



COASTAL ZONE MANAGEMENT ACT § 309: FUNDING PROCESS AND REQUIREMENTS



NWWN Outreach & Education Committee

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In 2014, State CZM programs are scheduled to begin planning new Section 309 Assessments and Strategies for the period 2016-2020. Section 309 of the Coastal Zone Management Act establishes NOAA’s Coastal Zone Enhancement Grant Program, through which states and territories can get non-matching grant funds to enhance their coastal management programs. Because there are opportunities to address working waterfront issues through the Section 309 process, state WWF stakeholders should be aware of this funding mechanism and begin talking with their respective state CZM programs about possibly taking advantage of these potential opportunities.

Enhancement Areas

Pursuant to Section 309, the Secretary of Commerce may award grants to states and territories for proposals that will result in coastal management program changes in one or more of nine enhancement areas:

- Protecting and restoring coastal wetlands
- Eliminating development in high-hazard areas
- Increasing public access
- Reducing marine debris
- Assessing the cumulative and secondary impacts of coastal growth and development
- Preparing special area management plans
- Developing policies to facilitate the siting of energy related facilities and activities
- Aquaculture
- Ocean and Great Lakes resources

Working waterfront management issues potentially fall within the scope of several of these enhancement areas, specifically (1) public access, (2) cumulative and secondary impacts, (3) special area management plans, and (4) aquaculture. Through these enhancement areas, state coastal programs can apply for funding to facilitate coastal management program changes that seek to address working waterfront issues.

Program Changes

To be considered for funding, the proposed activity must improve the State’s ability to achieve one or more of the coastal zone enhancement objectives, and must result in a “program change,” which NOAA defines as:

- A change to coastal zone boundaries.
- New or revised authorities, including statutes, regulations, enforceable policies, administrative decisions, executive orders, and memoranda of agreement/understanding.
- New or revised local coastal programs and implementing ordinances.

- New or revised coastal land acquisition, management, and restoration programs.
- New or revised Special Area Management Plans or plans for Areas of Particular Concern (APC), including enforceable policies and other necessary implementing mechanisms or criteria and procedures for designating and managing APCs.
- New or revised guidelines, procedures and policy documents which are formally adopted by a State and provide specific interpretations of enforceable CZM policies to applicants, local governments and other agencies that will result in meaningful improvements in coastal resource management.¹

§ 309 Assessment and Strategy

To be eligible for a grant, coastal states with an approved coastal management program must have an “Assessment” and a “Strategy” approved by the NOAA Office of Ocean and Coastal Resource Management (OCRM).² States are encouraged to prepare Assessments and develop a Strategy every five years to address coastal management needs and priorities, with the next Strategy cycle beginning in FY16. The state CZM programs prepare the Assessment and Strategies in compliance with guidance established by OCRM, and will begin planning the next 309 cycle in July or October, 2014.³

States with approved Assessment and Strategies are eligible for Section 309 funding. A portion of CZM funding, with a cap of \$10M, can be allocated to States. States receive a base funding allocation which is determined by a weighted formula. A portion of Section 309 funds may be awarded to projects of special merit, which will be awarded to the highest ranked projects based on the criteria in 15 C.F.R. § 923.125(b).

The Section 309 Strategies cover a period of 5 years and include projects and budgets for this time period. Annual CZM award applications for use of Section 309 funds must be consistent with the State’s approved Strategy (or the State must request an amendment to the Section 309 Strategy). States submit grant tasks every year outlining specific activities to support with Section 309 funds, including:

- A clear and concise description of the projects that the State proposes to be funded under § 309. This description shall explain the relationship of each proposed project to the State’s approved Assessment and Strategy and how each proposed project will accomplish all or part of a program change that the State has identified in its Strategy.
- A recommendation of which projects should be funded via weighted formula and which should be considered as projects of special merit.
- Documentation of fiscal and technical needs.
- Following the first year of Section 309 funding, a description of how the past year’s work contributed to a program change.

1. 15 C.F.R. § 923.123.

2. *Id.* at § 923.121(b). To maintain eligibility, states must also adhere to their approved CMPs and be making progress in performing grant tasks under § 306. States are also required to be making progress in carrying out their previous year’s award under § 309. See 16 U.S.C. § 1456.

