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An assessment was made of progress under the Coastal  
Zone Management Act of 1972 by the National Oceanic and  
Atmospheric Administration (NOAA) and the coastal States and  
territories. The Act provides for incentives to States including  
grants administered by NOAA for the wise use of coastal  
resources. Findings/Conclusions: Although some progress has  
been made, many problems have developed in implementation by the  
States and coordination with Federal agencies. There has been a  
lack of understanding of State problems, weaknesses in  
monitoring procedures, and conflicting policies between State  
and Federal agencies. Some problems in funding and  
implementation have resulted from lack of public support.  
Recommendations: States should be helped to develop authority  
and involve the public in program development. Federal agencies  
should be kept informed at early stages. Information should be  
coordinated among the States and technical information  
assistance should be expanded. (HTW)

# *REPORT TO THE CONGRESS*



*BY THE COMPTROLLER GENERAL  
OF THE UNITED STATES*

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## The Coastal Zone Management Program: An Uncertain Future

Department of Commerce and  
Other Federal Agencies

This report describes the progress made and problems experienced in developing coastal zone management programs. States have experienced delays and have had trouble obtaining funding, developing necessary implementing authority, receiving public and political support, and coordinating program development with relevant Federal agencies.

Federal participation in State program development has been limited. Also, the National Oceanic and Atmospheric Administration must shift its emphasis to increased assistance in monitoring State programs.



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-145099

To the President of the Senate and the  
Speaker of the House of Representatives

This report assesses the progress of the National Oceanic and Atmospheric Administration, Department of Commerce, and the coastal States and territories in meeting the objectives of the Coastal Zone Management Act of 1972. We made this review because of the expressed desire of the Congress for an appraisal of the program.

This report is in response to a joint request by the Chairmen of the Senate Committee on Commerce and the National Ocean Policy Study.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of Commerce; the Administrator, National Oceanic and Atmospheric Administration; and the heads of the other involved departments and agencies.

*Frederic B. Atch*  
Comptroller General  
of the United States

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## ABBREVIATIONS

AEC	Area of Environmental Concern
CZMA	Coastal Zone Management Act
GAO	General Accounting Office
NOAA	National Oceanic and Atmospheric Administration
OCS	Outer Continental Shelf
OCZM	Office of Coastal Zone Management

D I G E S T

U.S. coastal areas, including the Great Lakes, contain some of the Nation's most valuable assets. In recent years, coastal resources have been subject to increasing and competing demands.

The Congress passed the Coastal Zone Management Act of 1972, which provides incentive to States to use coastal resources intelligently.

The Secretary of Commerce administers the act through the National Oceanic and Atmospheric Administration.

After GAO's review, the Coastal Zone Management Act Amendments of 1976, enacted in July 1976, extended funding authorization from 1977 to 1980 and increased the Federal share of program development grants from two-thirds to 80 percent.

After reviewing the Coastal Zone Management Program in 34 States and territories, GAO concluded that:

- States believe they are making progress in developing management programs despite delays. Lack of local public and political support could further delay or even impair some States in obtaining necessary implementing authorities and power.
- Although required by the act, Federal participation in State program development has been limited. Coastal zone management programs submitted by some States for review by the National Oceanic and Atmospheric Administration have demonstrated a lack of Federal participation. States assert that Federal agency coordination is a major problem. They have difficulty knowing when to



begin soliciting Federal agency input, knowing whom to contact, and receiving Federal agency cooperation.

- Federal agencies are partially responsible for poor participation. Although the Congress enacted the Coastal Zone Management Act in 1972, agencies only recently began developing a mechanism for effective coordination with States.

Federal agencies have been slow to participate because only recently have they recognized their coastal zone responsibilities, they have not taken the initiative for establishing Federal-State coastal zone management relationships, and they have staffing and budget limitations.

- States gave the National Oceanic and Atmospheric Administration high marks for its helpful and responsive assistance. However, the agency has not always shown a good understanding of State problems and progress. To date, the agency has been long on encouraging States but short on effective monitoring and problem solving.

Because States are entering a new phase in the program, the agency must do more than just excel in its procedural and technical functions. It must shift its emphasis to increased assistance in monitoring State programs, resolving special problems, and strengthening Federal-State coordination.

- The Coastal Zone Management Act requires that Federal agencies conduct their activities in a manner consistent with approved State management programs. However, some Federal activities will conflict with State programs because State policies, priorities, and implementing authorities are not always compatible with Federal interests.

An example of a major coastal conflict is the continuing controversy over Outer Continental Shelf resource development. The extent of conflicts will depend on how State programs

are administered, the attitudes of responsible officials, and the degree of Federal-State coordination.

Federal agencies involved in the day-to-day operation of the Coastal Zone Management Program generally agreed with GAO's conclusions. Also, the comments of the representatives of the six States reviewed in detail--California, Louisiana, Maine, Michigan, North Carolina, and Washington--were taken into account in finalizing this report. (See p. 5.)

The National Oceanic and Atmospheric Administration, however, felt that the report does not adequately express one of the key factors accounting for the difficulty in implementing effective State coastal zone management programs.

The concern revolves around the radically changed situation since the passage of the Coastal Zone Management Act. The political climate for programs perceived as environmental in their thrust and programs which involve additional governmental intervention and regulation has become much harsher.

GAO agrees that the political climate for programs of this type has dramatically changed in the past 4 years and believes this fact alone underscores the need for improved program assistance to the States at the Federal level.

GAO proposed that the Secretary of Commerce direct the Administrator, National Oceanic and Atmospheric Administration, to take the following actions to improve program operation and assistance to States.

- Help the States develop the necessary authority to control coastal resource uses.
- Make certain that States involve the public and all levels of government in program development.
- Make certain that all relevant Federal agencies have been contacted early enough to fully participate in State program development.

- Keep States informed of the progress and problems of other States.
- Tell States what management programs must contain to achieve secretarial approval.
- Expand the agency's technical information assistance to States.

The Secretary of Commerce generally agreed with GAO's proposals to improve program operation. He informed GAO that the agency had also recognized the need to shift its emphasis to increased assistance to the States and had started actions to improve its program operations.

The Federal consistency provision of the Coastal Zone Management Act will undoubtedly result in some conflicts between Federal and State programs because their policies, priorities, and implementing authorities are not always compatible.

The Committee on Conference on the Coastal Zone Management Act Amendments of 1976 recognized that the provision was a source of potential problems. The conferees determined that the provision would be the subject of in-depth oversight hearings on the Coastal Zone Management Program during the 95th Congress.

The concept of a harmonious process for a Federal-State-local decisionmaking mechanism through a federally sponsored program based on voluntary participation is unique. Achieving this concept will be difficult. The Coastal Zone Management Act, as amended, fosters and promotes this concept.

GAO believes that the consistency provision is the principal nonmonetary incentive of the act for many States. Continued participation by some States may depend on this provision.

In weighing the pros and cons of the consistency provision, the Congress should keep in mind the benefits such a mechanism would have in current and future Federal-State-local interactions.

## CHAPTER 1

### INTRODUCTION

The U.S. coastal zone, including the Great Lakes, contains some of the Nation's most valuable assets. The coastal zone includes the coastal waters and the adjacent shorelands near the shoreline. In Great Lakes waters, the zone extends to the international boundary between the United States and Canada; in other areas, it extends seaward to the outer limit of the U.S. territorial sea. The zone stretches inland from the shoreline only as far as necessary to control shorelands whose uses have a direct and significant impact on the coastal waters. The coastal zone typically includes beaches; marshes; estuaries; sand dunes; and industrial, commercial, and residential complexes.

Coastal areas can be destroyed by inappropriate development brought about generally in heavily populated areas, yet

- more than half the Nation's population lives in counties bordering the oceans and the Great Lakes;
- the seven largest U.S. metropolitan areas are on the coastal zone;
- 40 percent of the industrial complexes are in estuarine areas;
- 60 percent of refining capacity is concentrated in four coastal States (Texas, Louisiana, California, and New Jersey); and
- 40 percent of the generating capacity brought into service at new sites in 1972 was located in the coastal zone.

The trend toward increasing and competing use of coastal resources is likely to continue. Recent events, such as the energy crisis, passage of pollution-control legislation, and land-use conflicts in the coastal zone, have demonstrated the need for effective public policies to guide our use of coastal resources.

### COASTAL ZONE MANAGEMENT ACT

On October 27, 1972, the Congress passed the Coastal Zone Management Act (CZMA), declaring it national policy

- to preserve, protect, develop, and, where possible, restore or enhance the Nation's coastal zone resources for this and succeeding generations;
- to encourage and help the States and territories (referred to as States in this report for convenience) to develop and implement management programs that will use coastal zone resources wisely;
- for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and with regional agencies; and
- to encourage the public; Federal, State, and local governments; and regional agencies to participate in developing management programs.

Prior to its 1976 amendments, the act provided two kinds of incentives for States to voluntarily become part of the Coastal Zone Management Program. One incentive is financial assistance, which includes three types of grants.

- Program development grants are to cover two-thirds of the cost of preparing coastal zone management programs in any year. These grants are awarded annually, but no State is eligible to receive more than three.
- Administrative grants are to cover two-thirds of the cost of implementing State management programs. States are eligible for administrative grants only after the Secretary of Commerce has approved their management programs.
- Estuarine sanctuary grants are available for up to half of the costs of acquiring, developing, and operating estuarine sanctuaries. The Federal share cannot exceed \$2 million for each sanctuary.

The National Oceanic and Atmospheric Administration (NOAA) awarded program development grants totaling \$16.2 million to States during fiscal years 1974 and 1975. In addition, NOAA received a supplemental fiscal year 1975 appropriation of \$3 million. It plans to apply about \$12 million of fiscal year 1976 moneys to State program development efforts. No administrative grants had been awarded as of May 1976, since no programs had been approved by the Secretary of Commerce. NOAA awarded estuarine sanctuary grants totaling \$2.6 million during fiscal year 1975.

The second kind of incentive for the States involves their relationship with Federal agencies in coastal zone areas where the States and the Federal Government have a joint interest. Once the Secretary approves a State management program, all Federal agencies conducting or supporting activities in the coastal zone are to conform with the State program as much as practicable.

In addition to incentives, CZMA establishes requirements to be met by coastal States electing to participate in the programs. State management programs must

- identify coastal zone boundaries;
- determine permissible land and water uses;
- designate areas of particular concern;
- provide that local land- and water-use regulations do not unreasonably restrict uses of regional benefit;
- consider the national interest when siting facilities designed to meet requirements which are not local in nature;
- provide for public participation;
- demonstrate that the State has the authority and organizational structure to control coastal resource uses and to implement the program; and
- coordinate program development activities with interested Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties.

Further, CZMA demands that the Secretary of Commerce not approve a State's management program until the views of principally affected Federal agencies have been adequately considered. In case of serious disagreement between any Federal agency and a State during program development, the Secretary, in cooperation with the Executive Office of the President, must mediate.

COASTAL ZONE MANAGEMENT ACT  
AMENDMENTS OF 1976

On July 26, 1976, the President signed into law a bill amending the basic authority of the act to help the coastal States cope with the effects of offshore oil and gas production.

This new legislation establishes a \$1.2 billion (\$800 million in loans and \$400 million in grants) 10-year Coastal Energy Impact Fund to help States and communities provide public facilities needed to accommodate anticipated inflated populations brought about by offshore drilling operations and other activities.

The new law, among other things, amends the basic authority of the act by

- extending funding authority from 1977 to 1980;
- allowing States to receive development grants for 4 years instead of 3;
- increasing the Federal share of program development grants from two-thirds to 80 percent with the States contributing the balance;
- providing for an interim period before final approval during which the States may receive an 80-percent grant to complete the development program;
- establishing a mediation process for resolving Federal/State agency disagreements after a program plan has been approved;
- requiring planning processes for beach access, energy facility siting, and shoreline erosion control;
- providing 90-percent Federal grants to promote interstate and regional coordination; and
- providing for a national program of coastal research, study, and training.

THE PRINCIPAL ACTORS

The principal actors in the Coastal Zone Management Program are:

1. States--States bear primary responsibility for developing and implementing management programs. All States bordering the Atlantic, Pacific, or Arctic Oceans; the Gulf of Mexico; Long Island Sound; or any of the Great Lakes are eligible to participate. Puerto Rico, the Virgin Islands, Guam, and American Samoa are also included. Of the 34 States and territories eligible to participate in the program, 32 were participating as of November 1975.
2. The public--Because coastal zone management directly affects public interests, States must encourage public participation in program development.
3. NOAA--The Secretary of Commerce administers CZMA through NOAA. NOAA's Office of Coastal Zone Management (OCZM) awards grants, promulgates rules and regulations, and reviews management programs.
4. Other Federal agencies--Federal agencies must participate in program development and conduct their activities in a manner consistent with approved State programs.

#### SCOPE OF REVIEW

Our review, which responded to a joint request by the Chairmen of the Senate Committee on Commerce and the National Ocean Policy Study (see app. I), was made from July to December 1975.

We reviewed program development activities in detail in six States: California, Louisiana, Maine, Michigan, North Carolina, and Washington. We interviewed State, regional, and local officials and examined documents covering their activities.

We sent a questionnaire to cognizant officials of the 34 eligible States and territories (see app. II) to obtain a broader understanding of the problems encountered by all States participating in the program. Of the 32 States having programs as of November 1975, only 1 failed to respond.

We also reviewed the activities of NOAA's Office of Coastal Zone Management. We did similar work at the headquarters and field offices of Federal agencies with interests in coastal zone management. (See app. IV.)



We obtained written comments from the Departments of Commerce and the Interior and the Corps of Engineers and took into account their comments in finalizing the report. In addition, other Federal organizations and representatives of the six States were given the opportunity to express their views on pertinent sections of this report and, where appropriate, we have incorporated their views.

Table 1

Major Events in Coastal Zone Management Program

Date	Federal events	Maine	California	Washington	Michigan	North Carolina	Louisiana
1970		Mar - Executive order establishes State coastal program					
1971					Apr - Shorelands Protection and Management Act of 1970 becomes effective - Basis for coastal planning		
1972				Jun - Shoreline Management Act passed - Basis for coastal planning Feb - Procedures for conduct of resource inventories issued to local governments Jun - Guidelines for local governments issued			
1973	Nov - Congress passes CZMA. NOAA taskforce established Apr - NOAA's Office of Coastal Environment created Jun - Interim program development regulations issued Nov - Final program development regulations issued Dec - Congress funds CZMA	Aug - Coastal Program delayed due to lack of funds	Nov - Coastal Zone Conservation Act passed - Begins coastal planning Jun - Begins coordinating with Federal agencies				
1974	Mar - First State grants awarded	Mar - Begins coastal planning under NOAA grant	Apr - Begins coastal planning under NOAA grant	Apr - Approves first local master plans May - Begins coastal planning under NOAA grant		Apr - Coastal Area Management Act passed	Jul - Begins coastal planning under NOAA grant
	Apr - NOAA's Office of Coastal Zone Management becomes operational May - NOAA's first meeting with interested Federal agencies						Jul - Begins coastal planning under NOAA grant - Coastal Resources Commission appointed



<u>Date</u>	<u>Federal events</u>	<u>Maine</u>	<u>California</u>	<u>Washington</u>	<u>Michigan</u>	<u>North Carolina</u>	<u>Louisiana</u>
1976		Feb - State advisory committee on coastal development and conservation created by Governor	Spring - Preliminary submission to NOAA planned				Spring - Meetings with State legislature regarding coastal legislation planned May - Submission of coastal zone management legislation to State legislature
	Jul - Coastal Zone Management Act of 1972 amended			Jun - Program approved		Jun - Final action on local plans by Coastal Resources Commission	
			Aug - Approval by State legislature			Aug - Expected submission to NOAA	
1977					Nov - Expected submission to NOAA	Jan - Expected beginning of implementation of plan	
					May - Expected NOAA approval - beginning of implementation		Jun - Expected submission to NOAA Expected completion of guidelines for local governments
1978							

## CHAPTER 2

### STATE PROGRAMS PROGRESSING AT DIFFERENT RATES

Three States--Maine, Oregon, and Washington--have submitted management programs to the National Oceanic and Atmospheric Administration for review since the passage of the Coastal Zone Management Act of 1972. California and Puerto Rico have also submitted segments of their management programs to NOAA for review. For the other States that responded to our questionnaire, program development is in various stages. Each State's approach to program development is different--and rightly so--because of the unique problems created by different experience in coastal zone management, legislative history and backing, and coastal geography.

In this chapter we highlight the status of coastal zone planning as of May 1976 and present some major differences in the ways the six States we reviewed approach coastal zone management.

### CHRONOLOGY OF MAJOR EVENTS

Table 1 shows major events in the development of coastal zone management programs for the six States selected for review. It also reflects the differences in individual State program status. California, Michigan, and North Carolina expect to complete program development and begin implementation during fiscal year 1977. Louisiana does not anticipate having its overall State and local management program ready for implementation until fiscal year 1978 or fiscal year 1979; however, it intends to submit its program for approval at the end of fiscal year 1977, when its final program development grant expires.

### PROGRAMS SUBMITTED FOR REVIEW

Table 1 also shows that Maine and Washington have submitted management programs for review. The status of these programs is summarized below.

In accordance with CZMA, Maine elected to develop its management program in geographical segments. In March 1975, Maine formally submitted its midcoast area segment to NOAA for secretarial review and approval of an administrative grant application. While Maine held public hearings on the draft environmental impact statement and grant application,

local opposition to its program grew. This opposition culminated in the Governor's withdrawal of the program on June 12, 1975. (See ch. 3.)

When Washington received its first program development grant on May 1, 1974, it had already prepared guidelines for local governments, conducted resource inventories, and established coastal zone boundaries. Washington tried to match its ongoing program to Federal requirements (see ch. 1) from May 1974 to March 1975, when it submitted its management program to NOAA for approval.

As a result of NOAA's technical reviews and critical comments from relevant Federal agencies (see ch. 4), NOAA did not approve Washington's initial program submission. Since the program met the act's minimum requirements, NOAA granted the program "preliminary approval" and promised to help the State correct noted deficiencies. (See chs. 3 and 4.) Washington was not entitled to program administration funds, and Federal agencies are not bound by the act's consistency requirements until NOAA fully approves the program. Washington resubmitted its program in December 1975 and received program approval in June 1976. The approval of Washington's program excludes activities on Federal lands subject to a legal interpretation of the Attorney General. Federal agencies have agreed to accept the decision of the Attorney General, but Washington reserved the right to reconsider its program submission after that decision is made.

#### FACTORS CONTRIBUTING TO UNEVEN PROGRESS

State programs are progressing at different rates because of differences in (1) impetus for coastal zone management, (2) coastal zone management experience, and (3) unique State problems.

##### Impetus for coastal zone management

The reasons States had for starting coastal zone planning influenced their status. States with strong legislative or executive mandates before passage of the act progressed faster than States that had not emphasized coastal zone management.

State legislation can be categorized in regard to coastal zone management as follows:

--Comprehensive legislation similar to CZMA.

--Special-purpose legislation that affects coastal zone management planning, such as coastal area facility siting acts; dredge and fill acts; or laws protecting shorelands, wetlands, beaches, dunes, or other environmentally fragile areas.

--Legislation that does not specifically address coastal resources or issues.

Of 30 States responding to our question on this matter, 1/16 said an existing State authority caused them to enter the Coastal Zone Management Program. Seven States, including Washington and Michigan, cited special-purpose State legislation as the force behind their coastal zone planning. Four States, including Maine, began planning when State executive orders were issued. Only California and four other States said their programs existed because of comprehensive State coastal zone management legislation similar to CZMA.

The other 14 States said that Federal funding under CZMA provided the primary impetus to begin coastal zone management planning. One State, however, apparently responded to both of CZMA's incentives--the Federal agency consistency provisions and the financial assistance. According to Louisiana officials, a motivating factor for that State's coastal zone management effort, in addition to availability of Federal funds, was the opportunity to reduce the Army Corps of Engineers' strong influence over coastal zone matters.

#### Coastal zone management experience

The time States spent managing their coastal zones before NOAA awarded program development grants affected the progress being made in development of programs. States with strong legislative or executive mandates before CZMA obviously have more experience.

The coastal zone management experience of the 31 States responding to our questionnaire is summarized below.

<u>State coastal zone management experience</u>	<u>Number of States that responded to questionnaire</u>
Less than 1 year	3
1 to 3 years	18
More than 3 years	10

1/One State did not respond to the question about the impetus for coastal zone management.

As might be expected, States had different coastal zone management experience. For instance, Louisiana, a State without a legislative history of wetland protection, first began substantive planning in November 1974. Conversely, Maine's coastal planning efforts dated back to November 1969, although they were not officially recognized until March 1970, when the Governor issued an executive order entitled "Cooperative Action to Protect Maine's Coastal Zone." Washington began coastal zone planning in June 1971 with the passage of the Shoreline Management Act; California's experience began in November 1972 with the passage of the Coastal Zone Conservation Act.

