
A Review of CZMA Section 309 Enhancement Grants Program

Executive Summary

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EXECUTIVE SUMMARY

INTRODUCTION

Project Goal

The goal of this project was to conduct a programmatic review of the §309 Enhancement Grants Program of the Coastal Zone Management Act; document accomplishments and progress made by coastal states and territories in developing and implementing the §309 program; and recommend §309 program improvements to the Office of Ocean and Coastal Resource Management (OCRM), National Oceanic and Atmospheric Administration (NOAA).

Project Scope

The assessment focused on FY 1992 and FY 1993, which ends September 30, 1994, in order to document implementation of projects that resulted in program changes as defined by §309 of the Coastal Zone Management Act. Some projects were initiated in FY92 and FY93 but did not have an end date until FY94 or later, and therefore were beyond the scope of this project. It is assumed that they also will be resulting in a program change and will be captured in a later assessment.

Project Methodology

- A Study Team was established by the URI Coastal Resources Center, Sea Grant Advisory Service, July 1994.
- An initial profile of each state's FY92 and FY93 §309 Projects was developed using §309 Grant Applications; Periodic Progress Reports; Assessments and Strategies; OCRM Correspondence; and OCRM Technical Reports, Aug.- Sept. 1994.
- Draft profiles were sent to each coastal

state for review and completion, Aug.- Sept. 1994.

- OCRM Regional Staff were contacted for information and review, September 1994.
- Final state profiles were sent to each state CZM manager and/or staff were contacted for review, September 1994
- An Executive Summary was compiled and sent for review to OCRM, each coastal state manager, Coastal States Organization (CSO) and Coastal Ocean Policy Roundtable (COPR), October 1994.
- Review comments were incorporated in a final (1) Executive Summary, and (2) State and Territory Profiles and sent to OCRM/NOAA for distribution, November 1994.

LEGISLATIVE HISTORY OF §309

Background

In 1990, to meet mounting public concern for the well-being of the nation's coastal resources, Congress created a new program under §309 of the Coastal Zone Management Act (CZMA) of 1972 to encourage states to address coastal issues of national significance. The Act is designed to respond to existing and emerging coastal issues by modernizing and strengthening the CZMA, which had not been thoroughly reviewed or updated since 1980.

The Act includes a revised §309 which establishes a new, voluntary coastal zone enhancement grants program beginning in FY91. The Act encourages each coastal state, with a federally approved coastal management program, to continually improve its program in

one or more of eight enhancement areas selected by Congress. These areas include: coastal wetlands management and protection; natural hazards management (including potential sea and Great Lakes level rise); public access improvements; reduction of marine debris; assessment of cumulative and secondary impacts of coastal growth and development; special area management planning; ocean resource planning; and siting of coastal energy and government facilities.

The enhancement program encourages states to achieve these objectives by strengthening their coastal management programs with new laws, regulations, or other enforceable mechanisms to provide greater protection for coastal resources. Under the enhancement program, the OCRM of NOAA allocates federal funds to states based on the quality of their multiyear enhancement strategies, including weighted formula and special merit projects.

Identifying State Priority Issues

In 1991, states put tremendous effort into assessing the status of their coastal resources and determining the possibilities for improving management of those resources. This effort included public input on the most pressing coastal issues in the state and the best ways to tackle those issues. The assessment examined how the state is addressing each of the enhancement objectives, how significant the issues are in their state, and the possibilities that exist for improvement of the state coastal management programs within the specified eight coastal areas.

Developing a Multiyear Strategy

Once the assessments were completed, and the eight enhancement areas prioritized within each coastal state, the second stage involved the development of a multiyear strategy. The strategy identified program changes that each state will seek to achieve in

the priority areas identified in the assessment. Program changes refer to new laws or revised regulations or other enforceable mechanisms to provide greater protection for coastal resources.

OCRM Funding

OCRM allocates enhancement funds using two methods: (1) a weighted formula (WF) based on an evaluation of each state's strategy and (2) individual projects of special merit (PSM). The weighted formula funding provides a predictable level of funding to support states in undertaking projects that are critical to achieving the benchmarks in their Strategies. Under the weighted formula, OCRM establishes funding targets for each state by multiplying the basic CZMA §306 funding formula by a "weighting factor" derived from OCRM's evaluation of the state's strategy.

The projects of special merit (PSM) allocation provides the opportunity for states to be innovative and to undertake projects that commit to making demonstrable improvements toward the coastal zone enhancement objectives and provide models transferable to other states. States annually compete for PSM funds; only the highest ranked projects are approved for funding.

No new funds were provided by Congress to implement §309. Instead, the CZMA Reauthorization of 1990, set aside 10 to 20 percent of the appropriations from §306 and 306A to implement §309. To date, OCRM has retained up to 14.74 percent annually of the §306 funds for §309 projects.

FINDINGS

1. All Eligible Coastal States Are Participating in the §309 Enhancement Grants Program

State interest and participation in the §309 Enhancement Grants portion of the National Coastal Zone Management Program has been very high. By 1993, all eligible coastal states were participating in the §309 Enhancement Grants Program (see Table 1).

- In January 1992, the first year of the §309 program, 27 of the 29 coastal states and U.S. island territories had submitted §309 Assessments to OCRM.
- 24 state and territory §309 Assessments/Strategies were approved by OCRM for §309 enhancement funding in FY92.

- By 1993, all 29 eligible coastal states and territories had approved §309 Assessments/Strategies and received §309 enhancement funding.

