monies the Commission anticipates granting in 1977-78 to all local governments for program preparation. The Coastal Commission obviously can not offer Los Angeles or other large municipalities much of a financial attraction to prepare a collaborative program. Large municipalities have large problems that are expensive to resolve. Planning grants from the Coastal Commission would not be expected to make much of a dent in many of Los Angeles' coast-related problems. Nevertheless, there are four non-monetary incentives for municipalities with large and well entrenched planning organizations--such as Los Angeles--to prepare programs:

- to get the state administrative agency off their back and demonstrate the capability of the local planning department
- to resolve conflicts with neighboring jurisdictions
- to exercise more control over state and Federal projects once the local program has been approved
- to exercise final control over projects proposed within the collaborative planning jurisdiction.

California governments have all four incentives. Local governments in all nine states have at least the first two.

The four incentives indicate that municipalities with large and well-financed planning operations are likely to be much more interested in developing a product they can get by the state, and less interested in resolving the problems that motivated passage of the collaborative planning legislation. An acceptable product should provide municipalities with more control over local, state and federal projects, and eliminate state intervention in their planning operation. The collaborative planning process may also offer local planning institutions the opportunity to resolve interjurisdiction problems. For example, the city of Los Angeles and Los Angeles County have been at war for years over development of the Marina Del Rey complex.

The Marina and its associated tourist-commercial development is an island of County jurisdiction surrounded by the City of Los Angeles. While the County receives the considerable tax benefits from the Marina, surrounding communities in the City have had to bear the spillover costs--traffic congestion, increasing rents and taxes, and change in neighborhood character. Groups from the surrounding communities have had little success in curbing the County's pro-development policies. It would be in the City's interest to prepare a local coastal program if it would lead to resolving the conflicts with development of Marina Del Rey. The Coastal Commission wants to see resolution of Marina Del Rey issues to be primary objectives of both the City's and the County's local coastal program.[14]

In cities with well-entrenched planning institutions, the incentives for collaborative planning will combine with the commitment to existing plans to encourage a marginal adjustment process. Municipalities will revise their existing plans only as much as they estimate it will be necessary to meet the minimum state standards for program approval.

There are two exceptions to the marginal adjustment scenario. First, if the local government's planning operation is dissatisfied with the existing plans, they may seize upon collaborative planning effort as an opportunity to clean shop and revitalize the entire planning program. This is the case in Santa Barbara County, where the preparation of a collaborative program (local coastal program) is part of a larger process to completely revise the County's comprehensive plan. The County planning department there does not look upon the preparation of local coastal program as a burdensome exercise, but as an opportunity to improve the entire planning operation. The second exception to the marginal adjustment scenario occurs where the collaborative planning process reveals major problems or

inadequacies with the existing land use and capital works programs. In most states the collaborative planning process requires that public participation be an integral component of program preparation. In North Carolina, Oregon and California the collaborative process also requires an analysis of existing plans' commitment to growth, specifically development and population growth that would be allowed over time by land use plans and zoning ordinances. These growth projections in turn are compared to capacity analyses of the various public service systems. The opportunity for public participation and the analysis of existing plans forced a number of communities in North Carolina and Washington to significantly reduce the population growth or intensity of development allowed under previous plans. In Oregon and California it is expected that community activists, as well as outside interest groups in a number of pro development jurisdictions, will similarly use the public participation opportunity, growth commitment analyses and public service assessments, to push for revising existing plans.

Marginal adjustment of existing plans will be a matter of course in communities where local plan policies and the state's CPP policies are congruent--or where, at least, the conflicts are of a minor nature. The marginal adjustment strategy will probably not work if local government is strongly committed to existing land use policies which conflict with state collaborative planning objectives and guidelines. In all likelihood, this will most commonly occur in environmentally sensitive jurisdictions that want to keep the community the way it is. In California, conflicts can be anticipated between state policies on providing more opportunities for public recreation in coastal communities and the long standing interest these communities have in restricting the number of visitors. A mayor

and former member of the California Coastal Zone Conservation Commission observed:

> One of the Coastal Act's goals is to encourage the use of the coastal zone for recreation for the people of the state, and to incorporate into LCP's measures for liberal development of private visitor-serving facilities. Moreover, substantial portions of the capacity of public facilities (with special emphasis upon highway) are to be reserved for the use of recreationists. The local governments are not to allow much additional zoning for private housing and in some cases will have to rezone to reduce future housing developments. It is obvious that in many places, local people do not want more visitor-serving development, and they do not want the local government to plan and manage public works that will encourage visitors. They certainly do not want to pay local tax assessments for water and sewer facilities to service hordes of people coming into their area in recreational vehicles, trailers and busses.15

Congruence Between the Jurisdictional Boundaries

Florida, Oregon and North Carolina have collaborative programs that encompass entire jurisdictions. The jurisdictional areas of the programs in the six other states are coastal or shoreline zones that in most cases only cover a minor portion of a local government's total geographic area. In these six states local governments that already had jurisdiction-wide plans have had some problem integrating them with programs that only cover a band of shoreline or coastal lands (other boundary problems are discussed in Section 7.7). In California, local planners and state officials administering comprehensive planning grants have expressed concern that developing a program for the coastal zone would be a tail-wagging-the-dog exercise.

Focusing attention on programs for a shoreline or coastal zone may have an adverse impact upon inland areas, such as over-the-boundary displacement effects. Clearly, there should be an iterative process between shoreline or coastal planning and total-jurisdiction planning. The Department

of Housing and Urban Development recently required that the land use and housing elements developed with Section 701 comprehensive planning assistance be consistent with coastal zone management plans.[16]

7.5. Existing Development and Controversial Projects

In Washington state, the interviews and the survey indicated that jurisdictions with large urban populations had more difficulty preparing programs than small cities and rural counties. The history of Seattle's program preparation, described in Section 5.7 of the appendix E also supports the conclusion.

In contrast to Washington's experience, an analysis of Maine's program by the State Planning Office concluded that enactment of local programs was not significantly related to the size of the municipality. Regardless, the size of a municipality's population does not appear to be the major reason for program preparation difficulties.* In addition to the presence of an entrenched planning institution--discussed in the previous section--larger cities and urban counties also must contend with activist organizations, high value real estate, and controversial projects. This is not to say these three factors do not occur in rural jurisdictions; they are simply more concentrated in urbanized areas.

It appears that in rural jurisdictions, small population and homogeneous society helped bring about consensus on the policies that constituted a local program. In Seattle, Snohomish and King counties, it was hard to achieve public consensus among the pluralistic population. Activist

---

*A correlation between size of a municipality's population and difficulties of program preparation could be made if one assumed that the length of time taken to prepare a program was a valid indicator of the degree of difficulty. This is a questionable assumption.

organizations representing various interest groups held widely divergent views on policies for shorelines management.

Controversial projects are the lifeblood of activist organizations. It is difficult for interest groups or individuals to understand the implications of land use plans and zoning ordinances in the abstract. Plans and ordinances become real and understandable when translated into development proposals. After all, it is pictures of proposed projects that make the front pages of newspapers, not maps indicating land use priorities.

The Seattle analysis showed how controversial projects that become embroiled in program preparation can snag the whole process. The case in point was the master program's Planned Unit Development (PUD) for the central waterfront. Within the boundaries of the Central Waterfront PUD, the property ownership criteria limits development potential to one land owner, the Howard S. Wright Development Corporation. In 1975, this corporation proposed to redevelop two dilapidated piers now occupied by a parking lot and Polynesian restaurant into a $40 million complex consisting of a hotel, an office tower, numerous shops and restaurants. The Central Waterfront PUD's bulk, height, land use mix, and design criteria echoed the Wright proposal. The objections to this project will be discussed in context with program review (Section 6.3). Elsewhere in the state, the master program for Port Angeles was delayed while the pros and cons of an oil unloading facility and pipeline were assessed (a controversy that continues in the courts). And in Kitsap County, the master program was held up by far-ranging and heated debates on the impacts of the Navy's Trident submarine base. In California, a prolonged controversy over the proposal to locate an LNG facility near Point Conception is expected,

and Santa Barbara's local coastal program will be right in the middle of it. Other intense debates will center on the way local programs in California and Oregon deal with lands that have been extensively subdivided but not developed. This issue will also be the basis for law suits.

Jurisdictions in California, Oregon and Florida may attempt to avoid the fiscal and political costs of controversial projects by submitting their programs in segments, particularly if they are encouraged by the state administrative agency. The controversial project would be carved out of the local program and submitted at a later date when resolution is achieved.

In rural jurisdictions land is mostly undeveloped, allowing more flexibility in designating environmental classifications and use regulations than exist in urban areas, where the land use pattern is well established. Moreover, in urban areas it takes a lot of money and political muscle to implement programs that recommend marked deviations from the existing pattern of land use.

The description of Seattle's experience in the Appendix E illustrates the combined efforts that activist organizations have, upon controversial projects, and existing planning programs have on the development of a master program. Seattle and the State Department of Ecology (DOE) estimate that more time and money was spent on the city's program than on any other jurisdiction in the state. Figure 7.3 presents the chronology of program development and DOE approval. Five years elapsed between the initiation of work on the master program and DOE's approval. In the course of those five years, program development required the city to spend approximately $200,000, hold more than 100 public meetings, and prepare five separate drafts.

FIGURE 7.3

Chronology of the Shoreline Master Program - City of Seattle

		DATE
1.	Passage of Shoreline Management Act of 1971	June 1971
2.	Letter of intent from city to DOE	1971
3.	Staff set up	September 1971
4.	First permit application received	October 1971
5.	First permit granted	November 1971
6.	Work on SMP begun	October 1971
7.	Citizens' Advisory Committee appointed	March 1973
8.	First meeting of shoreline Citizens' Advisory Committee	April 1973
9.	Inventory of shorelines completed	April 1973
10.	First draft of SMP published	January 1974
11.	Planning Commission hearing, review of draft	March 1974
12.	Draft 2 published	June 1974
13.	Citizen Advisory Committee review	July 1974
14.	Draft 3 published	July 1974
15.	Citizen review meetings	July/ August 1974
16.	Draft 4 published	September 1974
17.	Planning Commission review, approval	September 1974
18.	Transmittal to City Council	September 1974
19.	Council, first hearing on SMP	November 1974
20.	Council meetings	December 1974/ September 1975
21.	Central Waterfront Task Force established	August 1975
22.	Central Waterfront Task Force meets	September/ October 1975
23.	Draft 5 published	October 1975
24.	Council considers Draft 5	November 1975/ March 1976
25.	Council adopts SMP by resolution	March 1976
26.	Transmittal of SMP to DOE	April 1, 1976
27.	DOE partial approval	June 30, 1976
28.	DOE final approval	October 8, 1976
29.	Joint Planning Commission/Council hearing	December 12, 1976
30.	Planning Commission approves SMP	January 16, 1977
31.	Council approves SMP	February 10, 1977
32.	Mayor signs ordinance	February 14, 1977
33.	Ordinance takes effect	March 16, 1977

In Wisconsin, Minnesota, Maine, Washington and California, where the collaborative planning objectives are largely environmental, it may prove to be politically and economically effective to either exclude urbanized areas or give them a different set of guidelines and policies than rural jurisdictions. In Minnesota, the problems the state is having in dealing with larger cities with comparatively sophisticated zoning ordinances and land use regulations has prompted the administrator of the shoreland program to observe that the purposes of the Act would be far more effectively achieved if urban areas with substantially developed waterfronts were not required to prepare a shoreland ordinance.[17] In most cases, the state's costs of classifying lakes and reviewing ordinances for the developed shoreland are greater than the marginal benefits realized. If this process was eliminated, the time and money saved could be more effectively applied to relatively undeveloped shorelands, where ordinance regulations could strongly influence the future land use patterns and environmental characteristics. In Minnesota a different set of regulations has been promulgated for municipalities than for the predominantly rural counties. Rural jurisdictions in Oregon found the state guidelines and handbook too complex and hard to follow, while larger municipalities thought the state guidance to be somewhat too simplistic and unrealistic for application to urban planning.

States have recognized the disparity between urban and rural areas in the application of an environmentally oriented collaborative planning program. The Wisconsin program excluded Milwaukee County. Similarly, New Jersey excluded the urbanized northern third of the state from its coastal management Coastal Areas Facilities Review Act. In California, local governments can petition to exclude urbanized areas from permit

review by the Coastal Commission. Since the criterion for urban exclusion is conformity with existing development pattern, it is expected that preparation of a local coastal program for these areas should be a straightforward exercise.

7.6. State and Federal Assistance

Analysis of the states that have gone through the program preparation step bears out the familiar adage "You get what you pay for." Clearly, assistance in the form of grants, technical assistance and data is one of the most important, if not *the* most important, factors influencing preparation of local programs. In the Washington State survey, coastal cities and counties were asked to rank 7 problems they commonly encountered while developing their program. Of the 19 responses to that question, 5 ranked funding as the most severe problem, and 4 ranked it second in severity.[18]

State and federal assistance to local government is not confined to grants, although this is usually the major component. Technical assistance, such as advisory services or manuals, and data such as soils maps are other important forms of assistance. There is a tradeoff between the extent of direct grants and technical assistance and data. Instead of giving the local governments direct grants for program preparation, the state could use all or part of the money for publishing technical manuals and providing appropriate information for each step in the process. Based on the experience in the states, a combination of direct grants, technical advice and data appears to be the most efficient and effective way to assist local governments.

Figure 7.4 shows that state and federal funding could not be termed munificent. The figure also shows that states are recognizing the get-what-

> shoreland development now found in the urban areas. In other words, the rurals see the urbans as a lost cause and are afraid of becoming one themselves. The urbans see themselves as a more worthy recipient of funds since more people live near the shore in their counties.[19]

The mail survey in Washington revealed that local governments, particularly urbanized jurisdictions, spent a considerable amount of their own budget on program preparation. Seattle estimates it spent $200,000 on its own and did not receive any state funding. Of the $140,000 Snohomish County spent, only 25% came from non-local sources. Response to the expenditure question also revealed a wide variation in expenditures among the jurisdictions when they are measured on per capita basis (from $2.54 to 29¢).* Inspecting the figures shows that costs increase in relation to the population within the local jurisdiction. The expenditures do not indicate a close correlation between the population size and amount spent.

A number of local planners in Washington observed that if the jurisdiction knew in advance what program preparation would eventually cost, many more of them would have let the State do the job.[20]

One good question is, why did so many jurisdictions in Washington and other states spend a goodly portion of their annual budgets to prepare a program foisted on them by the state? This can partly be explained by their lack of foreknowledge of the total cost. Generally, local governments will not be aware of the full costs until they are well into program preparation. This is likely to be at a point where the marginal benefits of continuing their own program, even at their own expense, are greater

---

*The response to question has been tabulated in Figure 5.14 in Volume II.

than both the political cost of letting the state take over and the marginal costs of finishing the job. The stronger the sanctions a state can impose on a local government that does not prepare its own program, the greater will be a municipality's willingness to bear the costs. Most states have the sanction of preparing a program for the local government and imposing it on them. It is to be expected that local governments with well-entrenched and relatively well funded planning departments would rather incur the costs of doing it themselves than let the state get directly involved in their planning operations. This is the pride factor. And then there are those governments like Santa Barbara County that see the CPP as an opportunity to get something going, and develop a product that will benefit local interests. All they needed was the push and the legitimacy of the state law--("look folks, we have to go along with it, it's state law").