Other States were less consistently engaged in planning for their coasts. For example, North Carolina did related coastal planning under a 1959 State act, but it really did not begin developing a comprehensive program until April 1974 when it passed the Coastal Area Management Act. Similarly, Michigan initiated limited coastal planning in April 1971 when its Shorelands Protection and Management Act became effective, but it did not actually begin work on a CZMA-type program until NOAA awarded the State its first program development grant on June 30, 1974.

#### Issues affected progress

The magnitude and nature of coastal issues confronting States also affected the progress being made in developing programs. States experienced different problems because of different physical settings. For example:

- Outer Continental Shelf (OCS) oil and gas leasing affects coastal zone management programs in Louisiana, California, and Maine. However, it does not affect North Carolina and Washington, because no leasing is now in progress and development prospects are uncertain. OCS exploration and development will have little or no impact on Michigan's coastal planning effort. (See ch. 6.)
- The coastal zones of California, Washington, Louisiana, and Michigan include such major cities as Los Angeles, San Francisco, Seattle, New Orleans, and Detroit. Planning must account for urban areas as well as less populated areas. Problems and issues in these States may be more complex than for States like Maine, where less than 500,000 people reside in coastal counties, or North Carolina, where only about 2 percent of the coastal zone is classified as urban.



--Differences in natural features and ecosystems will also affect progress. For example, Maine's rocky shores and network of bays and offshore islands present planning problems different from those of Louisiana's vast wetlands areas, North Carolina's outer banks and large estuarine complex, or Michigan's varied coastal zone. where the major problems are erosion and flooding.

A major problem affecting State progress was the nature of Federal agency presence in the coastal zone. Federal ownership in State coastal zones varies widely. The Department of the Navy has substantial interests in the coastal zones of Washington and California, because of the great natural harbors of Puget Sound, San Francisco Bay, and San Diego. In Michigan and Maine principal Federal coastal zone ownership is in parks, forests, and wildlife refuges. Although Washington's and California's planning activities must consider the Navy's interests, Michigan and Maine will likely be more concerned with establishing working relationships with such agencies as the National Park Service, the U.S. Forest Service, and the Fish and Wildlife Service. States reported that some Federal agencies were more difficult to work with than others. (See ch. 5.)

Other Federal agencies do not own land but still have significant interest and authority in some coastal zones. Because of Louisiana's vast wetlands and its lack of a centralized authority to manage these wetlands, the Army Corps of Engineers, New Orleans district, is the single most important Federal agency operating within the State's coastal zone. The district's influence stems from its construction activity and its authority to regulate construction within navigable waterways under section 10 of the River and Harbor Act of 1899. The extent of the district's influence is shown below.

- More than 97 percent of Louisiana's coastal zone is within the district's boundaries.
- As of September 30, 1975, the district had 36 separate construction projects underway, totaling about \$4.6 billion.
- The district issued 2,769 permits during fiscal year 1975, representing an estimated 30 to 40 percent of all section 10 permits issued nationwide.

## STATES HAVE INDIVIDUAL PLANNING APPROACHES

CZMA allows States considerable flexibility in planning and implementing their programs. Because States have different reasons for starting coastal zone planning, different levels of management experience, and different coastal problems and issues, they have different approaches to planning and implementation.

States can approach coastal zone management planning in various ways. A State could simply purchase any area it deems of statewide interest, but this approach would require considerable funds. Also, because it is unlikely that the entire coastline could be purchased, this approach would require planning for areas not owned.

A State could opt to strictly control land use by enacting regulations similar to typical city zoning ordinances to regulate every coastal geographical area. This approach would require extensive resources inventories, State control over local land use, and comprehensive land-use legislation.

A State could elect to manage its coastal zone by developing procedures to deal with coastal issues as they arise. This approach emphasizes developing resource use criteria, and it makes use of existing legislation. States may use one or more of these planning approaches. Five of the six States we visited tend more to the procedural approach than to the strict land-use control or outright purchase approaches. Louisiana's approach, on the other hand, tends toward land-use control in that development projects will require permits from local authorities on a case-by-case basis.

### North Carolina

North Carolina's approach is essentially procedural. The State's Coastal Area Management Act provides the basic framework for developing the State's coastal management program. The program is designed to integrate State and local efforts--the State government operates in a standard setting and review capacity, and the local government does the actual planning. Participation by local governments is voluntary. If a local government declines to participate, the State's Coastal Resources Commission is to prepare and adopt a plan.

North Carolina's primary approach to meeting the Federal requirements is to designate critical areas of the coastal zone as Areas of Environmental Concern (AECs). Any

persons desiring to undertake development in an AEC must obtain a permit. The commission will issue permits for all "major" developments (those requiring other State permits or which exceed certain size standards); local governments will be responsible for all others. These permits are to be consistent with approved coastal zone land-use plans, and they will be in addition to any other required State or local permits.

AECs are designed to protect important areas of the coastal zone in danger of being destroyed by industrial and other development. To prevent destruction, the commission is to identify these areas and determine what types of use or development are appropriate. The act specifies that AECs are to fall into the following categories: (1) coastal wetlands, (2) estuarine waters, (3) fragile, historic, or national resource areas, (4) public rights areas, (5) sand dunes, beaches, flood plains, and erosion areas subject to natural hazards, (6) renewable resource areas, and (7) areas which are or may be affected by key facilities.

Control over land and water uses outside AECs will be exercised by local governments through their zoning powers and by the State through coordination of existing regulatory authorities or through coordination of its public investment and public works programs.

### Washington

Washington's coastal zone management program is also primarily procedural. It is based on existing special-purpose legislation and is a cooperative effort between local governments and the State department of ecology. Local governments, including all counties and incorporated cities bordering the Pacific Ocean or Puget Sound, must develop "master programs"--comprehensive plans that establish goals, policies, regulations, and standards for coastal resource use control. Within its jurisdiction, each local master plan specifies permissible "environments," ranging from urban areas to shorelands to be preserved in their natural state. Each plan also regulates resource use within these designated environments. Criteria for regulating resource uses stem from existing legislation, natural resource inventories, and guidelines developed by the department of ecology. On the basis of consistency with the State act and State guidelines, the department approves local master plans and, on the basis of these plans, it develops an overall State management program.

Under Washington law, coastal zone land and water uses are controlled through a permit system which deals with coastal issues as they arise. This system, administered by local governments subject to the department of ecology's appellate review, requires a permit for developments valued at \$1,000 or more on marine water areas, associated wetlands, and land within 200 feet of the ordinary high water mark. It provides a 30-day review period in which any aggrieved party can appeal a local action. Although subject to continued refinement, Washington's permit system has been in effect since June 1, 1971.

### Maine

Maine's approach to coastal zone planning is similar to North Carolina's in that it is essentially procedural, dealing with coastal zone issues as they arise. Maine's program is based on

- an executive order;
- existing land-use control legislation; and
- an analysis and interpretation of inventories of natural resources, cultural features, and "areas of particular concern," which are geographical areas in which (1) the interests of different groups are likely to clash or (2) land uses significantly affect more than the local community.

Maine's approach also has elements of land-use control. By using permissible land and water suitability maps, Maine identifies by town the suitability of land areas for constructing large buildings and residential developments.

A major difference between the Maine and North Carolina approaches concerns the local government's role. In Maine, local governments have had little involvement in the planning process. The State planning office is primarily responsible for Maine's coastal planning efforts; however, other State agencies, regional planning commissions, and the University of Maine have helped conduct resource inventories and determine key policies and issues. The planning office assembles and interprets basic resource data, describes permissible land and water uses, designates areas of particular concern, and advises local governments of the suitability for certain types of large construction projects.

## Michigan

Michigan's approach to coastal zone management planning is also procedural, based on existing special-purpose legislation. It is concerned with developing standards to measure proposed coastal resource uses on a case-by-case basis. Like Maine, Michigan also stresses identifying areas of particular concern. Like Washington, regulatory machinery already exists in Michigan, especially for high-risk erosion areas, flood risk areas, and environmental areas important to preserving and maintaining fish and wildlife. Michigan intends to coordinate with other existing authorities to meet CZMA's requirements.

Concerning the respective roles of the State and regional planning councils, Michigan's approach is also similar to Maine's. Although the State department of natural resources is responsible for managing coastal zone planning, 10 regional planning councils assist by

- formulating local and regional goals and objectives,
- developing information on local government regulatory practices and development programs,
- coordinating shoreland planning and other ongoing planning programs,
- assisting in public information and local government participation,
- providing a review and advisory function, and
- participating in final program formulation.

Similar to North Carolina, Michigan has a natural resources commission, which is responsible for coastal policymaking.

Although specifics had not been decided upon as of December 1975, Michigan's implementation approach will be through the department of natural resources with regional and local participation.

## Louisiana

Louisiana has no legislative support for coastal zone management. The major aim of Louisiana's planning approach has been to secure coastal zone management legislation. Therefore, Louisiana has directed its planning efforts toward

developing a management program and an administrative organization acceptable to the State legislature. Current plans call for a cooperative effort between the State and local parish governments similar to the North Carolina and Washington approaches. Although the State planning office bears primary responsibility for coastal zone management coordination and planning, local parishes may voluntarily develop their own management plans following planning office guidelines. Louisiana plans on establishing a review board to approve parish management plans and to resolve conflicts between State and local governments.

Louisiana's management program will be process oriented and will deal with development projects case by case. Guidelines will be developed for permissible land and water uses within coastal zone boundaries to be prepared by the State. Local governments will issue permits in accordance with their local plan and State guidelines. The State will have a review function and authority to intervene only in cases of overriding State interest.

### California

California's development of its coastal plan differs from the other States we visited in that it encompasses all of the planning approaches.

- It recommends purchasing lands to preserve coastal resources or to achieve other plan objectives. The total cost is not expected to exceed \$180 to \$200 million.
- Its proposals are applied to specific sites. This aspect of the plan falls short of city-type zoning, but it does cover the major natural and manmade features of the entire coast. The plan also designates special study areas presenting important problems or opportunities that require more intensive study than could be accomplished in the time available to complete the plan.
- Its policy recommendations serve as criteria for insuring that proposed development projects are consistent with protection of coastal resources.

California's Coastal Zone Conservation Act created one State and six regional commissions to develop the coastal plan, which was submitted for State legislature approval on December 1, 1975. The act was approved in August 1976.

The commissions, each having a professional staff responsible for actual planning, developed the plan by considering major coastal zone management topics. 1/

The act also gave the commissions interim regulatory control over virtually all development within 1,000 yards of the ocean. Since early 1973 the commissions have processed more than 16,000 permit applications, ranging from single-family dwellings to divisions of agricultural lands to derelict and offshore petroleum development.

Under the implementation approach recommended to the State legislature, local governments are primarily responsible for carrying out the plan. Within 3 years of the effective date of legislation enacting the plan, local coastal governments must conform their general plans with the coastal plan. Regional and State coastal commissions would review the local plans and certify their conformance to the plan. After all local plans in a region are certified, or within 4 years, the regional commission goes out of existence. Local governments must then control coastal conservation and development, subject to review of the State commission, to insure conformity of day-to-day decisions to the plan's policies.

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1/These topics, or planning elements, are: marine environment, coastal land environment, coastal appearance and design, coastal development, energy, transportation, public access to the coast, recreation, educational and scientific use, and government powers and funding.

## CHAPTER 3

### PROGNOSIS FOR CONTINUED STATE PARTICIPATION

#### IN COASTAL ZONE MANAGEMENT

This chapter highlights some of the problems States may encounter as they develop management programs. Five of the six States we visited have either experienced delays in program development or appear destined for delays because important program elements are developing slowly. Factors which could hamper program development or prevent eventual implementation include

- the lack of necessary State power and authorities,
- resistance to coastal zone management,
- uncertain political support, and
- problems obtaining State funding.

For these reasons, 3 years--the amount of time provided under the Coastal Zone Management Act of 1972--did not appear sufficient for States to fully develop approvable management programs. In May 1976 we briefed the staff of the Committee of Conference on the Coastal Zone Management Act Amendments of 1976. The 1976 amendments to CZMA provide annual grants to support State program development for up to 4 years. Also, the National Oceanic and Atmospheric Administration's authority to award program development grants was extended to September 30, 1980.

#### LACK OF NECESSARY IMPLEMENTING AUTHORITIES

One of the more serious problems the States identified in response to our questionnaire was obtaining required authorities to control coastal resources uses. (Seven States were not far enough along in program development to know if this would be a problem.)

CZMA requires every State submitting a program for approval to have the necessary authority to

- administer land- and water-use regulations, control development, and resolve conflicts among competing users and



--acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformity with the management program.

The State must show it has a method for assuring that local land- and water-use regulations do not unreasonably restrict or exclude land and water uses of regional benefit. The State must also show it will use one or more of the following implementation techniques:

- State establishment of standards for local implementation, subject to administrative review.
- Direction of State land- and water-use planning and control.
- State administrative review of all local plans, projects, and land- and water-use regulations for consistency with the State management program, with power to approve or disapprove after public hearings. This option leaves local governments free to adopt zoning ordinances and regulations without State standards other than the management program itself.

An analysis of the problem encountered by the six States we reviewed follows

Washington's 1974 program failed to fully demonstrate that it met CZMA's authority requirements

A major deficiency in Washington's program--and a factor that prevented Federal approval--was the State's failure to clearly define the organizational structure to be used to implement its program. Washington identified "support of local management and administration efforts" as one of its coastal zone management objectives.

Both NOAA and other Federal agencies found that Washington's listing of existing legislation, policies, and procedures of various State agencies which Washington proposes to bring together with the Shoreline Management Act did not constitute a uniform system of control and regulation satisfying CZMA. Washington did not show how it intends to use these powers to form an integrated, coordinated, comprehensive system for coastal zone management. Because Washington did not adequately describe its implementation

authority, NOAA could not determine whether the State could meet the CZMA requirement that it exercise management control over land and water uses in its coastal zone. This weakness in Washington's program was later corrected and the program was approved in July 1976.

### North Carolina's authority may be weak

North Carolina plans to meet the Federal authority requirements by using a mixed system consisting of (1) a strong, comprehensive regulating authority within designated Areas of Environmental Concern and (2) a unified system of existing State regulatory authorities outside AECs. The AEC regulating system appears to be comprehensive enough to meet Federal requirements. However, we noted potential weaknesses that could delay the development of North Carolina's program and hamper its implementation.

North Carolina may have problems designating AECs. Our review indicated that coastal zone property owners and local governments foresee restricted development rights and decreases in property values. Therefore, they will resist any State actions to designate AECs in their area. For example, a State official said that farmers rely heavily on drainage of wetlands to create new farmland; but if wetlands are included in an AEC and drainage is not permitted, such lands could not be used for farming. According to a U.S. Soil Conservation Service official, farmers foresee a decline in property values within AECs.

The same seems to be true of industrial interests. Officials from a corporation that holds mining rights to over 30,000 acres of a 50,000-acre phosphorite ore reserve in the coastal zone said the corporation would fight any attempt to restrict its right to mine. Evidence suggests that its rights will be restricted.

The town of Aurora, located in the middle of the ore reserve, has decided to limit mining around its boundaries. The ore is mined by the open pit process, resulting in pits 150 feet deep. Aurora's draft coastal zone land-use plan limited the corporation's right to mine in the city's vicinity. At a public hearing on the plan, the corporation strenuously objected to the mining restrictions. After the hearing Aurora adopted an ordinance implementing the plan and prohibiting mining within a 1-mile radius of the town's boundaries.

The corporation could be further restricted if any part of the ore reserve is designated an AEC. These kinds of potential restrictions on industry could result in great pressure on the commission.

An indication that these pressures are real is the fact that North Carolina delayed designation of AECs. The State act established a commission and gave it the opportunity to designate interim AECs shortly after the act went into effect. The commission, after extensive deliberations over a proposed scheme of interim AECs, decided not to exercise this option. Instead, the commission gave local governments the responsibility for nominating AECs. This, in effect, postponed the necessity of designating AECs. The commission finally designated interim AECs in May 1976, nearly 2 years after it was established.

Another potential weakness is that certain coastal zone resource uses are excluded from coverage under the AEC regulatory system. There are 10 exclusions; 2 that could be particularly significant are:

- Construction by any utility developing, generating, and transmitting energy, to the extent that such activities are regulated by law or by present and future rules of the State utilities agency.
- Use of any land for producing agriculture or forestry products, including normal road construction, except where excavation or filling estuarine or navigable waters is involved.

The impact of these exclusions on North Carolina's program is difficult to assess. However, they might hamper the program once implementation begins. The commission does not have direct control over siting of energy facilities, and there is no evidence that the utilities agency will ban such facilities. The question is whether in siting energy facilities the agency will act in conformance with approved coastal zone and land-use plans.

A similar potential problem is evident in the agriculture lands exclusion. A developer could purchase prime agricultural lands in the coastal zone and develop them within the confines of the unified permitting authority, in violation of the cognizant land-use plan, all outside the State's control.

The unified authority the State intends to use outside AECs may not be sufficient. According to a State official, these regulations have an inherent weakness--a developer could comply with all of them and still be violating a coastal zone land-use plan. The official said the commission could not stop such a development.

The impact of this weakness is also difficult to assess at this time. If significant areas of the coastal zone are included within AECs, the impact will probably be slight; if not, this weakness could become serious.

An NOAA official said that NOAA regards North Carolina's program as the strongest in the Southeast because of the strong AEC regulatory system, the mandated system of State-local interaction, and the State role of reviewing local programs for conformance with State guidelines. The official was aware of the above problems, but dismissed them because of the lack of present impact. We believe that NOAA should not wait to see whether these problems develop. It should take immediate steps to insure that the State problems can be overcome. (The role of NOAA is discussed further in ch. 5.)

#### California's geographical exclusion

CZMA requires that a State's program be sufficiently unified to deal with all geographical segments of its coastline. However, California's program does not meet this requirement because the California Coastal Zone Management Act does not include San Francisco Bay in the State's coastal zone, even though the bay falls within CZMA's definition of the coastal zone.

The California act does not include San Francisco Bay because the State's Bay Conservation and Development Commission has had planning and regulatory jurisdiction over the bay since 1965. As a result, California's coastal plan makes no reference to San Francisco Bay except in a recommendation regarding future coordination with the commission. This recommendation states that, within 18 months after State legislation is enacted implementing the plan, the proposed State coastal agency and the commission will jointly review their planning and management efforts to insure a unified coastal zone management program. The review will determine the future relationship of the commission to California's management program; it will also consider possible changes to the commission's existing regulatory authority and jurisdiction if they do not meet CZMA requirements.

NOAA does not believe that CZMA requires the commission to be integrated into the California plan at the time of its approval. NOAA considers California's planned approach to be adequate for meeting the requirement of the act that the State adequately provide for the ultimate unification of the various segments of the management program into a single program.

The impact of the exclusion of San Francisco Bay cannot be determined at this time.

Other States have not fully determined implementing authority

As of May 1976, Louisiana, Maine, and Michigan had not finished identifying State laws and regulations needed to control coastal resource uses. Louisiana is seeking legislative support to obtain these powers. (See p. 18.)

Maine has about 40 laws relating to coastal zone management; 4 of these laws <sup>1/</sup> will be used principally to implement Maine's management program. Maine apparently has enough authority to implement its program, with the possible exception of authority to acquire property when necessary to conform to the management program. According to a Maine official, neither the State planning office nor the attorney general's office has reviewed existing eminent domain statutes to determine the extent of State authority in this area. Maine has authority to acquire land for recreational purposes, but property acquisition authority beyond this is presently uncertain.

As discussed in chapter 2, Michigan intends to use existing authority to control coastal resource uses. Some of its authority specifically pertains to the coastal zone, such as issuing permits for

- developing within areas regulated by the Shorelands Protection and Management Act (flood, erosion, and wildlife preservation areas) and
- excavating or filling Great Lakes submerged lands.

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<sup>1/</sup>The Mandatory Shoreland Zoning Act (1971), Site Location of Development Act (1969), Wetlands Control Act (1967), and State Register of Critical Areas Act (1974).

Other authority pertains to uses that may occur in but are not confined to shoreland areas, such as issuing permits for wastewater and air pollution discharges.

Michigan is working to identify its legal authority for controlling uses not affected by these existing permit requirements, since gaps may exist in existing permit authority. For instance:

--Michigan's draft report on State authority indicated a lack of direct State regulation over the siting of electric power generating and transmitting facilities. A Michigan official said this report was subject to revision and that the State could greatly affect energy facility siting through existing permit authority, such as air and water discharge permits.

A Michigan official said gaps in permit authority could be filled by using sources of existing authority:

--The State Environmental Protection Act, which gives any individual or government agency the right to seek court action for the protection of the air, water, and other natural resources from pollution, impairment, or destruction.