3. According to their CZMA Federal award start date.

Current State Examples

A review of the current Section 309 Strategies (2011-2015) identified five states with strategies related to working waterfront issues. Attached to this general overview are summaries of these five strategies which identify (1) the priority enhancement area; (2) the proposed program change the strategy was intended to result in; (3) the need or gap the strategy was intended to address; (4) the estimated budget and time period for implementation; (5) the final products; (6) partner organizations; and (7) contact information.

Note that the attached State summaries provide an overview of the proposed Section 309 projects over a multi-year period ranging from two to five years. An assessment of each States' progress toward implementing these strategies was outside the scope of this review, as the current Strategy cycle is not yet complete.

This analysis focused exclusively on the states' current Section 309 Strategies, and did not seek to capture working waterfront activities supported through the Section 306/306A funding process. Section 306/306A provides the core funding for the state CZM programs, which is often used for working waterfront-related projects, such as community-based planning and visioning around a revitalized waterfront or public access projects such as waterfront boardwalks, boat ramps, etc.

Past State Examples

A number of CZM programs have used Section 309 funding to develop Special Area Management Planning (SAMP) programs specifically related to waterfronts. For many years, both New York and Florida have used Section 309 funding to support pilot activities related to the development of State programs that provide financial and technical assistance for community-based waterfront revitalization efforts. As successful SAMP pilots, these activities have been incorporated into the core CZM State programs, and these States have continued to support these efforts using a mix of core CZM program funding (Section 306 & 306A) and Section 309 funds.

New York's Local Waterfront Revitalization Program (LWRP) has provided financial and technical assistance with planning and implementing waterfront improvement projects to over 300 local governments. The LWRP program encourages communities to make the most out of their waterfront assets through the preparation of a clear vision and plan, broad public involvement, creative partnerships and a step by step strategy.

Since 1997, Waterfronts Florida has designated 23 communities as Waterfronts Florida Partnership Communities. Communities receive intensive technical assistance, along with training and education, to help develop and implement community-designed plans for their waterfront. Focus areas of the program include environmental and cultural resource protection, retention of traditional waterfront economies, hazard mitigation, and public access to the waterfront.

Next Steps

Sea Grant extension agents are encouraged to reach out to their respective State Coastal Zone Management (CZM) program staff about opportunities related to the Section 309 Enhancement Grant program. If you are unsure who to contact within your state about the CZMA Enhancement Grant program, contact Kenneth Walker, NOAA/OCRM at kenneth.walker@noaa.gov or 301-563-1157.

As State CZM staff begin planning and prioritizing their Section 309 Enhancement Areas, Sea Grant extension agents may be able to work with their respective CZM programs to identifying working waterfront issues for consideration in their 309 Enhancement program. In addition, Sea Grant extension agents can work with State CZM partners to rank working waterfront issues as a high priority within the Section 309 Enhancement Strategy for the State. Finally, there may be opportunities to leverage funding and technical assistance between Sea Grant and State CZM programs to better support community-based working waterfront efforts. While this report focuses on the Section 309 Assessment and Strategy process, there may be additional opportunities for Sea Grant to partner with State CZM programs on projects which utilize CZMA Section 306 (implementation funding) and Section 306A (low cost construction project funding).

1. The priority enhancement area(s):

- Aquaculture
- Cumulative and Secondary Impacts
- Public Access

2. The proposed program change the strategy was intended to result in.

Virginia’s strategy aims to establish a coastal zone-wide plan for working waterfronts supporting water-dependent activities. In particular, Virginia’s proposed program seeks to increase community awareness regarding the long-term costs associated with losing working waterfronts. The program additionally endeavors to aid in the development of working waterfronts through increased awareness of economic impact and new policy tools.

3. The need or gap the strategy was intended to address.

Increased residential development along Virginia’s waterfronts has negatively impacted historic industries in some areas. Impacted communities often lack the information or organizational capacity to ensure that development occurs in a manner compatible with the surrounding community and environment or remediate any harmful effects of development. Virginia’s strategy seeks to address these informational and organizational capacity gaps by partaking in research and informational outreach to aid local-decision making regarding current and future development.

To lay the foundation for a working waterfront plan, Virginia seeks to fund a comparative economic analysis to identify the long-term economic impacts of incoming development versus the maintenance and enhancement of existing water-dependent commercial activities. Using this information, the Program will develop a plan to guide communities in making decisions and policies that are supportive of their economic structure and cultural heritage. Through this planning process, the Program aims to reach a consensus definition of working waterfronts and water-dependent commercial activities. This definition will enable the Program to conduct an inventory of current working waterfront infrastructure, as well as identify threats and potential opportunities for preservation. Relevant policy tools will also be investigated.