Technical Assistance and Data

As mentioned, technical assistance and data complement direct grants. An increase in the latter can allow a decrease in the former and vice versa. The state's record in providing needed technical assistance and data on a timely basis appears to be even worse than the history of inadequate funding. The problems that North Carolina encountered in providing technical assistance are fairly characteristic of other states.

> The act requires that government supply technical data, but unfortunately, when we began to try to do this, we discovered that there was precious little in the way of technical data to give to local governments. The State has been trying to get the responsibility and authorization to do this type of work to give us the funds to do it. This shortage of technical data is manifested in a shortage of such fundamental items as topographic maps and aerial photographs.[20]

The technical data that was provided was of ten of questionable validity, such as the population projections provided by the Office of

State Planning. To make matters worse, the orthophoto city and county base maps promised to local governments in the Coastal Resources Commission's guidelines were either delivered too late for use in plan preparation, or were of such poor quality as to be unusable. To assist local plan preparation, the guidelines also promised a summary of all state and federal regulations relevant to management of coastal areas. This summary was delivered in the fall of 1976, six months after the land use plan deadline! Obviously, a state agency loses its credibility when it fails to deliver on its promises.

All states that have been through the program preparation step admit that major improvements could have been made in the quality of local programs if cities or counties had been provided with technical information and data. The general lack of technical data often slowed the development of programs or prevented the substantive analysis required by various program elements.

Clearly, local planners will be more favorably disposed toward working with new planning approaches if the state administrative agency follows through with technical assistance and data. It is one thing for the California Coastal Commission to recommend that local governments predict the potential population and demand for public services that existing zoning would allow, quite another for the Commission to furnish technical guides and locate the appropriate data.

States will need to be an information broker between local governments and state and federal agencies. A common example of this broker function is the siting and design of energy facilities and public services. State and federal agencies must give local governments an estimation of the type, design and timing of such facilities if they are to be realistically

considered in local programs. Yet it has been difficult, if not impossible, for various state and federal agencies to develop a consensus on energy facilities and public services in time for local governments to incorporate this information into their local programs.

The state's ability to ensure adequate implementation of local programs may be limited by its provision of technical assistance and information during program preparation. If the California Coastal Commission, working with other agencies, makes no serious effort to provide cities and counties with information on possible energy facility and public service requirements, and if the Commission reverses local decisions on such facilities (even though they are consistent with a certified local plan) it will likely draw political fire from local governments and supportive legislators. For its part, the Coastal Commission has made a start in this direction by compiling a list of proposed and potential energy developments. It is expected that the Coastal Commission will be politically constrained from reversing local decisions to the extent that it did not actively assist the city or county in preparation of its local program (a case of "you can't make the rules if you don't play the game").

Most local governments in Maine, Wisconsin, Minnesota, North Carolina and Washington did not have accurate topographic maps and soil maps at an appropriate scale to complete the first step in program preparation. Considering the importance of these two maps in meeting the objectives of the respective enabling acts--particularly septic tank pollution, wetlands fill, erosion and sedimentation--the frustration of many local officials who have tried to prepare an adequate plan is understandable.

If the basic information for local program preparation is not available at the inception of the collaborative process, the state should make

it a first order priority to obtain such information. A delay in the preparation of local programs may occur while the state does a blitz job of acquiring and disseminating the necessary data and information in appropriate formats. Nevertheless, the delay should be worth it on four counts. First, local governments should prepare technically better programs with better data. Second, providing necessary data and technical assistance will decrease the frustration factor of local officials attempting to meet the objectives of the Act. Third, the assistance can probably be utilized by local government for other purposes and therefore represents a positive contribution by the State (it helps build bridges). And finally, the delay caused by the State collecting data and preparing base maps may well be less than the time local government will have to take to do the same job.

For economies of scale as well as scientific credibility, the state should prepare the base maps, and not pass through grants, for local governments. The state could possibly work in conjunction with relevant federal agencies for this purpose. A number of code enforcement officers in Maine noted that local residents would have greater belief in and respect for a state-prepared soils or topographic map than a local product.

In concluding the discussion on assistance, one point should be reiterated. If the state does not even come close to adequately funding local government or providing needed technical assistance, the state will be on the defensive in reviewing and approving programs. Local governments have persuasively used the argument that they would have done a better job if they had received adequate assistance in a timely manner.

7.7. Planning Boundaries

The discrepancy between the boundary of the planning area *and* the geographic area necessary to develop an effective plan is an inherent problem in comprehensive land use planning. In most cases the extent of the planning area is smaller than what would be optimal size for an effective plan. Collaborative planning programs are no exceptions to this boundary problem. Figure 7.5 lists four distinct types of problems that states have experienced with the geographical limits of the collaborative program. The first three listings are the function of insufficient inland coverage.

Over-the-boundary-boom

The relatively narrow jurisdictional area in the five states with shoreline programs (i.e. Washington, 200 feet; Minnesota, 1000 feet or 300 feet; Michigan, 1000 feet; Maine, 250 feet; Wisconsin, 1000 feet or 300 feet) has had the effect of both displacing and stimulating development just beyond the inland boundary, ("over-the-boundary-boom"). Strict regulation within a shorelands jurisdictional area has the potential of creating an open space strip or linear park backed by a wall of development. Residential and commercial units beyond the boundary capitalize on the open space provided by regulation but are not subject to regulation. The over-the-boundary-boom can subvert the objectives of the enabling act. For example, in Washington the first public road parallel to the shore is often more than 200 feet inland. Visual and physical access to the shore can be cut off by development on parcels shoreward of the road, but inland of the 200 foot line.

As Figure 7.5 indicates, over-the-boundary-boom can usually be prevented by encompassing the entire jurisdiction within the collaborative

Figure 7.5

Boundary Problems

Type of problem	Likelihood of problem occurring: less than entire jurisdiction	entire jurisdiction in the coastal zone	entire jurisdiction on a statewide basis
over-the-boundary-boom	x		
inland displacement	x	x	
inland division of coastal systems	x	x	
jurisdictional division of systems	x	x	x

program, as North Carolina, Florida, and Oregon have done. Although only a few of the 69 coastal governments are totally within the jurisdiction of California's program, the boundary extends far enough inland (up to 5 miles) to control over-the-boundary development (in fact, it was partly designed for that purpose). In North Carolina, the collaborative program only applies to the first tier of coastal counties and cities therein. In Florida and Oregon, although the collaborative program is state wide in coverage, a special set of regulations pertains to coastal jurisdictions.

Inland Displacement

In Florida, Oregon, and particularly North Carolina and California, the coastal regulations of the collaborative program may displace a number of activities to inland jurisdictions. Inland displacement can be considered a variation of over-the-boundary-boom; the point of distinction is the inland extent of the effect.

According to utility and oil industry spokesmen, power plants and refineries are seeking inland locations well outside the jurisdiction of coastal and shorelands management policies. Housing planners in state and local government are also concerned that implementation of a coastal or shoreland program will, over the long term, force low and moderate income residents inland. Certainly these inland displacement effects can be controlled if policies are implemented statewide on a uniform basis *or* if a comparative analysis is made of the impacts associated with alternatives of inland and coastal sites for development proposals. California's Coastal Act requires a comparative assessment of inland sites if power plants are proposed within the coastal zone.

In California, Florida, North Carolina, Michigan and Oregon, a substantial disparity may occur in land use regulation between coastal zone and non coastal zone portions of the state. To the extent the disparity occurs, inland displacement will be a problem. At least in Maine, Wisconsin, Minnesota and Washington, the policies of the enabling act pertains to all shorelands, whether they be coastal, Great Lake, stream or river. In these four states, management of coastal shorelands will not prompt development to locate on inland shorelands to avoid regulation.

Dividing Coastal Systems

The most pervasive and significant problem associated with the boundary is the division of coastal systems into fragments. It is ironic that one of the major motivations for establishing shoreland and coastal zone programs was government's failure to manage resources and public services as dynamic systems. Septic tank pollution of lakes and streams, sedimentation of estuaries, visual degradation of coastal landscapes, congestion of coastal highways, limitation of public access are all common

examples of failures to relate development activity to the constraints and thresholds of environmental or public service systems.

Coastal systems are divided in two ways. The inland boundary of the collaborative program cuts through a system, separating a coastal or shoreland area that is planned and regulated from an inland area that is not subject to provisions of the program. The jurisdictional boundaries of local government rarely correspond to the boundaries of environmental or public service systems--a fact well known. Collaborative programs that follow local government jurisdictional boundaries accordingly cut across and divide environmental and public service systems.

Inland Boundary Division

It is not necessary to include an entire resources system, such as a watershed, within the program boundary. Since systems often cover an extensive geographic area (California's coastal watersheds drain two-thirds of the state), it is only necessary to include within the management unit that portion of the system in which development activities can be expected to have significant effects on achieving the specific objectives of the collaborative program. As a result, it would not be necessary to include the entire watershed of an estuary, but only that portion of the drainage area on which land use activities (such as grading, timber harvesting, fertilizer and pesticide applications) may adversely effect estuary resources (such as sedimentation and concentration of pesticides). It should be noted, that the area necessary to control adverse impacts often extends inland, in many cases beyond the first tier of coastal jurisdictions. Even North Carolina's boundary, which includes all of its coastal counties, does not extend far enough inland in some locations.

The inland extent of the boundary has usually been determined by

the maximum distance that would be politically acceptable. The main consideration is what local governments and other interest groups perceive to be the inland extent of coastal or shoreland resources. Rarely have states used cause and effect analysis on the dynamics of systems to set the boundary line. Consequently, the collaborative program's jurisdiction often includes only part of the unit necessary to manage a system. Because of the inland boundary limits, states have often found it difficult, if not impossible, to achieve many objectives of the enabling act. What do you do when two-thirds of the sediment load or septic tank pollution is coming from development activity beyond the limits of the program's jurisdiction?

The political gains realized by moving the boundary closer to the shoreline may be more than offset by the political repercussions from the arbitrary location of the line. What is the sense of a law that prevents some property owners from developing their land because of adverse impacts on coastal resources but does not restrict similarly situated property owners from engaging in development activity that may generate the same, or even greater, adverse impacts? Variations on this question have been repeatedly raised by land owners in the continuing debate over the arbitrary nature of the California coastal zone boundary. Since the California Coastal Commission has found it difficult to substantiate many sections of the boundary with information on cause and effect relationships, it is likely that the state legislature will amend the line in a number of locations.

States have sought to persuade local governments to plan and manage areas beyond the inland boundary of the collaborative program. These efforts have met with limited success. In Wisconsin, thirteen counties enacted countywide zoning regulations, in part, to extend and back up the shoreland management program.

Washington's act requires local governments to review their plans and policies adjacent to the 200 foot jurisdiction of the program.* Furthermore, the act mandates that upland zoning and land use be related to the environmental designations, permitted uses, and performance standards within the shorelines jurisdiction. The state administrative agency is making grants to assist local governments in integrating shoreline management programs with plans that extend beyond the inland boundary.

Local Government Boundary Division

Watersheds, highway service areas, underground water supplies, and littoral circulation cells frequently transcend a local government's jurisdiction. Two or more governments often occupy the same environmental or public service system (as discussed in Section 3.4).

After four years' experience in administering program preparation, the Washington Department of Ecology (DOE) admits that:

> local programs address regional resources, but often in a manner that is less comprehensive than ultimately desired. There is a need for the several local governments to readdress certain areas in a more concentrated and coordinated effort from a regional perspective.[21]

In California, a case study of applying the Coastal Commission's policies in a regional context clearly demonstrated the need to integrate programs of local governments located in the same coastal system. The analysis of the North Carolina program concluded that the local land use plans have a near-sighted focus and rarely venture beyond parochial concerns. Regional and state issues, such as beach access, conversion of coastal forests to croplands, barrier island systems management, and estuary pollution assim-

*In flood plains and wetland areas the inland boundary may extend more than 200 feet inland.

ilation capacity, appear to have slipped through the patchwork quilt of land use plans.

Oregon, Florida, and North Carolina have given counties the responsibility of coordinating city and special district plans that are within their boundaries. As mentioned in Section 6.5, Florida goes to the extent of requiring the local governing body to consider and set forth the relationships of its plan proposals to the plans of other jurisdictions. North Carolina's act gave county plans priority over city plans if there were irresolvable conflicts between the two. The Oregon program created the position of county coordinator to integrate county, city, and special district plans. The county has responsibility

> for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts and state agencies to assure an integrated comprehensive plan for the entire area of the county.[22]

Regional planning commissions in Maine and Florida have received grants from the state to coordinate local government programs within their jurisdictions. The California Coastal Commission will continue to develop subregional plans to manage coastal systems that transcend local government boundaries.

A number of states are well aware of the need to relate local programs in a systems context as evidenced by provisions of the enabling acts and procedures adopted by the administrative agency. In Washington, the director of DOE is given the authority to direct two or more adjacent local government jurisdictions to develop a joint program if it appears that regional integration will better serve the purposes of the Act. This occurred only once, when eleven cities and one county bordering Lake Washington prepared a regional master program. Several local planners believe that DOE

should have encouraged and supported more regional programs for such water systems as the Hood Canal, Skagit Bay, Samish Bay, and the Nisqually Estuary, all of which are bounded by two or more counties.[23]

The state is now moving in the direction of integrating local programs on a systems basis. In the Columbia River Estuary, local governments in both Washington and Oregon are attempting to develop an integrated, inter-governmental management system. The three counties fronting on the Hood Canal (an arm of Puget Sound) have joined together to compile a directory indexing the numerous laws, jurisdictional authority, plans, and policies which affect the regional water body. In response to proposals for channel dredging and port development in Grays Harbor Estuary, five cities, the county, the Port of Grays Harbor and fifteen state and federal agencies have formed a task force to develop an estuary allocation plan. In order to make definite and precise allocation of surface area for specific use categories, a regional perspective is necessary.

Early versions of the California Coastal Act contained a provision similar to Washington's law that gave the Commission the authority to require two or more local governments to conduct a subregional analysis prior to preparing local plans.

> The boundaries for such subregional plans shall be based on natural geographic features (e.g., major valleys), important public services (e.g., a coastal road network), and situations where development occurring in more than one local jurisdiction would have a cumulative impact on resources and access.[24]

To date, the Commission has conducted six subregional analyses and intends to undertake further studies on a number of coastal systems to assess the potential cumulative impact of programs prepared by local government.

With the exception of the estuary studies done by Washington and California subregional analyses, there has been remarkably little sub-

stantive work done by the states to develop multi-jurisdiction management plans for environmental and public service systems. The coordination efforts in North Carolina, Florida and Oregon are only done on a county-wide basis, and as a result are not structured to manage systems that transcend county lines. Regional Planning Commissions have limited ability to develop systemwide plans that come to grips with the issues because local governments are voluntary participants in the organization.

7.8 Planning Framework

It could be argued that all states following the collaborative planning process should have the same *general* framework for local program preparation. Considering the variation among states--particularly in regard to state and local planning capabilities, and issues requiring resolution through the planning process, a *specific* framework could not be constructed that would be appropriate to even the majority of the nine states analyzed.

Review of the state approaches and current literature on environmental and land use planning suggest the planning framework should contain at least the following six components:

- Inventory and analysis of environmental and socio-economic factors and systems
- A map indicating priority of land use(s) for specific geographic areas
- Performance standards both according to specific types of activities and for specific areas
- Public works (or capital works) program that is related over time to planned changes in land use and population growth
- An integrated set of implementation mechanisms including; a process for reviewing projects (impact assessment), a process for granting variances or conditional use permits, a process for assessing permit compliance, a process for amending programs, and a lands acquisition and contracts program
- An ongoing public participation process.