--An executive order that, under certain circumstances, allows the State to require and review environmental impact statements on proposed major actions, with the ultimate decision being made by the Governor.

Michigan officials said the State would not seek new legislative authority to implement the management program, because they believe current legislation is adequate to meet CZMA requirements.

#### RESISTANCE TO COASTAL ZONE MANAGEMENT

Apart from any resistance Federal agencies may have toward State development of management programs (see ch. 4), the public and local governments have opposed coastal zone management planning efforts. In our opinion, resistance 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 values by restricting the uses to which their land can be put.

For these reasons CZMA encourages States to involve the public and all levels of government in program development. Public and local government participation is also necessary because

--their support may be necessary for the State to obtain or use the powers and authorities required by CZMA to control land and water uses and

--States may select one or a combination of three implementation approaches allowed by CZMA. 1/

Although CZMA encourages full public participation in program development, it requires the States to construct the means to solicit involvement by the public and all levels of government. The sole requirement regarding public hearings is that they be announced and held during program development.

All six States we reviewed have public participation programs. Maine's experience, however, shows that merely having such a program is no guarantee of public support.

Maine attempted to solicit public input through 10 regional planning commissions. Membership in the commissions, which act as intermediaries between local governments and the State, is determined by city and town population. The planning commissions' role is purely advisory.

The public's reaction to coastal zone management surfaced at hearings conducted on the draft environmental impact statement for the State's midcoast counties program segment. For the most part, participants at the hearings focused their comments on the program rather than the impact statement. In general, public comment opposed program approval and concerned the following:

--The central issue was a perceived threat to local management authority. Opinion varied regarding the extent to which State and Federal governments should be involved in local land-use planning and control.

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1/Only Rhode Island, Maine, and three territories have opted for the direct State control approach. Because of the strength of local governments in State legislatures, implementation of direct State land- and water-use controls may not be a feasible option for many States.

The majority felt that local communities were adequately planning and regulating coastal areas. Some citizens were opposed not only to the management program but to any form of guidance or regulation from the State or Federal governments.

- Citizens claimed the public did not have an opportunity to help develop and review the program and that the State had delayed seeking public views until after the program had been completed. 1/
- The public expressed concern about how the program would be financed once Federal funds were no longer available.
- There was concern that the State was rushing into approval to obtain additional Federal funds and that more time was needed to develop the program.
- Citizens feared implementation would require adding to the already onerous burden of regulation.

The Governor withdrew Maine's application for approval by the Secretary of Commerce and ordered a reorientation of the program because of these objections. In a letter to NOAA, the Governor stated:

"\* \* \* I have decided to forego the application of the State of Maine for program approval of the Federal Coastal Zone Management Act of 1972 for the following reasons:

(1) There has been considerable controversy surrounding the state's needs and whether or not the preliminary application would truly [sic] represent the needs or the desires of the people of Maine or whether it was more representative of individuals who feel privileged or that they have a

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1/An extensive telephone opinion poll by the University of Maine in the coastal zone supports this contention. The survey disclosed that about 80 percent of respondents in the midcoast area were unaware of coastal zone planning activities even though meetings were held on the program. Those who were aware differed markedly as to who was doing the planning. The poll further disclosed that only 45 percent of midcoast municipal officials knew about coastal zone planning.



divine right to control the lives and/or destinies of a majority of the people.

(2) As a citizen and Governor, I am very much concerned and impressed with the increasing evidence that local governments in Maine are reasserting their rights to govern themselves with a minimum of interference from Augusta and Washington. It is my belief that this is a healthy direction and one which I intend to support in every way possible."

The Governor also asked that NOAA allow the State to postpone submitting its administrative grant application for at least 6 months and perhaps as long as 2 years so that

- the new State planning office director could give coastal zone management leadership and direction,
- the program could be reoriented to solicit greater input from local governments, and
- State mechanisms to encourage public participation could be improved.

Future solicitation of public participation may come through the State Advisory Committee on Coastal Development and Conservation, consisting of State legislative officials, State department heads, a research official of the University of Maine, and local representatives.

The Governor created the committee in February 1976. Recent interaction between the State and NOAA indicates that progress is being made with respect to coastal zone management in Maine.

### Resistance in other States

Maine may not be the only State where sentiment for local land-use control and against additional environmental restrictions is strong. California has felt resistance even though the public established the State's coastal zone management program 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 had been substantial local resistance to the somewhat limited State regulatory powers that currently exist.

According to officials and county planners, North Carolina has had the opposite problem--lack of public participation. In North Carolina--a State in which forest and agricultural lands make up 85 percent of the coastal zone--planners have used public speaking engagements and mailings to citizens and have called meetings for county, city, and township governments. Public involvement has been spotty in North Carolina, but officials believe that it will increase when public hearings are held. Private property rights may then emerge as a major issue. For example, designation of AECs will likely affect property values, since property designated will be subject to more restrictive uses.

### POLITICAL SUPPORT IS UNCERTAIN

Political support is essential for States in which (1) necessary powers for control must come from the legislature, (2) implementation depends on local governments, or (3) coastal zone management is not considered a high-priority program by the State. Continued support is a must, even for States with established programs.

#### Maine

Maine's continued participation in the Coastal Zone Management Program is uncertain. An executive order by a former Governor constitutes the sole legal basis for coastal zone planning in the State. Because of the lack of legislative endorsement, completing and implementing the program depends upon the present Governor. When the present Governor withdrew the State's midcoast counties program segment, he indicated that coastal zone management may not be in the best interests of the people of Maine and may not be a priority need. Since the withdrawal, planning efforts have consisted primarily of gathering additional resource information and developing alternatives to deal with public objections. An executive order to reorient Maine's program was signed by the present Governor in February 1976.

#### Louisiana

Louisiana's continued participation in coastal zone management hinges on future State legislative actions. As mentioned in chapter 2, Louisiana began coastal zone planning to take advantage of CZMA's funding and Federal consistency provisions. There is no State mandate for coastal zone management.

Louisiana's planning process is devoted to developing a management program acceptable to the legislature so that the necessary implementing legislation can be passed. According to Louisiana's coastal resources program coordinator, the State must answer two critical questions for the program to receive legislative acceptance. The first question involves the role of local governments. Previous attempts at wetlands legislation failed because local residents were not given adequate opportunity to decide local resource uses. The second question concerns the fact that the Federal Government, in effect, now performs the only land and resources use management in the State. 1/ The legislature wants to know what authority Louisiana can assume if its program receives secretarial approval.

According to the program coordinator, Louisiana's continued participation in coastal zone management is unlikely unless the legislature is satisfied with the program and provides the needed implementation authority.

#### STATES MAY NOT BE ABLE TO OBTAIN STATE FUNDS TO CONTINUE PROGRAM DEVELOPMENT

Before the CZMA Amendments of 1976, Federal program development grants to States could not exceed two-thirds of the program's costs in any 1 year. States had to pay for one-third of the program's costs with their own funds. Federal funds from other sources cannot be used for this purpose.

Depending on a State's previous commitment to coastal zone management, Federal funds have had different effects on State programs. Washington, California, and Maine had ongoing programs before CZMA funds were available. Officials in these States said that, although program development has been aided by Federal funds, programs could have existed without these funds. For North Carolina and Michigan, Federal funds have meant the difference between a comprehensive management program and a program limited in quality and scope. For Louisiana, Federal funds have meant the difference between a management program and no program at all.

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1/Federal resource management in Louisiana is primarily through the permitting systems of the Corps of Engineers, the Environmental Protection Agency, and the Coast Guard.

As might be expected, obtaining State funding for coastal zone management has not been easy in all States. One State program we did not review has already been halted because a major budget reduction forced personnel layoffs. Major State reorganizations have threatened management programs in at least two other States. Because its State legislature extended planning deadlines, North Carolina exhausted its fiscal year 1976 budget 6 months early and was forced to ask NOAA for supplemental funds.

Thirteen States said Federal funds have been less than adequate to maintain program development. In response to the questionnaire, these States recommended that the Congress amend CZMA to provide an 80-percent-Federal/20-percent-State matching formula, and eight States requested increased Federal funds for special coastal zone management projects, such as impact of Outer Continental Shelf studies. An NOAA official indicated that the agency supported a CZMA amendment which provides the 80/20 match as well as funding for special coastal needs.

This problem appears to have been alleviated when the Congress amended the act in 1976 to increase the Federal share of program development from two-thirds to 80 percent.

## CONCLUSIONS

State program development has been delayed and future delays can be anticipated in States that

- lack previous coastal management experience (Louisiana);
- must depend on substantial local plan development (Louisiana and North Carolina);
- are attempting to identify and tie together existing authorities for control of coastal resource uses (Michigan, North Carolina, and Maine);
- are encountering strong resistance to coastal zone management (Maine, North Carolina, and Michigan); or
- have programs whose fate will be determined by political realities.

Some States may have trouble demonstrating that they have the necessary powers to obtain program approval. Although NOAA should be flexible enough to realize that not

all States will be able to reach the same level of conformance to CZMA, NOAA must also preserve the act's intent. CZMA's strength lies in its demand that States develop working programs with authority to effectively control development. For this reason, CZMA provides program administration funds as an incentive and imposes strict requirements for program approval to insure effective resource management.

NOAA generally agreed, pointing out that establishing effective coastal zone management programs is difficult, primarily because such programs affect strongly vested interests, both private and public. NOAA has recently added five attorneys to its staff to help States establish the necessary implementing authorities. NOAA believes that it will be crucial to keep the incentives for State participation in the program as strong as possible.

We believe the additional time and monetary incentives provided by the Congress through the 1976 amendments have alleviated the difficult problems facing many States in developing acceptable management programs. However, as pointed out by NOAA, the political climate for programs which are perceived as environmental in their thrust and which involve additional governmental intervention and regulation is much more hostile today than when the Coastal Zone Management Act was passed 4 years ago. States that then had coastal zone legislation are now fighting repeal of that legislation. In no case has preexisting State coastal legislation been strengthened. Under these conditions, we believe that some States may not be able to overcome the obstacles created by local resistance and gather enough political support to obtain the implementing authority required.

## CHAPTER 4

### NOAA'S ASSISTANCE REQUIRES A SHIFT IN EMPHASIS

States gave the National Oceanic and Atmospheric Administration high marks for its helpful and responsive assistance. However, States are entering a new phase in the program. NOAA must do more than just excel in its procedural and technical functions. It must shift its emphasis to increased assistance in monitoring State progress, solving problems, and strengthening Federal-State coordination.

### NOAA'S RESPONSIBILITIES

The Coastal Zone Management Act of 1972 declares it is the national policy

"\* \* \* to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone \* \* \*."

CZMA does not specify how NOAA should encourage and assist States but does require it to

- promulgate rules and regulations to carry out CZMA's provisions,
- coordinate program activities with interested Federal agencies, and
- continually review State performance in developing and implementing management programs.

### NOAA'S ROLE: ASSIST STATES

NOAA's approach to administering CZMA takes into account two factors of the Coastal Zone Management Program.

1. It is primarily a State program. Within prescribed limits, States design, develop, and implement programs to protect their own coastal interests.
2. Although CZMA offers incentives for State participation, no sanctions are imposed if States elect not to participate.

According to officials of NOAA's Office of Coastal Zone Management, the agency's primary role is to assist States. In this regard, NOAA tries to minimize red tape, publish regulations that are helpful as well as restrictive, and provide technical and administrative assistance when requested.

### Office of Coastal Zone Management

In November 1972, NOAA established a task force to lay the groundwork for carrying out CZMA's provisions. In April 1973 NOAA merged the task force with other NOAA elements to form the Office of Coastal Environment. NOAA used discretionary funds to support this effort until December 1973, when the Congress made funds available to administer CZMA.

OCZM became operational in April 1974 with 10 positions authorized to manage the program. The number of authorized permanent positions for fiscal year 1975 was increased to 39 and remained the same through fiscal year 1976. At the beginning of fiscal year 1976, 43 people were assigned to the Office. 1/

### Role of regional coordinators

OCZM divided the coastal States and territories into four regions--Northeast, Southeast, Great Lakes, and Pacific. OCZM established regional coordinators as the link to the States for each region and filled the four positions between March 1974 and January 1975. Presently, two regional coordinators are responsible for 10 States and territories each; the other two coordinators are responsible for 7 States and territories each.

During fiscal year 1975, regional coordinators monitored State program development primarily through reviews of quarterly progress reports, phone contacts, site visits, and participation in reviews of grant applications and renewals. Site visits occupied from 6 to 28 percent of their time. However, regional coordinators have not followed any formal procedures for monitoring State programs; the only attempt at reviewing overall State progress was when the State applied for a grant renewal.

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1/In addition to authorized positions, the legal staff, the public affairs' office staff, and some congressional liaison staff are on detail from NOAA headquarters.

In November 1975 the duties of regional coordinators were described. The coordinators are to

- gather all information relating to the development of State management programs;
- initiate all OCZM-generated contacts with the States;
- be aware of all substantive contacts between States and various OCZM elements;
- collaborate with appropriate OCZM staff and provide information and interpretation to States on OCZM policies, regulations, and activities regarding program development; and
- interpret and report on State policies, problems, and activities to relevant OCZM groups.

In September 1975, OCZM noted that State objectives for program participation may be different from OCZM objectives and that individual State motivation should be determined. OCZM decided that the regional coordinator's role should be strengthened to meet differing State needs. Consequently, OCZM established objectives which stated that regional coordinators should, during fiscal year 1976:

- Establish, implement, and begin maintaining a system for evaluating and reporting the progress of all States and territories in developing approvable coastal zone management programs.
- Establish and implement a system for review of State programs for approval.
- Establish positions for assistants to the regional coordinators and make a decision on the establishment of OCZM regional offices.

#### Technical assistance

In 1973 OCZM began to develop information for coastal zone activities. It also established a coastal zone information center. At first the information was used primarily by OCZM, but as the States became aware of this resource, they also began to use it.

In August 1974 OCZM identified as a weakness its inability to meet State technical needs. Consequently, OCZM



surveyed States to determine the subject areas in which they most needed technical guidance, and it began to mail consolidated information packages to them. These packages contained selected reports, bibliographies, and technical papers. By November 1975 OCZM had sent 27 separate information packages and prepared 15 technical papers, including 3 to meet the States' highest priority needs.

In its fourth annual report, dated June 30, 1975, the National Advisory Committee on Oceans and Atmosphere recommended that OCZM expand its informational services to fulfill the function of a Federal coastal information coordinating center. The committee noted that many existing research, development, and information-generating programs are of value to coastal zone managers. These programs include NOAA's Sea Grant Program, Environmental Data Service, National Ocean Survey, and National Marine Fisheries Service; OCZM's small information service; some National Science Foundation programs; and many services of the Department of the Interior, the Environmental Protection Agency, the Corps of Engineers, and State and private organizations. The committee added that timeliness and relevance are crucial and that States need a service providing quick, expert response to demands for technical information.

The Secretary of Commerce concurred and directed the Administrator of NOAA to take steps to implement the recommendation within the resources available. He said he intended (1) to bring to bear upon this problem the full environmental information capabilities of NOAA under OCZM's coordination and (2) to insure that the information and data resources of other agencies are gathered to address the needs outlined by the committee.

#### Assistance in securing Federal participation

OCZM's managerial approach in implementing CZMA's coordination requirements has been to act as a catalyst between Federal agencies and the participating States. The job of Federal relations was not viewed as one of coordination, liaison, or interagency handholding, but as one of making ready the Federal apparatus for approval and support of State programs. OCZM's view is that the burden of contacting Federal agencies falls on States.

OCZM contact with Federal agencies has been generally bilateral. Some agencies took an early and continuing interest in formulating their role in the Coastal Zone

Management Program; others have only recently begun to get involved. (See ch. 5.) Early coordinative efforts were with programs or operational elements of the agencies, rather than at the policymaking or headquarters level. OCZM officials believed formal relationships with agencies should be deferred until working relationships had been established.

In May 1974 OCZM called an informal meeting of interested Federal agencies to discuss its proposals for implementing CZMA. In analyzing this initial meeting, OCZM noted that Federal agencies were interested in the program for various reasons, including concern about

- the implications of Federal consistency;
- relating other Federal grant programs to coastal zone management;
- the role of State programs in Federal regulatory procedures; and
- continuing uncertainty over coastal zone management's role in more global issues, such as Outer Continental Shelf development.

OCZM also noted that some agencies were taking a "wait and see" attitude until more concrete steps were taken. OCZM saw no immediate need to formalize an interagency mechanism for program development. Since then OCZM has recognized some change in need by asking for and providing States with the names of Federal agency contacts.

After its first workshop with the States in November 1974, OCZM concluded that Federal coordination and consistency were still a problem for most States. During this meeting the initial draft of OCZM's "State Federal Interaction" was circulated to each State. OCZM hoped that this handbook, along with increased emphasis by regional coordinators, would stimulate the States to consider the critical aspect of Federal coordination in program development.

In February and March 1975, when Washington and Maine were about to submit their programs, OCZM asked Federal agency heads to designate representatives to coordinate the review of State programs. An April meeting with designated representatives and bilateral discussions with agency staffs followed. Federal agencies furnished extensive comments on both State programs. In a May 21, 1975, letter to Federal agencies, OCZM stated that the program review underscored

the need for the agencies, as well as the States, to establish effective working arrangements and policies during the developmental phase of State programs. According to OCZM, this should occur long before Federal program reviews. OCZM also requested that the agencies

- identify specific contact points for State participation;
- develop guidance to field staffs on program and mission interest;
- reassess their coastal priorities in light of the Washington State experience;
- work directly with the State; and
- advise OCZM about future approaches to program development, review, and implementation.

On August 4, 1975, OCZM sent a memorandum to the States concerning coordination with Federal agencies. The memorandum gave the most recent information regarding Federal regional contacts to be used to fulfill the Federal agency and national interest coordination requirements. OCZM told the States that uncertainties remained in certain agencies about their exact role and process for participation, but that the pace of program development was such that distribution of this information could no longer be delayed.

#### NOAA'S SUCCESSES

Although increased assistance is desirable in several areas, States generally appear satisfied with NOAA's administration of CZMA. One State official wrote that the "OCZM staff demonstrated exceptional competence and understanding of problems at the State level." Others characterized NOAA's support and assistance as helpful, cooperative, flexible, and responsible. Only one State criticized NOAA for lack of support and program leadership.

NOAA's efforts to encourage States to participate in the Coastal Zone Management Program have been successful. Although the program is voluntary, all but 1 of the 34 eligible States and territories have participated. 1/

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1/American Samoa has not participated due to funding constraints.

In our opinion, NOAA's ability to minimize red tape and respond quickly to State grant applications contributed to this success. Within 4 months after OCZM became operational, it had awarded 29 State program development grants. Of the 31 States that responded to our questionnaire, 27 said OCZM provided a high degree of assistance in processing grant applications.

#### AREAS NEEDING IMPROVEMENT

Although States are generally satisfied with NOAA's assistance, they want NOAA to increase its efforts in

- providing technical assistance,
- coordinating with Federal agencies,
- keeping States informed of other States' progress and problems,
- helping resolve special problems, and
- more clearly communicating what will be required for program approval.

A comparison of areas in which more assistance is desired to areas in which assistance is regarded as satisfactory is revealing. The satisfactory areas tend to be procedural functions (for example, processing grant applications, making technical papers known and available, and providing for easy interface with OCZM). On the other hand, the areas in which more assistance is desired are not dominated by the grantor-grantee relationship. These areas require (1) an indepth understanding of a State's problems and progress and (2) effective procedures to respond to State needs.

#### Shortcomings in NOAA's assistance

NOAA has not always been able to respond to State needs. For instance, NOAA published its regulations, guidelines, and technical documents too late to help program development for States involved early in coastal zone management, as shown below.

- NOAA's regulations dealing with criteria and procedures for State program approval are dated January 9, 1975. This is just 2 months before Washington and Maine submitted their programs and 1 month before California completed the hearings draft of its coastal plan.

--NOAA's interim regulations on Federal consistency and coordination with Federal agencies are dated February 28, 1975. This is less than 1 month before the Washington and Maine submittals. As of August 1976, these regulations had not been issued in final form.

--NOAA's memorandum to help States meet CZMA's Federal coordination requirement is dated August 4, 1975. This is well after the Washington and Maine submittals and public hearings on California's program, and even after later States, like Louisiana, tried to begin Federal coordination. This is also 2 months after Washington's program failed to receive secretarial approval, partially on the grounds of inadequate Federal participation.

NOAA has not always shown a good understanding of the status of State progress. For instance, NOAA's initial reaction to Maine's program was highly favorable. In a February 26, 1975, letter, an NOAA official stated:

"\* \* \* we consider the mid-coast segment of Maine's coastal program to be one of the finest management efforts developed in the United States to date."

\* \* \* \* \*

"\* \* \* the management program appears coherent, broadly based and well coordinated."

The letter, however, did not mention the failure of the program's public participation element.

