

MEMORANDUM FOR: State and Territory Coastal Management
Program Managers

FROM: Jeffrey R. Benoit
Director

SUBJECT: Final Program Change Guidance

Attached is the Office of Ocean and Coastal Resource Management's ("OCRM") Final Program Change Guidance. Over the years OCRM has provided guidance on requirements and submission procedures for changes made to federally approved state and territory coastal management programs ("CMPs"). The program change guidance attached to this memorandum consolidates and replaces all previous program change guidance. A draft of this guidance was sent to state and territory coastal management program managers on March 6, 1996. Seven states submitted comments, most of which supported the draft guidance. All issues raised by the commenters were discussed with the relevant states and resolved or addressed through changes in the final guidance.

The Program Change Guidance clarifies information and procedural requirements for program change requests. The focus of the guidance is to explain the difference between procedures for the two types of program changes: routine program changes and program amendments. The guidance also explains a recent update of the program change regulations. See 61 Fed. Reg. 33801-33819 (1996) (to be codified at 15 C.F.R. part 923). In that update, OCRM replaced the four criteria by which program change requests are evaluated with a reference to the five program approvability areas addressed in the program development regulations: (1) uses subject to management, (2) special management areas, (3) boundaries, (4) authorities and organization, and (5) coordination, public involvement and national interest.

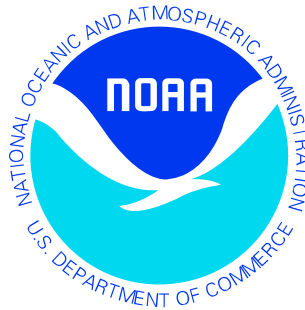
Please contact David Kaiser, Federal Consistency Coordinator, OCRM, at (301) 713-3098, x 144, if you have any questions on the program change guidance.

Attachment

Program Change Guidance

The Coastal Zone Management Act and Changes to
State and Territory Coastal Management Programs

July 1996



Office of Ocean and Coastal Resource Management

National Oceanic and Atmospheric Administration Program Change Guidance:

The Coastal Zone Management Act and Changes to State and Territory Coastal Management Programs

July 1996

Contents:

- I. Introduction.....1
- II. General Information on Program Change Submissions.....2
 - A. Definition of Program Change.....2
 - B. Types of Program Changes.....4
 - 1. Amendment.....4
 - 2. Routine Program Change.....4
 - 3. Amendment or RPC: When is a program change "substantial".....4
 - C. General Procedural Guidance.....6
 - 1. Early consultation with OCRM6
 - 2. Submitting program changes in a timely manner....7
 - 3. Submitting complete information with the program change request.....8
 - D. OCRM Review and Approval Criteria.....8
 - E. Endangered Species Act Section 7 Consultation.....8
- III. Routine Program Changes9
 - A. Information Requirements.....9
 - B. The RPC Process.....10
- IV. Amendments.....11
 - A. Information Requirements.....11
 - B. The Amendment Process.....13
- V. Clean Air and Water Act Requirements.....14
- Appendix A - Program Change Regulations (61 Fed. Reg. 33815-33816 (1996)).....16
- Appendix B - Five Program Approval Areas and Detailed Explanations.....19
- Appendix C - Preamble to Final Rule Issued on June 28, 1996....22

I. Introduction

This guidance clarifies information and procedural requirements for program change requests by state and territory coastal management programs ("CMP") pursuant to the Coastal Zone Management Act of 1972 ("CZMA") and its implementing regulations. This guidance augments the program change requirements found at CZMA section 306(e)(16 U.S.C. § 1455(e)) and 15 C.F.R. Part 923, Subpart H [redesignated].¹ The focus of the guidance is to explain the difference between procedures for the two types of program changes: routine program changes and program amendments.