Inventory and Analysis

It is normally assumed that before one plans, one must have some understanding of the environmental and socio economic conditions that characterize a local jurisdiction. Oregon, for example, specifies four components of a factual basis for plan making

- Natural resources, their capabilities and limitations
- Man made structures and utilities, their location and condition
- Population and economic characteristics of the area
- Roles and responsibilities of local governmental units.[25]

Despite the need for such information only three states required local governments to conduct an inventory as a first step in program preparation! It is understandable that California did not require an inventory since virtually all governments have already conducted numerous analyses of environmental and socio economic factors. Inventories and analysis will be required on an issue-by-issue basis depending on the local government's work program.

Washington state's experience appears to be typical of the problems and opportunities in conducting inventories. Only six months elapsed between state issuance of the guidelines on compiling an inventory and scheduled completion of the inventory. There was very limited funding, and all participants were new to the business of shoreline management, so it was not surprising that problems arose with inventory process and products. One local planner thought the inventory effort a waste of time.[26] Department of Ecology (DOE), staff argued that the 1972 inventories at least had the effect of sensitizing local planners, elected officials, and citizens advisory committee members to the resources, hazards, and land-use patterns within their jurisdiction.

An interim assessment report on the state shoreline management program made a number of observations on the inventory effort:

> Cataloging ownership patterns and existing land and water uses was handled well by local governments; past data bases and previous experience by local planners aided in the completion of this task. Although general uses were identified, there was little analysis of use patterns in local inventories.
>
> Inventorying natural characteristics, however, proved beyond the capability of most local governments. Little work had been done previously in this area and local planners were ill-prepared to handle the task. Lack of funds, local expertise, and aid from the state compounded problems in obtaining good natural resource data. And Department of Ecology inventory guidelines were limited to general suggestions as to how to organize descriptive records of the natural systems.
>
> Inventories of natural characteristics in the uplands have been superior to those done in the marine and intertidal areas. Particularly lacking has been an understanding of shoreline accretion and erosion processes.
>
> For the majority of Puget Sound counties, shoreline inventories have been of limited use. Inventory information has been used primarily in the master program formulation state of designing environments. Inventories, for the most part, have been too general to guide decisions on the issuance of shoreline permits. Presently, site visits provide the requisite detailed information.
>
> Where considerable amounts of valuable information have been gathered during the compiling of inventories, local governments sometimes failed to preserve the raw data in a convenient form. Further, the Department of Ecology has done little to organize individual inventories into a workable regional inventory.[27]

Moreover, responses to the survey of master program preparation indicates inadequate inventory (particularly in respect to natural processes) has posed problems for a number of governments in granting shoreline permits, considering variances, and amending master programs. The state administrative agency (Department of Ecology or "DOE"), recognizing the inadequacies of the 1972 inventories, made a substantial commitment to the

preparation and operation of a coastal atlas system. The objective of the system is to:

> provide an information resource for the management of the coastal zone program including shoreline impact assessment, permit issuance, comprehensive planning, and program revision. Furthermore, the information in map form will provide a general resource for the development of overall policies and guidelines regarding the coastal zone.[28]

DOE staff realize that the state would have been in a far better position to guide local program preparation if local governments, in conjunction with the Department, had developed an accurate, relevant, and consistent series of inventories (as proposed by the atlas project). The state could then have conducted a more thorough review of programs submitted for approval, and a solid inventory could have been produced in 1972. Had this been done, it would today be possible to identify trends and assess cumulative impacts that have occurred during the five years the Act has been in effect.

Although the method of compiling a detailed atlas *after* developing the master programs may be characterized as a "cart-before-the-horse" exercise, Washington can point to the unsuccessful experience of other states that have spent considerable funds and energy on inventories *prior* to planning efforts.[29] In such cases, the information collected was often only marginally relevant to resolving the issues that the plan must address.

After five years of permit letting and the years spent on the master program preparation and implementation, DOE and local governments now have a clear idea of the specific information needed to resolve shoreland management issues. In 1972, DOE and local governments were not very familiar with issues, and a substantial inventory effort at the time might have gathered information with limited relevance to shoreline management

or information beyond the capacities of local governments to adequately utilize. The program administrator believes

> "there is a tendency to give undue attention to the inventory phase, at the expense of the planning and regulatory phase, i.e., (it is) too easy to procrastinate, using the excuse of inadequate information."[30]

Maine, North Carolina, Minnesota, and Wisconsin have gone through the same iterative process as Washington. Barely adequate data and information was hastily collected in order to get the program moving with a first round approximation of environmental and socio-economic conditions. After the programs have been developed and implemented for awhile, the need for a better data base and a more finely tuned analyses (particularly the dynamics of environmental and public service systems) becomes apparent. A second round of inventory and analysis work is then initiated.

Land Use Plan

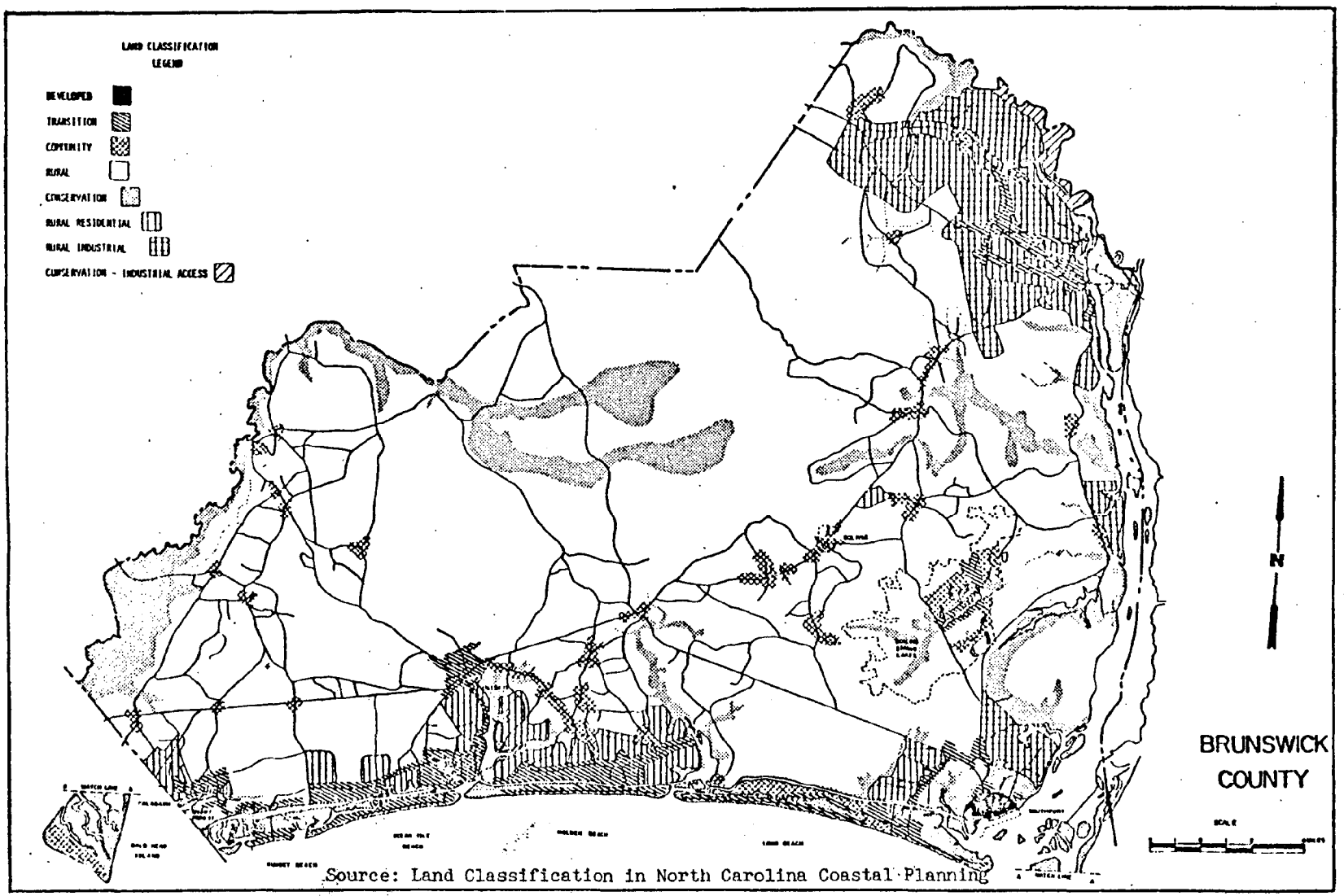
Section 6.5 pointed out that most states used a land classification system to guide local governments in the production of a land use plan. The relative simplicity of this approach is designed to enable local governments with limited previous planning experience to develop a land use plan. In North Carolina, however, according to a recent survey of four counties' experience:

> There was a good deal of confusion at the local level on the purpose of land classification. This was also a problem at the state level, but to a lesser extent. In both cases the confusion is due to the fact that the exact purpose of land classification and a mechanism for its use have never been specifically spelled out in state policy. There was also a lack of familiarity with the mechanics of the system at the local level which could only have a negative effect on the final products. These two problems suggest some type of training for local officials on both the purpose and process of land classification is needed.[31]

Experience in Washington, North Carolina and Maine indicates the land classification system is most appropriate for rural areas, and jurisdictions that have not previously prepared a land use plan. Urban and suburban areas in Washington state and North Carolina which had been previously planned and zoned found little utility in overlaying a classification system. A number of urbanized jurisdictions also found that additional classes or subclasses had to be added in order to reflect local variation. Seattle, for instance, divided its shoreline according to seven classifications: conservancy-natural, conservancy-management, urban residential, urban stable, urban stable-Lake Union, urban stable-central waterfront, and urban development.

The general problems North Carolina encountered with application of a land classification system should be relevant to other states considering such an approach. North Carolina's Land Policy Act of 1974 originally proposed that a land classification system be used as a basis for land use planning. The Coastal Area Management Act (CAMA) provided the opportunity for using the twenty coastal counties as a testing area before statewide application of the system. Five classifications (development, transition, community, rural, conservation) were developed by the state administrative agencies. (see Figure 7.6) The five classes appear to have been designed for urban and suburban areas with public service systems (or potential for them) rather than the semi-rural areas of North Carolina's coastal zone. The beach towns on the barrier islands are particularly difficult to fit into the state's classification system, since they experience great fluctuation of population from summer to winter. Often, only one or two of the classifications were appropriate to many areas within a local jurisdiction. According to the Chairman of the Coastal Resources Commission

FIGURE 7.9 REPRESENTATION OF A CLASSIFICATION MAP FOR BRUNSWICK COUNTY



Source: Land Classification in North Carolina Coastal Planning

(CRC), time after time, local governments were encouraged to devise appropriate subclassifications for five classifications.[32]

Local governments have questioned the arbitrary nature of the standards set by the state to distinguish the five classes. Two local responses to the land classification system should illustrate need for flexibility in applying standards (whether it be for land classification or any policy application). CRC recommended that a transition classification be used to designate areas that would eventually be served with public services. CRC guidelines specified that the amount of transition area would be calculated by dividing the projected population by at least 2,000 persons per square mile. The basis for this population density standard was not made evident to local planners. Brunswick County found that if it applied a density of 2,000 persons per square mile, it could not extend water and sewer systems to locations where such services were needed. So the planners simply cut the standard in half (to 1,000 persons per square mile) to calculate the amount of transition area required in the county.

Carteret County took the opposite tack. Instead of using the state standards as a guide, the county chose to interpret them as an edict. In a public hearing, the Chairman of the Carteret County Commissioners attacked the arbitrary nature of the land classification population standards. In the Carteret County Plan, the settlement of Marshalburg was designated "community class." CRC standards recommended that if the population of an area was less than 640 people per square mile, "Community" would be an appropriate designation. The Chairman of Carteret County's Board of Commissioners sarcastically asked:

> Let's assume that there already are 640 people per square mile in Marshalberg.... What about a man who has some

> land and wants his son to build a home there? Must his son leave Marshalberg or does the man take him out behind the barn and shoot him?[33]

The Chairman of CRC responded to this question by stating:

> The community designation is not a rigid classification. When conditions change sufficiently, you go to the next classification, to the transitional classification.... We're trying to get you to plan your services. The guidelines are intended to get counties and cities to plan their growth and be able to meet the needs of the people.[34]

Differing reactions in Brunswick and Carteret County are attributable to at least two factors: local governments disposition toward the program and previous experience of the staff in the planning business. If local officials take as dim a view of a program as the Carteret County Commissioners did of CAMA, fault-finding can easily preclude constructive participation. Brunswick County planners were experienced with the politics of planning. They knew that variations in local conditions and exceptional local situations often require deviations (or creative interpretation) of state guidelines, criteria and standards. But Carteret County planners were new to the planning business (as were 20 of the 54 coastal jurisdictions). They assumed that state guidelines had to be followed closely, even when local conditions would indicate otherwise.

Several conclusions can be drawn from the problems Washington and North Carolina encountered in applying a classification system. First, guidelines should be tested before being issued (as recommended by Section 6.6). In Washington and North Carolina, if field tests had been conducted in a range of conditions, revisions would probably have increased the operability of the classification system and improved the value of the land classification maps for local governments' planning. Local planners in both states have suggested that the land classification process would

have been far more effective if two systems were developed; one for urban areas and one for rural locations.

Second, if local government has genuine difficulty applying the guidelines it should be encouraged to communicate the problem to the state, and seek to have either the guidelines changed or a variance allowed to address the local situation in an appropriate manner. Third, local governments which go begrudgingly along with the state program will often prefer to magnify difficulties they find in following the enabling act or guidelines than to work with the state administrative agency to find a reasonable means to minimize or avoid problems encountered.

As a fourth point, the local unit of government has to clearly see the value of the exercise they are going through. In North Carolina considerable time and effort went into preparing the land classification maps as the basis for land use plans. The worth of these maps is now being questioned.

California has taken a different tack from other states in its requirement for a land use plan. Since all local governments have already prepared land use maps and zoning ordinances in conjunction with previous planning programs, a land classification system is an inappropriate approach. Instead the Coastal Act requires a plan that clearly specifies priority of use for all areas within the coastal zone, and in many locations, performance standards must also be set. The Coastal Act establishes the land use plan as the anchor point of the local program. According to the Commission approval of a land use plan means;

> that all the significant land use decisions have been made in a manner *sufficiently detailed* to indicate the *kinds, location* and *intensity* of land uses that are consistent with the Coastal Act policies, and... that sufficient direction has been provided for the local government to proceed to the zoning phase without any further resolution of planning issues.[35]

The zoning ordinance and other implementation mechanisms are intended to be merely an extension of the land use plan.

The Coastal Commission has recently completed its review of the first local program submitted for approval. The program encompases a third of the city of Carlsbad's coastal zone (the area surrounding Agua Hedionda Lagoon). The state review of the Agua Hedionda Plan ran 26 single spaced pages, scrutiny was at a parcel-by-parcel level of detail. Although the level of detail was partly necessitated by the precedence that would be set in approving the very first local program, Carlsbad was not expecting the Coastal Commission's intent to have land use priorities specifically pinned down and detailed conditions imposed on land use activities.

> The initial reaction (of Carlsbad) to the recommended level of detail is that the city would be very hesitant to assume the responsibility or liability for the proposed conditions, and that burden would be best carried by the Coastal Commission.[36]

The lines have now been drawn in California between the Coastal Commission and local governments. The two main points of contention will be the degree of specificity (or lack of discretionary flexibility) in local programs and the detailed conditions the Commission attaches to its approval of a local program.