Similarly, NOAA apparently was unaware of the nature of Washington's difficulties before the State submitted its program for review in March 1975. The deficiencies NOAA later noted, especially the minimal Federal participation in program development, are serious enough to bring into question the effectiveness of NOAA's monitoring of State programs. When asked how this could have happened, a regional coordinator said his role was to help the States, answer their questions, and cut the Federal bureaucracy's red tape where he could; not to actively monitor State progress in typical Federal fashion. The coordinator felt that States, particularly those far along in program development, would resent his acting as a Federal monitor.

Needed: a clearer understanding  
of what will be acceptable

States complained that NOAA's assistance lacked systematic and comprehensive guidance in interpreting CZMA and NOAA's regulations. Clearer communication of what State programs must contain to achieve secretarial approval is needed. One State has asked for, but not received, review comments on Washington's 1975 submittal to help bridge the gap between CZMA's requirements and what is actually needed for program approval.

Washington officials said NOAA concentrated its assistance in the wrong areas. According to the officials, NOAA should place less emphasis on the technical aspects of coastal zone management--resource inventories, data gathering, development of permit standards--because environmental planners have experience in these areas. Instead, it should concentrate on State-Federal relations and the legal and organizational requirements that State programs must meet, since these areas are unclear in CZMA and in NOAA's guidelines.

NOAA has taken steps to solve this problem. In September 1975 OCZM noted:

"\* \* \* additional policy guidance, over and above that now contained in our 'Rules and Regulations,' is needed relative to what will constitute an acceptable solution or approach to meeting program approval requirements. State CZM managers are having difficulty judging what we still consider an adequate solution to the Act's diverse requirements based on a reading of the Act or our guidelines alone."

OCZM therefore developed "threshold" papers, 1/ which are intended to provide the States with minimum requirements necessary for program approval. As of December 1975, drafts of these papers had been furnished to States for review and comment.

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1/Threshold papers are in the following seven areas: boundaries, permissible/priority uses, areas of particular concern, public participation/local government, national interest/Federal agencies, organization, and authorities. Threshold papers explain the procedures in the Federal Register but do not replace them.

## Reasons for shortcomings

In our opinion, NOAA's assistance has these shortcomings because:

- This is a new program, and NOAA's role is still evolving to meet new and unique problems.
- States have different problems, hence different needs.
- States such as Washington, Maine, and California were developing programs while NOAA was developing program guidelines.
- Such problems as obtaining Federal agency cooperation, Federal-State conflicts and Federal consistency, and helping States deal with OCS development effects are difficult; they require more resources than NOAA can presently provide.
- NOAA's view of its role in coastal zone management is limited. NOAA has kept its staff small and acts as the States' friend in the Federal establishment on the premise that coastal zone management is a State program, not a Federal one. This approach certainly has advantages, but it also has drawbacks. The relatively slow progress made in establishing effective working relationships between States and Federal agencies, late development of guidelines delineating requirements for program approval, and poor monitoring of the Washington and Maine programs are the drawbacks of this approach. We believe another is that OCZM reacts to solve many problems as they arise instead of anticipating them.

OCZM had also foreseen the need to shift its effort to meet changing program conditions and realigned its organization and approach in the fall of 1975. The effect of OCZM's realignment was to expand its monitoring system and to apply more staff resources to specific State problems. Even with this added assistance, we believe some States will not be able to produce approvable management programs within the specified 4 years.

## CONCLUSIONS

As State programs move out of formative stages and into grappling with substantive issues and implementation, the emphasis of NOAA's assistance needs to be shifted. To date, NOAA has been long on encouraging States, but short on

effective monitoring and problem solving. The goal now should be not only to keep States in the program, but to insure that at least some implement effective programs. This requires that NOAA actively monitor State programs and help States to solve special problems. Of particular importance is the role of Federal agencies, the ultimate effect of Federal consistency, and the insistence that States obtain the authority necessary to meet CZMA's requirements.

If implemented, OCZM's recent expansion of its monitoring system during fiscal year 1976 will be a step toward strengthening NOAA's assistance to States. Even with this type of assistance, however, we believe some States will not be able to produce approvable management programs within the specified 4 years.

We proposed that the Secretary of Commerce direct the Administrator of NOAA to implement NOAA's expanded monitoring system by

- helping the States develop the necessary power and authority to control coastal resource uses,
- making certain that States involve the public and all levels of government in program development,
- making certain that all relevant Federal agencies have been contacted early enough to fully participate in State program development,
- keeping States informed of other States' progress and problems, and
- making certain that the threshold papers adequately communicate to States what their management programs must contain to achieve Federal approval.

We also concur with the National Advisory Committee on Oceans and Atmosphere recommendation that NOAA expand its technical information assistance to States.

#### AGENCY COMMENTS

The Secretary of Commerce agreed with our conclusions and specific proposals. (See app. VI.) The Secretary also agreed that the nature of NOAA's assistance to the States must change as States progress in program development. Commerce advised us of the major changes in NOAA's Coastal Zone Management Program that took place in the fall of 1975, which



brought more staff resources to bear on specific State problems. Among other things, these changes included (1) a reorganization of OCZM and (2) the appointment of assistant regional coordinators. We were also advised that in May 1976 OCZM's "management by objectives" scheme was modified to include quarterly reporting on the status of each State's program.

The actions taken or planned by NOAA are steps toward eliminating the shortcomings identified by our review. If properly implemented, they should be most helpful to the States in attempting to obtain program approval. Accordingly, we are making no recommendations.

## CHAPTER 5

### FEDERAL PARTICIPATION: A MAJOR PROBLEM

Both coastal States and Federal agencies with interests in State coastal zones have program responsibilities. But Federal participation in State program development has been limited.

Federal agencies are partially responsible for poor participation. The Congress enacted the Coastal Zone Management Act in 1972 and certain States have been planning for their coastal zones since 1970. However, the National Oceanic and Atmospheric Administration did not issue interim regulations on Federal consistency and coordination until February 1975, and Federal agencies have only recently begun developing the essential elements for effective coordination with States.

States assert that Federal agency coordination is a problem. Three States submitted programs for NOAA's review, and two demonstrated a lack of Federal participation. These States solicited Federal participation too late in program development and failed to involve some of the most important agencies.

A difficult task facing the States is the need to balance (1) the requirement of giving Federal agencies an opportunity to participate in program development early enough to allow that participation to be meaningful and (2) the practical requirement to have the program complete enough to expect substantive Federal input.

### IMPORTANCE OF STATE-FEDERAL COORDINATION

#### Federal role

CZMA declared that the national policy is for all Federal agencies involved with programs affecting the coastal zone to cooperate and participate with State and substate agencies developing coastal zone management programs. The act requires that Federal agencies conduct their activities affecting the coastal zone in a manner which is, as much as possible, consistent with approved State programs. Federal agencies are to cooperate in State program development and review management programs to insure that Federal agencies can satisfy CZMA's consistency requirement.

The act also requires that

- the Secretary of Commerce carry out his CZMA-mandated responsibilities by coordinating his activities with other interested Federal agencies;
- the Secretary not approve a State management program until the views of Federal agencies principally affected have been adequately considered;
- the Secretary not approve a State program unless it adequately considers the national interest involved in the siting of facilities necessary to meet requirements other than local in nature; and
- applicants for Federal licenses or permits and State and local governments applying for Federal assistance under other Federal programs affecting the coastal zone conduct their activities in a manner consistent with approved State programs.

#### State role

Because Federal agencies conduct programs which affect and are affected by coastal zone management, CZMA requires States to give Federal agencies an opportunity to fully participate when State coastal zone management programs are developed. The idea is to produce consistent policies and procedures for managing coastal resources. Further, NOAA's regulations require that early in program development each State contact all Federal agencies that may have an interest in the State's coastal zone. Only through early and continuing contact will Federal agencies be given the opportunity for full participation.

Because State coordination with Federal agencies is absolutely essential for program approval, the responsibilities imposed by CZMA apply to the Federal establishment as well as to the States. For instance, before States can adequately consider Federal agency views or the national interest in facility siting, Federal agencies must actively participate in State program development and give their views on coastal issues and the national interest. In short, coordination is a two-way street.

SOME FEDERAL AGENCIES ARE  
NOT DOING THEIR PART

Typically, States have asked Federal agencies to

- provide technical assistance and raw data, such as maps, aerial photographs, and geological and soils data, used for planning;
- list lands owned or controlled by the agency;
- provide information about agency activities, plans, policies, and concerns regarding coastal zone management;
- designate points of contact for continuing coordination; and
- review and comment on program drafts.

To adequately respond to such State requests and to effectively participate in State program development, we believe Federal agencies must at least develop

- liaison contact, such as a designated office or official with enough authority to speak for the agency, at headquarters and at field offices;
- statements of policy or agency interests in the coastal zone; and
- guidelines, regulations, or action plans directed to field offices to facilitate coordination with State and local governments.

Slow development of Federal participation

Although the Congress enacted CZMA in 1972, Federal agencies did not begin developing the mechanism for effective coordination until 1974 and 1975. As discussed in chapter 4, Office of Coastal Zone Management assistance in securing Federal participation was evolutionary, believing at first that formal relationships with agencies should be deferred until working relationships had been established. Some agencies took an early and continuing interest in formulating their role in the Coastal Zone Management Program. Not until the agencies had received State programs for review did OCZM and other agencies see the need to establish effective working arrangements and policies.

The following table shows the status of Federal agencies' involvement in the Coastal Zone Management Program as of December 1975.

<u>Agency</u>	<u>When agency designated central points of contact</u>	<u>When agency formulated overall policy</u>	<u>When agency formulated guidance to field offices</u>
Department of Agriculture	3-75	None	8-75
Department of Commerce	None	None	Limited
Department of Defense	4-75	12-75	12-75
Corps of Engineers	Unofficial	Draft 10-75	7-74
Department of Housing and Urban Development	4-75	None	Limited
Department of the Interior	4-75	8-75	8-75
Department of Justice	3-75	None	None
Department of Transportation	5-75	None	10-75
Department of Health, Education, and Welfare	None	None	None
Environmental Protection Agency	3-75	None	Began 6-75
Energy Research and Development Administration	10-75	None	None
Federal Energy Administration	4-75	4-75	Began 11-74
Federal Power Commission	3-75	None	None
General Services Administration	3-75	None	None
Nuclear Regulatory Commission	3-75	None	None

A more detailed summary of the status of seven agencies that we believe have the greatest interest in coastal zone management follows.

#### Department of Agriculture

The Department designated the Administrator, Soil Conservation Service, to coordinate reviews of State management programs within the Department and with NOAA. This agency is the single point of contact for all Agriculture agencies. The Department's involvement is limited to program reviews

by a committee composed of various Department agencies. Conflicts, if any, are resolved by the Department's Land Use Committee. The Soil Conservation Service and Forest Service have provided guidance to their field activities, but the Department has not developed an overall coastal zone management policy.

### Department of Commerce

Because the Department is not structured to handle intradepartmental program coordination and its agencies do not have a consolidated regional structure, NOAA has separately coordinated with each Commerce agency having an interest in the program. States must individually coordinate with regional offices of three Commerce agencies--the National Marine Fisheries Service, the Economic Development Administration, and the Maritime Administration. NOAA has not formally requested that the Secretary of Commerce designate a central point of contact for program review or for policy guidance. No overall Department policy has been established, although the National Marine Fisheries Service and the Economic Development Administration have issued some guidance to field activities.

### Department of Defense

The Deputy Assistant Secretary of Defense (Installation and Housing) was designated the single contact point for matters pertaining to State management programs. He is responsible for (1) formulating Department policy and coordination with other Federal agencies, (2) monitoring the development of State programs, and (3) coordinating the Department's position. Each military department was directed to establish, at headquarters level, a coastal zone management central focal point, which would be responsible for insuring that States involve all affected installations and activities in developing and reviewing management programs. This overall policy applies to all Defense components except civil works projects of the Office of the Chief of Engineers. These projects are coordinated separately and directly with NOAA. As of December 1975, the Navy and the Air Force had issued guidance on cooperation with coastal States in program development. The Army has been slow to participate and has not formulated its coastal management involvement role.

### Corps of Engineers

Although the Corps has not officially designated a central point of contact, the Office of the Chief of Engineers,

Directorate of Civil Works, has coordinated with NOAA since early 1973 and the District Engineers had coordinated with some States before enactment of CZMA. The Corps formulated field office guidance, first issued in the form of a 1974 circular, and is working out differences on its final regulations and policy statement with the Department of the Army. The Corps has also designated a contact for coastal zone management in each State.

### Department of the Interior

In April 1975 the Department designated a central point of contact. Although Interior has been involved with the Coastal Zone Management Program since its inception, it did not publish its overall policy until August 1975. This statement provided guidance on policy, procedures, and responsibilities to bureaus, offices, and the Secretary's special assistants in the field for participation in developing, reviewing, and implementing State programs. The Secretary's special assistants act as central contact points to States for all Interior agencies.

### Environmental Protection Agency

The Agency designated its Office of Federal Activities as the central point of contact for the Coastal Zone Management Program. In addition, coastal zone management contacts have been designated in each affected regional office. Although the Agency has not formulated overall coastal zone management policy, it has issued guidance to regional administrators for the agency's participation in the program. The Agency is primarily concerned with including its air and water quality standards in State programs. The Agency and NOAA signed a joint letter on August 26, 1975, setting forth coordination principles between both agencies' water quality programs.

### Federal Energy Administration

The agency's coastal zone management contact point is the Office of Energy Resource Development. The agency began formulating general policy guidance for its regional administrators to follow as early as November 1974. Primary interest focuses on energy facility sitings. The agency has encouraged position programs for siting these facilities in the coastal zone.

## Other agencies

The efforts of the Departments of Transportation and Housing and Urban Development generally parallel those of the agencies described above. Both designated central contact points and provided guidance to regional officials for dealing with coastal zone management States. In addition, the Department of Housing and Urban Development and NOAA signed an interagency agreement to coordinate the Coastal Zone Management Program with the Department's Comprehensive Planning Assistance (section 701) Program.

The coastal zone management experience of other agencies has been less substantial. As of December 1975, the roles of the Energy Research and Development Administration, the Federal Power Commission, and the Nuclear Regulatory Commission in the program were uncertain. The involvement of the Department of Justice; the Department of Health, Education, and Welfare; the General Services Administration; and the Council on Environmental Quality has been minimal. NOAA is reevaluating the designation of Justice and the Council as principally affected Federal agencies to be involved in State program development and is considering changing their status.

## Reasons for slow development of Federal participation

In our opinion, Federal agencies have been slow to participate because

- they have only recently recognized their coastal zone responsibilities,
- they have viewed the program primarily as a State effort and consequently have not taken the initiative in establishing Federal-State coastal zone management relations, and
- they have staffing and budget limitations.

## Late recognition of responsibilities

Most Federal agencies have recognized their coastal zone management responsibilities only since 1974 and 1975. Except for the Corps of Engineers, the Department of the Interior, and the Soil Conservation Service, agencies did little to



help States until Maine and Washington were prepared to submit their programs for review. We believe Federal agencies began developing substantive mechanisms to deal with the States only when they were faced with the possibility that Federal coastal zone activities would be subject to CZMA's consistency provision. Another contributing factor was that NOAA did not issue interim regulations on Federal consistency until February 1975.

### Primarily a State program

The following examples suggest that Federal agencies have not always shown great interest or initiative regarding State-developed coastal zone management programs.

- In 1973 Washington tried to involve two Federal agencies in reviewing local coastal zone master plans. The agencies refused because of staff limitations and because the Federal Coastal Zone Management Program had not yet been fully funded and therefore the review was considered an intra-state matter.
- A Federal official charged with coordinating his agency's regional activities with State programs said he waited 5 months to contact State officials regarding coastal zone management. He believed it was the State's responsibility to contact him.
- All but three relevant Federal agencies had designated points of contact by the spring of 1975. Yet two of the three States we visited that began contacting Federal agencies after the spring of 1975 saw little evidence of Federal efforts to begin coordinating coastal zone management. Although North Carolina had been developing its program for 16 months before formally beginning its Federal participation program in November 1975, only the Navy and Corps of Engineers told the State who to contact about discussing coastal issues. Louisiana had to abandon its first attempt to contact Federal agencies in the spring of 1975 because it simply did not know who to contact. Michigan officials, on the other hand, said that at least 10 agencies notified them before the State began its formal coordination program in October 1975.

## Staffing and budget limitations

According to field officials of 12 Federal agencies, staffing and budget limitations hampered their participation in the development of State programs. For example, a designated coastal zone management coordinator for the Corps of Engineers said he had never met with State officials because of insufficient time and funds. Officials at Corps headquarters verified that field offices have had difficulty meeting State requests. The officials plan to seek increased congressional funding under the Water Resources Development Act.

As another example, an Economic Development Administration designated coastal zone management representative has not reviewed any State planning documents. He explained that, although he has been delegated responsibility for monitoring and reviewing the program development of six coastal States, he has not been given time or travel funds to accomplish this task.

### COORDINATION IS A TWO-WAY STREET: SOME STATES ARE NOT DOING ENOUGH

States must balance the requirement of giving Federal agencies an opportunity to participate early in program development with the practical need to have a program complete enough to expect reasonable and substantive Federal agency comment. The six States we reviewed had a variety of experiences in attempting to involve Federal agencies. California has had a formal participation program underway since 1973, but Michigan has only recently begun to involve Federal agencies.

North Carolina experienced delays in involving Federal agencies because it was unable to determine where and how to attack the problem. Louisiana only recently began planning and involving Federal agencies. Washington and Maine began contacting Federal agencies in late 1974. However, difficulties caused Washington to change its Federal coordination procedures and Maine to suspend its contacts with Federal agencies until its management program received new direction. (See ch. 3.)

### Limited opportunity for Federal participation

Some States have not given Federal agencies the opportunity to participate in program development in a timely manner. The extent to which Federal agencies were able to

participate in program development for the six States reviewed is highlighted below.

### Maine

Federal participation in Maine's program development consisted of Federal representatives attending two meetings hosted by the New England River Basin Commission. The commission is the principal agency for coordinating water and related land resource plans throughout the region. It is composed of members from the 6 New England States, New York, 10 Federal agencies, and 6 interstate and regional agencies.

Only one of these meetings was held before Maine submitted a preliminary version of its program. According to officials from seven Federal agencies identified as having interests in Maine's coastal zone, none of the agencies had been given the opportunity to participate in Maine's program development before the November 1974 meeting. We found no evidence that Maine met with these or other Federal agencies at any time, except for several meetings with the Navy to get information. However, seven Federal agencies did comment in writing on Maine's program as a result of the November meeting. Further, since the Governor's withdrawal of the State's preliminary administrative grant application in June 1975, Maine has stopped coordinating its planning efforts with Federal agencies.

### Washington

Washington held three meetings with Federal agency representatives, but except for contacts with bureaus within the Department of the Interior, only one was held before the State submitted its program to NOAA. Seven of eight Federal agencies we contacted recommended to the Secretary of Commerce that Washington's program be rejected. The common themes in agency review comments were a lack of opportunity for full Federal participation and an inadequate consideration of agency views and the national interest in facility siting. (See app. V.)

NOAA cited the lack of Federal agency participation as one of three major deficiencies in Washington's program and refused to approve the program until opportunities for such participation were increased. Washington's program has since been revised and approved.

## California

Beginning in June 1973, California contacted Federal agencies and involved them in program planning, primarily on an individual basis. As the State and regional commissions developed each planning element of California's coastal plan, Federal agencies were asked to review and comment on elements that concerned them. When California completed its preliminary hearings draft of the plan in March 1975, the Federal agencies reviewed the plan as a whole. Finally, in July 1975 California prepared a draft paper entitled "National Interest in the Coastal Zone," which it also distributed for Federal review and comment.

## Michigan

Although Michigan formally began its Federal participation efforts at an October 1975 general meeting, the State had made limited contacts with Federal agencies through a standing committee of the Great Lakes Basin Commission. These contacts were general and restricted to interstate coastal matters only. The October 1975 meeting, attended by representatives of 20 Federal agencies, was Michigan's first attempt to open a dialogue with agencies that may have interests in Michigan's coastal zone.

## North Carolina

In December 1974, North Carolina requested assistance from the Southeastern Federal Regional Council, which formed a working group to identify Federal agency contacts and to act as a Federal-State forum on common coastal problems and issues for six southeastern coastal States.

As with Michigan, Washington, and Maine, the first formal step in North Carolina's Federal consultation process began with a general meeting of agency representatives. Before this November 1975 meeting, only the Department of the Interior had formally transmitted its policy for contact and coordination. Other contacts had been limited and on an as-needed basis. For example, three counties contacted the Soil Conservation Service to obtain soil information or aerial photographs; two other local planning agencies discussed plans for military operations with local installation officials; and working level meetings were held with the Corps of Engineers. At the November meeting, North Carolina gave interested Federal agencies the opportunity to participate when State employees reviewed draft local plans. North Carolina also intends to convene a second meeting after it completes the draft State coastal zone management plan.