2. Substantial Enhancements Are Being Achieved

A total of 135 projects were funded in FY92 and FY93 (See Table 2). Many of these projects were multiyear projects not due for completion until FY95 or FY96. Of the 89 projects designed to be completed by FY93 (September 30, 1994), 26 (29%) have resulted in program changes. The 135 projects funded were designed to achieve at least 217 program changes. The most common program change proposed was revised regulations (65), followed by legislation (37), and procedural guidance (28) (see Table 3).

Table 1. By 1993 All Eligible Coastal States are Participating in the §309 Enhancement Grants Program

State	§309 Funding (in thousands of dollars)				
	WF	FY'92	PSM	FY'93	PSM
Approved 1993					
Mississippi	0	0	60	90	
Puerto Rico	0	0	107	0	
Approved 1992					
Alaska*	228	173	228	114	
California*	273	189	274	201	
Delaware*	64	200	64	200	
Guam	43	0	43	0	
Louisiana*	0	0	120	0	
Maryland*	168	0	226	0	
New Hampshire*	30	40	56	0	
New York	248	150	274	159	
Oregon	115	169	93	80	
Rhode Island*	67	87	81	65	
Virginia	228	85	228	0	
Washington	221	179	221	100	
Total Dollars (1,000s)	3,395	2,283	3,939	1,976	

Nonparticipating States: Georgia, Indiana, Minnesota, Ohio, and Texas

* strategy revised

Table 2. Projects Funded and Those Resulting in Program Changes by FY'93

State	# Projects Funded	Projects Scheduled for Completion by September 1994	Number of Projects Resulting in Program Changes by September 1994
Alaska	10	8	2
California	6	3	2
Delaware	2	1	0
Guam	1	1	0
Louisiana	2	1	0
Maryland	10	6	3
Michigan	3	2	2
New Hampshire	4	4	0
New York	5	5	1
Northern Marianas	1	0	0
Pennsylvania	5	4	0
Rhode Island	10	8	3
U.S. Virgin Islands	2	0	0
Washington	2	0	0
TOTAL	135	89	26 (29%)

Of the 26 projects that resulted in program changes, the results have been greater efficiencies in governance and greater attention to coastal management issues. Several program changes have been documented. The changes have been accomplished through new and amended legislation, revised regulations, formal procedural guidance to streamline the regulatory process, adoption of state and local plans and policy directives, memorandum of agreements between agencies, and other administrative actions (see Table 4). Thirty-two substantive program changes have been achieved. These are described in summary form in the Program Achievements section of this document.

Several projects that have not resulted in program changes were, nonetheless, worth pursuing. It is evident that §309 projects are dealing with significant issues, since substantive program changes are being sought even if they are not achieved. The "Other Significant

Activities" subsection of the "Program Achievements" section of this document describes some of the beneficial projects that have not necessarily resulted in program changes as defined by the CZMA.

Most states identified a need for enhancement in three areas: cumulative and secondary impacts, wetlands, and coastal hazards. The largest number of projects funded addressed the same top three issues (see Tables 5 and 6).

3. There is a Need for Increased §309 Funds But Not at the Expense of the §306 Program

The total grant funds requested by coastal states and territories for FY92 alone was over \$10.8 million. In contrast, Congress appropriated only \$5.8 million in FY92 for §309 grants. There was greater interest and demand than was provided by §309 funding. As a result, states were forced to eliminate project

Table 3. Types of Program Changes Proposed for §309 Projects Initiated, FY'92 & FY'93

State	# Projects Funded	# Program Changes	L	RR	PG	LP	SP	MOA	AA	CZB	AMR	NPC
Alabama												
Alaska	10	17		10	4	2		1		0	0	
American Samoa												
California	6	8	1		6					0	0	1
Connecticut												
Delaware	2	7		1	1		2	2	1	0	0	
Florida												
Guam	1	2	1	1						0	0	
Hawaii												
Louisiana	2	2			1					0	0	1
Maine												
Maryland	10	15	2	3	2	5	3			0	0	
Massachusetts												
Michigan	3	9	4		3	1		1		0	0	
Mississippi												
New Hampshire	4	11	1	2	7					0	0	1
New Jersey												
New York	5	8	2	3			2		1	0	0	
North Carolina												
Northern Marianas	1	3	1	1	1					0	0	
Oregon												
Pennsylvania	5	4		1	1					0	0	2
Rhode Island												
Rhode Island	10	19	3	4	2	3	3	4		0	0	
South Carolina												
U.S. Virgin Islands	1	5	2			1	1	1		0	0	
Virginia												
Washington	2	1		1						0	0	
Wisconsin												
Total	135	222	37	65	34	18	24	16	5	0	0	23

Legend: Types of Program Changes
 L - Legislation
 RR - Revised Regulation
 PG - Procedural Guidance
 LP - Local Plan or Regulation Adoption
 SP - State Plan Adoption, State Coastal Boundary Change
 MOA - Memorandum of Agreement
 AA - Administrative Actions, Executive Orders
 CZB - Changes to Coastal Zone Boundary
 AMR - Coastal land acquisition, management, restoration
 NPC - No Program Change