Performance Standards

A notable shortcoming in many local programs is the absence of performance standards to control or mitigate adverse impacts. The states that initiated the CPP did not require performance standards as an integral component of the local program. In Maine, Wisconsin, North Carolina, Minnesota and Michigan a land use--such as residential development--may be allowed by the land classification map but the particular nature of the site or

the development may generate a pollutant or sediment load that directly conflicts with management objectives of the local program. It was acknowledged that activities permitted by the North Carolina's land classification system could congest coastal highways (particularly in the event of a hurricane), pollute ground water supplies, and overdraft coastal acquifers. A local land use plan should be buttressed by performance standards to assess whether permissable uses will compromise local and state management objectives.

There are two chronic problems with performance standards. Usually a good understanding doesn't exist of the cause and effect relationship between a particular land use activity and specific management objectives. Second, local governments generally do not have a staff of adequate size or expertise to assess the potential impact of development proposals. Even if the first two problems are overcome, the geographic coverage of the local program may fall short of the area necessary to manage coastal systems (as discussed in the previous section). Performance standards for grading activities within 250 feet of the coastline may literally be a drop in the bucket compared with sediment generated by activities beyond the 250 foot jurisdiction.

Public Works Program

It is not uncommon for a land use plan to be in direct conflict with one or more elements of a capital works program. This is almost to be expected since the Planning Department and Public Works Department are usually in separate agencies, with different missions and constituencies. Despite the institutional barriers, California, Oregon and Florida will attempt to relate land use plans and capital works by means of their local programs. The narrow inland distance of Wisconsin, Maine, Minnesota,

Michigan and Washington's programs usually precludes planning for public work systems since they extend well inland beyond the jurisdiction of the CPP.

California's *Local Coastal Program Manual* instructs local government to analyze the relationship over time between land use activities and the capacities of highway, water supply and waste water systems. Case studies on implementing the *California Coastal Plan* have developed a step-by-step process for relating land uses to various public services.[37] Figure 7.7 shows the disparity between the potential population at full buildout* in the Half Moon Bay Subregion and the population service capacities of the three public works in the area. Lines marked *alternative* refers to the population levels of alternative plans that were developed in accord with different interpretations of *Coastal Plan* policies.

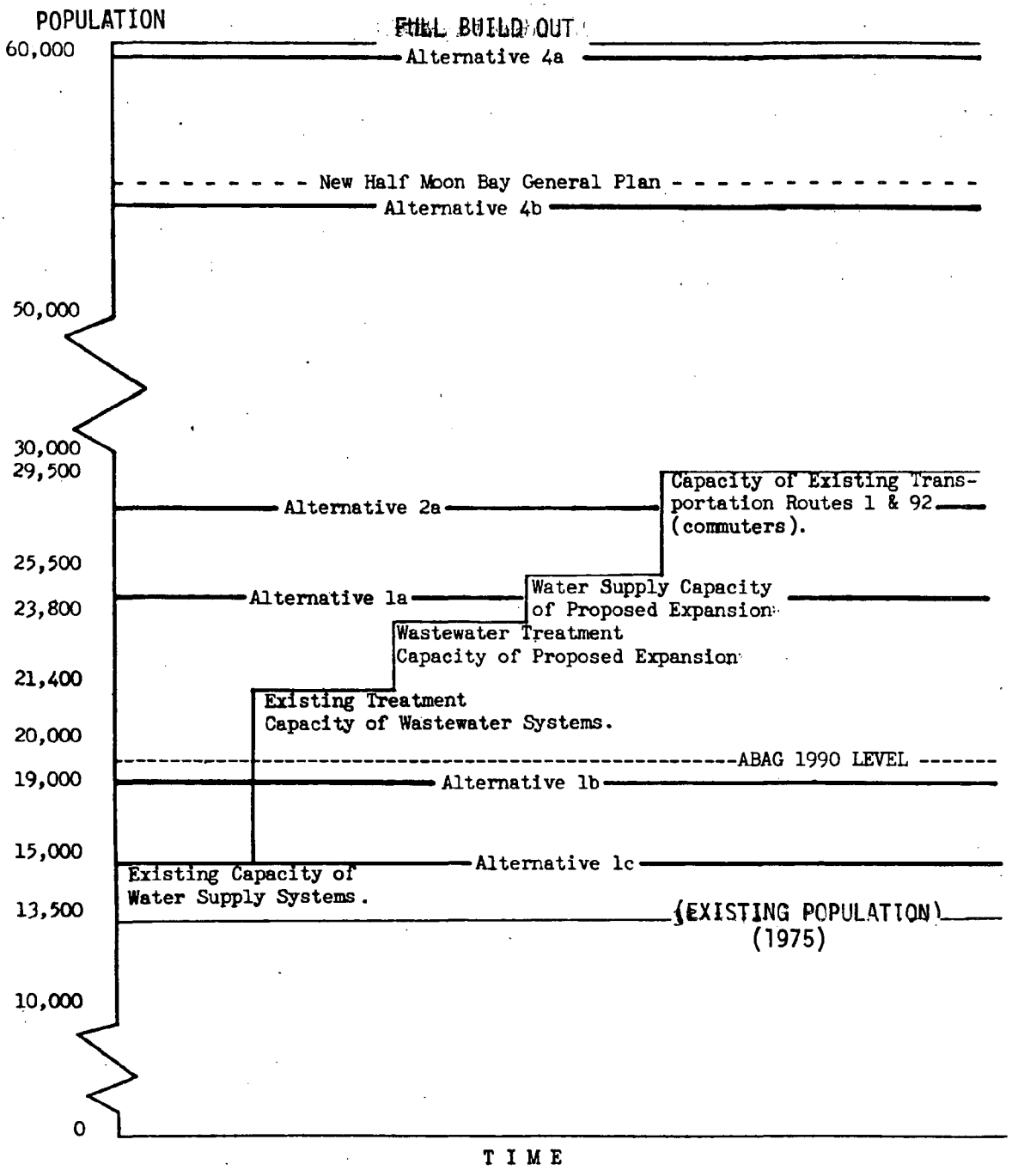
It is conjectural whether local governments in California, Oregon or Florida will be able to integrate land use and public works programs. It largely depends on the provision of technical assistance and data by State and Federal agencies. California will be publishing a manual to assist local governments in making traffic capacity analysis in addition to assessing the capacity of the Pacific Coast Highway. Further studies are being done on the capacity of coastal acquifer systems to sustain increased withdrawls.

7.9. Anticipating the Implementation Arrangement

Both California and North Carolina have separated the local program into two phases; the land use plan and implementation program. First, the state reviews and approves or denies the land use plan. Depending on the outcome of the land use plan review, an implementation program consisting

*Full buildout is defined to be the maximum development that could occur given the zoning, parcel ownership pattern, and existing land use within a local jurisdiction.

FIGURE 7.7: PUBLIC SERVICE CAPACITIES IN RESPECT TO ALTERNATIVE PLANS AND FULL BUILD OUT



Source: Dickert, Thomas et al, Collaborative Land Use Planning for the Coastal Zone: Volume II, The Half Moon Bay Case Study, IURD, University of California, Berkeley, December 1976.

primarily of zoning ordinances is then prepared. In California and North Carolina it may be a year or more between submission of land use plans and submission of the implementation program.*

One inherent problem in separating the land use plan from the implementation package, particularly if there is a considerable span of time between the two, is the reluctance of local governments to adopt a land use plan which significantly restricts or decreases the expectations of local property owners or developers without being reasonably assured that a package of implementation techniques (particularly acquisition or compensation funds) and the state's legal backing will be available to buttress the plan. In interviews with local governments in North Carolina, Maine, and Washington, an opinion frequently expressed was that conservation or preservation designation should not be placed on land which would substantially decrease the owners' or investors' development expectations, particularly if property taxes levied and paid were based on development expectation.

In rural areas where property rights are zealously guarded land use plans should not be expected to have a conservation-preservation orientation if the plans are produced without a direct relationship to state back-up on a probable means of implementation.

For example, rural counties and cities in Washington, concerned about the taking-issue, placed natural and conservancy designations on relatively few privately owned shorelands.

---

*In North Carolina, while local governments had to prepare land use plans for their entire jurisdiction, implementation programs are only required for "areas of environmental concern" (AECs) within each jurisdiction. Local governments must wait between state approval of their land use plans and state designation of areas of environmental concern.

> More shorelands would have been given a natural or conservancy designation if local governments had been reasonably assured that state or federal funds would be available to purchase development rights. If local governments were given half the money DOE has spent on various studies, for the purchase of development rights, master programs would be a lot further along in achieving SMA objectives.[38]

Cowlitz County designated three-quarters of the Columbia River shorelines as "urban," and the majority of its stream shorelines as "rural." "Natural" designations were only applied to those areas already under state control.[39]

The point to be made here is that plan preparation must look ahead to the implementation arrangement. Without a linkage between the two the plan is likely to be either unrealistic or a perpetuation of the status quo and business-as-usual. Without assurance of compensation or a strong legal position by the state (such as court decisions on wetland and flood plain regulation), preservation designations, and to some degree conservation designations, are likely to be few and far between.

At the outset of the local program preparation process the state should begin assembling an implementation package to lend support to local governments' final products. California had the foresight to combine its Coastal Act with a park acquitition bond issue for $110 million and creation of State Coastal Conservancy. The authors of the Conservancy Act recognized that regulatory and acquisition authority were not always legally or politically sufficient for state or local implementation. The Coastal Conservancy Act gave the state the additional powers to:

- acquire development rights or easements to preserve agricultural land;
- restore degraded areas;
- redesign and resubdivide;
- enhance resources;
- establish buffer zones (resource protection zones);

- temporarily acquire significant coastal resource areas;
- and establish a system of public accessways.

As a final point, it should be recognized that the stronger the implementation authority the state retains or assumes, once a local program is approved, the weaker or more difficient a local program can be. If the state assumes or retains broad powers and discretion to reverse local government decisions, inadequacies in the local program can be covered by state override.

7.10. Public Participation

Public participation can make or break a local program and of course it can also have little or no influence.

In Washington citizen advisory committees played a substantial role in the preparation of local programs. The state guidelines recommended that each jurisdiction appoint a broadly constituted citizen advisory committee. A number of jurisdictions also appointed technical advisory committees composed of agency, industrial and commercial representatives. DOE's staff counsel on shorelines management noted that the agency generally had problems approving master programs if the citizen advisory committee were dominated by a conservation or development coalition. "The better programs were developed by a balanced representation of developers and conservationists."[40]

An assessment of Washington's shoreline management program observed that:

> An important consequence of Washington State's experience with citizen advisory committees is that they produce an important and often influential constituency for planners. The advisory process provides master programs with greater political legitimacy and implementing clout than could have been obtained had planners alone formulated the programs.

> Hence, it is increasingly difficult for local administrators and commissioners to delete personally or politically objectionable master program provisions in the name of public interest.[41]

Another indication of the significant role played by citizens advisory committees is their continuation beyond approval of the shoreline master program. Many local governments have kept the advisory committee to assist in program implementation.

In Washington's more populous cities and counties there was some difficulty in appointing a committee that fully represented the public. However, the state supervisor of shoreline Management Act observed that there is a larger pool in urban areas from which representative citizens willing to participate in specialized programs can be found.[42] By contrast in rural areas, there is a fixed number of individuals who have neither the time nor the inclination to become members of citizen's committees. Respected members of rural communities tend to to be overused and overworked and are often reluctant to devote "one more evening per week" to implement another "state" program.

Nevertheless, in rural counties and small cities, virtually any resident who wanted to participate in program development could be a member of the committee. More populous jurisdictions could either select a small group from those who wanted to be committee members (Seattle's approach) or have very large committees that were difficult to manage (Pierce County). In Seattle, criticism of the elitist composition of the city's citizen advisory committee added to delays in the city's program.

A number of people interviewed in Washington attributed much of the effectiveness of the citizen advisory committees to DOE's guidelines. It provided a framework for citizen participation efforts. To further assist

citizens advisory committees and the local planning office, DOE prepared two guidebooks: "Sample Procedures for the Development of Goals and Policies," and "Sample Procedures for Identification of Shoreline Environments and the Development of Shoreline Use Regulation."

In Maine and North Carolina, the public participation was far more turbulent and less productive than Washington. North Carolina's public participation efforts provided many citizens with the first forum to voice their concerns to state and local officials about community issues. Local and state staff found it difficult to keep participants focused on objectives that were within the scope of the Coastal Area Management Act. Often the primary concerns were non-coastal issues such as leash laws, hunting regulations, and paving of roads on the school bus routes. Citizen's advisory committee's were to be established for each jurisdiction, however, in most cases they did not play a significant role in program development. The composition was not broadly based, usually friends of the local officials ("good ole boys"). Furthermore, since both state and local staff were new to the business of public participation little direction was given in the role advisory groups should play in program development.

Public participation transformed Maine's coastal zone management program from a state dominated approach to an arrangement strongly oriented to local governments. In June of 1975, the governor withdrew the state-dominated approach to coastal management by withdrawing Maine's application for Federal approval of the program. The action was prompted by the outcry from local governments and coastal residents that the program was being forced upon them. The state had made a too-little, too-late attempt to involve coastal towns and residents in program development. Citizen participation committees had been set up in the mid-coast regional planning commissions.

> State planners counted on four midcoast regional planning commisions to spark local people with enthusiasm for the program without asking for advice first. Local sentiment toward regional planning is none too enthusiastic, since the regional commissions are viewed as an extraneous level of government.[43]

People serving on the regional commission's citizen's group soon became aware that they were expected to rubber-stamp the state's coastal management program, not to help formulate it.

> ...An unprepared and sometimes hostile group of local people who had not yet even seen a copy of the federal coastal zone management law were being asked to endorse a complex state program.[44]

The language of the state's program proposal made matters worse by characterizing local government land use planning as "inefficient, unwidely and largely uninformed."[45]

In contrast to the first attempt, the second coastal zone management program is a back-to-the-grassroots approach, oriented to participation by coastal residents and direct invclvement by coastal cities and towns.

In sum, public participation is a volatile ingredient in the development of a local program. If properly handled in a structured and focused manner, it can build a balanced program that is supported by a broad based constituency. If public participation becomes a rubber stamp operation or a free-for-all forum to protest all of society's ills, it can blow up the local program.

An important--and often overlooked--dimension to citizen involvement in local program development is public understanding of interim and final products. Interim and review drafts of the local program are often presented in graphic formats and loaded with technical jargon that makes it difficult for the public to understand the implications of various planning policies. No doubt, on occassion, such obfuscation is intentionally done to end-run controversial issues.

The local programs developed in Washington illustrates the problem of communicating the implications of planning policies. In order to understand how a local program will affect the type, intensity and location of development, it is necessary to correlate:

- the maps of shoreline designations
- the description of each use activity that will be permitted in an environmental designation
- the overall management policies that will guide permit letting.

The tedious process that was required to follow this three-fold relationship usually limited public participation to the advisory committees and those groups or individuals that had vested interests in shoreline areas. Local planners have speculated that there would have been much more public participation had the master programs been more issue-oriented (such as public access to the tidelands, control of inshore pollution, fisheries management, public recreation opportunities).[46] Public understanding of the master programs was stymied by the abstract character of environmental designations, which mask the underlying reasons for designation. Had the rationale been indicated in the designation title (flood plain, wildlife habitat, croplands) there probably would have been a greater understanding and wider acceptance of the master programs.