## Louisiana

After encountering problems in contacting Federal agencies during the spring of 1975, Louisiana began using the Southwest Federal Regional Council to oversee Federal coordination. Through the council the State contacted 25 Federal agencies in July and August 1975, requesting information on lands owned or controlled by Federal agencies and statements of national or Federal agency interests in the State's coastal zone. As of May 1976, most Federal agencies had responded to the request for information on lands owned or controlled. Louisiana believes that the responses on statements of national interests actually represent more narrow agency interest. As a consequence, Louisiana has identified areas it considers "national interest" and has asked the Federal agencies to identify their program or activities in those areas. Because development of local plans is not expected to begin until fiscal year 1977, Federal agencies have not yet had the opportunity to review and comment on the State's proposed management program.

### Federal agencies not contacted

Four of the six States we reviewed identified and made initial contacts with the major appropriate Federal agencies, but Washington and Maine failed to contact several agencies with obvious coastal interests.

For example, the Navy has interests in 32 separate geographical areas in Washington's coastal zone. These areas include installations, shipyards, maintenance facilities, mooring piers, surface and submarine combat maneuver and general operating areas, gunnery ranges and testing areas, and explosive and chemical dumping areas. Some prominent installations are the Puget Sound Naval Shipyard; the Naval Inactive Ship Maintenance Facility at Bremerton; and the Trident Submarine Base, where \$75 million of new construction is taking place. Further, the headquarters of the 13th Naval District is in Seattle. Yet Washington did not contact the Navy until after the State submitted its program to NOAA.

Washington also failed to contact the Department of the Interior's Bonneville Power Administration until after submitting its program to NOAA. In our opinion, Bonneville should have participated in program development because its administration of the Federal Columbia River Power System greatly affects Washington's coastal zone. Maine did not contact Interior's Bureau of Land Management, which intends

to lease oil and gas resources on Outer Continental Shelf lands off Maine's coast beginning in 1976, until after program submission.

Similarly, before it submitted its program for NOAA review, Maine failed to contact such agencies as the Maritime Administration; the National Marine Fisheries Service; and the Department of Transportation, which includes the U.S. Coast Guard. Yet among Maine's priorities is the development of transportation, ports, and water-related industry and commercial activities.

Federal agencies generally contacted too late

The six States reviewed initially solicited Federal agency participation, as shown below.

<u>State</u>	<u>Date of first contact</u>	<u>Planned completion of program development</u>	<u>Months of contact</u>
Maine	11-74	a/3-75	3
Washington	1-75	3-75	2
California	6-73	b/8-76	38
Michigan	10-75	11-76	13
North Carolina	11-75	6-76	7
Louisiana	7-75	6-77	23

a/Maine originally planned to submit its program in geographical segments, the first of which was its midcoast counties segment submitted in March 1975. Maine considers its March submission as a preliminary version of its program.

b/According to State officials, the California legislature must act on the coastal plan before August 31, 1976. If the plan is approved, it will then be submitted to NOAA. (See ch. 3.)

This table shows that Washington and Maine--the States scheduled to be the first completed--began contacting Federal agencies late. As a result, these States gave Federal agencies little opportunity for full participation and could not adequately consider agency views.

Washington's Federal participation program began with a January 1975 meeting of State and Federal agency representatives, the only formal contact before the State submitted its program to NOAA. At this meeting, Washington (1) gave Federal representatives a draft of its program, (2) asked them to review and comment on the draft within 30 days, and (3) requested them to compile informational packages about their agencies' plans, policies, and concerns in Washington's coastal zone. Of 21 Federal agencies in attendance, only 6 reviewed the draft by the February deadline and only 10 provided any of the requested information.

Maine's only formal involvement with the Federal Government before program submission occurred about 3 months before submission at a meeting with Federal representatives, which was hosted by the New England River Basin Commission. During this meeting, State officials briefed the representatives on the scope, direction, and status of Maine's mid-coast program and asked them to provide written comments on how their activities related to the program. Of the 13 Federal agencies represented, only 4 responded to the request.

In contrast, California has contacted 35 Federal agencies since June 1973 and given them an opportunity to review and comment on the State's program as it evolved. Only 7 Federal agencies failed to respond and only 2 said they were not given enough time to adequately review the plan.

### State problems with Federal participation

We believe States have experienced three basic problems in trying to obtain Federal participation: (1) knowing when to begin soliciting Federal agency input, (2) knowing whom to contact, and (3) receiving Federal agency cooperation.

To determine when to begin involving Federal agencies, States must balance the requirement of giving the agencies an opportunity to participate in program development early enough to allow such participation to be meaningful with the practical need to have a program complete enough to expect reasonable and substantive Federal agency comment. Washington and Maine clearly waited too long; as a result, Federal agencies felt these programs had been essentially completed without adequate Federal participation. Although Michigan has also delayed formal Federal coordination until

a firm coastal zone management program appeared imminent, it is too early to determine if this delay will have adverse effects.

California, on the other hand, structured its program to solicit almost continuous Federal participation. If the extent of Federal agency comments is a legitimate measure of the extent of Federal participation in and acceptance of State programs, California has been considerably more successful in this regard than either Washington or Maine. Of 28 Federal agencies providing written comments on the California coastal plan, 20 indicated that they generally supported or were favorably disposed to the plan; all but 1 Federal agency we contacted about Washington's program recommended that it be rejected.

The second State difficulty--knowing which agencies to contact to begin Federal involvement--was evident in Washington's and Maine's excluding relevant agencies before submitting their programs for NOAA review. States have also had trouble understanding the Federal bureaucracy and knowing which agency personnel to contact. For example, North Carolina at first unrealistically sought a single point of contact that could speak authoritatively for all interested Federal agencies.

#### Reasons for State failures in Federal participation

In our opinion, there are three principal reasons that States have not met CZMA's requirements for Federal participation.

- Some States have not emphasized obtaining Federal participation. Washington's and Maine's late contact and exclusion of important Federal agencies demonstrated this.
- There has been a lack of guidance regarding appropriate coordination procedures, Federal contact points, and the ultimate meaning of Federal consistency. However, State use of Federal-State bodies like Federal regional councils and river basin commissions and NOAA's relatively recent assistance in identifying appropriate Federal contact points may preclude many of the difficulties Washington and Maine experienced.
- Federal agencies have been slow in developing the means for adequately dealing with States concerning coastal zone management.



## State views of the State- Federal relationship

Our questionnaire disclosed the following about how States view their relationships with Federal agencies.

- Federal participation is a major problem area. Of the 31 States and territories that responded to our questionnaire, 13 found consideration of the national interest a serious problem and 13 others found working with Federal agencies at least a moderate problem.
- Federal participation may continue to be a problem. Nine States reported that they were just beginning to coordinate with Federal agencies.
- States want Federal agencies to provide more help in identifying areas of national interest. Twenty-eight States want more information about future Federal plans for the coastal zone, 25 want priorities to be better set within individual agencies, and 16 see a need for coordination and trade-off among Federal agencies.
- Federal participation is not easy. Over half of the States that responded reported contact with at least 20 Federal agencies.
- Some Federal agencies are easier to deal with than others. States most frequently characterized the Soil Conservation Service as cooperative and said it provided needed information and recognized State problems. States most often rated the Bureau of Land Management as the agency they were most dissatisfied with. Paradoxically, the Corps of Engineers was rated by some States as being most satisfactory to deal with but was rated by other States as one being the least satisfactory. The reasons for States' dissatisfaction can be grouped into three broad categories: (1) the agency was not cooperative, (2) it failed to recognize the State's needs, and (3) its administrative procedures caused problems.

## CONCLUSIONS

Federal participation in State program development has been limited. States should not underestimate the

importance of securing Federal support, since the Secretary of Commerce cannot approve a State program without first considering agency comments and resolving serious conflicts. Washington initially failed to receive Federal support and secretarial approval largely because it excluded important agencies from contact and contacted other agencies too late in program development to allow adequate consideration of agency views. Other States may encounter the same difficulties. Although Maine was involved in coastal zone management early, it has not yet meaningfully involved Federal agencies. Michigan and North Carolina have delayed involving Federal agencies until management programs are well developed. Based on Washington's experience, we believe this tactic is risky because Federal agency participation will have been reduced to a process of merely reviewing and commenting on already-advanced program development. In our opinion, unless agencies are assured that a State's management program accommodates Federal views, they will not recommend program approval.

Federal agencies' late interest in State management programs and continuing time and budget limitations indicate a lack of national direction for coastal zone management. Congressional intent that all relevant Federal agencies cooperate with and participate in State program development is clearly set out in CZMA. For the program to succeed, all Federal agencies with interests in State coastal zones should therefore develop the coordination mechanisms and budget the time and funds necessary to meet their coastal zone management obligations.

#### AGENCY COMMENTS

The Secretary of Commerce generally agreed that Federal participation has been a problem. He also agreed that Federal agency response has been uneven and often inadequate. He pointed out, however, that OCZM's efforts in this regard have been more extensive than we suggest. He asserted that, until a State has developed its management program somewhat, there is little to discuss with Federal agencies. In most States, not until programs had been under development for a year were they sufficiently substantive to interact usefully with Federal agencies. The Secretary said a marked improvement has taken place within the last 6 months in the Federal review of management programs.

OCZM has apparently made progress in stimulating Federal agencies' interest in the Coastal Zone Management Program. Undoubtedly, the reality of the Federal consistency provision and an approved management program have advanced this effort.

## CHAPTER 6

### FEDERAL CONSISTENCY: AN UNCERTAIN PROSPECT

The Coastal Zone Management Act of 1972 requires that Federal agencies conduct or support activities directly affecting the coastal zone in a manner which is, to the maximum extent practicable, consistent with approved State management programs. A State management program will not be approved unless the views of Federal agencies principally affected have been adequately considered. When serious disagreement exists between a Federal agency and the State, the Secretary of Commerce, in cooperation with the Executive Office of the President, will seek to mediate. Some Federal programs will conflict with State programs because State policies, priorities, and implementing authorities are not always compatible with Federal interests. The extent of conflict will depend on the way State programs are administered, the attitude of responsible officials, and the extent of Federal-State coordination.

### A CONTINUING CONFLICT: OUTER CONTINENTAL SHELF RESOURCE DEVELOPMENT

Outer Continental Shelf oil and gas development can have significant impacts on coastal States, including

- construction and use of OCS-related shoreside facilities, such as pipelines and separation, treatment, and storage facilities;
- urban and industrial sprawl that changes the fundamental character of coastlines and places increased demands on housing, transportation, and educational services;
- potential environmental damage from oil and gas blow-outs, leaks, and spills; and
- aesthetic degradation due to onshore facilities and offshore oil platforms located near shore.

As a first step in planning for OCS development, States have used various means to study development impacts. Maine established an OCS task force and participated on a New England River Basin Commission task force to measure the effects of oil and gas exploration and to work with the Department of the Interior in developing a leasing program. Louisiana and

other States are seeking Federal funds to support OCS impact studies and reimburse States for demonstrated adverse impacts. In response to our questionnaire, 14 States said they were either making or planning to make OCS impact studies. California's coastal plan recommended State policies for developing OCS oil and gas resources.

States have also used more direct means to avert adverse OCS impacts. California and the Atlantic Coast States united to oppose Interior's plan to lease 10 million acres of off-shore lands in 1975; 1/ 13 Atlantic Coast States also legally challenged Federal ownership of OCS lands beyond 3 miles off-shore in 1975. The Supreme Court ruled in favor of the Federal Government in 1975. Although this legal action was unsuccessful, it did delay the leasing plan.

### California and the OCS controversy

California's experience illustrates the relationship of OCS resource development to State coastal zone management program development. The principal reason for the controversy concerns policy differences.

In May 1974, Interior announced a proposed schedule for leasing, during 1975, up to 10 million acres of OCS lands nationwide, including up to 1.6 million acres off southern California. Opposition to the proposed lease sale grew quickly in California because of:

- A desire to avoid adverse impacts, especially environmental damage of the kind that followed the 1969 Santa Barbara oil spill.
- The belief that Interior rushed into the leasing program before demonstrating the need for rapid OCS development and before California had a chance to plan to deal with the impacts. Interior did not consult with the State before proposing that OCS lease sale, but it did consult with many representatives of the State and local communities before deciding to hold that sale.
- A desire to obtain, before any southern California leasing, a share of OCS lease revenues and Federal funds to compensate for adverse impacts sustained by California entities.

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<sup>1</sup>/The 10-million-acre goal for Interior's proposed accelerated OCS leasing program was eliminated in November 1974.

Consequently, the Governor and California's coastal commission asked Interior to delay its OCS leasing until after the State legislature adopted the coastal plan. Both senators and members of the congressional delegation from California called upon Interior to postpone the leasing program pending further study. Other opponents of the 1975 leasing included local government groups, such as the Orange County Board of Supervisors, the Los Angeles City Council, the City of Santa Barbara, and the Southern California Council of Governments.

However, administration officials said it was unwise to delay consideration of OCS leasing until California's coastal plan was adopted. These officials believed the delay would curtail Interior's ability to plan the development of OCS resources, since there was no guarantee when, if ever, and in what form California could implement its plan.

The State and the Southern California Association of Governments challenged the OCS lease sale in two major lawsuits. The suits, which sought to delay the leasing program, contended the program did not conform to the National Environmental Policy Act and that it violated CZMA and other Federal laws and regulations. The suits failed to halt the leasing of Southern California OCS lands, which took place on December 11, 1975.

The State used other means to preempt Interior's decision to lease the land. On August 27, 1975, the Governor signed legislation prohibiting the construction of pipelines across State-controlled waters until the State legislature implements the coastal plan or until December 31, 1977, whichever comes first.

The coastal commission has also tried to influence OCS development by restricting the construction of onshore support facilities. In March 1976, the Commission refused an oil company's request for a permit to build an onshore tanker terminal to support an existing Federal lease in the Santa Barbara Channel. Instead, the commission suggested a pipeline as a less environmentally damaging alternative. With Department of the Interior approval, the oil company countered by proposing to build an offshore storage and treatment facility outside California's 3-mile jurisdiction. As of May 1976, the conflict was scheduled to be resolved in both Federal and State courts.

## POTENTIAL FEDERAL-STATE CONFLICTS

Although most Federal-State conflicts will not become apparent until State programs are approved and applied in particular contexts, the following is an example of a potential conflict.

### Trident refit pier

State programs can affect Federal projects in State coastal zones, even though CZMA excludes federally owned lands from such zones. The Federal consistency provisions may allow a State to challenge uses of Federal lands if the uses significantly affect other coastal lands and waters and conflict with the State's management program.

For example, section 10 of the River and Harbor Act of 1899 provides that the Corps of Engineers authorize construction within navigable waterways, but the Corps will not grant a section 10 permit until the State concurs. In May 1975, the Navy requested a section 10 permit for constructing a refit pier for its Trident project. This was the second of six such permits necessary for this Navy installation in Washington's Hood Canal, where over \$75 million in construction is taking place. Although the State had approved the first permit, it delayed its decision on the refit pier permit until September 18, 1975, when it denied the permit. The State gave the following reasons for denial:

- The proposed pier was not consistent with a draft local master plan.
- CZMA requires Federal agencies to insure that development projects, like the Navy's Trident project, are, to the maximum extent practicable, consistent with approved State coastal zone management programs. 1/
- The Navy did not give the State an opportunity to review the entire Trident project, and plans for the refit pier were completed before the State had a chance to comment.
- Construction of the pier would result in the loss of substantial public navigation rights and would destroy beach, fish, and game resources.

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1/At that time, however, Washington did not have an approved management program.

- The Navy did not cooperate with the spirit and intent of State and Federal environmental legislation.
- The Shoreline Management Act, the State's legal basis for coastal zone management planning, requires the State to take all reasonable steps to insure the integrity of its policies when they conflict with Federal activities.

In December 1975 a revised local master plan was submitted, the State resolved its differences with the Navy over construction of the pier, and the Corps issued the section 10 permit. Although the construction contract for this \$14.7 million project has been awarded, Corps and Navy officials said private parties have filed suit to block construction on grounds of severe environmental damage.

#### Other potential conflicts

The Trident conflict, though eventually resolved, illustrates what may occur during implementation of State management programs. We believe this example shows that:

- State management programs can conflict with Federal activities, even those that occur primarily on federally owned lands.
- States will not hesitate to apply CZMA's Federal consistency provisions, as well as their own State authorities, when they believe Federal activities conflict with State interests.
- States want to play an active role in Federal decisions that affect their interests.
- Eventual resolution of these conflicts may have to come through the courts.

Similar conflicts could occur with other Federal programs. The problem is that, notwithstanding CZMA's Federal consistency provision, Federal agencies operate under a variety of laws for the most part passed independently of one another. Because CZMA does not supersede or modify existing legislation or affect other congressional or executive mandates, Federal agency activities will not always be consistent with State management programs. For instance, the Corps of Engineers could not comply with State coastal zone management regulations that are contrary to or less restrictive than Corps policies and regulations based on other Federal legislation.



Examples of other sources of potential conflict are:

<u>Program</u>	<u>Affected agencies</u>
Fish and Wildlife Coordination Act	Fish and Wildlife Service, Department of the Interior National Marine Fisheries Service, NOAA Corps of Engineers
Flood Disaster Protection Act of 1973	Department of Housing and Urban Development
Deepwater Port Act of 1975	Department of Transportation Adjacent coastal States
Columbia River Basin Treaty (1961), Federal Columbia River Power System	Bonneville Power Administration
Boundary Waters Treaty (1909)	International Joint Commission, United States and Canada Corps of Engineers

### RESOLVING FEDERAL-STATE CONFLICTS

In the event of a serious disagreement between a Federal agency and a State regarding the State's management program, the Secretary of Commerce, with the cooperation of the Executive Office of the President, is required to mediate.

If the mediation attempt is unsuccessful, the Secretary may determine, after giving both parties a chance to comment, that an activity is consistent with an approved management program or is otherwise necessary in the interest of national security.

### CONCLUSIONS

Conflicts will arise between Federal activities and State management programs, as the OCS controversy and the Trident examples indicate. The mediation provisions may not successfully resolve these conflicts.

Many States view the consistency provision as one of the more attractive sections, if not the principal incentive, of the act. The authority of the Secretary of Commerce to determine that an activity is consistent with an approved management program or is necessary in the interest of national security may invite opposition from various States. States could oppose such a determination by taking legal action through the courts. This would result in additional delays. States could also express their opposition by withdrawing from the Coastal Zone Management Program.

The pros and cons of the consistency provision should be carefully considered before any action is taken. This has been recognized by members of both the House and Senate. During the deliberations by the Committee on Conference on the Coastal Zone Management Act Amendments of 1976, a number of questions about the advisability and workability of the present consistency provision were raised. The conferees determined that the consistency provision will be the subject of indepth oversight hearings on the Coastal Zone Management Program in the next Congress.

#### AGENCY COMMENTS

The Secretary of Commerce agreed that the Federal consistency issue is critically important. In his view, a principal objective of CZMA is to create a process whereby State, Federal, and local decisionmaking concerning the protection and use of coastal resources is brought into closer harmony. He added that achieving this goal will not be easy--conflicts will undoubtedly continue. Yet he felt that Federal consistency remains the principal incentive of the program for many coastal States and that it will be a key factor in continued State participation.

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## United States Senate

COMMITTEE ON COMMERCE  
 WASHINGTON, D.C. 20510

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B-145099

July 25, 1975

The Honorable Elmer O. Staats  
 Comptroller General of the United States  
 Washington, D.C.

Dear Mr. Staats:

As you know, the Congress enacted the Coastal Zone Management Act (P.L. 92-583) on October 27, 1972. The Act contains four policy directives with regard to the nation's coastal zone:

"to preserve, protect and develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development;

"for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title; and

"to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs."

The Commerce Committee, through its normal oversight jurisdiction and through the special mandate of Senate Resolution 222, which created the National Ocean Policy Study, is particularly interested in the progress being made by the coastal States and the National Oceanic and Atmospheric Administration (NOAA) in implementing the Act. It is, of course, too early in the life

of the coastal zone management program for a definitive assessment of fully-developed or approved State programs. Although all 30 eligible States and three of the four eligible territories are participating in the program by receiving grants under section 305 of the Act, none has reached the point of receiving the approval of the Secretary of Commerce for a program in place. Nonetheless, the Committee believes it is important to have an appraisal of the progress being made toward meeting the Act's four policy objectives. The Committee understands the General Accounting Office is conducting a preliminary investigation of the Coastal Zone Management Act as administered by NOAA.