Table 4. Types of Program Changes Achieved by §309 Projects in FY'93

State	L	RR	PG	LP	SP	MOA	AA
Alabama	0	1	0	1	0	0	0
Alaska	0	1	0	1	0	1	0
Arizona	1	0	0	0	0	0	0
Connecticut	1	0	0	0	0	0	0
Florida	2	0	0	1	0	0	0
Maryland	1	0	1	1	0	0	0
Michigan	1	0	1	1	0	0	0
Minnesota	0	0	0	0	1	0	0
Oregon	0	0	0	0	1	0	0
Rhode Island	4	1	1	1	0	2	0
South Carolina	0	0	0	0	0	0	0
Virginia	0	0	0	0	0	0	0
Total	9	8	4	5	2	3	1

Legend: Types of Program Changes

- L - Legislation
- RR - Revised Regulation
- PG - Procedural Guidance
- LP - Local Plan or Regulation Adoption
- SP - State Plan Adoption, or Coastal Boundary Adoption
- MOA - Memorandum of Agreement
- AA - Administrative Actions, Executive Orders

Table 5. Priority Issues Identified and Funded with §309 Enhancement Grants, FY'92 and FY'93

State	Wetlands	Coastal Hazards	Public Access	Marine Debris	CSI	SAMP	Ocean Resources	Energy/Gov't Facil. Siting
Alabama	●							
Alaska	●				●	●		●
Arizona		●			●			
Arkansas	●	●	○		●			
California	●	●	○	○	●		○	
Connecticut	●	○	○		●	○		
Delaware	●	○	●		●			
Florida	○	●	●		●			
Guam	○	●	●		○	○	○	
Hawaii	○	●	●		●			
Louisiana	○	●	○		●			
Maine	○	○			●	○		
Maryland	●	○	○		●		●	
Massachusetts	●	●	○		●			
Michigan	●	○			●			
Mississippi	○	○			●	○		
New Hampshire	●	○			●			
New Jersey	●	●			●			
New York	●	●	●		●		●	
North Carolina	○	●			○			
Northern Marianas	○	●			●		●	
Oregon	●	●	●		●	○		
Pennsylvania	●	●	●		●			
Rhode Island	●	○	●		●	●		
South Carolina	○	●	●		○			
U.S. Virgin Islands	○	○	●		○	●		
Vermont	○	○	○		○			
Washington	○	○	○		○			
Wisconsin	○	○			○			

Totals: Number Identified 26 (19) 23 (16) 14 (8) 2 (1) 26 (19) 11 (6) 5 (3) 1 (1)
 Number Funded

Note: Total funding requested by the states = \$10 million; funding received = \$5.8 million

● identified and funded
 ○ identified, not funded or no funding requested

Table 6. Federal Funding of 309 Enhancement Grants, FY'92 and FY'93*
(in thousands of dollars)

State	Wetlands	Coastal Hazard	Public Access	Debris	CSI	SAMP	Ocean Res.	Gov't Facil. Siting
Alaska	313				317	35		78
California	214	62			661.2			
Delaware	64				309			
Guam			86.4					
Louisiana		70			45			
Maryland	138.7				255			
Michigan	107	17			109			
New Hampshire	70				56.4			
New York	28	84.1	75		643.4			
Northern Marianas		44						
Pennsylvania	60	106.8	24.4		105.7			
Rhode Island	154		40.1			105.2		
U.S. Virgin Islands	100				114.3	44		
Washington		279			442			
TOTAL (in \$1000s)	2,576.5	2,168	625.8	20	4,550	1,095.8	213	78

* Amounts as reported by the coastal states

activities and reduce the scope of work for projects funded under the §309 Enhancement Grants Program.

Most states were forced to address fewer issues than identified in their Assessment and Strategy Reports, due to the limited funding provided under §309 (See Table 5).

4. Administrative and Procedural Improvements Are Needed

No-cost extensions have been requested for most of the §309 projects scheduled for completion in FY93 (Table 7). The time to develop a strategy, adopt a program change, and implement it effectively was not sufficient. The administrative process between OCRM and the coastal states has improved in the last two years, but is still cumbersome and complicated. Negative tradeoffs between implementation of §306 core programs and §309 enhance-

ment grant programs have been experienced by coastal states such as California, Massachusetts, New Hampshire, Rhode Island, and Alaska. Furthermore, several states have found that the §309 process (i.e., multiyear strategies with program changes identified three to five years into the future) is cumbersome and inflexible. It is difficult for coastal states to anticipate the effect of political, legislative, and/or regulatory shifts that inevitably occur and to respond promptly to unforeseen needs and opportunities for use of the enhancement grants because strategies would need to be revised in order for §309 projects to follow.

Coastal states are finding that the time required to achieve program changes is much longer than a one- to three-year §309 project funding cycle. Even for states that have achieved the program change (i.e., amended a law or regulation) and sought OCRM approval

for including the change in the state's CZMP, the implementation of the program change has not begun to occur. For example, as is evident from Table 3, states initially proposed a variety of program changes to be achieved by FY93. These techniques include: (1) passage of new or amended legislation; (2) revised regulation: amending existing or adding new regulations; (3) procedural guidance: document prepared as guidance for permit applications or implementation; (4) local plan or regulation adoption: plan or ordinance adopted by local municipality; (5) state plan adoption: plan primarily administered by a state agency; (6) Memorandum of Agreement: formal documentation of agreement between state and/or federal agencies; (7) administrative actions and executive orders: governor or state agency adopted policies or actions; and (8) coastal zone boundary changes; (9) coastal land acquisition, management and restoration, and (10) no

program change intended: examples include public awareness and constituency building, research or data collection, outreach and technical assistance, GIS development, etc. The largest number of projects were designed to accomplish program changes through revised regulation. The second largest number of projects involved legislation. The third largest involved procedural guidance. However, most states found that they were not able to accomplish what they proposed within the two-year time frames. Compare Table 4, Program Changes Actually Achieved by FY93, to Table 3, Types of Program Changes Proposed for FY93. Consequently, in most cases, states have applied for and received no-cost extensions. In many cases, therefore, it is still too early to measure the success or achievement of the enhancement grants program overall.