Several of the local planners in Washington agreed that citizens would have participated more if cities and counties had mailed them brochures with well-designed maps depicting the environmental designations in sufficient detail to show everyone how their interests might be affected. This brochure could also have included a matrix relating designations to actual activities. Only two coastal jurisdictions (Whatcom and Skagit Counties) prepared such a brochure. The fears many people had about the eventual implementation of Whatcom's shoreline master program were effectively dissipated when the

county produced and widely distributed an attractive, easy-to-read broadside that portrayed a matrix relating designations to permitted activities and a map illustrating the location of these designations.

Usually only a few maps depicting environmental designations were produced, this because of the high cost of printing oversized sheets and color indications of the various designations. Master programs were often sent out for public and governmental review without maps that clearly depicted the location of the designations. Obviously, the absence of maps limits not only the public's, but also government agencies' ability to review programs and understand their implications. In one notable case, the U.S. Fish and Wildlife Service, in reviewing the Grays Harbor local program failed to comprehend the significance of permitted land uses in the port area. No maps had been included to illustrate the wetlands area that could be filled in accordance with the "urban" designations along the throat of the estuary.

In contrast to Washington's difficult-to-comprehend master program, North Carolina, as previously mentioned, required local governments to prepare a separate synopsis of the land use plan in a style and format that would enable the public to understand policy implications.

At the very least, a local program should be summarizable into a map indicating what activities will be permitted where and when. The policies of the local program should be clearly tied to the maps so the public can see how their "acre of interest" will be affected. As one local planner in Washington observed, "A plan is no good unless you can hang it on the wall."[47]

REFERENCES

1. Planning and Conservation Foundation, *Land and the Environment Planning in California Today*, by Seaway/Cooke (Los Altos: William Kaufmann, Inc., 1975) p. 82 citing California Council on Intergovernmental Relations. *Local Planning in California - A Survey*, April 1973. p. ___

2. Interview with Dennis Derickson, Senior Planner Snohomish County, August 26, 1976. Interview with James Williams, November 29, 1976.

3. Rod Mack, Director of the Shorelands Planning Section, Department of Ecology, margin notes on the review draft of the Washington chapter, July 13, 1977.

4. Interview with Robert Jensen, Assistant State Attorney General, and Don Peterson, Director, Shorelands Planning Section, Department of Ecology, May 21, 1976.

5. Interview with James Williams, Planner, Washington State Association of Counties, November 29, 1976.

6. Bryden, David, "Rules and Variances: A Study of Statewide Zoning," *Minnesota Law Review*, 1977. p. ____

7. Interview with David Stick, Chairman, North Carolina Coastal Resources Commission, September 28, 1976.

8. Interview with William Travis, Deputy Director, California Coastal Commission, August 25, 1977.

9. Cooper, Arthur, "The North Carolina Coastal Area Management Act: A Program of State-Local Government Cooperative Planning in the Coastal Zone," *Proceedings of the First Annual Conference of the Coastal Society*, November 1975. p. ____

10. Mueller, Paul and Van Berkel, Paul, "Local Government Response to State Mandated Land Use Laws: Wisconsin's Experience." *Journal of the American Institute of Planners*, October 1977. Also Richard Lehmann, Paul Mueller, and Paul Van Berkel, "Capabilities of County Land Regulation Programs in the Wisconsin Coastal Area." December 1976. p. ____

11. Ibid.

12. Louis Wolman Interview with Joe King, Administrator of the Shorelands Management Program, July 27, 1977. See Appendix J.

13. Interview with Vivian Kahn, Chief of Community Assistance, California Office of Planning and Research, August 7, 1977.

14. Interview with William Boyd, Staff Counsel, California Coastal Commission, August 25, 1977.

15. Grote, Lenard, "Coastal Conservation and Development: Balancing Local and Statewide Interests," *Public Affairs Report* Vol. 19. No. 1, February 1978. p. ____.

16. Meeker, David, Jr. and Knecht, Robert, "Joint Agreement for Coordination of Planning between the Office of Community Planning and Development Department of Housing and Urban Development and the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce, 19 February 1975.

17. Interview with David Milles, Senior Hydrologist and Administrator of the Shorelands Management Program, Department of Natural Resources, January 14, 1977.

18. See Appendix L. p. ____

19. See Appendix J. p. ____

20. Cooper, "The North Carolina Coastal Area Management Act ..." p. ____

21. Washington Department of Ecology, "Coastal Zone Management Grant Application," April 1976. p. ____

22. Oregon Revised Statutes 197.190.

23. Interview with David Cunningham, Planning Director, Jefferson County, August 23, 1976. Interview with Stan Lattin, Planning Director, Greys Harbor Regional Planning Commission, May 20, 1976. Interview with Dennis Derickson, August 26, 1976. Interview with John Keegan, Attorney, King County Prosecutors Office, April 23, 1976.

24. California Coastal Zone Conservation Commission, *California Coastal Plan*, December 1976. p. ____

25. Oregon Land Conservation and Development Commission, *Handbook*, 1976. p. ____

26. Interview with Stan Lattin, May 20, 1976.

27. Maureen McCrea and Jim Feldman, *Washington State Shoreline Management: An Interim Assessment*. Program in Social Management of Technology, University of Washington, January 1975. p. ____

28. Washington Department of Ecology, "The Washington Coastal Atlas: An Overview," December 1976.

29. California Advisory Commission on Marine and Coastal Resources, *The Review of the California Comprehensive Ocean Area Plan*, December 1972. Center for Natural Areas, Smithsonian Institution, "Planning Considerations for Statewide Inventories of Critical Environmental Areas" unpublished, 1974.

30. Rod Mack, margin notes on the review draft of the Washington chapter, July 13, 1977.

31. French, Steven, "Land Classification in North Carolina Coastal Planning, A Research Memorandum," Center for Urban and Regional Studies, University of North Carolina, June 1977. p. ____

32. Stick, David, Chairman, Response letter to the review draft chapter on North Carolina, July 27, 1977.

33. *Carteret County News-Times*, June 14, 1976, page one.

34. Ibid.

35. California Coastal Commission, "Staff Report on the Aqua Hedionda Specific Area Plan," February __, 1978.

36. Carlsbad Planning Department, Response to the California Coastal Commission recommendation, February __, 1978.

37. Thomas Dickert et al., *State-Local Collaborative Planning for the Coastal Zone*, Vol. 2, Half Moon Bay Case Study, University of California, Berkeley, 1976.

38. Interview with David Cunningham, August 23, 1976.

39. Response to the Washington master program survey from Cowlitz and Wahkiakum Counties.

40. Interview with Robert Jensen, May 21, 1976.

41. McCrea and Feldman, *Washington State Shoreline Management: An Interim Assessment*. p. ____

42. Rod Mack, margin notes on the review draft of the Washington chapter July 13, 1977.

43. Lewis, Sylvia, "Coastal Plan Runs Aground," *Planning* Vol. 42, November 1975. p. ____

44. Ibid. p. ____

45. Maine State Planning Office, "Preliminary Application for Program Approval in Accordance with Section 306 of the Federal Coastal Zone Management Act of 1972." p. ____

46. Interview with Stan Lattin, May 20, 1976. Interview with Murray Walsh, May 18, 1976. Interview with Roger Almskaar, Senior Planner, Whatcom County Planning Department, April 24, 1976. Interview with Dennis Derickson, August 26,. 1976.

47. Interview with Dennis Derickson, August 26, 1976.

8. CONCLUSIONS

The conclusions have been organized into six subsections:

- an exercise in mutual and marginal adjustment
- symbiotic relationship and mutual respect
- the basic package
- phased funding
- mandatory planning
- evaluating achievement

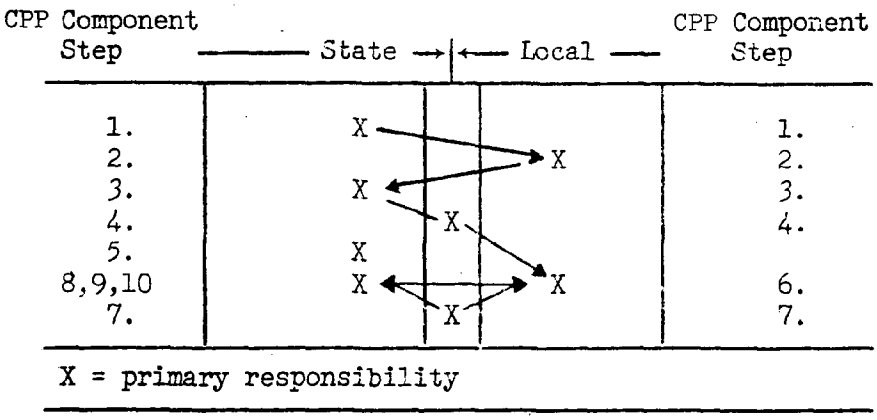
8.1. An Exercise in Mutual and Marginal Adjustment

Observing the dynamics of the give-and-take relationship between local governments and the state administrative agency has been one of the most interesting aspects of the research. The dynamics follow the mutual adjustment pattern discussed in Section 2.2.

Back-and-Forth Dynamics

The first six steps of the CPP process resemble a tennis game, with the burden of responsibility and work bouncing back and forth between state and local government. Figure 8.1 illustrates this. The game begins on the state's side of the court with the preparation of policies and guidelines. For a good serve the state must first determine how local government programs can achieve the objectives of the enabling act given the limitations of funding, technical assistance, data and time. If the state drafts guidelines which require too much from local government, it risks retaliation. For instance, local governments may dump program preparation in the state's lap, or collectively petition the legislature for amending or rescinding the act (the legislature and the governor are the referees in this game). Aiming the program above city and county planning capabilities can also mean loss of credibility and respect, because it demonstrates that state administrators do not understand the capabilities and constraints of local government operations. If the state guidelines

FIGURE 8.1
Back and Forth Dynamics



are not demanding enough, local programs may not even come close to achieving the objectives of the enabling act. In such a weak serve, the worth of the CPP program will be questioned and termination may be advocated.

With program preparation the ball lands on the local's side of the court (Figure 8.1). Since in most circumstances local governments are not enthusiastic - and more likely, unwilling participants - marginal adjustment will be their dominant strategy. Their prevalent question will be *what is the minimum amount of effort needed to modify the way we are now doing business in order to receive state approval?* Marginal adjustment between institutions with different objectives and constituencies is to be expected. It is certainly not a phenomena that is specific to collaborative planning.

There are at least two exceptions to marginal adjustment in the collaboration planning process. First, if the local government's planning operation is dissatisfied with the existing plans, they may seize upon collaborative planning effort as an opportunity to clean shop and revitalize the entire planning program - as in Santa Barbara County, where the preparation of a collaborative program is part of a larger process to completely revise the County's comprehensive plan. Second, the collaborative planning process may reveal major problems or inadequacies with the existing land use development

pattern or capital work programs (or any combination of these). In a number of these situations, a local government and politically active groups will see that it is in their interest to adopt standards that are stricter than the state minimums. This happened with one-third of Wisconsin's counties. Marginal adjustment of existing plans will be a matter of course in communities where local plan policies and the state's CPP policies are congruent--or where, at least, the conflicts are minor. The marginal adjustment strategy will probably not work if local government is strongly committed to existing land use policies which conflict with state collaborative planning objectives and guidelines. In all likelihood, this will most commonly occur in conservative or environmentally sensitive jurisdictions that want to keep the community the way it is.

In preparing programs, most local governments will spend a greater amount of time than anticipated and incur costs that will considerably exceed state and federal assistance. In fact, the two most evident and consistent characteristics of the CPP seen to date are greater-than-expected time requirements and budget commitments--a point further discussed in Section 8.3. Cities and counties will effectively use the time expenditure and cost shortfall as a bargaining chip in negotiations on program approval.

State review of local programs clearly shoots the ball back onto the other side of the court. The political heat will be on the state to expeditiously review programs. If the state does not have as good or better information on the issues within a jurisdiction than that which is contained in the local program, substantive review will be technically difficult and politically hazardous. The absence of policies with specific measures and standards will further compound the state's difficulties in

determining whether a local program will achieve the objectives of the enabling act.

In the event of poor information and ambiguous policies, the state will probably be forced to take one or more of the following positions: narrow the number of issues for substantive review, rubber stamp local programs that meet the procedural requirements, or require better documentation of apparent inadequacies.

Negotiation to resolve conflicts brings the game to center court. Negotiation is the most politically charged step in the CPP, because the protaganists are usually arguing *values far more than facts.* The collaborative planning process works best in an information rich environment. Nevertheless, most local programs developed to date are based on sketchy data and weak analyses. State and local governments in Wisconsin, Washington, Minnesota, North Carolina, and Maine have not had the money to develop good data bases or conduct rigorous analyses. Local programs are a first approximation of environmental, socio-economic, and public service system characteristics.

In Wisconsin, Minnesota, Maine, Washington and North Carolina, the absence of hard data on how the local program would achieve the objectives of the enabling act has meant that state review was primarily an exercise in determining whether all the procedural elements had been submitted and were in the correct format. In short, form greatly overshadowed substance.

For two reasons, the earliest local programs will receive the most thorough review and undergo the toughest negotiation sessions. First, the state staff is new at the business. Unaccustomed to give-and-take negotiation, then will tend to go by the book. Second, and perhaps more important, the state does not want to set bad precedents. A scrupulous, even punctilious review of the first programs submitted, as well as a

number of denials, will serve to notify local governments still in the preparation process that more is being expected from city and county programs than they might have anticipated. At the least, the state will attempt to avoid approving programs with inadequacies that would either set a precedent for programs yet to be submitted or provide a bad example to governments with programs in preparation.

The state administrative agency can be expected to lower its expectations and standards after reviewing the front running programs--this is well documented in the Washington analysis of program review, negotiation, and approval. This lowering of expectations and standards will be motivated by at least five pervasive factors:

- desire to demonstrate to the legislature and governor that reasonable progress is being made
- anticipating inadequacies will be corrected in further iterations of planning
- lack of hard information to support the state's position
- avoiding collective action by frustrated governments
- not forcing a program that local governments will find difficult to implement.

Interestingly, a state administrative agency faces the same dilemma when certifying local programs as the Federal Office of Coastal Zone Management does when approving state coastal management programs.

> There is a difficult choice facing the (Federal) program: should relatively weak programs be approved, on the grounds that they are the most effective that can reasonably be expected, or should the Office of Coastal Zone Management insist on programs matching the original ambitious design?
>
> There is a direct parallel to this question in the states. As seen in the discussion of the Washington State program, the state-local relationship is a mirror image of the federal-state relationship as described here.*[1]

---

*The Washington analysis referred to is Appendix E, Section 5.7.6.

One argument in favor of approving relatively weak local programs runs as follows: approval means continued state involvement through program operation funding, which provides an opportunity to encourage local governments to meet state objectives through this in combination with programs of other agencies. At least a relatively weak program allows the state to get its foot in the door. Disapproving a local program, according to this line of reasoning, means cutting off a chance to use the CPP approach to achieve the objectives of the enabling act in the future. The benefits of maintaining good rapport with local governments and approving programs that communities will support, plus the state's ability to strongly encourage the improvements be made as a continual process of program revisions and amendment, will convince the administrative agency that a flexible posture and a "meet-them half way" policy would in the long run best achieve the objectives of the enabling act.