Some specific questions the Committee would like the General Accounting Office to address are:


1. Are the participating States and territories, in your general view, making satisfactory progress toward development and eventual implementation of coastal zone management programs in accord with the goals and policies of the Act?
2. What has been the nature of NOAA's assistance (other than monetary assistance) to the States? Is communication between NOAA and the States satisfactory? Are there special needs of the States which NOAA has not been able to meet, and if so, why not? What are your recommendations, if any, for improving communications between NOAA and the States?
3. Has there been adequate communication between the participating States and the Federal agencies (other than NOAA) whose actions and programs affect the coastal zone? Are the States and the Federal agencies working together toward implementation of section 307 (the "Federal consistency section") of the Act?
4. How are States coping with special challenges and pressures relating to coastal zone management, such as the development of Outer Continental Shelf oil and natural gas?
5. How many of the participating States are responding to a dual mandate for coastal zone management, originating in State legislation as well as the Coastal Zone Management Act? Are there special problems associated with the integration of the two? What are GAO's recommendations, if any, for better coordination between State and Federal mandates?

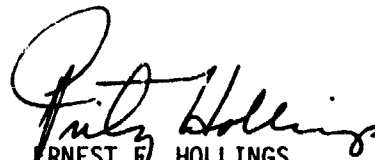
6. What is the prognosis for continued participation of the States in the coastal zone management program through the development of individual programs, approval of the programs by the Secretary of Commerce, and implementation of the approved programs? When can the States be expected to be ready for Secretarial approval and implementation grants?
7. Are the States meeting the requirement of the Act for public participation, as well as the participation of all levels of government?
8. What are the States doing to develop an administrative apparatus to implement their coastal zone management programs? Will primary emphasis be on local, regional or State-wide agencies, or a combination of these?
9. Are amendments to the Act needed, and if so, what are GAO's recommendations for such amendments?

In light of the wide variety of experiences in the participating States and territories, the Committee suggests that GAO take only a broad look at all the participants, and look with greater detail at the experiences of a representative group of States from the Atlantic, Pacific, Gulf and Great Lakes coasts.

If possible, the Committee would like to receive your report by July 1, 1976. Your report will be most useful to the Committee and the Congress. (Please direct the report to the Congress as a whole.)

Sincerely,

  
WARREN G. MAGNUSON  
Chairman

  
ERNEST F. HOLLINGS  
Chairman, National Ocean  
Policy Study

U. S. GENERAL ACCOUNTING OFFICE  
 SURVEY OF STATES, POSSESSIONS AND TERRITORIES  
 PARTICIPATING IN THE COASTAL ZONE MANAGEMENT PROGRAM (CZM)

INSTRUCTIONS:

The purpose of this questionnaire is to assess the progress States (territories and possessions) are making in their Coastal Zone Management (CZM). We are also interested in identifying potential strong points as well as potential problem areas in the total program.

Please read the following questions carefully and answer each one as frankly and completely as possible. The questionnaire should be completed by a person who is knowledgeable of your State's CZM program, past and present interactions with the Office of Coastal Zone Management and interactions with other relevant Federal agencies. However, where necessary, the respondent is encouraged to seek the assistance of other State officials should they be better qualified to answer in certain areas.

Please feel free to add any additional comments you may have in the space provided at the end of this questionnaire.

I. GENERAL INFORMATION

1. Approximately how many years has your State been involved in CZM planning? (Check one.)

- Less than 1 year
- 1 - 3 years
- 4 - 6 years
- 7 - 10 years
- More than 10 years

2. What was the primary authority that caused your State to begin CZM planning? (Check one.)

- Some form of State executive order
- Special purpose State legislation (A Shorelands Act, Wetlands Act, or Coastal Area Facilities Review Act, etc.)
- Comprehensive State CZM legislation
- Funding under the CZM Act of 1972
- Other (please specify) \_\_\_\_\_

3. In which, if any, of the following areas are there serious conflicts between the CZM Act and current State legislative acts? (Check all that apply.)

- Industry and commerce, including harvesting of fish, shellfish, and other marine resources
- Residential development
- Agricultural uses
- Recreational uses
- Extraction of mineral resources, fossil fuels, and outer continental shelf oil and gas development
- Energy production and transmission facilities
- Transportation, navigation, and associated port facilities
- Waste disposal
- Ecological, cultural, historic and esthetic uses
- None
- Other (please specify) \_\_\_\_\_

4. Will your State's CZM plan be completed in time (including all required internal State reviews) to prevent serious, uncontrolled coastal development? (Check one.)

- Definitely yes
- Probably yes
- Undecided
- Probably no
- Definitely no

5. To what degree will your State complete its plan in the three years provided for in the 1972 CZM Act? (Check one.)

- 0 - 20% complete
- 21 - 40% complete
- 41 - 60% complete
- 61 - 80% complete
- 81 - 100% complete

6. How would you rate the adequacy of the Federal funds provided under Section 305 for planning an effective CZM program for your State? (Check one.)

- Significantly more than adequate
- Somewhat more than adequate
- Adequate
- Somewhat less than adequate
- Significantly less than adequate

If you checked either somewhat or significantly less than adequate, please enter the dollar amount of Federal funds that would be adequate to complete your State plan.

\$ \_\_\_\_\_

7. What is the prognosis for your State's continued participation in the CZM program? (Check one.)

- Excellent
- Good
- Fair
- Poor
- Don't know

8. If the prognosis is not at least good, what would prevent continued participation? (Check one.)

- State budgetary constraints
- Inability to meet Federal requirements (Please identify in "other" below.)
- Inability to meet 3-year time frame
- Other (please specify) \_\_\_\_\_

II. STATUS OF CZM PROGRAM

9. To date, approximately what percentage of your plan is completed under Section 305 of the CZM Act (Program Development). (Check one.)

- 0 - 20%
- 21 - 40%
- 41 - 60%
- 61 - 80%
- 81 - 100%

10. Approximately when do you (or did you) anticipate submitting plans for approval of your State's Coastal Zone Management program? (Check one.)

FY75		FY76		FY77		FY78		FY79	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other (please specify) \_\_\_\_\_

11. Which of the following, if any, will your State's CZM plan include concerning the siting of energy production and transmission facilities? (Check all that apply.)

- Either limited or no energy production and transmission facilities are required
- No consideration to date, but some will be required in the future
- Identification of energy facility siting requirements considering future demands
- Impact studies
- Related coastal zone research
- Interstate consultation and/or cooperation
- Other (please specify) \_\_\_\_\_

12. What, if any, special CZM problems has your State experienced? (Check all that apply.)

- No problems have been experienced
- Long coastline
- Depressed fishing industry
- Land development pressures
- Existing water and/or air pollution problems
- Conflicts between commercial and sport fishing interests
- Energy facility siting
- Interstate cooperation
- Other (please specify) \_\_\_\_\_

13. Which of the following activities are: (a) included in your coastal zone plans, (b) currently in process, and (c) completed as of this date? (Check one box for each row that best indicates your current status.)

	No Plans to date	Planned	In process	Completed to date
a) Coastal Zone boundary determination				
b) Resource inventories				
c) Guideline development for local planning agencies				
d) Determination of critical areas of concern				
e) Establishment of permit boundaries				
f) Development of institutional arrangements and legislation				
g) Development of public participation program				
h) Coordinative efforts with Federal interstate, regional and local governments				
i) Other (please specify)				
_____				
_____				

14. In which of the following ways, if any, is the public encouraged to participate in the development of your State's CZM program? (Check all that apply.)

- Public attendance is encouraged at open public meetings
- The program's progress/problems are publicized and written public comments are encouraged
- Meetings are conducted with Special interests groups
- The public has not yet been encouraged to participate
- Other (please specify) \_\_\_\_\_

III. OFFICE OF COASTAL ZONE MANAGEMENT ASSISTANCE

15. To what extent has the Office of Coastal Zone Management (OCZM) been of assistance in each of the following areas? (Check one box for each item.)

	Little or not at all	To a small extent	To a moderate extent	To a substantial extent	No basis to judge
a) Providing technical program guidelines					
b) Making known and available relevant technical papers					
c) Processing of grant applications					
d) Keeping your State informed of the progress/problems of other States					
e) Providing guidelines for interstate coordination					
f) Providing guidelines for interfacing with OCZM					
g) Providing guidelines for coordination with other Federal agencies					
h) Assisting in the resolution of special problems					
i) Other (please specify)					
_____					
_____					

16. Of the assistance areas identified in the previous question, which three areas would increased assistance be most beneficial to your State? Please indicate areas of desirable increased assistance by placing the area letter from the previous question in the boxes provided below.

- Most beneficial increased assistance
- 2nd most beneficial increased assistance
- 3rd most beneficial increased assistance



17. Which, if any, of the following areas of special need, relevant to your State's program, has the OCZM been unable to meet when requested? (Check all that apply.)

- Extremely long coastline conditions
- Fishing industry problems
- Extreme weather conditions
- Land development pressures
- Water and/or air pollution problems
- Impact of off shore mineral and fossila fuel resources
- Other (please specify) \_\_\_\_\_

18. Would the OCZM regional coordinators have been more effective if they had been located in their respective regions instead of centralized in the Washington, D. C. area? (Check one.)

- Definitely no
- Probably no
- Undecided
- Probably yes
- Definitely yes

19. How satisfied or dissatisfied has your State been with the assistance received from OCZM in the resolution of conflicts, if any, between your State and Federal agencies? (Check one.)

- No basis to judge, no conflicts encountered to date
- Very satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Very dissatisfied
- Other (please comment) \_\_\_\_\_

IV. COORDINATION WITH FEDERAL AGENCIES, AND STATE, LOCAL AND/OR REGIONAL GOVERNMENTS

20. How did (or do) you first become aware of Federal installations or programs that could affect your State's coastal zone? (Check one.)

- Through various news media
- Through the Federal Register
- Through OCZM
- Through contacts with other Federal agencies
- Through State agencies or regional councils
- Other (please specify) \_\_\_\_\_

21. Did (or does) your State have sufficient time to make meaningful input to the Federal program development process? (Check one.)

- Completely inadequate
- Slightly less than adequate
- Just about right
- Slightly more than adequate
- Much more than needed

22. What is your State's impression about the extent to which your views were considered by those responsible for Federal activities? (Check one.)

- Very little consideration, if any
- Some consideration, but not enough
- An appropriate amount of consideration
- Too much consideration
- No basis to judge

23. Indicate your State's satisfaction/dissatisfaction with the interfaces or contacts you experienced with each of the Federal agencies/departments listed below during the development of your State's CZM program. (Check one box for each agency.)

	Very satisfied	Somewhat satisfied	Neither satisfied nor dissatisfied	Somewhat dissatisfied	Very dissatisfied	No identifiable interest in the coastal zone	No. yet contacted
<b>-DEPARTMENT OF THE INTERIOR</b>							
1. Bureau of Indian Affairs							
2. Bureau of Land Management							
3. Bureau of Outdoor Recreation							
4. Bureau of Reclamation							
5. Fish and Wildlife Service							
6. National Park Service							
7. U. S. Geological Survey							
<b>-DEPARTMENT OF DEFENSE</b>							
8. Army Corps of Engineers							
9. Navy facilities Engineering Command							
10. U. S. Air Force Installations							
11. U. S. Army Installations							
12. U. S. Naval Districts							
<b>-DEPARTMENT OF TRANSPORTATION</b>							
13. Federal Aviation Administration							
14. Federal Highway Administration							
15. U. S. Coast Guard Administration							
16. Urban Mass Transit Administration							
<b>-DEPARTMENT OF AGRICULTURE</b>							
17. Soil Conservation Service							
18. U. S. Forest Service							
<b>-DEPARTMENT OF COMMERCE</b>							
19. Maritime Administration							
20. National Marine Fisheries Service							
<b>-DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b>							
21. Office of Planning and Community Development							
<b>-GENERAL SERVICES ADMINISTRATION</b>							
<b>-ENVIRONMENTAL PROTECTION AGENCY</b>							
<b>-FEDERAL ENERGY ADMINISTRATION</b>							
<b>-FEDERAL POWER COMMISSION</b>							
<b>-NUCLEAR REGULATORY COMMISSION</b>							
<b>-OTHER (please specify)</b>							

24. Please identify (a) the two Federal agencies your State has been most dissatisfied with and, (b) the two Federal agencies your State has been most satisfied with and briefly explain why in each case. Indicate the agencies by placing the appropriate numbers of the agencies given in the previous questions in the boxes below.

(a) DISSATISFIED

Most dissatisfied with. Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2nd Most dissatisfied with. Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) SATISFIED

Most satisfied with. Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2nd Most satisfied with. Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

25. In general, for all the Federal agencies your State contacted, how would you rate the amount of contact? (Check one.)

- Considerably more contact than should have been required
- More contact than should have been required
- Just about the right amount of contact
- Less contact than should have been required
- Considerably less contact than should have been required

26. In general, how would you rate the timeliness of the Federal agencies' responses to your contacts? (Check one.)

- Very good  OK (adequate)
- Good  Poor
- Very poor

27. In general, how beneficial to the development of your CZM program were your contacts with Federal agencies? (Check one.)

- Little or no benefit
- Slight benefit
- Moderate benefit
- Major benefit
- Extreme benefit

28. In general, what effects, if any, did contacts with Federal agencies have in terms of the time required to develop your CZM program? (Check one.)

- Major decrease
- Moderate decrease
- No effect
- Moderate increase
- Major increase

29. Which, if any, of the following areas have been considered in terms of the National interest in your State's coastal zone? (Check all that apply.)

- The identification of facilities of National interest in the coastal zone
- Setting priorities for tradeoffs between State and National interests
- Coordination of plans with relevant Federal agencies
- Coordination of plans with adjacent States
- Coordination of plans with local interest groups
- No consideration has yet been given to this area
- Other (please specify) \_\_\_\_\_

30. In which of the following ways could Federal agencies other than OCZM be helpful to the States in identifying areas of National Interest? (Check all that apply.)
- setting priorities within individual agencies
  - Coordinating and trading-off priorities between agencies
  - Conducting public hearings
  - Publicizing their progress and problems (i.e., supplying data regarding future Federal plans for the coastal zone)
  - Meeting only with the States, possessions and territories eligible to receive CZM grants
  - Other (please specify) \_\_\_\_\_
31. What, if anything, is your State planning to do under your CZM program considering the development of Outer Continental Shelf Oil and natural gas?
- Nothing, no oil or gas resources have been identified off our coast
  - Undecided to date
  - State is conducting or planning to conduct impact studies
  - State is either using or planning to use Federal funds to conduct impact studies
  - State is attempting to block further development of off shore oil and gas
  - Other (please specify) \_\_\_\_\_
32. In which, if any, of the following ways are representatives of local and/or regional governments participating in your CZM program? (Check all that apply.)
- Representatives are included in the program's policy-making body
  - Representatives serve on a local government advisory committee
  - Representatives participate in local-State intergovernmental personnel exchanges
  - Representatives provide informal input to program
  - Representatives prepare or portions of local CZM programs for consolidation at the State level
  - Representatives will assist in implementation functions
  - Local and/or regional governments will have overall responsibility for program implementation
33. How does your State propose to implement its CZM program? (Check one.)
- Through a statewide agency
  - Through a statewide agency with regional and/or local participation
  - Through regional agencies with the state having oversight responsibilities
  - Implementation machinery not yet decided upon
  - Other (please specify) \_\_\_\_\_
34. Has your State attempted to coordinate its CZM program with neighboring States? (Check one.)
- Yes
  - No
- If no, please skip to question 36.
35. How would you rate the success of your inter-state coordination efforts? (Check one.)
- Very successful
  - Somewhat successful
  - Undecided
  - Somewhat unsuccessful
  - Very unsuccessful

V. POTENTIAL PROBLEMS WITH CZM PROGRAMS

36. Several potential CZM program problem areas are listed below. Indicate to what degree your State is experiencing each of these potential problems. (Check one box for each problem area.)

	Little or no problem	Somewhat of a moderate problem	Somewhat of a serious problem	Serious problem	No basis to judge
1. Obtaining State funding					
2. Definition of boundaries					
3. Definition of permissible uses					
4. Priority of uses					
5. Designation of areas of particular concern					
6. Designation of areas for preservation/restoration					
7. Requirements for establishing estuarine sanctuaries					
8. Requirements for public participation					
9. Working with local/regional governments					
10. Working with Federal agencies					
11. Consideration of National interest					
12. Obtaining necessary authorities for control					
13. Planning for and establishment of implementation machinery					
14. Air and water pollution control requirements					
15. Other area (please specify) _____ _____ _____ _____					

37. For the problems you identified (if any) in the previous question, please select the two areas you consider to be most significant and briefly provide any explanations and/or solutions that you believe would help alleviate these problems in the future. Please indicate each problem area by placing the number associated with it in the previous question in the boxes provided below.

Most significant problem. Solution:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Second most significant problem. Solution:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

38. What recommendations or specific amendments, if any, should Congress consider in order to improve the CZM Act? (Briefly describe any recommendations in the space provided below.)

APPENDIX I I

APPENDIX I I

39. Who is the State official completing this questionnaire?

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

PHONE NO. \_\_\_\_\_  
(Area Code) (Number)

VI. ADDITIONAL COMMENTS

40. If you have any additional comments on any of the questions or related points or topics not covered, please write your comments in the space below. Your views are greatly appreciated. Thank you.

ANALYSIS OF RESPONSE TO QUESTIONNAIRE

As part of our review of the Coastal Zone Management Act, we gave the 34 States and territories eligible to participate in the program a chance to make their views known. A questionnaire was developed and sent to these entities asking for their opinions on such matters as the nature of Office of Coastal Zone Management assistance, their progress toward meeting coastal zone program goals, and their experience in dealing with Federal or other levels of government. Two recipients did not complete the questionnaire; one said it did not have a coastal zone program, the other reported that its program had been temporarily discontinued. Another recipient did not return a questionnaire. Thus, our survey is based on 31 (97 percent) of those entities having coastal zone programs.

Our survey showed that, for the most part, States and territories:

- Are optimistic about completing their planning on schedule, but 68 percent of the plans were less than half complete at the time of our survey.
- Plan to continue participating in the coastal zone program.
- Have not determined how they will implement their coastal zone program.
- Say they have been successful in obtaining participation in their program by the public, local and regional governments, and other States.
- Are satisfied with the nonfinancial assistance they receive from OCZM, but would like to see any increased assistance be provided in specific problem areas.
- Have recognized the importance of Outer Continental Shelf resources and are making or planning to make impact studies before deciding on the action they should take.
- Reported few conflicts between State legislation and the Coastal Zone Management Act.
- Desire greater coordination from Federal agencies with a continuing interest in the coastal zone.

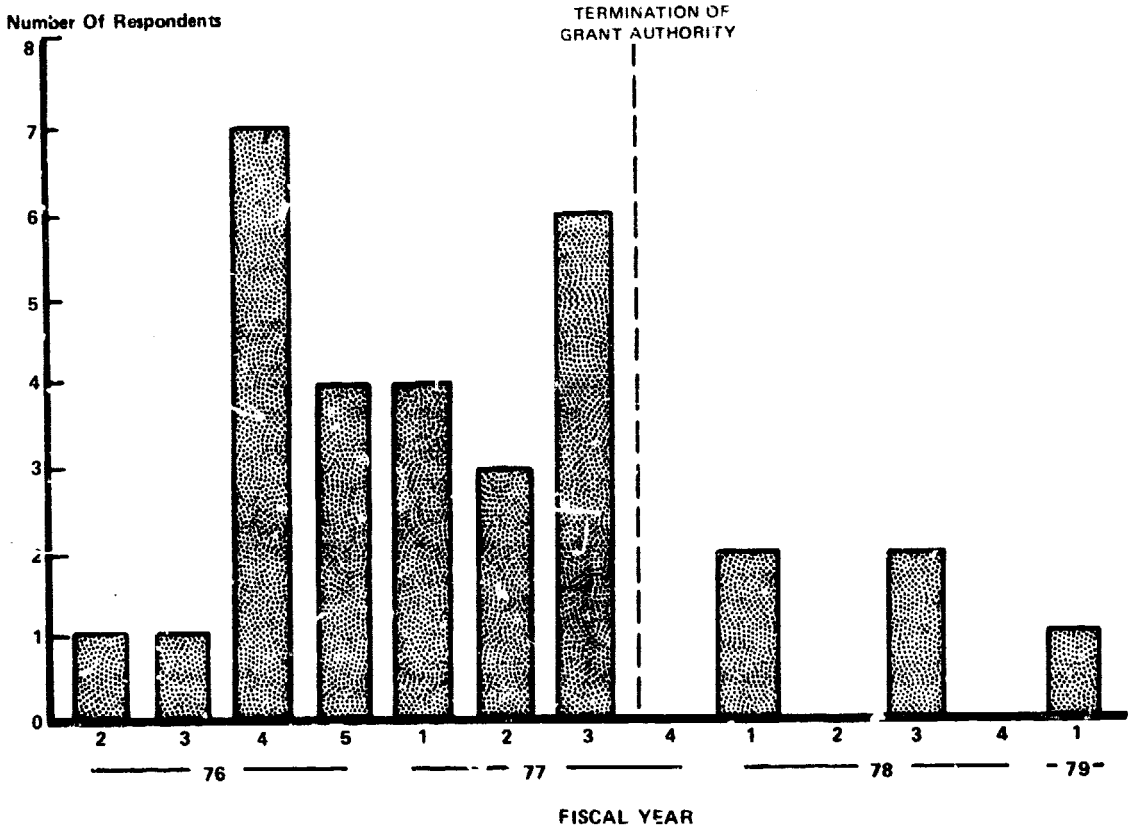
- Believe that the most important potential problems facing coastal zone management are getting authorities for control and the consideration of national interest; they see educational programs and definition of national interest as possible solutions to these and other problems.
- Desire that the Coastal Zone Management Act be amended to provide for increased Federal funding of both general- and special-purpose features of the program as well as increased time for completing the program.