The guidance also explains a recent update of the program change regulations. See 61 Fed. Reg. 33801-33819 (1996) (to be codified at 15 C.F.R. part 923); Appendix A (for subpart H). In that update, the Office of Ocean and Coastal Resource Management ("OCRM") replaced the four criteria by which program change requests are evaluated with a reference to the five program approvability areas addressed in the program development regulations: (1) uses subject to management, (2) special management areas, (3) boundaries, (4) authorities and organization, and (5) coordination, public involvement and national interest. The preamble to the final rule issued on June 28, 1996, contains additional explanation of the program change regulations. See Appendix C of this guidance.

This guidance is, for the most part, not new. The intent of the changes to the regulations and this guidance is to reduce information and paperwork burdens on states and OCRM and to clarify that most changes to state CMPs are not substantial and are routine program changes. This guidance does not apply retroactively to any program change previously approved by OCRM. See also Appendix C of this guidance.

Please contact your OCRM Coastal Programs Division ("CPD") program specialist for further assistance.

¹ While OCRM moved the program change regulations within 15 C.F.R. Part 923 from Subpart I to Subpart H, the citations to individual program change regulatory sections remain the same.

II. General Information on Program Change Submissions

This section of the guidance provides general information on program changes, definitions, and general procedural points. Sections III and IV provide detailed guidance for routine program changes ("RPCs") (formerly called routine program implementations or RPIs) and amendments, respectively.

A. Definition of Program Change

A program change is any amendment, modification, or other change to a federally approved CMP. 16 U.S.C. § 1455(e). Changes in the manner in which states manage coastal uses and resources, that affect approved CMPs, must be reviewed by OCRM with respect to the original approval of the state CMP. Changes that do not affect the CMP should not be submitted as a program change. Changes that must be submitted are those that (1) affect the CMP as approved by OCRM, (2) the state CMP wishes to spend CZMA funds on, and (3) the state CMP wishes to use for federal consistency. For example, if a state makes a minor substantive change to an enforceable policy, then the state must submit the change to OCRM for approval in order to use the policy for federal consistency purposes. See also Appendix C of this guidance.

The program development and approval regulations establish five program areas. See 15 C.F.R. Part 923, Subparts B, C, D, E and F. Thus, program changes are changes to one or more of these five areas. The program areas are:

1. Uses Subject to Management (15 C.F.R. Part 923, Subpart B)
2. Special Management Areas (15 C.F.R. Part 923, Subpart C)
3. Boundaries (15 C.F.R. Part 923, Subpart D)
4. Authorities and Organization (15 C.F.R. Part 923, Subpart E)
5. Coordination, Public Involvement and National Interest (15 C.F.R. Part 923, Subpart F)

Subparts B through F of Part 923 provide a detailed explanation of each of these headings. States may refer to these subparts for assistance in their analysis of a program change. These subparts and detailed explanations, and statutory citations, are also listed in Appendix B of this program change guidance. State CMPs need only discuss the subparts (or detailed explanation of those subparts) that apply to a particular program change.

Examples of program changes include, but are not limited to:

- Changes to boundaries or organization of approved CMPs.
- Changes to new or revised enforceable policies that may be contained in statutes, executive orders, implementing regulations and memoranda of agreement, which comprise a CMP.
- Additions of or revisions to enforceable local coastal programs ("LCPs") incorporated into a CMP (if the change to an LCP affects the approved CMP, or the state CMP wants to use CZMA funds to implement the change, or the state intends to use the change for federal consistency purposes).
- New or revised Special Area Management Plans or other plans for specific areas that are not LCPs such as Areas of Particular Concern.
- Changes to policies and procedures affecting state or federal consistency review or federal agency, local government, and public participation.
- Changes to guidelines, policy documents, manuals, which provide additional information to public and private entities concerning how CMP requirements can be met or which provide specific interpretations of the general standards in the CMP.
- Additions or deletions to listed permits for federal consistency.

B. Types of Program Changes

The CZMA regulations define two types of program changes: amendments and RPCs. OCRM anticipates that most program changes will continue to be routine.

1. Amendment

Amendments are defined in 15 C.F.R. § 923.80(d), as substantial changes in one or more of the five program areas identified in subparts B through F of Part 923. These areas are listed above in section II.A. and Appendix B of this guidance. Appendix C of this guidance contains additional discussion of section 923.80(d).