The state administrative agency will make every effort to insist on as much authority and rigor as it can from local government to achieve enabling act objectives--and to get as many "approvable" programs as possible. The state administrative agency wants to demonstrate to the legislature, the governor's office, skeptical governments, and program opponents that the process is working. The number of approvals vs. denials is the most apparent--and one of the more imperfect--indicators of program achievement. The balance between the desire to approve the strongest possible local program on the one hand, and the practical political difficulties of bringing effective management programs into being on the other, is a basic dilemma of the CPP process. This dilemma has the side-effect of fostering the symbiotic relationship that usually develops between the state administrative agency and local governments--as described in the next sub-section.

The state is going to find it difficult to substantively criticize--much less reject--a local government's submission if it does not have the reliable information to demonstrate that the program as submitted will probably not achieve the minimum state standards for approval. Furthermore, it is to be expected that the reasonableness of standards for program approval will be questioned. To the extent that the standards do not have scientific backing or broad base public support, the state will slide into fall-back positions--a descending series of lowered expectations.

In Washington and other states, the administrative agency has expressed concern that local governments, frustrated and annoyed by repeated disapprovals, would rebel and leave the burden of program preparation to the state. Rebellious local governments might then join together and form a coalition to repeal the enabling act.

If the state persists and maintains its original standards, local governments will probably prepare technically correct programs that are impossible to implement. If the program is not a product that the local government can comfortably live with and support, it is wishful thinking to expect a city or county will have sufficient commitment to adequately implement the program. It is better to let local government develop a program the community will support, despite its flaws, than to force a city or county to develop a technically correct program it could not or would not enforce.

Many local planners have said, "you can't expect perfection the first time around." Planning, they argue, is an iterative process, and imperfections can be corrected the second or third time around. This iterative form of middle-range planning is nothing new; it has been

advocated by professionals since the mid-fifties as a bridge between long range comprehensive planning and permit review.[2]

City and county planners claim that the state tends to see the local program more as an end point than a stage in an ongoing process. These arguments, at the least, make sense for jurisdictions that have not been involved in planning before the CPP arrived on the scene. But, in states that are beleaguered by rapid growth and threatened with an avalanche of development activity, such as California, Florida and Oregon, the first round of program approvals may be the only good shot the administrative agency will have to assert state interests; the state might not get a "second chance." The avalanche of development activity triggered by the first round of program approvals could sweep away most opportunities for making improvements in further rounds of planning. For example, the California Coastal Commission will attempt to tie down local government plans with as much specificity as possible to protect against avalanche losses.

Given the political and pragmatic necessity of accepting many programs that have major inadequacies, the state will adopt conditional approval and segmented approach strategies. Conditional approval will often be predicated on the completion of an amendment within a set time period to correct an inadequacy in the program--as submitted. Geographic areas in the program on which agreement can not be reached--or requiring further study may be omitted from approval as holes in the fabric. The state may delay or resist mending these holes; preferring instead, to retain its permit authority in "areas of critical concern." Conditional and segmented approvals allow the CPP effort to keep moving forward without accepting substantive flaws in local programs that would compromise

the objectives of the enabling act. Full unconditional approval might preclude or weaken the state's ability to appeal projects which take advantage of a significant flaw in the program (step 8).

Imposition of sanctions, if an adequate program is not developed, forces the state to take the ball and control the game on its side of the court. The state will go to considerable lengths to avoid taking the ball and will only impose sanctions as a last resort. If local government is making reasonable progress in preparing its program and the state has the authority to control development activities that may prejudice local planning or conflict with the objectives of the enabling act, it is unlikely that sanctions will be imposed. The symbiotic relationship fostered by the CPP approach will also discourage state administrators from taking the ball.

Implementation of local programs carries the action back into the local's court, at least initially. Actually, as Figure 8.1 indicates, local implementation is concurrent with state review of appeals, variances, and amendments (steps 8 and 9). To strain the tennis analogy, in the implementation phase, the game settles down to a relative steady volleying of variances, conditional uses, appeals, and amendments. State review and override or affirmation of local decisions continually interacts with local implementation. This process should achieve a dynamic balance of state and local interests. In Wisconsin, Minnesota, Michigan, Maine, and Florida, however, the state administrative agency does not have the authority to reverse local permits that do not conform with the certified programs, and therefore the implementation phase of the game is mostly in the local government's court. In these five states, implementation is *not* a balancing act between state and local interests; state interests are clearly outweighed and under-represented, as further discussed in subsection 8.3.

Over an extended time period, local government can ultimately subvert many, if not all, of the objectives of the state enabling act by the way it implements its local program. This is true for all nine states, not just the five without the authority to override local permits. If the local government is firmly against the objectives of the program, inadequate implementation is inevitable. A city or county pursuing an opposition (or benign neglect) strategy will simply have to take care not to appear too flagrant in its use of the various means available to circumvent its certified program - means such as variances, conditional uses, planned unitdevelopment, perfunctory review of permit applications and post construction conditions, and ignoring violations. It is not especially difficult for local government to hide the ball on its side of the court. The state may be able to intervene and often times prevail on large scale projects, but small scale projects are local government's domain. A few lot splits here and a few single family dwellings there will nickle and dime a program to death. It is the cumulative effects of these small scale rpojects that will do the program in.

Ultimately, the entire CPP effort - after much time, money, and travail - boils down to shether local government will eventually take the attitude that implementation of the certified program is in their best interest. Most local governments appear to adopt a positive attitude, at least by the time the implementation stage is well underway, as evidenced by the rapid rise in the number of planning activities and institutions local governments voluntarily initiate after CPP programs have been implemented. This positive attitude is largely a function of the symbiotic relationship that develops between state and local government - as described in the next subsection.

To the extent that the CPP operates in an information-poor environment, popular support of the program will have to carry implementation where technical support is lacking, as noted by an analysis of Minnesota's program:

> Issues are not going to be resolved by issuance of permits nor will they be resolved by plans that do not have any technical or popular support. It is possible that a plan will be implemented even though it is technically weak, if it has strong and wide-spread public support.[3]

Although popular support can buttress the initial period of implementation, good information will eventually have to be developed to support (or modify) the local program's policies. As implementation proceeds, the stakes will get higher, and the vicissitude of public opinion is a thin reed upon which to support a management program.

Variations in the way local governments implement their programs are to be expected. An analysis of the Wisconsin program concluded:

> There is no single, uniform way things are done across the local government landscape, even when local activities take place under aegis of purportedly uniform state mandates. It tells us that state mandates will be adopted with local variations, whether or not the state sanctions variations. It should teach us that the state cannot assume existence of a uniform local pattern of nomenclature, procedures, allocations of responsibilities or interpretations of stated guidelines or rules, and that when people want to influence local conduct they should address their directions or pleadings to the diversity of behaviors that exists. Variability in how local units handle the mechanics of land use regulation can be read as a singnal that local units have accepted the job of doing the regulating and have fit the task into their institutional mores.[4]

There are many rocks upon which program implementation may founder. Legal challenges (particularly the taking issue), over dependence on permit regulation, inadequate funding or advisory assistance, inadequate penalties for violation, insufficient training of local enforcement officers, and lack of monitoring systems are some of the more formidable and treacherous obstacles to navigation.

Effective implementation, of course, must go beyond the local government unit level and reach the individuals in the communities, as noted by a recent review of land use enforcement analyses:

> As with all laws the attempt to *regulate* the private behavior of many individuals, effective implementation of police power controls over land use must ultimately rely upon *self-enforcement* and *voluntary compliance* by the preponderance of citizens affected by the law. Voluntary compliance rests upon a fundamental understanding and respect for the law as a means of ordering relations between citizen and government as well as an effective climate of deterrence which convinces the affected citizen that there is a high probability of being discovered, prosecuted, and penalized should he fail to comply.[5]

All states reiterated the point that effective implementation depends on both levels of government carrying out their responsibilities in a mutually supportive manner. Local government staff must realize that "local control" also means responsible action at the local level. For its part, the state must occasionally step into a messy local situation and *enforce* the law. Too often, flagrant violations are ignored by the state for fear of local criticism. Yet what really infuriates local government is state reluctance to use its legal muscle to stand behind--or at least provide advisory support--when certified programs developed in good faith by the local government are legally challenged or prosecution of violators is required. Local governments did not wish a certified program upon themselves; it was a state imposition, and the least the state can do is support implementation challenges and affronts when the going gets rough.

The state will not only have to furnish legal support but also provide funds for acquisition, restoration and redevelopment programs. Many state and local planners do not see a bright future for collaborative planning until it can move beyond mere permit regulation toward such positive activities as the acquisition of development rights, low interest loans for promoting socially desirable projects, and tax incentives for retention of lands in open space uses, as further discussed in Section 8.6.

The need for a mix of implementation mechanisms gets to the heart of why many a local program will gather dust as a mere package of good ideas. Many public policy analyists have observed that "there is no point in having good ideas unless they can be carried out."[6]

> The great problem is to make the difficulties of implementation a part of the initial formulation of policy. Implementation must not be conceived as a process that takes place after, and independent of, the design of policy. Means and ends can be brought into somewhat closer correspondence only by making each partially dependent on the other.[7]

There are two parts to the means-ends connection. The local government must know how to *translate a state policy into language or a map* that will function as an operative part of the local program. Secondly, the implications of applying a policy must be assessed *and* shown to be capable of being accommodated within the political milieu of local government. Cities and counties are with good reason reluctant to prepare, adopt, and implement a land use plan that significantly restricts or decreases the expectations of local property owners or developers. They need to be reasonably assured that a package of techniques (particularly acquisition or compensation funds) and the state's legal backing will be available to buttress the plan.

In those states that require state agencies to obtain permits from local government to assure consistency with certified programs, it is conjectural whether local review of state projects will improve state-local communications, streamline the permit process, and reduce uncertainty. On the local government level, implementation will be influenced by which department issues permits. In jurisdictions which give permit issuance to the planning department, (which presumably is the organization that developed the local program), the agency may have newfound leverage over

public works, building, and parks departments. If permit issuance is not done by the department that develops the program, vigorous implementation cannot be expected. With such an arrangement implementation may be easily thwarted, particularly if the agency finds that conformity with the certified program conflicts with its organizational objectives. The effects of these changes in state-local, and intra-local authority relationships certainly merit further research.

8.2. Symbiotic Relationship and Mutual Respect

It has been interesting to observe the symbiotic relationship that has developed between local government planning departments and the state administrative agency. The same symbiotic arrangement has also occurred between coastal states and the Federal Office of Coastal Zone Management. As previously described, the state needs to show that local governments are making reasonable progress in developing their programs as well as doing an adequate job of implementation. Without the cooperation of local governments neither of these indicators will show success.

For their part, local governments warm to the state grants for program development and implementation. In Washington, North Carolina, Oregon and California, a substantial proportion of many planning departments budgets are funded by the CPP program. Local governments are also usually grateful for the technical assistance, maps, and data the state may provide. Such assistance increases the professionalism of the department and bolsters the credibility of their products.

Where the state overrides a local government permit decision, the two levels of government are often working in concert. A jurisdiction will often approve a development that is too politically explosive to deny with the full expectation that the state will override the permit (a back-stopping operation). The local planning department avoids the heat by allowing the project to be killed by the state.

In the short run, the symbiotic relationship is probably good for the CPP program. It certainly assists local planners and the staff of the state administrative agency to develop mutual respect for each other's position--and as many a local and state planner observed, without mutual respect the program is a dead end.

The symbiotic relationship also tends to develop a collegial atmosphere among state and local planners. Professionalism can also be expected to increase with a symbiotic environment. Both state and local staffs should take more pride in the quality of developing and implementing good programs. Peer group review certainly helps professionalism, as local planners compare programs to find better means to resolve common problems. The state should encourage and support these peer review sessions.

It *is* questionable whether this symbiotic relationship will be very good for the CPP in the long run. Too much coziness between state and local staffs can result in client capture. It is distinctly possible that local government may eventually capture the state administrative agency. The collaborative planning process was designed to dynamically balance competing state and local interests. Many objectives of the enabling acts can easily be subverted if state and local officials are quick to make inside deals so as to avoid conflicts, instead of openly and assertively arguing and negotiating their constituencies' interests.

8.3. The Basic Package

For states contemplating the establishment of a CPP approach, a basic package of components should be embodied in the enabling act. It can be argued that the process is not really worth having at all unless the state has the following authorities

- to impose sanctions on local government if an acceptable program is not developed
- to reverse local government permit decisions on appeals that are inconsistant with the certified local program or the objectives of the enabling act
- to reverse amendments to certified programs that do not further the objectives of the enabling act.

As previously mentioned, Maine, Wisconsin, Michigan, Minnesota and Florida do not have the authority to reverse local decisions on appeal.

Unfortunately, there have not been systematic analyses in these states to determine the extent to which the absence of their authority has had an adverse effect on achieving the objectives of the enabling act. State administrators in these five states would like to have the authority to reverse local decisions--*provided* that there is adequate funding to conduct state review of local decisions *and* that override authority does not duplicate existing state powers. For example, in Maine, the Board of Environmental Protection reviews all large scale development activity. One of the review criteria is conformity with the shoreline zoning ordinance (the local program).

The CPP should not be initiated if the state is not willing to commit the substantial funds and technical assistance necessary to develop programs that come to grips with the issues. Without adequate funding and technical assistance, the state is kidding itself if it expects most local governments to carry through on their own steam. Inadequate support tends to embitter local governments and deteriorate state-local communication.

8.4. Phase Funding

One of the inherent problems in the CPP--as well as all grants-in-aid programs that must distribute funds to a full set of governmental units--is the inefficiency and ineffectiveness caused by spreading the grants too thin across all local governments. The state and federal grants will not provide enough assistance on a yearly basis to adequately fund all local programs. The local government will either have to fill in the short fall or, more likely, the state will have to cut back on its expectations of what constitutes an adequate local program. Spreading the grants too thin by simultaneously supporting all local governments will produce a lot of half-baked programs. The Office of Coastal Zone Management faces the

same problem by political requirements that force it to spread its grants across thirty coastal states and four territories.

From an efficiency and effectiveness perspective, it would be better to support a sub-set of local governments up to their full funding requirements in order to produce adequate programs in a timely manner. Governments making the greatest progress ("the front runners"), and those that need to manage imminent development pressures or that can capitalize on fortuitous events (build on another planning program), should be given priority funding. Concomittantly, a number of local governments' program preparation efforts could be deferred until a number of programs are near-completion and funding becomes available. Deferring funding into a phased sequential arrangement requires three conditions:

- the state has interim permit authority to control development in those jurisdictions where funding is deferred
- time deadlines and sanctions will be waived for those jurisdictions where funding is deferred
- the state lays out an equitable and reasonable set of criteria for setting the time priority for phased funding.

Obviously there will be political problems in deferring funding. Local governments whose programs are deferred would not be expected to react favorably to this decision ("second class jurisdictions"). Developers and property owners would be expected to be particularly upset by the prolongation of uncertainty associated with extending the time period until a program is adopted. These objections may be overcome by assuring the deferred governments that their programs eventually will be adequately funded *and* setting a schedule when funding will occur. Furthermore, the interviews indicate that many local planners would prefer to wait and prepare an adequate program in which they can take pride than a half-baked

effort they may wish to disown. It would also appear that the state legislature and governor's office would be more impressed with a number of well-conceived and well-executed programs as an indicator of progress than a collection of half-baked products. Moreover, the legislature and the governor would be more responsive to increasing the CPP budget if the first programs produced are quality efforts--and not examples that barely meet the minimum standards.