Table 7. Completion Status of \$309 Projects Funded, FY'92 and FY'93

State	# Projects Funded	Originally Scheduled Length of Project				Completion Status			
		1 yr	2 yrs	3 yrs	4 yrs	C	OS	NCE	A
Alaska	10	7	2	1		7	3		
California	6	5			1	3	3		
Delaware	2		1	1		1		1	
Guam	1		1					1	
Louisiana	2	1		1		1		1	
Maryland	10	3	3	4		1	3	6	
Michigan	3		1	2			3		
New Hampshire	4	4				2		1	1
New York	5	5				4		1	
Northern Marianas	1		1					1	
Pennsylvania	5	4		1			1	4	
Rhode Island	10	8	1	1		3	2	3	2
U.S. Virgin Islands	2			2			2		
Washington	2				2		2		
TOTAL	135	56	42	22	15	40	47	43	5

C - Completed
 OS - On Schedule
 NCE - No Cost Extension or not on schedule
 A - Abandoned

5. Legislative Definition of "Program Change" Is Too Narrow

Most coastal states feel that the "program change" definition is too rigid and does not enable the states to make implementation-level changes to their programs. Several states argue that substantial program improvements can be made that are not limited to changes in laws or regulations, or the narrow legislative definition of "program change."

States with strong policies and regulatory programs already on the books (California and Michigan, etc.) feel that they are being penalized by the rigid and limited definition of "program change" under the §309 program. These states need funds to improve implementation of their strong regulatory powers. Other states need funds to adopt new laws or improve regulations. §309 funds have not been available to implement new program changes once they are adopted.

In fact, several states proposed, and were funded, for §309 projects that do not necessarily meet the legislative definition of program change (see Table 4).

6. Assessments and Strategies Have Proven to Be Useful Planning Tools

Despite initial resistance by states, the statewide assessment and development of long-term strategies to address new needs has proven, for the most part, to be very valuable. As a result of the strategies, states are now engaged in highly innovative and state-of-the-art initiatives. Several states have used this program to streamline their regulatory process.

7. Program Changes Achieved By States and Territories Await OCRM Approval

Although coastal states have accomplished §309 projects that resulted in program changes, they also require OCRM approval as

a Routine Program Improvement (RPI) or a Program Amendment (A) for incorporation in the core §306 program. OCRM has not developed a new RPI process for approval of §309 program changes that is faster than the normally scheduled RPI review process.

ENHANCEMENT GRANT PROGRAM ACHIEVEMENTS

1. Program Changes

A total of 26 projects in FY92 and FY93 has resulted in 32 substantive program changes. A summary of each successful project is provided below:

Alabama received FY92 funds in the wetlands enhancement area for a project of special merit, *Develop and Adopt Expanded Subdivision Review*. The existing subdivision regulations were amended (ADEM, Administrative Code R. 335-8-2-.11) and became effective June 30, 1994. The purpose of this project was to lower the threshold for subdivision review by the Alabama Department of Environmental Management (ADEM) from 25 acres to five acres. Also, other criteria will now be included in the review by ADEM: wetlands criteria, stormwater management; and erosion control guidelines. This program change will also encourage methods of environmentally sensitive land use and design such as clustering, buffers, impervious coverage limitations, on-site recharge, and other modes of best management practices. (Revised Regulations)

Alaska received FY92 WF funds in the wetlands enhancement area to complete a *Wetlands Mitigation Project*. The purpose of this project was to develop wetland mitigation sites, designs, and guidelines for the City and Borough of Juneau (CBJ). In November 1993, OCRM approved the City and Borough of Juneau Wetlands Plan and CBJ is negotiating

with the U.S. Army Corps of Engineers on the General Permit to implement the plan. The plan identifies sites and designs for off-site compensatory wetland projects and guidelines and procedures for designing appropriate on-site mitigation (including restoration). The project results serve as a basis for compensatory mitigation projects initiated by CBJ through a Mitigation Bank, as well as mitigation projects required of wetland developers under conditions of their project approvals. (Local Plan)

Alaska received FY92 PSM funds in the energy facility siting enhancement area to complete a *Review of State and Federal Authorities to Outer Continental Shelf (OCS) Oil and Gas Lease Sales*. The purpose of this project was to improve the procedures of consistency reviews of OCS leasing sales and clarify state jurisdiction and procedures. Alaska is adopting regulatory revisions under, 6 AAC 50.025, that codify early state agency involvement in OCS lease sales with the Mineral Management Service and establish a Pre-Consistency Review Process for OCS lease sale activities. A Memorandum of Understanding (MOU) between the State of Alaska and the Mineral Management Service will clarify and better mesh state/federal procedures, time lines, phases of review, and provisions for extended reviews to fit within the State CZMP appeal process for exploration and OCS lease sales. (Revised Regulations, MOU)