2. Routine Program Changes

RPCs are the further detailing of a state CMP that does not result in a substantial change to one or more of the five program areas identified in subparts B through F of Part 923. See 15 C.F.R. § 923.84(a). State CMPs should, prior to submitting a program change, obtain CPD's preliminary view as to whether the change is an RPC or an amendment. Such prior consultations will facilitate the process by giving OCRM a better understanding of the proposed change and should reduce the overall work effort of both the state CMP and OCRM. The scope of a change may be such that OCRM can (1) determine, prior to receiving an RPC submission, that the change is an amendment, or (2) identify information and analysis requirements necessary to support the RPC.

3. Amendment or RPC: When is a program change "substantial?"

The key in determining whether a program change is an amendment or an RPC is whether a change in one or more of the five program areas is "substantial." The indicators and examples below illustrate that most program changes will continue to be RPCs, and not substantial changes to CMPs; that a substantial change is a high threshold. (The closer a program change is to this threshold, the more information and analysis will be required.) Whether a program change is substantial is based on a case-by-case determination. Indicators of a substantial change include:

1. New or revised enforceable policies that address coastal uses or resources not previously managed (or major changes in the way a state CMP manages coastal uses or resources) may be substantial. It will often depend on the scope of the change. (New or revised enforceable policies that make minor revisions to existing CMP components are generally not substantial changes.)
2. The extent to which the proposed change impacts the national interest reflected in the CZMA such as, OCS oil and gas development, energy facility siting, water and air quality.
3. The extent to which the proposed change is similar to past program change requests (by any state) that were treated as amendments.

One example of how "substantial" is applied is when a coastal county adopted a revision to its LCP that would prohibit all offshore oil and gas related development within its waters and on its land. OCRM preliminarily considered this change to be an amendment. In addition, its approvability was questioned due to inadequate consideration of the national interest in energy facility siting and uses of regional benefit. Eventually OCRM approved the change as being routine, but only because the change was limited in scope geographically, there were sound economic and environmental reasons, and the state CMP had the authority to override any local decisions that substantially affected the national interest. OCRM also conditioned the approval on the fact that the oil and gas industry was not shut out of the state's entire coastal zone. OCRM noted that if other coastal counties adopted similar policies, those changes would likely be reviewed as amendments because of the cumulative impact on the national interest in energy facility siting in the state.

Whether a change is substantial is further illustrated by the development of local government components by three different states. (1) The first state proposed a routine change to its program by incorporating a new statute and regulations requiring the development of local government plans and ordinances. The local plans and ordinances themselves were not included in the program change. The state felt that the statute and regulations

contained sufficient enforceable policies for federal consistency purposes. OCRM concurred that the change was routine after determining that the statute and regulations were based on or contained existing enforceable policies that addressed coastal uses and resources currently included in the CMP. The new statute and regulations applied these existing policies to new areas of the state (but did not expand the coastal zone).

(2) The routine nature of local government change in the first example is distinguished from an earlier instance where another state's statute and regulations requiring local governments to develop coastal management plans and ordinances was substantial. In the second state, the statute and regulations mandated a program that managed coastal uses and resources in an entirely new way and with new enforceable policies. Even though the local plans and ordinances were not incorporated, the new policies and program included in the statute and regulations was a substantial change and, therefore, an amendment.

(3) The third state proposes a similar local government component. The state also intends to incorporate the LCPs into the CMP. Incorporation of the LCPs is needed as the statute and the regulations merely specify the types of activities that must be included in the LCPs and do not contain many new enforceable policies. OCRM has preliminarily determined that this would be a substantial change to the CMP and should be submitted as an amendment.

C. General Procedural Guidance

1. Early consultation with OCRM

When possible, states should consult with CPD staff to discuss possible changes during program change development and prior to state adoption. States should informally submit proposed statutory or regulatory language to CPD staff so that (1) potential conflicts can be identified prior to incorporation into state authorities, (2) CPD staff can help clarify whether the program change is an amendment or RPC, and (3) CPD can ensure that the program change submission will satisfy all procedural, information, and public notice requirements.