4. The estimated budget and time period for implementation: \$250,000 over the span of five years.

5. The final products: (1) Virginia Working Waterfronts Plan, (2) consensus definition of water-dependent commercial activities and working waterfronts, (3) examples of policy tools for local adoption, (4) information outreach, and (5) an inventory of existing waterfront infrastructure.

6. Partner organizations: Virginia Sea Grant, Virginia Institute of Marine Science, Planning Commissions

7. Contact information: Virginia Coastal Zone Management Program, Virginia Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, (804) 698-4000.

1. The priority enhancement area(s):

- Aquaculture
- Energy & Government Facility Siting
- Ocean/Great Lakes Resources
- Cumulative and Secondary Impacts
- Public Access

2. The proposed program change the strategy was intended to result in.

Maryland sought to coordinate and oversee the State’s Coastal and Marine Spatial Planning (CMSP) efforts. As part of that broad and comprehensive process, the state proposed to develop a program or mechanism for water-dependent uses to help preserve existing, and create additional opportunities, for water-dependent uses throughout the coastal zone.

3. The need or gap the strategy was intended to address.

Maryland’s strategy focuses on the need to integrate coastal waterfront-dependent uses, coastal habitat conservation, and the identification of compatible coastal uses into planning efforts throughout the coastal zone and future CMSP work. As a result of recent, unprecedented growth along its shorelines, there has been increased pressure to maintain water-dependent uses and rural landscapes at the core of some communities’ economic and cultural identity. The strategy was intended to address policy gaps as well, including spatial/baseline data and trade-off analyses to inform CMSP activities, public access in underserved areas, cultural heritage preservation, the decision-making context for Maryland offshore energy, policies and plans for maintenance and preservation of water-dependent uses, state and local planning efforts for addressing growth and development, loss of public access, and competing human use and natural resource needs.

4. The estimated budget and time period for implementation: \$230,000 over five years.

5. The final products: (1) Completed assessments for specific geographic areas and/or communities summarizing resource, human use and/or working waterfront, and water-dependent use gaps and needs; (2) Development of a working waterfront and/or water-dependent use program or plan; (3) Draft spatial plans addressing compatible use goals and mechanisms; (4) New or updated authorities or methodologies that increase resource protections or address compatible uses in the coastal zone; and (5) Updated land acquisition program that incorporate coastal habitat and sea level rise adaptation strategies.

6. Partner organizations: Maryland Sea Grant and other state agencies and Department of Natural Resource units to match up additional resources to fill data gaps and develop plans for the outlined objectives.

7. General Contact information: Chesapeake & Coastal Service, Maryland Department of Natural Resources, 580 Taylor Avenue, Annapolis, MD 21401, 1-877-620-8367.

1. The priority enhancement area(s):

- Special Area Management Planning

2. The proposed program change the strategy was intended to result in.

The Massachusetts CZM Program proposed to undertake a comprehensive inventory of Designated Port Area (DPA) infrastructure, uses, and other port resources. The information gathered would inform the agency's review of existing DPA boundaries and result in appropriate modifications to official DPA boundaries in one or more port cities.

The Program also sought funding for the preparation and dissemination of guidance materials on options for flexibility within existing regulatory standards and economic incentives that encourage compatible use diversification on DPA properties. These guidance documents are intended to help ensure that all of the Commonwealth's port users have access to adequate resources to promote vibrant working waterfronts and assist these industries in the maintenance of their port infrastructure.

3. The need or gap the strategy was intended to address.

The strategy focuses on two needs: (1) the need to inventory DPA assets, as a comprehensive inventory has not been done in years, and (2) the need to develop guidance documents on regulatory flexibility and economic incentives because DPA landowners typically do not have the same level of technical and financial support as large-scale, publicly owned or supported maritime organizations.

4. The estimated budget and time period for implementation: \$177,000 over three years.

5. Final products: (1) Comprehensive inventory of DPA assets; (2) modified DPA boundaries; and (3) formally adopted guidance document on regulatory flexibility and financial assistance for DPA development.

6. Partner organizations: GIS consultant services may be necessary to some degree.

7. General contact information: Massachusetts Office of Coastal Zone Management, Executive Office of Energy and Environmental Affairs, 251 Causeway Street, Suite 800, Boston, MA 02114, (617) 626-1200.