California received FY92 PSM funds in the coastal hazards enhancement area to complete *Coastal Hazards Landform Alteration Policy Guidance*. The Guidance was developed and adopted by the California Coastal Commission. It outlines ways to deal with grading effects from subdivisions to lot layout and building design. Details on possible impacts from

grading, policy and regulatory approaches to minimize land alteration, and technical options as alternatives to conventional grading are also provided. (Procedural Guidance)

California received FY93 PSM funds in the wetlands enhancement area to complete a *Wetlands Procedural Guidance Document*. This document was adopted by the Executive Director of the California Coastal Commission as procedural guidance. The new procedural guidance significantly improves the quality and comprehensiveness of the California Coastal Commission staff analysis and of the recommendations upon which the commission bases its decisions on wetlands development projects. The procedural document provides the staff with relevant background information and an analytic framework for drafting proposed findings and recommendations. The project has also enhanced interagency networking regarding the regulation of wetlands. (Procedural Guidance)

Connecticut received FY92 and FY93 WF funds, in the wetlands enhancement area to complete the *Long Island Sound License Plate Revenue Program*. This project promulgated legislation that developed a program to issue commemorative license plates. Proceeds from the sale of the plates (about \$10 million within the first few years) are placed in a special fund dedicated to several coastal management activities (wetlands and habitat restoration, public access, public education) with direct benefit to Long Island Sound. (Legislation)

Florida received FY92 and FY93 WF funds in the CSI enhancement area to complete an *On-Site Sewage Disposal Systems in Subdivisions with Vested Development Rights* project. The purpose of the project is to develop effective environmental management tools and technical alternatives to septic tanks that will signifi-

cantly reduce contamination of surface water and groundwater resources in the coastal zone. As part of this project, Florida has adopted new legislation requiring that environmental concerns be addressed, particularly nutrient contamination of coastal waters, in issuing state on-site sewage disposal systems permits. The Florida CZMP is implementing public health Rule 10D-6 as a routine program improvement. These two program change objectives were accomplished ahead of the three-year work plan.

As a result of this project, Florida will regulate the widespread and high-density use of on-site sewage disposal systems in subdivisions that have been "vested" under Florida law. The state's expanded regulatory authority over septic systems will now address concerns about the environmental quality of coastal waters and the public health consequences of degraded waters.

Once alternative treatment techniques have been developed and tested (mid 1996), Florida expects to amend Rule 10D-6, FCA, to adopt best techniques to reduce nutrient contamination from septic systems. (Legislation, Revised Regulation)

Maryland received FY92 WF funds in the CSI enhancement area to develop a *Comprehensive Forest Conservation Program*. The Maryland Forest Service adopted enforceable policies and procedures for the review of local forest conservation programs, which will be submitted to OCRM as part of a RPI package in 1995. On sites proposed for development, only forest clearing essential to the development project will be allowed by local permit as a means of rationing existing forest cover. Forest buffers adjacent to streams and critical habitat are also now required, minimizing nonpoint source pollution from development. (Legislation, Local Plan)

Maryland received FY93 WF funds in the CSI enhancement area to facilitate implementation of the state's *Marine Sewage Pumpout Program*. Two bills passed the Maryland General Assembly in 1994. SB325 requires, on a phased-in basis, all marinas with 50 or more slips and capable of berthing vessels 22 feet or larger to obtain a pumpout station. This bill eliminates the "two mile exemption" to the pumpout requirements for certain new and expanding marinas. HB 1489 makes federal sanitation device requirements a part of state law and enforcement, including language requiring that "Y" valves be secured to prevent overboard discharge of sewage. Both new laws will be added to the Maryland CZMP as program changes in 1995. As a result, overboard disposal of sewage from vessels will be prevented, thereby reducing nutrient inputs into ten Chesapeake Bay tributaries and the entire Maryland portion of the Chesapeake Bay. (Legislation)

Maryland received FY93 WF funds in the CSI enhancement area for the *Revision of Critical Area Water-Dependent Facilities Regulations*. Legislation passed that refines the regulations for community piers and calculation of the number of slips. This legislation includes definitions of new uses, improves siting criteria, and improves control of the intensity of uses. A guidance document will explain water-dependent facility regulations and steps in the permitting process for such facilities for use by local government planners and project applicants. (Legislation)

Massachusetts received FY92 funds in the wetlands enhancement area to complete a project of special merit, *Title 5 Revisions to Protect Wetlands*. Existing septic regulations (Title 5 Septic Code) were revised so that they now specifically address issues such as location and setbacks on barrier beaches and in

high velocity flood zones. (Revised Regulations)

Michigan received FY93 WF funds in the coastal hazards enhancement area to complete a *Coastal Hazards Project: Sand Dunes Protection Legislation and Acquisition Criteria* project. The purpose of the project is to improve hazard area management through reauthorization of the state's Sand Dunes Protection and Management Act; through addition of high-risk erosion and flood-hazard areas to the state's criteria for prioritizing land acquisitions; and through legislation to allow the state to record disclosure statements on deeds for high-hazard shoreline properties. The first two program change objectives were accomplished ahead of schedule.