Lack of early consultation with OCRM can lead to problems. State CMPs often submit program changes to OCRM only after they have been adopted into state law or regulation. In some cases, OCRM was unaware that such changes were being considered. This has two possible negative effects. The change may cause a state CMP to fall below the requirements of CZMA section 306(d) and 15 C.F.R. Part 923. Also, state implementation of changes not approved by OCRM could lead to adverse evaluation findings.

We also recommend that you consult early with federal agencies that could be affected by the changes you are considering. OCRM has received complaints from federal agencies that they are not involved early at the state level in program change deliberations. (States are required to provide an opportunity for federal agency involvement in the development of an amendment. See 15 C.F.R. § 923.81(b)(5).) Federal agencies may raise problems during OCRM processing and may cause delay in approval of the state's program change request. If a state believes that a federal agency consistently does not participate during state review process, the state may ask OCRM's assistance in encouraging federal agency participation.

2. Submitting program changes in a timely manner

The CZMA requires that state CMPs promptly notify OCRM of any proposed change to its approved CMP. 16 U.S.C. § 1455(e)(1). OCRM may suspend all or part of a CZMA section 306 award pending the submission of proposed changes to a CMP. Id. Program changes should be submitted on a regular basis, both to avoid processing delays caused by large volume submissions and to assure that a CMP is up to date. NOAA regulations allow the submission of changes either "on a case-by-case basis, periodically throughout the year, or annually." 15 C.F.R. § 923.84(b)(1)(i). Each CMP should develop and maintain a submission schedule with its CPD contact.

The regular and timely submission of program changes is also important to keep a program up to date. Except as provided under 16 U.S.C. § 1455(e)(3)(B), until program changes are approved by OCRM and a public notice of OCRM's approval is published by the state CMP, the state CMP may not use the program changes for CZMA section 307 federal consistency purposes and CZMA section 306 funds may not be used to implement the proposed change.

3. Submitting complete information with the program change request

State CMPs should ensure that all required information is included in the program change request. Incomplete requests result in a delay of OCRM's review pending receipt of additional information from the state. The necessary substantive and procedural information requirements are included in sections III and IV of this guidance.

D. OCRM Review and Approval Criteria

OCRM reviews all program change requests, whether an amendment or an RPC, on a case-by-case basis to determine if the program change is approvable. OCRM determines whether the CMP, if amended, would continue to satisfy the applicable program approval criteria of CZMA section 306(d) and 15 C.F.R. Part 923, Subparts B through F. See 15 C.F.R. § 923.82(a), section II.A. and, for more detailed criteria, Appendix B of this guidance. For routine changes, OCRM determines whether it concurs with the state's assessment that the action is an RPC. 15 C.F.R. § 923.84(b)(3). OCRM will also evaluate whether any policies to be added are preempted by federal law. The proposed change, in conjunction with the CMP, must be applied to all relevant public and private activities, and not discriminate against a federal agency or activity.

E. Endangered Species Act Consultation

If the program change may affect federally listed endangered species or their critical habitat, OCRM will consult with the U.S. Fish and Wildlife Service ("FWS") or the National Marine Fisheries Service ("NMFS") pursuant to our obligations under the Endangered Species Act. We encourage state CMPs to consult informally with the FWS or NMFS on any such changes prior to its adoption as a matter of state law. Any comments the state CMP receives from FWS or NMFS should be included in the program change package.