1. The priority enhancement area(s):

- Coastal Hazards
- Cumulative and Secondary Impacts
- Public Access

2. The proposed program change the strategy was intended to result in.

Ohio's *Community Waterfront Planning Strategy* seeks to improve community waterfront planning efforts in the state. Pursuant to Section 1506.11(B) of the Ohio Revised Code, local governments may adopt a resolution or enact an ordinance "finding or determining that an area of Lake Erie for which a Submerged Lands Lease or Permit has been applied for complies with regulation of permissible land use under a waterfront plan of the local authority." The Ohio Coastal Management Program seeks to facilitate the development of these local waterfront plans by (1) identifying the required elements that should be included in such plans and (2) developing a guidance document which will be a required element of the planning process to ensure that local plans are developed in accordance with state law.

An additional aspect of the strategy is the enhancement of a coastal module, dealing specifically with voluntary beset practices for development in Ohio's coastal communities, for the Ohio Balanced Growth Program (<http://balancedgrowth.ohio.gov/>). This module would focus on the challenges impacting coastal communities, such as flooding and inundation, erosion, working waterfronts, boat launch development, tourism, insufficient parking lots, and marinas lacking public access.

3. The need or gap the strategy was intended to address.

This strategy is intended to promote the development of waterfront plans and local community engagement in decisions about whether to issue resolutions or adopt ordinances providing for Submerged Lands Leases or Permits in coastal communities. Despite the authority granted to local governments by Section 1506.11(B), only a few communities have adopted waterfront master plans and in most cases these plans do not extend beyond the water's edge. In addition, many townships are not included in the master plans developed by counties or other entities.

4. The estimated budget and time period for implementation: \$100,000 over two years.

5. The final products: (1) Waterfront planning guidance; and (2) coastal module officially developed and adopted by the Lake Erie Commission as part of the Lake Erie Balanced Growth Strategy.

6. Partner organizations: None listed

7. General Contact Information: Ohio Department of Natural Resources, Office of Coastal Management, 05 West Shoreline Drive, Sandusky, OH 44870, (419) 626-7980.

1. The priority enhancement area(s):

- Ocean/Great Lakes Resources
- Cumulative and Secondary Impacts

2. The proposed program change the strategy was intended to result in.

The Long Island Sound Dredged Material Management Plan, currently under development, is expected to be adopted by the U.S. Army Corps of Engineers in 2015. To ensure that all appropriate disposal methods remain available as the plan is implemented, the Office of Long Island Sound Programs (OLISP) seeks to develop detailed technical guidance for dredging project proponents and cooperating agencies on how to select and implement appropriate dredged material management options.

3. The need or gap the strategy was intended to address.

Connecticut's strategy focuses on the need to maintain and protect the ability to dredge navigation channels, which is vital to the sustainability of the state's water-dependent terminals and recreational marinas. Open water disposal has become controversial in recent years, and the LIS DMMP is anticipated to place greater emphasis on beneficial use of dredged sediments. Beneficial use, however, can be expensive and is subject to complex regulatory standards. Eliminating the open water disposal option could result in serious economic impacts to port, marina, and boatyard facilities. Connecticut's strives to develop guidance to ensure that all appropriate disposal options are available as the DMMP is implemented.

4. The estimated budget and time period for implementation: \$267,000 over four years.

5. The final products: Guidance documents on procedures for appropriate disposal of dredged material in Long Island Sound.

6. Partner organizations: State and federal agencies as necessary and OLISP staff.

7. General Contact Information: Office of Long Island Sound Programs, Department of Environment and Environmental Protection, 79 Elm Street, Hartford, CT 06106, (860) 424-3034.



The National Working Waterfront Network (NWWN) is a nationwide network of businesses, industry associations, nonprofits, local governments and communities, state and federal agencies, universities, Sea Grant programs, and individuals dedicated to supporting, preserving, and enhancing our nation's working waterfronts and waterways. Participation in the NWWN is open to all individuals and organizations involved in working waterfront issues at the federal, state, and local level. Our mission is to increase the capacity of coastal communities and stakeholders to make informed decisions, balance diverse uses, ensure access, and plan for the future of their working waterfronts and waterways.

This Briefing Paper is a product of the NWWN Outreach & Education Committee, which works to support working waterfront initiatives by sharing and developing resources to help Network members learn how peers from across the country have applied working waterfront tools in the real world.

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