#### PROGRESS IN DEVELOPING MANAGEMENT PLANS

Overall, the States and territories responding to our questionnaire said they would finish developing their coastal zone plans within the 3-year period provided in the act. For example, 25 (81 percent) said they will have completed most of their planning efforts within that period.

A detailed examination of the responses indicates that the States and territories may be overly optimistic in appraising their ability to finish planning their programs on time. At the time of our review, 21 (68 percent) of the respondents reported that the planning phase of their program was less than 40 percent complete. When asked when they expected to submit their plans for approval, 5 respondents (16 percent) estimated dates after June 30, 1977--when grant authorization for the planning phase of the program is to terminate. (Subsequently extended to September 30, 1980, by the 1976 amendments to the act.) One respondent said its plan would not be ready until about December 1978. The schedule for completing these plans was as follows:





An examination of specific issues shows certain areas that appear to cause problems. For example, 12 (39 percent) respondents reported that they had not started work on establishing permit boundaries. The results of our questions about progress on these issues are presented below.

	Status			
	No plan to date	Plan to include	In process	Complete
Coastal zone boundary determination	-	3	20	8
Resource inventories	-	1	25	5
Guideline development for local planning agencies (note a)	4	7	14	4
Determination of critical areas of concern	-	3	24	4
Establishment of permit boundaries (note b)	4	8	12	6
Development of institutional arrangements and legislation	3	6	20	2
Development of public participation program	-	-	28	3
Coordinative efforts with Federal, interstate, regional and local governments (note b)	-	1	29	-

a/Two respondents did not answer this question.

b/One respondent did not answer this question.

As shown above, many areas that must be addressed in the plans before they are approved have yet to be considered. Others have been considered only to the extent that the respondent recognizes them as necessary parts of the final plan. If problems are encountered in these areas, the submission of plans could be delayed longer than the States and territories anticipated at the time of our survey.

Lack of funds may also delay the submission of plans for approval. Although most respondents reported that planning funds were adequate, 13 (42 percent) regarded funding as less than adequate. Of these, 11 said they would need a total of about \$9 million to complete their planning.

#### ASSESSMENT OF FUTURE PARTICIPATION IN THE COASTAL ZONE MANAGEMENT PROGRAM

Most respondents to our questionnaire saw the chances of continued program participation as good or excellent. Only four (13 percent) saw their chances of continued participation as fair. No respondent rated its chances of continued participation as poor, although two States said they did not have a coastal zone program.

#### PROGRAM IMPLEMENTATION PROCEDURES

Seventeen (55 percent) of the respondents said that the process for implementing the plan had not been determined. Of the 13 respondents who had decided on an implementation procedure, 9 (69 percent) said they would use a statewide agency with regional or local participation. The other four indicated that their plans would be implemented through a statewide agency. One respondent's plan is to be implemented through local governments.

#### PARTICIPATION IN DEVELOPING THE COASTAL ZONE MANAGEMENT PLAN BY THE PUBLIC AND LOCAL AND REGIONAL GOVERNMENTS

The Coastal Zone Management Act requires that, before approving a program, the Secretary of Commerce shall determine that local governments, regional organizations, and other interested parties have been given an opportunity for full participation in program development. Our questionnaire survey indicated that

--public participation has been achieved through public meetings, requests for written comments on various program phases, and meetings with public interest groups;

--local and regional government participation is mostly in the form of informal input; and

--participation by other States and territories is frequently attempted and over half of the States report these efforts as being successful.

### Public participation

The methods used to encourage public participation in developing plans were as follows.

	<u>Number reporting</u>	<u>Percent</u>
Public attendance is encouraged at open public meetings	28	90
Program progress and problems are publicized and written public comments are encouraged	21	68
Meetings are held with special interest groups	29	94

Many respondents reported using other means to generate public participation in their planning process. These methods included (1) appointing private citizens to committees and other groups charged with developing or giving advice in the planning process and (2) using educational devices, such as TV programs, slide presentations, seminars, and questionnaires.

One respondent replied that public participation had not yet been encouraged, but would be later.

### Local and regional governments

The most frequent approach used to obtain local or regional government participation in coastal zone management was informal input. Only six respondents (19 percent) used local-State personnel exchanges, and only five (16 percent) said that participation would be in the form of overall responsibility for program implementation. Nineteen (61 percent) indicated that local or regional governments would assist in implementation.

Other ways local and regional governments were reported as participating in the development of these management programs included:

	<u>Number reporting</u>	<u>Percent</u>
Representation on program's policymaking body	12	39
Representation on advisory committees	15	48
Representation in the prepara- tion of all or portions of local programs for consolida- tion at the State level	16	52

### States

Twenty-three (74 percent) of the respondents said they had attempted to coordinate their coastal zone program with those of neighboring States. The responses to this question tended to vary by area of the country (for example, all eight States which reported that they had not attempted coordination were either in the Southeast or on the Pacific Coast. When asked to evaluate the success of their coordination efforts, 17 States (55 percent) assessed it as very or somewhat successful. Only one respondent rated attempts at coordination as being somewhat unsuccessful; none rated attempts at coordination as very unsuccessful. Five respondents (16 percent) were undecided as to how to rate their efforts and eight (26 percent) did not respond to the question. The Southeastern States reported their attempts at coordination as being less successful than the other areas.

### NATURE AND EXTENT OF OCZM'S NONFINANCIAL ASSISTANCE

To obtain opinions about OCZM activities, we asked respondents to examine a list of areas in which help might have been needed and to indicate how much assistance OCZM provided. The replies are shown on the following page.

	<u>Small or none</u>	<u>Moderate amount</u>	<u>Large amount</u>	<u>No basis to judge</u>
Providing technical program guidelines (note a)	6	12	12	-
Making known and available technical papers	2	7	22	-
Processing grant applications	2	2	27	-
Keeping State informed of progress and problems of other States	7	5	19	-
Providing guidelines for interfacing with OCZM	2	7	21	1
Providing guidelines for interstate coordination	11	12	5	3
Providing guidelines for coordination with other Federal agencies	4	10	17	-
Assisting in the resolution of special problems (note a)	5	4	18	3

a/One respondent did not answer the question.

We also asked respondents to indicate the three areas in which increased assistance would be most beneficial. Increased assistance was desired in

- providing technical program guidelines,
- keeping States informed of progress and problems of other States,
- providing guidelines for coordination with other Federal agencies, and
- assisting in the resolution of special problems.

As shown, most States and territories appear satisfied with assistance received from OCZM, although they expressed interest in receiving more assistance in certain areas. A comparison of areas in which more assistance was desired to areas that were considered satisfactory is revealing. The satisfactory areas tend to be procedural functions (for example, processing grant applications, making known and available relevant technical papers, providing guidelines for interstate coordination, and providing guidelines for

interfacing with OCZM). The areas in which increased assistance was desired are not dominated by grantee-grantor relationships. These areas require either (1) an indepth understanding of the specifics of a State's problems and progress or (2) the development of procedures which cover the entire Federal Government's relationship, agency by agency, to coastal zone management. A similar response was elicited when the respondents were asked to identify areas of special need for which OCZM was unable to provide assistance. The two major areas identified were land development pressures and the impact of offshore mineral and fuel resources.

We believe that coastal zone management is maturing, requiring a shift in focus by OCZM. In the early stages of the program, the agency's efforts predictably were directed at developing and implementing procedures necessary to create an overall management framework. Our review indicates that, in the future, general solutions should be de-emphasized in favor of solutions to specific problems.

PROGRESS OF STATES IN DEALING WITH  
OUTER CONTINENTAL SHELF RESOURCES AND  
ENERGY PRODUCTION AND TRANSMISSION FACILITIES

Most respondents recognize the importance of OCS resources and making or planning to make studies before determining how this potential problem should be addressed in their coastal zone management programs.

OCS resources

Of the 31 States and territories replying to our questionnaire, 6 (19 percent) said they did not have oil and gas resources off their coasts and hence would not address the subject in their final plan. One respondent said its plan calls for the orderly development of the onshore facilities based on the sites able to accommodate OCS activities, while another replied that it would like to study the problem but did not have enough funds to do so. Three respondents were undecided as to what they would do about planning relative to these resources. Fourteen (45 percent) said they were either making or planning to make impact studies of the potential problems.

Energy production and  
transmission facilities

All respondents indicated that energy production and transmission facilities would have to be addressed in their

programs. Three respondents said they had not yet considered this area. The following table shows the progress at the time of our review.

<u>Plan will include</u>	<u>Number of respondents</u>	<u>Percent</u>
Identification of energy facility siting requirements considering future demand	22	71
Impact studies	25	81
Related coastal zone research	15	48
Interstate consultation and/or cooperation	12	39

#### PROBLEMS IN RESPONDING TO BOTH FEDERAL AND STATE COASTAL ZONE MANAGEMENT LEGISLATION

The following shows the authority cited by each respondent as a basis for initiating coastal zone planning.

	<u>Number of respondents (note a)</u>	<u>Percent</u>
State executive order	4	13
Special-purpose State legislation	9	29
Comprehensive State legislation	4	13
Funding under Coastal Zone Management Act	13	42

a/One respondent did not answer the question.

The respondents reported few conflicts between State legislation and the act. For example, from a list of nine possible areas of conflict, only conflicts in industry and commerce, extraction of resources and transportation, and navigation and port facilities were cited by as many as three respondents as being problem areas.

#### COOPERATION FROM FEDERAL AGENCIES WITH COASTAL ZONE INTEREST

States and territories rate their dealings with Federal agencies favorably. However, most indicated dissatisfaction with both the time they have to make input into agency programs and the consideration their input receives. The vast majority of respondents feel that Federal agencies should do more to

- set priorities within their organizations and
- publicize and supply data regarding their future plans for the coastal zone.

### RELATIONS BETWEEN STATES AND FEDERAL AGENCIES

Each respondent was asked to examine a list of 26 Federal agencies and to indicate how satisfied it was with dealings it has had with them. The complexity of the situation facing the States in developing and coordinating their programs is evidenced by the fact that some contact was reported with every agency. (See app. IV.)

The number of States reporting contact with each agency varied. For example, only 6 respondents reported dealings with the Bureau of Indian Affairs whereas 30 reported dealings with the Corps of Engineers. The extent of involvement was great; more than half the respondents reported contact with 20 agencies.

For the most part, dealings with Federal agencies were characterized as satisfactory. When asked to identify the two agencies they were most dissatisfied with, respondents mentioned the Bureau of Land Management and the Corps of Engineers most frequently. Paradoxically, the Corps was also listed as one of the agencies some States were most satisfied with. The reasons given for the dissatisfaction can be grouped into three broad categories: the agency was not cooperative, it failed to recognize the respondent's need, or its administrative procedures caused problems.

We believe that, although not stated explicitly, other factors also contributed to the respondents' dissatisfaction. Of the respondents who answered questions about the time they had to provide input into Federal programs and the extent to which their views were considered:

- 16 (62 percent of the 26 who responded) judged the time as either inadequate or less than adequate.
- 14 (61 percent of the 23 who responded) believed their views received little or not enough consideration.

As might be expected, those respondents who felt they did not have enough time to make input were most likely to believe that their views received only minimal consideration.



When asked to identify agencies they were most satisfied with, respondents most frequently mentioned the Soil Conservation Service and the Corps of Engineers. Reasons given for selecting an agency as being most satisfactory to deal with included: the agency was cooperative, it provided information the respondent needed, and it recognized the respondent's problems.

#### STATES' CONCERNS ABOUT FEDERAL AGENCY COOPERATION

Most respondents would like the help they receive from Federal agencies to be better coordinated both within and among Government agencies. In this regard, 28 (90 percent) wanted more information regarding future plans for the coastal zone, 25 (81 percent) wanted priorities to be better set within agencies, and 16 (52 percent) saw a need for coordination and trade-off between the agencies at the Federal level.

#### POTENTIAL PROBLEMS WITH OCZM AND STATE-PROPOSED SOLUTIONS

From a list of 14 potential problems, we identified 7 that the States and territories were encountering at the time of our review.

- Obtaining State funding.
- Defining permissible uses in the coastal zone.
- Setting priorities for coastal zone uses.
- Determining requirements for establishing estuarine sanctuaries.
- Providing for considerations of national interest.
- Obtaining necessary authorities for coastal zone control.
- Planning for and establishing implementation machinery.

To better understand the importance respondents attach to these problems, we asked each respondent to identify its two most significant problems. Not every respondent answered this question, but 11 ranked obtaining necessary authorities for control as their first or second most significant problem. Other problems commonly cited by the respondents included providing for consideration of national interest and obtaining State funding.

When asked to suggest solutions to these and other problems, respondents most frequently suggested a need to

- develop educational programs for the public and for State legislatures,
- develop a better understanding of State problems at the Federal level,
- define "national interest," and
- find better ways of resolving conflicts between non-Federal governmental units.

Suggestions for changes in the act were basically directed at two areas: (1) increasing both general (increase Federal funding to 80 percent) and special project funding and (2) giving States more time to meet the act's requirements. The 1976 amendments to the act accomplished both these areas.

LIST OF INVOLVED FEDERAL AGENCIES

## DEPARTMENT OF THE INTERIOR:

Bureau of Indian Affairs  
Bureau of Land Management  
Bureau of Mines  
Bureau of Outdoor Recreation  
Bureau of Reclamation  
Fish and Wildlife Service  
National Park Service  
U.S. Geological Survey  
Public Power Administration

## DEPARTMENT OF DEFENSE:

Army Corps of Engineers  
Navy Facilities Engineering Command  
U.S. Air Force Installations  
U.S. Army Installations  
U.S. Naval Districts

## DEPARTMENT OF TRANSPORTATION:

Federal Aviation Administration  
Federal Highway Administration  
U.S. Coast Guard  
Urban Mass Transit Administration

## DEPARTMENT OF AGRICULTURE:

Soil Conservation Service  
U.S. Forest Service

## DEPARTMENT OF COMMERCE:

National Oceanic and Atmospheric Administration  
Maritime Administration

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT:

Office of Planning and Community Development

GENERAL SERVICES ADMINISTRATION

ENVIRONMENTAL PROTECTION AGENCY

FEDERAL ENERGY ADMINISTRATION

FEDERAL POWER COMMISSION

NUCLEAR REGULATORY COMMISSION

EXCERPTS FROM FORMAL REVIEW COMMENTS ON THE  
SUBMITTAL OF WASHINGTON'S PROGRAM IN MARCH 1975

The following is a series of excerpts from Federal agencies' review of Washington's March 1975 program submittal.

ASSISTANT SECRETARY OF DEFENSE

"In summary, we have no substantive comments to offer on the draft environmental impact statement, but we do strongly object to the final approval of the State plan at this time. \* \* \* We object to the approval of the plan primarily because national security interests were not adequately considered in the program development."

SECRETARY OF THE INTERIOR

"\* \* \* we would urge that approval to permit implementation not be granted at this time, and that a revised environmental statement covering the improved submission be circulated to give reviewers an opportunity for a more meaningful review. \* \* \* The State should modify the proposal to specifically recognize the expression of National interest and the importance of the Federal role in the natural resources activities."

ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION

"The Federal Energy Administration has reviewed the Washington Coastal Zone Management Program. Although the program has much to commend, its treatment of energy concerns is cursory. We recommend that it not be approved as submitted. \* \* \* FEA's principal reservation concerning Washington's proposed program is that it does not sufficiently evidence consideration of the National interest in energy facility siting in planning for uses of the coastal zone."

REGIONAL ADMINISTRATOR, REGION X,  
FEDERAL ENERGY ADMINISTRATION

"\* \* \* the program does not appear to sufficiently protect the national interest in the use of the coastal zone."

COMMANDANT, 13th NAVAL DISTRICT

"The program as represented by documents submitted, does not address significantly most of the Navy's concerns \* \* \* in view of these basic shortcomings, it is recommended that the Navy recommend against Department of Commerce approval of the State of Washington's Coastal Zone Management Program until conditions of approval are fully met, a resolution of Federal and local government policy is achieved and included in the program, and the Navy's serious concerns are adequately addressed, both in the program and the environmental assessment."

ADMINISTRATOR, BONNEVILLE POWER ADMINISTRATION

"We feel that the application should not be approved until the State of Washington develops a coastal zone management program in concert with all 'principally affected' federal agencies, including [Bonneville Power Administration] \* \* \*. It is recommended that the application not be approved until the program clearly reflects the state's intentions not to interfere with the role of the Federal Government in terms of managing the Federal Columbia River Power System (FCRPS)."

CHIEF OF STAFF, 13th COAST GUARD DISTRICT

"How will the term 'national interest' be defined \* \* \*. We feel that the proposed program is unacceptably general in that answers to the above questions are not apparent. Consequently, we can only recommend that the program not be approved until clarification is provided and any resulting conflicts are satisfactorily resolved."



UNITED STATES DEPARTMENT OF COMMERCE  
The Assistant Secretary for Administration  
Washington, D.C. 20230

June 23, 1976

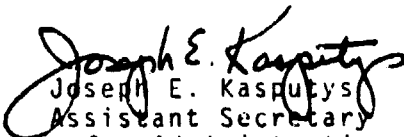
Mr. Victor L. Lowe  
Director, General Government Division  
U. S. General Accounting Office  
Washington, D. C. 20548

Dear Mr. Lowe:

This is in reply to your letter of May 7, 1976,  
requesting comments on the draft report entitled  
"The Coastal Zone Management Program - An Uncertain  
Future."

We have reviewed the enclosed comments of the  
Administrator, NOAA, and believe they are  
responsive to the matters discussed in the  
report.

Sincerely,

  
Joseph E. Kasputys  
Assistant Secretary  
for Administration

Enclosure

- GAO notes:
1. Page references in this appendix may not correspond to page numbers in the final report.
  2. Deleted material relates to matters omitted from the final report.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
Rockville, Md. 20852

June 14, 1976

Mr. Victor L. Lowe  
Director  
U. S. General Accounting Office  
General Government Division  
Washington, D. C. 20548

Dear Mr. Lowe:

The Department of Commerce appreciates the opportunity to comment on the draft GAO report concerning the coastal zone management program. The enclosed document contains comments which have been prepared by the National Oceanic and Atmospheric Administration and its Office of Coastal Zone Management. The comments fall into three categories: general comments; response to specific conclusions and recommendations; and factual or interpretational differences.

I trust that this information will prove useful to the General Accounting Office in the completion of the final report.

Sincerely,

*Robert M. White*  
Robert M. White  
Administrator

Enclosure

COMMENTS ON DRAFT GAO REPORT ON THE  
COASTAL ZONE MANAGEMENT PROGRAM

GENERAL COMMENTS

We agree with most of the findings contained in the draft report and believe that the recommendations do speak to the critical issues lying ahead for the coastal zone management program.

We most certainly agree with the conclusion that most states will require more than the three years authorized in the present legislation. We recognized this fact 18 months ago, in January 1975, when we began discussions with Congress on an appropriate amendment to Section 305 of the Coastal Zone Management Act to accomplish this purpose.

We are concerned, however, that the draft report does not adequately reflect one of the key factors accounting for the difficulty in implementing effective coastal zone management programs at the state level. It pertains to the radically changed situation between 1971-1972 and today. The political climate for programs perceived as environmental in their thrust and those which involve additional governmental intervention and regulation is much harsher today than when the Coastal Zone Management Act was passed four years ago. States with coastal zone legislation on the books at that time are now fighting to prevent repeal of that legislation. In no case has preexisting state coastal legislation been strengthened. Without doubt, passing new state coastal legislation today is a much more difficult task than the framers of the Coastal Zone Management Act of 1972 envisaged.

The need to adjust NOAA's limited resources to changing program conditions was seen by the Office of Coastal Zone Management (OCZM) during the summer of 1975, upon the completion of the first year's Federally funded effort by the coastal states. As a consequence, OCZM's philosophy, organization, and program were substantially changed between September and November of 1975. The draft report does not adequately acknowledge these changes in emphasis and strategy.