Sand Dune Legislation was reauthorized and a five-year sunset provision was eliminated. This Act is the cornerstone of Michigan's laws regulating development in designated sand dune areas through site analysis and slope requirements. The addition of erosion and flood acquisition criteria to the state's land acquisition policy directives, give critical coastal properties that become available for purchase by the state of Michigan will have a greater chance of being acquired. (Legislation, Procedural Guidance)

Michigan received a FY93 WF grant in the CSI enhancement area to address *Cumulative and Secondary Impacts of Coastal Development*. As part of this multiyear project, Michigan is involved in working with the Peninsula Township on a *Transfer of Development Rights (TDR) Demonstration Project*. Program changes have been accomplished under this subproject. The Peninsula Township passed a Tax Referendum in August 1994, which increases taxes to purchase TDRs for agricultural preservation of cherry orchards and vineyards. Michigan is the first Midwestern state to use

TDRs for agricultural preservation. (Local Regulation)

New York received FY93 funds to complete a project of special merit that falls under both the public access and coastal hazards enhancement areas. The project, *Regulations to Implement Chapter 791 of the Laws of 1992*, implements local harbor management plans and the laws and ordinances accompanying them. The implementation of these local harbor plans established clear authority for local governments to manage their harbors. (Local Regulation)

Oregon received a FY92 PSM grant in the ocean resources enhancement area to address *Protection of the Steller Sea Lion* and a FY93 WF grant to address *Cumulative Impacts on Sensitive Shoreline Resources*. The purpose of these projects is to address adverse impacts from increased recreational fishing to the Oregon rocky shore ecosystem, including the Steller Sea Lion habitat. Oregon has strengthened its regulatory authority over its rocky shore ecosystems, both onshore and in-water, by completing and adopting a Territorial Sea Plan that includes designation of rocky shore management areas with goals, policies, and site management objectives for the designated areas. The Territorial Sea Plan will be a program amendment to the Oregon CZMP. (State Plan)

Rhode Island received FY92 funds to complete a project of special merit in the cumulative and secondary impacts enhancement area, *Submerged Tidal Lands Leasing Program* (AKA Dock Registration Program). This program develops policies and establishes a fee structure and an inventory of all docks located within Rhode Island's tidal waters. A recent Rhode Island Supreme Court decision affirmed public trust rights to filled tidal lands. As a result, the state decided to enhance its Sub-

merged Tidal Lands Leasing Program by established a specific program for docks, marinas, and other in-water structures. (Revised Regulations)

Rhode Island received FY92 PSM funds in the wetlands enhancement area (*Formal Wetlands Mitigation Policies*). Formal wetlands mitigation policies were adopted that will result in a consistent and coordinated effort to restore wetlands and critical habitats. These policies have been incorporated into the permit process. (Revised Regulations)

Rhode Island received FY93 PSM funds in the special area management planning enhancement area to complete *Revised Barrier Beach Protection Policies for Salt Pond SAMP*. New regulations were adopted by the Coastal Resources Management Council and the R.I. CRMP and amended to prohibit construction on dunes or undeveloped barrier beaches, and to set back construction on developed barriers based on erosion rates. For the first time construction setbacks were applied to headlands based on erosion rates. Standards for design of beach nourishment or other soft erosion protection were adopted. (State Plan, Revised Regulations)

South Carolina received FY92/93 WF funds under the wetlands enhancement area to complete a *Joint Federal/State Freshwater Wetlands Enforcement Project*. The purpose of the project was to ensure consistency between South Carolina's coastal laws and federal agency actions in freshwater wetland settlement cases. Through adoption of a State/Federal Memorandum of Agreement (MOA) in 1993, South Carolina can be assured that federal actions will be consistent with state law and the state will be involved in federal enforcement actions. In addition, passage of state legislation in 1994 now allows the South Carolina Coastal Council to assess civil penal-

ties and fines for activities that violate federal 404 permits. (MOA, Legislation, Revised Regulations)

South Carolina received FY92/93 WF funds under the wetlands enhancement area to complete an *Errors and Omissions Study of Wetlands and Review of Mitigation Compliance in South Carolina*. The purpose of this project was to address shortfalls in the state/federal wetlands delineation process. This project resulted in state adoption of procedural guidance for the delineation of wetlands. The guidance corrects errors and omissions in designating wetlands and ensures greater consistency in the administration of state wetlands regulations, and procedures to assure that all permit conditions are adhered to. (Procedural Guidance)

South Carolina received FY92 funds under the coastal hazards enhancement area for a project of special merit for *Development of Beach/Dune Critical Area Computer-based Inventory and Zoning Overlay*. The purpose of this project was to improve beach and dune critical area management. This was accomplished through a detailed orthophoto inventory of South Carolina's beaches and dune areas that precisely identified the location of the shoreline, structures, and required setback areas. A second product was Beach/Dune Zoning Overlay Maps that each of the 18 local governments adopted between 1992 and 1994 as part of enforceable local beach management plans. These zoning maps provide greater specificity of beach/dune resources required to be regulated by local governments according to state standards. As a result, local decisions regarding siting of structures along South Carolina's beachfront will more accurately address siting and setback requirements. (Local Regulations)

South Carolina received FY92 funds under the public access enhancement area to complete an *Assessment of Beach Access in South Carolina and Enactment of Beach Access Development Fund*. The purpose of this project was to assess public access problems and address shortcomings through improved beach access mechanisms. This project resulted, in 1993, in state legislation to establish a beach access development fund. The legislation directs fees into a fund for beach access development. The fund is expected to generate about \$90,000 in revenues per year, to be used to improve existing access sites and as match monies for acquisition of new sites. (Legislation)

South Carolina received FY92/93 WF funds under the CSI enhancement area to complete several *Water Quality Protection Objectives*. The purpose of the project was to address cumulative impacts on water quality in four separate issue areas: shellfish protection; stormwater management; septic tanks; and marina pumpouts. Through this project, four pieces of legislation were passed to address water quality issues.