Deferral of funding does not mean that all program preparation efforts would stop. In fact, it is advisable that a state take California's approach, and provide enough revenues at the outset of the second step to enable all local governments to identify the issues and develop a work program (complete with budget). Of course, those local governments that are deferred, may decide to get the process going with their own revenues. Deferrals may save the state more money in terms of local government initiatives than the costs of inflation associated with delaying a program a year or two.

It is questionable whether phased funding will cost the state more or less in the long run than funding all governments at once. The total outlay of state grants to complete adequate local programs will--no doubt--be *greater* with phased funding. A collection of half-baked programs, however, may cost the state *more* in the long run. These programs will require further planning expenditures in rounds two and three if local governments are to effectively address the issues. In the meantime, the issues will probably exacerbate. The social costs associated with the issues will continue to increase as well as the cost of resolution. Phase two and three of the CPP may have a very substantial price tag compared to doing it reasonably right the first time around--with a phased funding approach.

8.5. Mandatory Planning

Section 2 mentioned that the CPP is very similar to the American Law Institute's (ALI) Model Land Development Code. The only major departure from the Code is the provision that local land use planning be done on a voluntary basis. ALI contends that mandatory planning will merely result in bad plans from those local governments that are unwillingly forced into the process. The findings upon which the ALI code is based do not describe what constitutes a "bad plan." One would imagine a bad plan to be not only an inadequate product (given the objectives of the program) but also a plan that is not adequately implemented (defects in the product usually preclude adequate implementation).

No plan at all is probably better than a bad plan *if* the state has the two back-up authorities (as provided in the ALI code).

- to undertake a land development planning process for the state as a whole or any region thereof
- to regulate critical environmental areas as well as larger scale development activity

Since State legislatures have not been willing to provide a state agency with these two authorities as a back-up for voluntary local planning, a bad plan may well be better than no plan. At the least, a bad plan often has the effect of creating a planning institution within local government, a sort of beachhead for planning. The establishment of an institution, even by means of bad plans, creates a foundation to build on. As mentioned earlier, local planners are quick to point out that the state should not expect perfection the first time around. The inadequacies in the first product (or a bad plan) would be corrected in future iterations of planning.

The idea that bad plans can be improved through a succession of revisions and amendments assumes two processes: first, that the state will provide local government with adequate assistance (both through grant

and technical assistance); second, that the attitude of local government will change from opposition to support, or at least indifference, as the political forces controlling local planning become aware of how the CPP can benefit their interests. Maine and Washington offer several examples of communities that were forced into the process, developed programs with gross inadequacies, and corrected them in further iterations of planning.

8.6. Evaluating Achievement

It was *not* the intent of this report to determine whether the CPP is achieving its objectives. The fifth objective of the dissertation was confined to identifying criteria for program evaluation (which, in essence, is Section 3). Nevertheless, after spending two years researching a process that is designed to resolve problems, it is inevitable for one to question whether that process is, in fact, working. Perhaps the CPP is just a grandiose exercise, mainly benefitting a few state administrators, a host of local planners, and a goodly number of private consultants. If so, it is like most 701 planning efforts.

After two years of research on the topic it would be most gratifying to state conclusively that collaborative planning is achieving the objectives that motivated its creation. It would even be gratifying, academically, to declare that the process is a dismal failure. Inconclusive reports are unsettling--at least to the author. Nevertheless, it is too early in the history of the CPP to evaluate whether the complete process will achieve its objectives.

Washington was the first state to have all the essential components of the process in one package. Now, seven years after the collaborative process was enacted, for the first time it is possible to evaluate Washington's program in its full form, with all components up and operating.

Local governments are starting to amend their programs. It is possible to get a perspective on how local government responds to the process after the newness has worn off, because many municipalities have been implementing their programs for more than two years. Unfortunately, it is already evident that any success Washington's CPP may enjoy will be diminished by limits imposed by the 200 foot inland jurisdiction. It will be 1981 or so when implementation of local programs in California and Oregon will enable the process to be evaluated without the hobbling effects imposed by inland boundary limitations.

Success as a Procedural Exercise

The analysis of the local program preparation components (or second step) conclusively demonstrates that the CPP can be termed a success when measured against three important criteria: completion of programs that met *state* standards, building an institution for planning at the local government level, and improving communication between state agencies and local units of government. The CPP certainly works as a procedural exercise. In the five states that have been through the second step, local governments have submitted programs, although not usually by the statutory deadline, that have met state standards (on occasion these standards have been altered to meet lowered expectations, as summarized in the previous subsection). Even in Maine, where the state had to impose programs on 201 delinquent municipalities, town officials are preparing their own ordinances to remove the state imposition.

A second notable plus for the CPP is the effect it has had upon local government's capabilities to plan for land use and public services. With the exception of California, a primary objective of the process has been to create or build an institution for local planning. In five of the

nine states, the majority of local governments did not have a planning department prior to passage of the enabling act. The state requirement to prepare a program has caused many local governments to get serious about the business of land use planning. Certainly one of the greatest and most evident accomplishments of the CPP is the number of planning and management activities it stimulated local governments to pursue (the "spin-off effect"). In Wisconsin, Minnesota, Maine, Washington and North Carolina there have been marked increases in the percentage of jurisdictions with planning departments, planning commissions, comprehensive plans, and jurisdiction-wide zoning ordinances since the CPP enabling act was passed. Of course, it is uncertain to what extent the CPP can claim credit for these voluntary efforts in community planning.

Based on the interviews from all nine states, improvement in state-local communication can be claimed as a benefit of the CPP. Communication improvements are largely a function of the symbiotic relationship that develops between state and local government in order to keep the process smoothly operating. Equally important in facilitating communication are the procedural aspects that motivate state agencies to participate in local coastal program development and require state agencies to obtain permits from local governments after the programs have been approved.

California's transformation from the permit letting focus of 1972's Coastal Initiative to the CPP approach of the 1976 Act would provide the best empirical test of the extent to which the process influences communication and mutual respect between state staff and local planners. Of course, one would be asking for opinions dating back from two to five years, opinions colored by present-day experiences.

Whether the programs produced by the CPP mandate, even in conjunction with voluntary spin-offs, achieved the *substantive objectives* of the

enabling act is another question--far more difficult to answer than the questions of procedural success. One cannot declare that the CPP is an effective process without being able to say whether local programs have actually reduced septic tank pollution, provided more public access, improved the appearance of shoreline development, provided low cost recreation activities or resolved whatever were the specific problems that motivated passage of the enabling act. There is no doubt that many of the local programs certified by the state administrative agency as acceptable products are paper plans: the program as drafted could not achieve the substantive objectives of the enabling act, *or* the provisions of the programs are not adequately implemented by the local government, or, most likely, the program combines both failures.

Review of the reasons for approving and, more importantly, denying local program submission can provide an analyist with some indication of whether a state's CPP is attempting to grapple with the substantive issues. In the Washington analysis (Appendix E), review of eleven disapproval and six conditional program approval letters (Section 5.7.6) demonstrated that the Department of Ecology's evaluation dealt to a large degree with substantive issues such as the appropriateness of environmental designations and permitted uses.

The Motivating Factors as Evaluation Criteria

Analyses of the nine states indicates that the seven motivating factors for collaborative planning are an appropriate set of criteria for program evaluations. The interviews revealed enough evidence of program accomplishments to suggest that CPP achievement could be measured by using criteria derived from the seven motivating factors. In none of the states were the programs measured against the seven motivating factors.

Responses to the mail-out survey of local planners in Washington

indicated that in most jurisdictions the preparation of a master program *did*: decrease uncertainty in plan-making, streamline the regulatory process, accommodate local variation, and facilitate accountable and representative decision making.

By contrast, Washington's master programs have had difficulty in achieving an affirmative position. The director of Seattle's master program notes:

> Neither the state law nor any of the Master Programs provide a true management program.... The limitations of this type of regulation are that you are only regulating a use or an activity that someone else chooses.... The sad result of the use of the term shorelines management is that citizens think there really is or can be governmental or public *management* of the shorelines, and that government is or should be doing more than government actually can do, given the limits of regulatory authority.[8]

The key phrase is, "given the limits of regulatory authority." Most local programs in those states that have gone through the second step of the CPP operate in a reactive mode because of the heavy reliance on regulation for implementation. For an affirmative planning position regulation must be combined with governmental acquisition and contracts programs.

After four years of permit letting in California the Coastal Commission recognized that regulation, by itself, would not achieve the policies of the *Coastal Plan*. Accordingly, legislation was introduced and passed for funds to acquire parklands and to provide the state with the authority to contract coastal conservation and restoration projects. By now it is evident that regulation, acquisition, and contract authorities are mutually supportive activities in implementing land use management plans. Without all three authorities and appropriate budgetary support it will be difficult, if not impossible, to move the implementation of local programs out of the reactive mode.

It was pointed out in Section 3 that in North Carolina streamlining the existing federal-state regulatory process was one of the main objectives of the CPP. Although the implementation of local programs has only been occurring for a matter of months, first reports indicate that the permits have been consolidated into a manageable and expeditious process. Moreover, the consolidation appears not to have sacrificed the quality of the analysis given each permit.

Perhaps the most discouraging aspect of local programs developed to date in all states is their failure to address the problem of managing environmental and public service systems. Consequently, most local programs are not able to control the cumulative impacts of land use activities over time, such as highway congestion, estuarine pollution and sedimentation, and overdrafting water supplies.

With the exception of the estuary studies done by Washington, and of California's subregional analyses, there has been remarkably little substantive work done by the states to develop multi-jurisdiction management plans for environmental and public service systems in context with the CPP approach. The coordination efforts in North Carolina, Florida and Oregon are only done on a county-wide basis, and as a result are not structured to manage systems that transcend county lines. Regional Planning Commissions have only a limited ability to develop systemwide plans that come to grips with the issues, since local governments are voluntary participants in their organization.

Need for Case Studies

One of the more interesting and disturbing findings of the research is the absence of quantitative and objective assessments on the extent to which local programs have either achieved specific substantive objectives

or influenced governmental decision-making. There are two evident reasons for the absence of these types of assessments: the relatively low profile of the CPP effort, and the inherent difficulties of conducting program evaluation.

The states with the longest history of collaborative planning, namely Wisconsin, Minnesota, Michigan, Maine and Washington, require a relatively simple local program (a shoreland zoning effort in most cases). Except for Washington, these states also do not have the authority to override local permits that do not comply with approved programs. The simplicity of the planning requirements and the absence of override authority has made the CPP program relatively uncontroversial--particularly if compared to the turbulence surrounding the more ambitious state initiatives in California, Oregon and North Carolina. Maine, Minnesota, Michigan and Wisconsin's process has been a relatively cautious, go-slow approach by the administrative agency requiring, for the most part, marginal adjustments by local government. Since the program has been something local governments can live with, there has been no clamour for evaluations to determine whether the entire program is worth the effort.

Despite their utility, evaluations of social programs are difficult to do well--particularly in an effort as loose and open-ended as planning. In the literature on program evaluation there is a general consensus on the problems that are inherent to the activity. A recent analysis of technical and administrative problems in evaluating coastal management programs summed up the difficulties as follows:

> deciding when to evaluate; determining program goals and objectives; formulating indicators to measure performance; collecting data; describing program operations; determining the contributions of agency activities to the attainment of program goals; identifying and measuring

> unintended consequences of program activity; working cooperatively and affectively with the staff of the program being evaluated; and getting decision makers to use the study results.[9]

An obervation made by the administrator of Maine's program provides a case in point:

> Although many Maine towns have had ordinances on the books for three and four years now, it will probably take many more years before noticeable changes will be evident. There is a very low rate of development in many towns. Those towns that have shown appreciable growth over the years have in many cases already degraded the shorelands. Over water construction, improper dredge and fill operations, unsightly bulkheads, and nonconforming uses will take a long time to disappear or be replaced by development that meets the objectives of the Act and the local ordinance.[10]

Despite the litany of difficulties inherent to program evaluation, case studies need to be conducted in a cross section of jurisdictions that have implemented their programs over a long enough time for the newness to wear off. The case studies should determine whether the CPP really is meeting the objectives of the enabling act and state guidelines.

There is at least one model for such a case study evaluation. Two Minnesota counties, one rural and one on the outer fringe of the Minneapolis metropolitan region, were selected to assess the issuance of variances in context with the implementation of the local program.[11] The case studies demonstrated that variances were not given when the local program policy, itself based on a state standard, was scientifically supported and did not create an undue hardship.

It is heartening to observe a growing recognition of the need to conduct case studies for evaluating land use governance programs. The National Science Foundation is supporting assessments in five states on the implementation of environmental management programs--three of which

are collaborative planning efforts.[12] Given the ambitious nature and potential impact of the CPP initiatives in California, North Carolina and Oregon, case study evaluations of these programs can be expected.

REFERENCES

1. Curlin, James and Rigby, Richard, "Comprehensive Oceans Policy Study," Review Draft, U.S. Department of Commerce, March 1978.

2. Meyerson, Martin, "Building the Middle-Range Bridge for Comprehensive Planning," *Journal of the American Institute of Planners* Vol. 22, No. 2, 1956.

3. Bryden, David, "Rules and Variances: A Study of Statewide Zoning," *Minnesota Law Review*, 1977.

4. Paul Mueller and Paul Van Berkel, "Local Government Response to State Mandated Land Use Laws: Wisconsin's Experience." *Journal of the American Institute of Planners*, October 1977. Also Richard Lehmann, Paul Mueller, and Paul Van Berkel, "Capabilities of County Land Regulation Programs in the Wisconsin Coastal Area." December 1976.

5. Rosenbaum, Nelson, "Assessment of Programs for Monitoring and Enforcing Compliance with State Critical Areas Controls," proposal to the National Science Foundation by the Urban Institute, December 1976.

6. Pressman, Jeffrey and Wildavsky, Aaron, *Implementation*, University of California Press, 1973.

7. Ibid.

8. Horwood, Rosemary, "The Nine Fallacies of Planning Power: Some Observations on the Emperor's New Clothes," *Shorelines 77*, University of Washington Sea Grant Program, September 1977.

9. Feldmann, James, "Technical and Administrative Problems in Evaluating Coastal Management Programs," Final Paper, Coastal Zone Management Seminar, Institute for Marine Studies, University of Washington, June 1977.

10. Interview with Richard Rothe, Shoreland Zoning Coordinator, Maine State Planning Office, April 28, 1976.

11. Bryden, David, "Rules and Variances..."

12. Rosenbaum, Nelson, "Assessment of Programs for Monitoring and Enforcing Compliance with State Critical Areas Controls."

9. RECOMMENDATIONS

Recommendations are listed for each component of the process. Recommendations have also been made for; provisions of an enabling act, general administration of the program, and further research. Most points are based on the successful experiences two or more states have had in some stage of the process. The recommendations *should not* be considered as a definitive listing for each of the sub-headings. Since the CPP touches upon almost all aspects of comprehensive and land use planning, a complete set of recommendations for each sub-heading would require at least one or two books.

Scholars in land use governance and professional organizations such as the American Society of Planning Officials and American Institute of Planners have published numerous books and manuals outlining recommendations for the various procedures on which the CPP is built--such as public participation, zoning, performance standards, variances, monitoring systems and goal formation. The recommendations certainly do not attempt to replicate those worthy efforts. The intent of the listing is two fold:

> To highlight those techniques and procedures that--as innovative or proven methods--should be directly transferable from state to state.
>
> To demonstrate that the ten components of the CPP can act as framework for information exchange among states that decide to enact the process.