III. Routine Program Changes

A. Information Requirements

RPCs must be submitted to the Chief of CPD by the designated CMP agency. The requirements for RPC requests are found at 15 C.F.R. § 923.84. The level of detail in the state CMP's analysis and information depends on the scope of the change. The state CMP's analysis should be more detailed for more substantive changes. Minor RPCs require minimal information and analysis. The amount of information and analysis should be discussed with OCRM prior to submittal. The information requirements contained in 15 C.F.R. § 923.84 are:

1. A complete copy of the text of the program change.
2. An identification of any new or changed policies, both enforceable and advisory. At a minimum identification of the policies should list the sections of the statute, regulation, ordinance, etc. The state CMP's analysis should include the mechanism (e.g., zoning, permit) by which the state ensures that any new or changed enforceable policies are legally binding under state law.
3. A description of the nature of the program change, including specific pages of the management program proposed to be changed. The description must include an analysis that explains why the program change is an RPC and not an amendment. In other words, the explanation should describe what elements of the approved program are affected, and explain why the proposed change will not result in a substantial change to one or more of the five program approvability areas identified in Part 923, subparts B through F.
4. A copy of the state CMP's public notice of the submittal to OCRM. This notice must be distributed to the general public and affected parties, including local governments, other state agencies, and regional offices of relevant federal agencies (or the agency's headquarters if it does not maintain a regional office), as well as a listing of individuals notified

of the RPC. The public notice must be published at the same time or before (but not after) the state submits the program change package to OCRM. Electronic notification may be used, but may not be the exclusive method of notification (many people and organizations do not yet have access to the Internet or other means of electronic transfer).

The public notice must:

- a. Describe the nature of the program change and identify any enforceable policies to be added to the CMP.
 - b. Indicate that the state considers the change to be an RPC and has requested OCRM's concurrence in that determination; and
 - c. Indicate that any comments on whether or not the action does or does not constitute an RPC may be submitted to OCRM within three weeks of the date of issuance of the notice.
5. In addition, the state CMP may submit any comments from state and federal agencies or the public or other information received during the development and review process which could aid OCRM's review.

B. The RPC Process

The state CMP submits the RPC request to the Chief of CPD. OCRM has four weeks from the date of receipt of the request to complete its review and make a final determination. 15 C.F.R. § 923.84(b)(3). OCRM's final determination will be in writing (either mailed, faxed, or electronically transmitted).

Submitted RPC packages will be distributed to appropriate OCRM and NOAA Office of General Counsel for Ocean Services staff for substantive review. If no additional information is needed by OCRM and OCRM concurs with the state CMP's determination, then the Director of OCRM will provide written concurrence (either mailed, faxed, or electronically transmitted) to the state CMP. If OCRM does not concur, the state CMP will be advised to either

submit the change as an amendment or resubmit the RPC with additional information requested by OCRM concerning how the program will be changed as a result of the action.

If the RPC package is incomplete, two actions may occur: (1) OCRM may deny the RPC request and the denial letter will identify deficiencies in the RPC package, or (2) rather than deny the request, the state CMP may request a suspension of the four week deadline in order to resolve any differences between the state and OCRM on the content of an RPC request. Upon resolution, the review period would resume.

When OCRM concurs with the state CMP's RPC request, the state CMP must then provide notice to the general public and affected parties, including local governments, other state agencies, and relevant federal agencies. This notice shall:

1. Indicate the date on which the state CMP received concurrence from OCRM and that the action constitutes an RPC;
2. Reference the earlier public notice for a description of the content of the RPC action; and
3. Indicate if federal consistency applies as of the date of the new notice.

Until the state CMP publishes this notice the provisions of this change cannot be used for federal consistency purposes.

IV. Amendments

A. Information Requirements

The amendment submittal and review process addresses both CZMA and NEPA requirements. Relevant CZMA requirements are found at section 306(e) and 15 C.F.R. §§ 923.80 - 923.83. See also Appendix C of this guidance for information contained in the preamble to the final rule issued on June 28, 1996.