In 1994, legislation was passed establishing a strengthened shellfish policy that increases protection against encroachment of private docks and marinas into public shellfish areas.

In 1993, legislation passed that revises the state stormwater management guidelines by establishing new standards for certain activities such as golf courses, bridges, and elevated roadways to minimize runoff and impacts on water quality.

Legislation is still being considered for the 1994-95 session that will revise state septic tank maintenance guidelines to require annual pumpout, inspections, and a statement of proof that the septic system works. This will im-

prove septic tank management to minimize cumulative impacts on water quality.

In 1993, a program was established to fund the purchase and installation of pumpout stations, under a Department of the Interior (DOI) grant agreement. Combined with an education program, this effort will encourage boaters to use pumpout facilities at local marinas, which will, in turn, reduce adverse cumulative impacts on water quality from illegal dumping of sewage from marine vessels. (Legislation)

South Carolina received FY92/93 WF funds under the CSI enhancement area to complete *Federal Consistency Outside the CZM Boundary*. The purpose of this project was to improve and extend federal consistency to include activities outside the South Carolina coastal zone. This is being accomplished through MOAs on federal consistency, which ensure that federal actions outside the CZ are consistent with South Carolina's coastal policies. As a result, adverse cumulative impacts from federal activities outside the CZ will be addressed and minimized. (MOA)

South Carolina received FY92/93 WF funds under the CSI enhancement area to complete *Revisions to Geographic Areas of Particular Concern (GAPC) Guidelines*. The purpose of this project was to improve the GAPC guidelines as a mechanism for addressing cumulative impacts from development in sensitive coastal areas. In 1994, the General Assembly amended the coastal zone management program. The GAPC amendments expand existing and add new categories of areas (e.g., historic areas, shellfish areas) that can be designated as GAPCs, and sets standards to assure that construction permits in such areas protect identified resources. (Legislation)

Virginia received FY92 PSM funds in the SAMP enhancement area to complete the

project entitled, *Seaside Farm Conservation Easements*. Easement plans and financial analyses were completed for 10 high-priority tracts. About 2,000 acres of prime habitat have been protected. (Administrative Action)

2. Other Significant Activities Under §309

- A. Many coastal states have undertaken activities that may lead to “program changes,” but the §309 projects in themselves are not program changes. Such activities include critical steps coastal states must take to identify and build support ultimately to achieve program changes. These activities can be grouped into: (1) needs identification, data collection, research, analysis, assessments; (2) public awareness, constituency building, advisory groups; and (3) education and outreach. A few examples of these activities are provided below:

Oregon has used §309 funds to develop methodologies for assessing the impacts of activities on intertidal rocky shores and aesthetic resources. The projects involve data collection, inventory, of the resources and analysis of impacts. A program change will occur when local governments update their plans and regulations to include the inventory data.

Louisiana is using §309 funds for a research project to identify and evaluate activities and/or areas that are currently regulated along with those activities exempt from coastal use permitting that have adverse impacts and should be regulated. The end product will be recommendations for changes to state laws and regulations to

regulate specific uses that have adverse impacts.

New Jersey is using §309 funds to conduct assessments and involve the public in the development and adoption of a revised State Shore Protection Master Plan and legislative changes to the Coastal Area Facilities Review Act. As separate projects, they will not themselves result in program changes. But without both the research and public involvement, Master Plan project and the CAFR Act amendments will not be achieved.

- B. Coastal states have also undertaken activities to implement new laws and regulations. Although such activities are not program changes, they are as important because they implement the program changes. Such activities include: (1) technical assistance to state agencies and local governments, (2) development of model ordinances, and (3) intergovernmental coordination. For example:

Connecticut is using §309 funds to develop a technical assistance program to help professional staff and local government officials understand and implement a new law that requires communities to consider environmental impacts on Long Island Sound and adopt nonpoint source pollution control measures when they update their local land use regulations. This project involves the development of standards and criteria for local decisions, in addition to research, education, and outreach training.

South Carolina used §309 funds to update its Developer's Handbook,

which explains existing state laws, policies, and regulations regarding wetlands management. This improves state enforcement of wetland regulations, but is not itself a program change.

Virginia is using §309 funds to launch a countywide Task Force on Sustainable Economic Development as part of its SAMP effort. The Task Force has been an effective tool in garnering public support for enforceable policies to protect bird and fish habitat. Protecting bird habitat is critical to the development of a sound nature tourism industry. Under the SAM project, an annual Eastern Shore Birding Festival, now run by the local Chamber of Commerce, has brought thousands of new tourists to an otherwise infrequently visited area. Protecting water quality for fin- and shellfish is critical to the growth of a budding aquaculture and value-added seafood products industry. Linking the enforceable policies to sustainable economic development has been key in getting the high level of community support this SAMP now enjoys.

- C. In addition, coastal states have undertaken state-of-the art projects that will lead to program changes and significantly improve how coastal management is implemented in the future. This includes activities such as (1) GIS data entry, (2) GIS data tracking systems, and (3) modeling for CSI data and impact factors. For example:

North Carolina is using §309 funds to develop a computer model to assess and prioritize wetlands. A team of scientists and computer specialists is

required to develop the functional assessment methodology. The methodology itself will not be a program change, but it will substantially change the way North Carolina and other states manage coastal wetlands.