Finally, while the content of the draft report is generally accurate in reflecting both progress to date as well as the problems facing the coastal zone management program, the "catchy" title -- "The Coastal Zone Management Program - An Uncertain Future" -- sets a tone different from the report itself. We respectfully suggest the following alternatives:

"The Coastal Zone Management Program - Progress, Problems, and Potential" (or)

"The Coastal Zone Management Program - A Mid-Point Assessment" (or)

"The Coastal Zone Management Program - A Major Intergovernmental Challenge"

As a last general point, we would like to request that the detailed responses to the GAO questionnaire from individual states be made available to NOAA's Office of Coastal Zone Management. They feel that this information would be of significant value in directing the future course of the program.

#### RESPONSE TO SPECIFIC CONCLUSIONS AND RECOMMENDATIONS

Conclusions are contained at the end of Chapter Three on state participation (pages 48-50); Chapter Four on NOAA's assistance program (pages 63-65); Chapter Five on Federal participation (page 86); and Chapter Six on Federal consistency (page 96).

Specific recommendations are found on pages 64-65 at the conclusion of Chapter Five, concerning NOAA's assistance program.

Since both the conclusions contained in the body of the report and the specific recommendations are excerpted in the Digest (pages 1 and 2), our response is structured to parallel the format of the Digest.

First conclusion involving state program delays - We are in general agreement with the conclusion and with the factors cited. Adopting effective coastal zone management programs is a difficult task primarily because it affects strongly vested interests, both private and public. We believe that it will be most important to keep the incentives for state participation

in the program as meaningful as possible. These include an adequate level of Federal financial assistance and a commitment on the part of Federal agencies to consistency of their actions with approved state programs.

Second and Third Conclusions Involving Federal Agency Participation - We generally agree that Federal participation has been a problem. Indeed until the first draft state coastal zone management program was actually submitted for Federal approval (the State of Washington program in February 1975), it was difficult to attract the attention of other Federal agencies to the coastal zone management program. OCZM efforts in this regard, however, were rather more extensive than implied in the draft report (page 58). A comprehensive paper entitled, "State-Federal Interaction" was made available to all coastal states at a workshop in November of 1974, only eight months after the first state grants were given. It is certainly true, however, that the first two state coastal zone management programs to be proposed (the State of Washington and Maine), suffered from a lack of adequate Federal agency participation, but this could have been expected since both were based on existing state legislation developed and adopted prior to the Federal Coastal Zone Management Act. We concur in the conclusion that Federal agency response has been uneven and in many cases inadequate in the past. However, one point needs to be made. Until a state has developed its coastal zone management program to at least a certain minimum point, there is little useful to discuss with Federal agencies. In most states, the first year of effort, which ended in the summer of 1975, was required before their programs were sufficiently substantive to interact usefully with Federal agencies. We feel that a marked improvement has taken place within the last six months associated with the formal Federal review of the first three management programs (the State of Washington, the draft Oregon program, and the program for the San Francisco Bay Conservation and Development Commission), and the Federal approval of the first state program, that of the State of Washington on June 1, 1976.

Fourth Conclusion Concerning NOAA's Assistance Program - We agree with the major point that the nature of NOAA's assistance to the states must change as states progress in their program development. As mentioned in our general comments above, very major changes in NOAA's coastal zone management program took place in the fall of 1975. These included: (1) an OCZM reorganization to emphasize the office's major objective (that

of assisting states in the implementation of effective coastal zone management programs); (2) preparation of "threshold papers" more fully describing program approval criteria; (3) initiation of a substantial mid-point state evaluation effort including site visits, prior to third year funding; (4) the adoption of strict third year work program requirements; and (5) the initiation of a "focused" assistance program to provide states with tailored help on legal and institutional problems as well as technical problems. The reorganization referred to in (1) above had the effect of bringing more of OCZM's staff resources to bear on specific state problems. Also, at this time, Assistant Regional Coordinators were added to the staff to assist in meeting state needs. Finally, beginning in May of 1976, OCZM's "management by objectives" scheme was modified to include a quarterly reporting on the status of each state's program as it moves to complete its coastal management program. Included are estimates of extent to which certain key aspects of the states management program are completed (data acquisition and analysis, participation, formulation of substantive policies, and implementing mechanisms) as well as a schedule for submitting the draft and final management program for Federal review and approval.

Fifth Conclusion Dealing with Federal Consistency - We agree that the whole Federal consistency issue is a critically important one. In our view, one of the principle objectives of the Coastal Zone Management Act is to create a process whereby state, Federal, and local decision-making with respect to the protection and use of coastal resources is brought into closer harmony. Achieving this goal will not be easy -- conflicts will undoubtedly continue -- yet, Federal consistency remains the principal incentive in the program for many coastal states. We believe that state perception of the real value of Federal consistency will be one of the key factors in continued state participation in the program.

Concerning the first recommendation (State Authorities for Coastal Zone Management).

We agree that the most pressing issue for most states will be obtaining the necessary authorities for effective coastal zone management. We intend to accelerate still further our efforts to assist states in this regard. Five lawyers are now available within the Office of Coastal Zone Management to assist states in this regard (three were added within the last four months). Also, the threshold paper on "Authorities" is being revised and clarified as a result of extensive workshop discussions with states on this issue in April of 1976.

Concerning the second recommendation (Public and Government Participation).

We agree that full participation of the public, private, and governmental sectors is vitally important. In site visits to all of the coastal states, we have probed this aspect of their programs. Also, we are requesting that third year work programs include a fully adequate public participation element prior to providing the Federal grant. At our encouragement, the national Coastal Zone Management Advisory Committee has created a special task force for the purpose of assisting states in this particular area. Finally, two additional staff members are being hired by NOAA/OCZM to work with the states in improving their public participation, education, and information techniques.

Concerning the third recommendation (Federal Agency Participation).

We believe that the steps taken in November of 1974, February of 1975, and August of 1975, have substantially improved the situation. Also, more than anything else, the just completed very detailed Federal agency review of the State of Washington program (leading to its approval by NOAA on June 1, 1976) extending as it did, over a 15 month period, has served to underscore the importance of serious and timely Federal agency participation. Last month, OCZM distributed to coastal states a paper listing the most important Federal licenses and permits that should be considered as the state develops its Federal consistency processes. Within the next few weeks, a similar paper outlining the relevant Federal assistance programs for state consideration will be completed and disseminated.

Concerning the fourth recommendation (Information Exchange).

We agree with the recommendation. With a substantial flow of results and new information now emanating from state coastal zone management programs, we have recently installed a more formal scheme to record, annotate, and circulate the output from state program efforts. Also, we have developed a Regional Coastal Information Center concept and have provided funds to start the first of these, for the Great Lakes Region, in Ann Arbor, Michigan. In July, OCZM will complete and publish a comprehensive summary of the content and status of each state's coastal zone management effort. This will be the third issuance of such a state-by-state status report. Finally, OCZM has embarked upon a policy of holding periodic workshops

with state coastal zone management program leaders. One of the central purposes of these workshops is the exchange and sharing of information between states. These workshops are being held at six-monthly intervals, the last one was in April 1976 and the next is planned for September 1976.

Concerning the fifth recommendation (Management Program Approval Criteria).

We agree that having a clear understanding of the Federal approval criteria that will be applied to the states' coastal zone management programs is crucial to the success of the states' effort. The preparation of "threshold papers" on the seven key statutory elements of the criteria represented a major step in this direction. OCZM intends to refine, clarify, and reissue the threshold papers in final form within the next 30-45 days. To the extent that ambiguities or uncertainties remain, for example, with reference to the excluded Federal lands issue, additional policy papers will be issued as needed.

Concerning the sixth recommendation (Technical Assistance).

Again we agree that some additional effort is needed in this area as well. A substantial amount of fiscal '76 funding has recently been reprogrammed to allow an increase in this general area of OCZM's work. As a result, technical assistance efforts are now underway in the following areas: onshore impacts of offshore oil energy facility siting; ports and coastal zone management; natural hazards and coastal zone management; water use planning and management; the economic consequences of implementing coastal zone management programs; living marine resources and coastal zone management.

[See GAO note 2, p. 99]



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

June 10, 1976

Mr. Henry Eschwege  
Director, Community and Economic  
Development Division  
U.S. General Accounting Office  
Washington, D.C. 20548

Dear Mr. Eschwege:

We have reviewed your draft report to the Congress entitled "The Coastal Zone Management Program - An Uncertain Future."

The GAO has done a commendable job in stating the situation that currently exists vis-a-vis the coastal states and Federal agencies with regard to implementation of the Coastal Zone Management Act. We agree that the efforts to date by both states and Federal agencies have not been as effective as they might have been. Moreover, the report points out clearly the potential for problems and even conflicts with regard to Federal activities following approval of the states' coastal zone management programs.

The Department of the Interior generally concurs, subject to the exceptions noted in the attachment, to the first, second, third and fifth GAO conclusions noted in the Digest of the report. These findings deal with delayed state progress in implementing management programs, limited Federal participation in state planning, the partial Federal responsibility for poor participation and the existing and potential conflict between the Federal and state interests in developing the coastal zone.

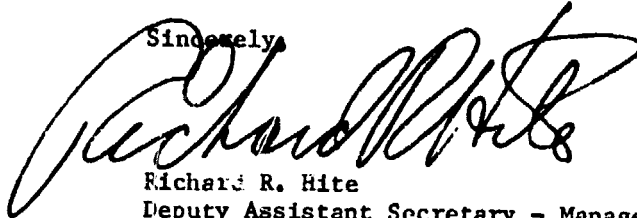
We defer to the Department of Commerce in commenting on the fourth conclusion which deals with NOAA's programs.

With regard to the six recommendations contained in the draft report, we also defer to the Department of Commerce. All of these recommendations are directed at NOAA actions to improve program operation and assistance to states.



Thank you for the opportunity to review and comment on your draft report. We are enclosing for your consideration suggested changes to clarify certain aspects of the report. We strongly recommend for your consideration suggestion 8. This item points out that the principal concern at the state level on OCS resource development is focused on policy differences, not the failure of the Federal Government to communicate.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Richard R. Hite". The signature is written in a cursive style with a large initial "R".

Richard R. Hite  
Deputy Assistant Secretary - Management

Enclosure



DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF OF ENGINEERS  
WASHINGTON, D.C. 20314

REPLY TO  
ATTENTION OF:

DAEN-CWP-P

July 26, 1976

Mr. Henry Eschwege  
Director, Resources and Economic  
Development Division  
United States General Accounting Office  
Washington, D.C. 20548

Dear Mr. Eschwege:

This is in response to your 11 May 1976 request to the Chief of Engineers for comments on portions of your draft report on Coastal Zone Management. You had furnished us with draft pages 66-97 concerning Federal participation and consistency.

Our comments on the draft report are limited to the civil works activities of the Corps as they relate to Coastal Zone Management. Any comments on the Corps' military activities would be provided by the Secretary of Defense in response to your request to him.

It appears that the draft report states the facts as they were understood at the end of 1975. Before the GAO report is finalized, it would be helpful to include the events that have occurred since the first draft was prepared.

The comments below are organized by state to parallel the presentation in the draft report. Then some general comments are offered that apply to the two draft chapters we have reviewed.

Maine

Regarding Corps coordination with Maine, as discussed in general or specific terms on pages 68, 74, 76, 77, 82, 84 and 87, we were first contacted in November 1974 through the New England River Basins Commission (NERBC). At the first meeting on 20 November 1974, we furnished booklets to Maine covering policies, activities, project descriptions and project maps. The limited items that we were asked to review, principally in outline form, were land-use oriented. They addressed the suitability of specific water areas for regional ports or small-boat harbors. We responded to Maine



and OCZM/NOAA by letter dated 15 December 1974 concerning three items: the items distributed at the meeting, the prime areas of interest by the Corps in the Maine CZM plan, plus the name of our CZM coordinator. As an allied matter, our request in the December letter for copies or summaries of five state environmental laws, around which the Maine CZM plan was drafted, was not answered.

The draft plan for the mid-coastal segment was distributed at the second NERBC-sponsored meeting on 25 March 1975. By brief interim telephone reply on 3 April 1975, our CZM coordinator indicated that the Maine draft plan did not comply with the WRC Principles and Standards. Our detailed letter response of 6 May 1975 suggested that additional evaluation was needed, such as national and regional economic considerations and studies, rather than reacting to proposals on a case-by-case basis. Maine's 9 May 1975 response suggested further meetings coordinated by NERBC; the meetings did not materialize. Other than a telephone request in October 1975 from Maine officials for deepwater port information, there has been no opportunity since March 1975 to review or participate in any portions of the Maine CZM plan.

The extent of CZM planning in Maine to date has been land-use oriented, and no water-resources perspective has been brought into the planning process. There has been, from the inception of CZM planning, a misunderstanding of what is meant by a joint State-Federal planning effort. No attempts were made by Maine to ask the Corps to participate in the early CZM planning efforts.

#### Washington

The draft report presents a true picture of the development of Washington's program. There is a commonality of approach as well as a commonality of omission. The problems of Federal agency participation in developing the various state's CZM programs is adequately discussed but specifics on good coordination between Federal agencies and states is lacking. The latter could provide examples of techniques that could be employed in developing Federal/state interrelationships in CZM.

The Corps of Engineers has been coordinating closely with Washington on coastal zone interrelationships since the Washington State Shoreline Management Act was passed in 1971; we began informal coordination on the Corps' role regarding the Coastal Zone Management Act with the Washington Department of Ecology in 1974. That department is responsible for developing the CZM program and was formally advised of the Corps' role in October 1974. In December of that year, Washington set up a Federal Agency Coastal Zone Management Advisory Committee to develop a Federal/state interrelationship.

The Seattle District represented the Corps of Engineers on this committee. The representative continues as the Corps' designated contact with Washington on CZM. This coordination has been mutually beneficial and especially effective in developing a working relationship regarding Corps and state permit procedures in the coastal zone.

#### California

Contrary to the statement on page 68 that Federal agencies are not doing their part relative to participation in state CZM program development, the Corps has provided timely and extensive review comments to California coastal zone management agencies commencing early in 1973 and continuing to this date. However, California agencies charged with developing CZM programs have chosen not to request major data inputs from the Corps, such as those data mentioned on page 68. As California Coastal Plan elements were developed and finalized, Corps comments often went unheeded without explanation from the California Coastal Zone Conservation Commission. We believe it fair to say the Corps actively participated in the development of the California Coastal Plan to the extent that the California Coastal Zone Conservation Commission heeded our comments.

#### Michigan

That portion of the draft report relating to Michigan accurately points out that only minimal contact has occurred between the State and the Corps. Apparently, Michigan intends to produce a draft CZM program and then solicit comments from the Federal agencies rather than require continuous impact from the Federal agencies.

On a regional basis, the Great Lakes Basin Commission, of which the Corps and Michigan are members, established a Standing Committee on Coastal Zone Management in February 1974. This committee is to resolve inter-state conflicts and to act in those instances where national interests in the coastal zone of the Great Lakes affect more than one state. The committee also published proceedings of the "Recession Rate Workshop" held in December 1974.

#### North Carolina

Throughout the draft report, implications and actual statements are made to the effect that the Corps has failed to make appropriate contact with the respective states concerning this CZM program. This is not the case in North Carolina.

The record of participation by the Corps with North Carolina in the management of coastal zone resources began with establishment of the North Carolina Marine Science Council in the late sixties and with successive Wilmington District Engineers appointed to serve on the council.

Liaison has been maintained since inception of the State's program on a recognized organizational level.

The two lists on page 68 supposedly outline the requisites for Federal participation so that the desired level of cooperation may be obtained. The Corps has met each of these criteria for the North Carolina program.

Working level meetings where specific problems are discussed and solutions developed should be discussed on page 79 along with the publicized mass-media approach. Such working meetings were taking place before the Southeastern Federal Regional Council meeting of December 1974 and have continued since that time.

#### Louisiana

The Louisiana Office of State Planning, administrator of the CZM Act for Louisiana, was formally notified in June 1975 that the New Orleans District has been designated as the lead office for coordination of Corps involvement and assistance to the state. The indications on pages 69 and 71 regarding points of contact do not seem appropriate.

[See GAO note 2, p. 113.]

#### General

The list of sources of potential conflict, page 95, should be revised to include the Water Resources Council's Principles and Standards and the affected Federal agencies involved in WRC.

OCAM/NOAA has drafted Federal consistency guidelines to meet the requirements of Section 307 of CZMA. We believe that pages 96 and 97 should be revised accordingly.

We note that the Corps of Engineers was cited as one of the first agencies to recognize its responsibilities under the CZM Act and to take action to assist the states. The sentence on page 86 which indicates that the Bureau of Land Management and the Corps of Engineers are the Federal agencies that the states are most dissatisfied with is not understood. No such dissatisfactions have been expressed to the Corps by the State Coastal Zone Agencies.

[See GAO note 2.]

The draft report stresses the need for all concerned Federal agencies to develop the coordination mechanisms and budget the time and funds necessary to meet their obligations. The Corps has established the necessary coordination mechanisms, and they are in operation. We shall attempt to obtain the funds required to meet fully our obligations.

We appreciate the opportunity to comment on your draft report.

Sincerely,

*Ernest Graves*

ERNEST GRAVES  
Major General, USA  
Director of Civil Works

- GAO notes: 1. Page references in this appendix may not correspond to page numbers in the final report.
2. Deleted material relates to matters omitted from the final report.

PRINCIPAL FEDERAL OFFICIALS  
RESPONSIBLE FOR ADMINISTERING  
ACTIVITIES DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>SECRETARY OF AGRICULTURE:</b>		
John A. Knebel	Oct. 1976	Present
Earl L. Butz	Dec. 1971	Oct. 1976
<b>SECRETARY OF COMMERCE:</b>		
Elliot L. Richardson	Feb. 1976	Present
Rogers C.B. Morton	May 1975	Feb. 1976
John K. Tabor (acting)	Mar. 1975	May 1975
Frederick B. Dent	Feb. 1973	Mar. 1975
Peter G. Peterson	Feb. 1972	Feb. 1973
<b>SECRETARY OF DEFENSE:</b>		
Donald Rumsfeld	Dec. 1975	Present
James R. Schlesinger	July 1973	Dec. 1975
William P. Clements, Jr.	Apr. 1973	July 1973
Elliot L. Richardson	Jan. 1973	Apr. 1973
Melvin R. Laird	Jan. 1969	Jan. 1973
<b>SECRETARY OF HOUSING AND URBAN DEVELOPMENT:</b>		
Carla A. Hills	Mar. 1975	Present
James T. Lynn	Feb. 1973	Mar. 1975
George W. Romney	Jan. 1969	Feb. 1973
<b>SECRETARY OF THE INTERIOR:</b>		
Thomas K. Kleppe	Oct. 1975	Present
Kent Frizzell (acting)	July 1975	Oct. 1975
Stanley K. Hathaway	June 1975	July 1975
Kent Frizzell (acting)	May 1975	June 1975
Rogers C.B. Morton	Jan. 1971	May 1975
<b>SECRETARY OF TRANSPORTATION:</b>		
William T. Coleman, Jr.	Mar. 1975	Present
John W. Barnum (acting)	Feb. 1975	Mar. 1975
Claude S. Brinegar	Feb. 1973	Feb. 1975
John A. Volpe	Jan. 1969	Feb. 1973

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>ADMINISTRATOR OF GENERAL SERVICES:</b>		
Jack Eckerd	Nov. 1975	Present
Arthur F. Sampson	June 1972	Nov. 1975
Roç Kreiger (acting)	Jan. 1972	June 1972
<b>ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY:</b>		
Russell E. Train	Sept. 1973	Present
John R. Quarles, Jr. (acting)	Aug. 1973	Sept. 1973
Robert W. Fri (acting)	Apr. 1973	Aug. 1973
William D. Ruckelshaus	Dec. 1970	Apr. 1973
<b>ADMINISTRATOR, FEDERAL ENERGY ADMINISTRATION (note a):</b>		
Frank G. Zarb	Dec. 1974	Present
John C. Sawhill	May 1974	Dec. 1974
William E. Simon	Dec. 1973	May 1974
<b>CHAIRMAN, FEDERAL POWER COMMISSION:</b>		
Richard L. Dunham	Oct. 1975	Present
John N. Nassikas	Aug. 1969	Oct. 1975
<b>CHAIRMAN, NUCLEAR REGULATORY COMMISSION (note b):</b>		
William A. Anders	Jan. 1975	Present
<b>CHAIRMAN, ATOMIC ENERGY COMMISSION (note b):</b>		
Dixy Lee Ray	Feb. 1973	Jan. 1975
James R. Schlesinger	Aug. 1971	Feb. 1973

a/Before June 28, 1974, was the Federal Energy Office.

b/The Energy Reorganization Act of 1974 (Public Law 93-438), effective January 19, 1975, discontinued the Atomic Energy Commission and created the Nuclear Regulatory Commission.