9.1 The Enabling Act

- The jurisdictional boundaries of the program should extend far enough inland to resolve the specific problems the CPP is enacted to resolve.

- State administrative responsibilities for various aspects of the process should be clearly delineated so that agencies can be held account-

able for specific procedural components as well as to facilitate coordination arrangements.

- A budget should be appropriated to cover state administrative expenses and provide technical assistance as well as grants to assist local governments, prepare, administer and enforce local programs.

- Special districts should be required to work in concert with local government in program preparation.

- The administrative agency should have the authority to require local governments to jointly prepare programs for systems that span jurisdictional boundaries if such a joint endeavor will better serve the objectives of the act.

- The administrative agency should have the authority prior to certification of local programs to reverse local government permits that may compromise achieving the objectives of the enabling act or the local program.

- State agencies should be required to obtain permits from local governments for development projects they support once programs have been certified or at least be required to demonstrate that their proposal is, to the maximum extent practicable, consistent with the certified local program.

- Local government officials and or representatives of local government associations should be appointed to the state administrative agency or constitute an advisory council to the state administrative agency.

9.2. Program Administration

- In most states local government dependence on the property tax for revenues is a primary cause of friction between state objectives for environmental management and local land use decision making. For this

reason the state should investigate alternative means of reforming the property tax system. The investigation should occur during the period of local program preparation to enable recommendations to be made to the state legislature prior to the implementation of local programs.

- The state agency should have a staff committed solely to administering grants and technical assistance. The staff should also serve as a communications link between local government and the various state and federal agencies involved in coastal zone management. In states with a large jurisdictional area, particularly those with a large number of local government units, the staff should be decentralized into regional field offices.

- The state administrative agency should establish communication channels with local officials as well as local planners.

- State staff should include a number of former local government planners or professionals who have had considerable experience dealing with the day to day realities of local government operations.

9.3. Development of State Objectives Policies and Guidelines

- Informal task force of local planners and representatives from local government organizations should be convened to assist state in drafting guidelines. Assistance should include means to integrate existing planning programs with the CPP requirements, and assessing the appropriateness of state policies in respect to local government conditions and capabilities.

- Technical guidebook (or series of guidebooks) should be developed by the state to assist local governments in preparing each required component in their programs. The success of the CPP will be largely determined by the appropriateness and utility of the guidebook(s). The organization and content should be based on experience gained from the case studies used to

develop and test the draft guidelines.

- For each discrete objective or policy area, the state should indicate (to the extent technically and politically possible) the measures and standards that will be used to evaluate local programs when submitted for certification. Since in many policy areas, scientifically or politically acceptable measures and standards are unavailable, guidelines should require similar analytic products in order to permit comparative evaluation among local jurisdictions.

- For each discrete objective or policy area the state should indicate the type of data and the analytic techniques that local governments should use in applying the policy (such as mapping and rating wetlands, analyzing highway capacity in respect to recreational and non-recreational traffic). The state, however, should not require local governments to use data or analytic techniques if it cannot be determined in advance that such data and techniques will be available at relatively little cost to local governments.

- The state should not promise data or technical assistance to local governments unless it can be reasonably sure that material will be available on a timely basis.

- The state should form a task force of state and federal agencies to identify information and data that may assist program preparation. This information should be listed in the appropriate technical guidebook(s).

- The guidelines should require the local government program to include the following components:

  - land use map indicating priority or permitted uses
  - performance standards
  - public works program
  - integrated set of implementation mechanisms
  - ongoing public participation program, including a citizens advisory committee.

-The state should circulate draft copies of state objectives, policies, and guidelines for review and comment by local government. Local government should be encouraged to test the appropriateness and workability of the objectives, policies, and guidelines in context with local governmental conditions, issues, and decision making process.

-State should conduct a few quick (with respect to the time constraints of statutory deadlines) case studies on a cross-section of local governments to test draft sets of objectives, policies, and guidelines.

A final set of objectives, policies, and guidelines should be prepared by the state after local review and comment on draft versions. Once guidelines are set, they should not be substantially changed until local governments have prepared their programs. An exception should be made to this rule when state and local governments are in consensus that experience in implementing the guidelines indicates modifications would more effectively or more efficiently achieve the purposes of the enabling act.

- The guidelines should explicitly inform local governments that deviations from the policies and standards may be acceptable if it can be demonstrated that the departure will better accommodate local variation *and* in the long run better serve to achieve the objectives of the act.

- Two versions of guidelines should be drafted: one for public consumption and one for technical guidance to local government planners and those who will be intimately involved in the program. It is not recommended that a separate copy of guidelines be prepared for the public but that the basic elements of the guidelines be incorporated into a widely distributed brochure which describes the state's program.

- The state should prepare a brief, easy to read, attractive brochure on the state's program. Such a brochure should be timed to coincide with the guidelines. The brochure should outline what the program is and

what it is *not* to anticipate questions and probable misconcpetions. The tangible benefits derived by governments and interest groups should be described.

9.4. Program Preparation

- Planning grants and technical assistance (particularly technical assistance described in the guidelines) should be provided to local government on a timely basis. The state should lay out a step-by-step planning process that local governments could follow in developing their programs. The planning process should be pretested in several dissimilar jurisdictions. Grants and technical assistance would be made to local governments depending on what step they were on in the process and the specific issues that the local program was addressing. Cities and counties which had already conducted extensive planning programs would be expected to start several steps ahead of rural governments that are just establishing a planning office.

-The state should encourage local governments to develop their own planning capability. Hiring outside consultants should be discouraged to the extent that it will encourage local governments to build an in-house planning capability.

- The state should continue the task force of federal and state agencies formed to identify available information and data. The task force should be composed of representatives from those state and federal agencies with programs that bear on achieving the objectives of the CPP. The representative(s) on the task force should also serve as a contact point for local government inquiries on information the agency may generate which may be of assistance in the preparation of local programs.

- At the very outset of local program preparation, the state administrating agency and each local government should determine what the major issues are in the community. Issue identification would be designed to obtain state and local government agreement on the scope of the work program, the preparation period, and the total budget.

- In states with little prior experience in land use regulation, a guidebook describing various means local governments may use to implement conservation and preservation type designations should be prepared to deal with local concerns about the taking issue and political opposition to lowering development expectations. Guidebooks should be distributed prior to local government's designation of land uses for specific geographic areas. At the same time, the state should consider the possibility and size of a bond referendum to fund a property acquisition, restoration, and redevelopment programs.

- The state should consider the formation of a task force composed of state staff members, representatives from local government agencies, and representatives from a cross section of local governments (elected officials and staff planners). The task force would travel among local jurisdictions to offer advice on program preparation, to learn of innovative approaches, and obtain feedback on problems the jurisdictions are having with the planning process.

- If there is not adequate funding to assist all local governments to prepare programs simultaneously, a phased funding schedule should be established. The phased arrangement would enable a number of governments to receive full funding while support to others will be deferred until the initial programs are completed and additional funding becomes available.

The time priority on which governments are funded first should be based on reasonable and equitable criteria, such as; jurisdictions that can show the most progress and that set precedents to cover the full range of substantive issues, governments under the most imminent pressure from development proposals, and jurisdictions in which timely funding could build on other planning programs. Deferral of program preparation requires the

state have interim permit authority to prevent development from prejudicing the local program. If funding is going to be staggered, all governments should at least obtain adequate funding in the first year of the program to define the issues and draft a detailed work program.

- The state and local governments should conduct analyses of systems that span two or more jurisdictions in which the cumulative impact of development activities is expected to be a problem. Analysis should set development budgets for systems as framework within which local governments will prepare their programs.

- Local governments with state support should form an informal association of planners that would meet periodically to exchange information on means to resolve common problems encountered with the process.

- The administrative agency should establish compliance schedules for local governments that fail to make program preparation deadlines.

- A citizens advisory task force should be formed to assist in the preparation of the local coastal program. The advisory task force should be constituted from a cross section of the community, with particular attention to obtaining representatives from organizations that may have opposing views on how resources should be managed.

- The citizen advisory committee should have at least one member from the jurisdiction's planning board or commission.

- The citizens advisory committee should be given enough authority and staff assistance as well as realistic time schedules to encourage their active participation in program development.

- To facilitate public participation, local governments should prepare a synopsis of the local program. A synopsis should be of a length, format and literary style that the public-at-large will be attracted to

read. Information should be presented in a manner that will enable a reader to understand the implication of the policies if implemented.

9.5. State Review of Local Program

- Prior to program review, the state should conduct studies in locations where it expects substantial conflicts between state and local government interests. These will often be the same locations where system-wide studies were done.

- The state should encourage and schedule program preparation progress to receive products on a staggered basis. Programs sharing the same system should be reviewed within the same time period to permit assessment of system-wide impacts.

- The state should use the same set of criteria, measures, standards and analytic methods for reveiwing programs as were used to guide program preparation.

- In the states that require environmental impact statements, the assessment should be used as a synopsis of the program, and to present alternatives to elicit public reaction on preferences.

- The state and federal agency task force formed to assist local governments in program preparation should be retained to act as a review panel on state and federal interests.

- The state should require or strongly encourage the submission of drafts as the program evolves in order to identify and possibly head-off potential problems with the final product.

- The state should set limits for the maximum amount of time it may take to review a local program and render a decision.

9.7. Local Program Implementation

- The local government unit that prepares the program should also be given the authority to issue permits that are required to implement the program.

- The state enabling legislation or later amendments should specify a range of penalties that local governments and/or the Attorney General's office can impose on convicted violators of a local program. Legislation should enable local governments or the state administrative agencies to:

  - expeditiously enjoin projects which may violate either a local program's implementing ordinances *or* state regulations
  - enable assessment of civil fines.

- State legislation should enable any person to bring an action to enforce the enabling act (broad standing). The danger of possible frivolous litigation resulting is present; however, expanded standing promotes enforcement by interested parties overcoming local government reluctance, and ponderous state bureaucracy.

- State legislation should enable assessing litigation costs against violators of the local program. This economic compliance incentive also provides a substantial stake for qualified legal assistance which citizen environmental groups may otherwise be unable to afford.

- State legislation should provide for a flexible fine structure in order to permit the assessment of exemplary damages. Granting courts the power to assess fines depending upon the efficacy of deterrence eliminates the notion of fines for ordinance or regulation violations as mere "costs of doing business."

- The state administrating agency in conjunction with the Attorney General's office should draft a form letter outlining penalties for violations,

past court action, and state's intention to be actively involved in enforcement. The letters would be requested by local governments when a potential non-complying activity or violation is identified.

- Local governments with limited resources to retain legal counsel for prosecuting alleged violators of the local program should be given prosecution assistance by either lawyers from the state administrative agency or Attorney General's office.

- The state administrative agency, in conjunction with local government should publish a developer's handbook. The handbook would be designed to inform property owners and investors on the various laws and procedures that must be followed with respect to common types of development activities. The handbook may also show the potential developer the most expeditious means to proceed through the series of permits that must be obtained. A second objective of the handbook would be to inform all parties with interest in resources management on appropriate and inappropriate locations for particular types of land use as well as designs that are appropriate to specific types of locations.

- Task force of state and federal agencies should be retained to assist local governments in implementing their program, particularly to assist in coordinating permit letting and making consistency determinations.

- Local government should coordinate and streamline their permit review and issuance procedures in conjunction with state and federal permit letting processes.

- The state should consider the establishment of a conservation and redevelopment organization with authority and funds to assist local government in implementing their local programs as well as acting to achieve specific state objectives.

- Citizens advisory committee should be retained to monitor program implementation and assist in preparing and reviewing proposed amendments.

- The local government should have the authority to require a developer to hire an independent consultant to determine if there is full compliance with conditions of the permit. The independent consultant would be selected by the state administrative agency to minimize the possibility of client capture.

- Local code enforcement officers should be professionally trained and licensed. Procedures should be established to prevent the code-enforcer from becoming too tied into local politics (good ol' boy syndrome). Periodic workshops should be held to keep code enforcement officers informed of new program developments and to facilitate information exchange on means to resolve common programs in enforcement.

9.8. Monitoring Program Implementation

- The state administrative agency should be required to report periodically (at least every four years) to the legislature on the extent to which local programs and the state agencies are achieving the objectives of the enabling act.

- Local governments should be required to report periodically to the state administrative agency on the extent to which the local program is achieving the objectives of the enabling act. The issues which the local program was designed to resolve would be the basis for measuring achievement. The reporting period should be scheduled to provide information which can be incorporated in the administrative agency's report to the legislature.

- The state should establish programs to monitor systems which span two or more jurisdictions to determine if development activity is exceeding

standards or targets set in the local program. The monitoring system should be designed during the program preparation phase of the CPP to ensure applicability to program implementation.

- The state should develop a computer automated system for keeping track of major permits, variances, conditional uses that are issued by local governments. One of the major purposes of the permit recording operation should be assessing the cumulative impact of development within a given environmental or public service system.

9.9. Appealing Actions Deemed to be Inconsistent with a Local Program

- The state should set thresholds in terms of project size *and* areas of state concern to limit the number of development proposals that the administrative agency can review on appeal. The thresholds will have to be sensitive to *both*; the state's ability to intervene in the event that proposals may incrementally or cumulatively conflict with the objectives of the enabling act, *and* sufficient delegation of permit-letting authority (assuming the state has interim permit control) back to local governments.

- Any person should be able to appeal an action--if it is above the threshold--to the state administrative agency (broad standing).

- The state should have the authority to call up actions--if it is above the threshold--on its own volition if it deems that the action may be inconsistent with the local program *or* with achieving the objectives of the enabling act.

- The state should convene a pre-hearing conference of the parties involved in an appeal. These conferences should attempt to work out differences between the parties and thus avoid the time and expense of a full hearing. If an agreement is not reached, the pre-hearing conference

should, at least, hone the arguments for the full hearing.

- All conditional use permits, and variances should be appealable to the state administrative agency.

- The state should clearly define a specific set of criteria for granting of variances and conditional use permits. Local governments should participate in developing the criteria in a much the same manner that it was involved in drafting state level objectives, policies and guidelines.

- Local governments should be required to send the state copies of all conditional use and variance decisions in addition to copies of all decisions that are appealable, given the threshold standards. Action should not be allowed to commence on a conditional use, variance, or appealable activity until the time period set for filing an appeal has elapsed.

9.10. State Review of Proposed Amendments

- In general, the same public participation and agency consultation procedures should be required in preparing a local program amendment as were followed in preparing the local program. The procedures would be expedited somewhat, depending on the significance of the amendment.

- All proposed amendments should be sent to the state administrative agency for review and comments.

- Within a specified time period, the state must determine that the proposed amendment is both consistent with the objectives enabling act *and* will better serve the purposes of the local program. If the state does not react within the specified time period, the amendment is automatically approved.

9.11 Further Research

Case studies should be conducted in a cross section of jurisdictions to assess the extent to which collaborative planning afforts are accomplishing the objectives of the enabling act and state guidelines. The case studies should address at least the following questions:

- -Are the programs based on adequate information? Are the policies backed by scientific evidence or popular support?
- -Are the local programs being followed in permit issuance?
- -Do amendments tend to strengthen the program?
- - Are variances, conditional uses, planned unit developments and other exceptions subverting the program?
- -Is the program achieving substantive ovjectives of the enabling act, state guidelines, and local goals?
- -Is the program facilitating public participation?
- -Is the program having unanticipated consequences such as socially regressive effects?

The analyses should be undertaken when the newness of program implementation has worn off and there is sufficient data to track the effects over time.