North Carolina is using §309 funds to develop an advanced GIS and database information system to provide a spatial analysis of 348 small watersheds. The system is designed to estimate impacts of population on resources and water quality. The methodology and model are state-of-the-art and will be emulated by other coastal states attempting to identify and manage population growth impacts on coastal resources.

RECOMMENDATIONS

Legislative Changes

The §309 Program has offered states new opportunities to seek coastal program enhancements. It has also posed obstacles to achieving program improvements. Changes are needed to the §309 Program as part of the 1994 Reauthorization of the CZMA.

Recommended changes include: 1) broaden definition of "program change," and (2) increase funding for both §306 and §309.

1. *Broaden the Definition of Program Change*

The term "program change," as defined in statute and OCRM regulations is narrow and limited. The eligible types of enhancements that will result in program change include; new or revised coastal zone boundaries, state authorities, local coastal programs or ordinances, land acquisition, special area management plans, or interpretation guidance/procedures/policies for

enforceable coastal zone management policies.

The definition of program change does not allow for funding of activities to implement program improvements developed under §309. It does not allow for non-regulatory enhancements, such as improved federal consistency reviews, improved enforcement and administration of existing regulatory programs, enhanced wetlands protection or restoration, marine debris containment or cleanup. It also does not recognize that development of program changes is a long-term process which, to be successful, involves activities such as data collection and analysis, methodology testing, public outreach and constituency building, and sustained administrative staff support.

Recommendation: Broaden the definition of program change to allow §309 funding for a wide array of activities that would lead to significant enhancement in priority issue areas, as well as the implementation enhancement objectives.

2. *Increase the Congressional Appropriation for Both §306 and §309 Funding*

Coastal states have embraced the §309 Program and demonstrated their interest and willingness to seek significant enhancements to their coastal management programs. This has come at a time when state funds, including budgets for state environmental programs, have been curtailed.

Coastal development continues as the predominant growth pattern in the United States. As a result, the coastal management needs are substantial and expanding. It is unrealistic to expect state coastal management programs to address current and emerging coastal issues using state-of-the-

art technology without adequate and sustained federal funding.

The §309 Strategies identify projects costing double the amount of funds Congress allocated to this program. Coupled with the needs identified in periodic evaluations of §309 state coastal management programs, increased funding of state CZM programs is justified.

Recommendation: Increase the Congressional appropriation for both §306 and §309 funding. Fund §309 on its own merits, not at the cost of other programs in the CZMA. Establish a §309 fund in the CZMA budget.

Administrative Changes

1. *Increase the Timetable for Projects and Results*

For a coastal state to develop and implement a significant improvement to its coastal management program, several steps are involved. This multi-step process includes the need identification, data collection, research and analysis, public awareness and outreach, constituency building, political timing, development of appropriate program improvement mechanisms, consultation and coordination among agencies and affected parties, hiring new staff and/or subcontractors, adoption of implementation mechanisms, funding, ongoing administration and implementation of enhancement program, and periodic evaluation and update of enhancement program. The time and resources required to effectively complete such a process can vary considerably from project to project.

Recommendation: The §309 Program should recognize the varying degrees of complexity and uncertainty involved in

instituting significant program changes, and make provisions to allow for multiyear projects and funding for the broader scope of complementary actions that are often necessary for the successful implementation of program changes.

2. *Institute a System of Information Exchange of New CRM Tools and Techniques*

One of the major objectives of §309 was to provide individual states with the opportunity to develop some innovations that would enhance their core programs (weighted formula projects) and others that would be transferable models for other states to consider adopting as projects of special merit. The §309 process has already resulted in the development of both kinds of new or improved coastal management tools and techniques.

Recommendation: OCRM should provide a system for the regular dissemination of this information to all coastal states and, where appropriate, to other planning, management, and regulatory entities. This clearinghouse function could include seminars, workshops, and active demonstrations of the emerging tools and techniques.

In addition, the program assessments that each state conducted as the initial step in the §309 process together represent the basis for a State of the Coast report. The consolidation of this data and routine updating of progress made by the national CZM program should be the responsibility of OCRM.

3. *Streamline Assessment Process*

The individual coastal state assessments have proven to be a very useful and instructive exercise for the state programs even beyond their relevance to the §309

project. Many states have utilized the findings of their assessments to unilaterally implement changes to their programs, identify future issues, or simply to educate the public and other agencies about coastal issues and programs. The public component of the §309 assessment was especially productive and has more potential with regard to public awareness and long-term support.

Recommendation: States should prepare self-assessments to measure progress with §309 project implementation and overall effectiveness of the program, as well as to identify emerging issues. This should be done in a manner that is cost-effective, accessible to the public, and provides qualitative and quantitative information. Therefore, it should be part and parcel of a consolidated and streamlined §312 performance evaluation/grant reporting requirements/assessment. OCRM should adopt standardized formats for this exercise that will assist the states in making periodic assessments and enable OCRM to track the cumulative effect of the coastal programs.

4. *Promote Collaborative Management*

There will inevitably be certain tensions among federal and state issues, state-to-state issues and generally conflicting interests along the coast. Some of these tensions manifest themselves in the early stages of implementation of the §309 program. Most states and OCRM officials now work in a much more collaborative manner.

Recommendation: Future guidance and decisions about the §309 program should continue to adopt this mutually productive approach and search for mechanisms that will assure similar flexibility and cooperation in all endeavors.