Program amendment requests must be submitted to OCRM by the Governor of a coastal state or by the head of the designated state 306 agency, if the governor has delegated this

responsibility and the delegation is part of the approved CMP. 15 C.F.R. § 923.81(a). Information requirements for amendment requests are set forth at 15 C.F.R. § 923.81. In brief, the request must include the following:

1. A description of the proposed change, including specific pages and text of the management program that are proposed for amendment. This description shall also identify any enforceable policies to be added to the management program. The state CMP's analysis should include the mechanism (e.g., zoning, permit) by which the state ensures that the policies are legally binding under state law.
2. An explanation of why the program change is necessary and appropriate, including a detailed analysis of the effects of the change on the approvability of the program.
3. A copy of the public notice(s) announcing the public hearing(s) on the proposed amendment. The state must hold at least one public hearing on the proposed amendment, pursuant to CZMA section 306(d)(4). The notice must precede the hearing by at least 30 days. The state's public hearing may be concurrent with OCRM's review.
4. A summary of the hearing(s).
5. Documentation of opportunities provided relevant federal (including appropriate federal regional offices), state, regional, and local agencies, port authorities, and other public and private parties to participate in the development and approval of the amendment at the state level (prior to submission to OCRM as an amendment).

B. The Amendment Process

OCRM reviews amendment requests according to the procedures described at 15 C.F.R. § 923.82. As a first step, OCRM undertakes a preliminary review to determine whether a CMP, if amended as proposed, would still constitute an approvable program. See section II.D. of this guidance for OCRM's approval criteria.

OCRM will prepare and disseminate internally a set of preliminary findings of approval or disapproval. If the Director of OCRM determines that the program, if amended, would no longer be approvable, or that the procedural requirements of the CZMA have not been met, the state CMP will be advised in writing of the reasons the amendment request may not be approved. The state CMP may, of course, modify its amendment request and resubmit it for approval by the Director.

If the Director determines, as a preliminary matter, that the program as amended remains approvable, the Director must decide whether an Environmental Impact Statement ("EIS") is required as part of the approval process. If an EIS is necessary, OCRM, with state CMP assistance, will prepare and distribute a draft EIS and final EIS according to Council on Environmental Quality guidelines and NOAA procedures.

If an EIS may not be necessary, OCRM will prepare an Environmental Assessment ("EA"), with state CMP assistance as requested. The EA either leads to a Finding of No Significant Impact ("FONSI") or a determination that the effects of the proposed amendment are such that an EIS must be prepared.

Following completion of the NEPA review process and consultation as appropriate with FWS or NMFS, OCRM will take final action to approve or disapprove the amendment request. Notice of the proposed decision on the amendment, as well as the statement that federal consistency applies as of the date the amendment is approved, will be published by OCRM in the Federal Register.

If a state implements an amendment despite notification from the Director of OCRM that the amendment would render the management program unapprovable, that state may be subject to withdrawal of program approval and withdrawal of administrative funding. See

15 C.F.R. § 928.5(a)(3)(G)[to be redesignated at 15 C.F.R. § 923.135(a)(3)(G)].

The time frame for review and approval of amendment requests is established by CZMA section 306(e)(2). Within 30 days of receiving an amendment request, OCRM must notify the state CMP whether it approves or disapproves the amendment, or whether it is necessary to extend the review for a period not to exceed 120 days. OCRM may extend the review period further, if necessary to meet NEPA requirements.

If a serious disagreement occurs between a state CMP proposing an amendment and federal agencies objecting to the amendment, the Governor, or the head of the state CMP agency, or the head of the relevant federal agency may request mediation by the Secretary of Commerce under CZMA section 307(h). 15 C.F.R. § 923.54.

V. Clean Air and Water Act Requirements

Requirements established by the Clean Water Act, the Clean Air Act, or established by the Federal Government or by any state or local government pursuant to such Acts shall be incorporated in CMPs and shall be the water pollution control and air pollution control requirements applicable to such program. Section 307(f) of the CZMA provides:

Notwithstanding any other provision of [the CZMA], nothing in [the CZMA] shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to [the CZMA] and shall be the water pollution control and air pollution control requirements applicable to such program.

State CMPs do not have to submit these requirements as program changes. However, state CMPs must notify OCRM, federal, state, and local agencies, and other interested parties, of the incorporation of the requirements into the state CMP. The lead coastal management agency may provide the required notice at various points in the rule-making process, e.g., (1) when the

requirements are distributed for public comment, the state CMP may choose to add a provision stating that the rules, when adopted, will be incorporated into the CMP, or (2) after the rules have been adopted, the state CMP may send a notice to the state CMP's program change mailing list indicating that the requirements are now incorporated into the coastal management program and indicating the applicability of federal consistency.

OMB Control # 0648-0119, expires June 2001. OCRM requires this information in order to adequately assess the eligibility of proposed changes to state and territory coastal management programs. Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joseph A. Uravitch, AICP, Chief, Coastal Programs Division, OCRM, 1305 East-West Hwy., 11th Floor, Silver Spring, Maryland 20910. This reporting is required under and is authorized under 16 U.S.C. § 1455 and 15 C.F.R. part 923, subpart H. Information submitted will be treated as public records. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB Control Number.

Appendix A

Program Change Regulations

61 Fed. Reg. 33815-33816 (1996)
(to be codified at 15 C.F.R. part 923)

Appendix B - Five Program Approval Areas and Detailed Explanations

A proposed change in one or more of the areas listed below, and the detailed explanations of the areas, or in the way a state CMP manages these areas, would be a program change. OCRM also uses this list to evaluate whether a state's CMP would continue to satisfy these criteria if a proposed change is approved.

1. Uses Subject to Management (15 C.F.R. Part 923, Subpart B)

- Permissible land uses and water uses within the coastal zone which have a direct and significant impact on coastal waters and how these uses will be managed. CZMA § 306(d)(2)(B).
- The planning process and the enforceable policies for energy facilities likely to be located in, or which may significantly affect, the coastal zone. CZMA § 306(d)(2)(H).
- The CMP's method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit. CZMA § 306(d)(12).
- The inventory and designation of areas that contain one or more coastal resources of national significance; and the enforceable policies to protect such resources. CZMA § 306(d)(13).

2. Special Management Areas (15 C.F.R. Part 923, Subpart C)

- Designation of areas of particular concern within the coastal zone. CZMA § 306(d)(2)(C).
- Guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority. CZMA § 306(d)(2)(E).
- The term "beach" and the planning process and enforceable policies for the protection of, and access to, public beaches and other public coastal areas. CZMA § 306(d)(2)(G).

- The planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion. CZMA § 306(d)(2)(I).

- The CMP's procedures for specifying areas that may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values. CZMA § 306(d)(9).

3. Boundaries (15 C.F.R. Part 923, Subpart D)

- Boundaries of the coastal zone. CZMA § 306(d)(2)(a).

4. Authorities and Organization (15 C.F.R. Part 923, Subpart E)

- CMP enforceable polices. CZMA § 306(d)(2)(D).

- The organizational structure approved to implement the management program. CZMA § 306(d)(2)(F).

- The designated single State agency to receive and administer grants for implementing the CMP. CZMA § 306(d)(6).

- The State organization to implement the management program. CZMA § 306(d)(7).

- The State's authority for the management of the coastal zone in accordance with the management program, including the authority to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program. CZMA § 306(d)(10).

- The state CMPs general techniques for control of land uses and water uses within the coastal zone. CZMA § 306(d)(11).

- The State's mechanism to ensure that all State agencies will adhere to the program. CZMA § 306(d)(15).

- The enforceable policies and mechanisms to implement the Coastal Nonpoint Pollution Control Program of the State required by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990. CZMA § 306(d)(16).

5. Coordination, Public Involvement and National Interest (15 C.F.R. Part 923, Subpart F)

- The mechanism for continuing consultation and coordination between the lead CMP agency and with local governments, interstate agencies, regional agencies, and area wide agencies within the coastal zone. CZMA § 306(d)(3)(B).

- The CMP's consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. CZMA § 306(d)(8).

- The CMP's procedures for public participation in permitting processes, consistency determinations, and other similar decisions. CZMA § 306(d)(14).

- The CMPs federal consistency procedures.

Appendix C

**Preamble to the Final Rule Issued on
June 28, 1996.**