

Tampa Bay National Estuary Program

Federal Consistency Report

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Prepared by:

Heidi B. Lovett
Environmental Planner
Tampa Bay Regional Planning Council
9455 Koger Boulevard
St. Petersburg, FL 33702

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SUMMARY

Developing a federal consistency review strategy, a process to evaluate federal programs and activities for consistency with the goals of the Comprehensive Conservation and Management Plan (CCMP), is a required element of the Final CCMP of the Tampa Bay National Estuary Program (NEP). The Tampa Bay NEP proposes a two part strategy for facilitating this review process. The first and primary strategy is to encourage early coordination and review of projects that potentially conflict with or further the goals of the CCMP. The purpose of the early coordination step would be to identify if and where conflicts exist and to explore options for resolving those conflicts at the earliest possible juncture.

The second strategy is to become incorporated into the existing federal consistency review process of the State Clearinghouse and Florida Coastal Management Program (FCMP), the offices which coordinate federal consistency reviews in Florida. The Tampa Bay NEP will identify the types of federal activities and programs it wishes to review, will receive specific proposals within these categories from the FCMP via the Tampa Bay Regional Planning Council (RPC), and will determine if the activity is consistent with priority goals and objectives of the CCMP. If concerns arise, comments will be sent to the FCMP through the RPC, which accumulates all comments from local governments and forwards them to the FCMP.

BACKGROUND

The Tampa Bay National Estuary Program was established in 1991 to assist the community in developing a comprehensive plan to restore and protect Tampa Bay. Part of a national network of 29 estuary programs established under Section 320 of the Clean Water Act and administered nationally by the U.S. Environmental Protection Agency (EPA), the program established a Management Conference or 'partnership' of federal, state, and regional agencies; the three counties and three major cities surrounding the bay; affected industries; educational and research institutions; and the general public to address the problems that Tampa Bay faces. Through a consensus-building approach, the partners identified the problems; set reasonable, achievable goals for the estuary's recovery; and determined how best to implement programs and coordinate new and ongoing bay management initiatives to reach these goals. This process has culminated in the development of a Comprehensive Conservation and Management Plan (CCMP) for the estuary, known as *Charting the Course for Tampa Bay*. *Charting the Course* contains six action plans for the bay's long-term restoration and protection, addressing: water and sediment quality, bay habitats, fish and wildlife, dredging and dredging material management, spill prevention and response, and public participation.

It was recognized by Congress, when the National Estuary Program was established, that many recreational, commercial, agricultural, and industrial activities that occur along the shores and in the drainage basins of estuaries potentially affect the quality of the coastal marine environment in

one way or another. Additionally, many of these activities are supported, directly or indirectly, by federal and state governments, and because these activities have a wide variety of objectives, they may or may not conflict with coastal resource protection, and in particular, the goals established in a CCMP.

One way of addressing potential inconsistencies among these different activities is through the consistency review authority given to National Estuary Program Management Conferences. In general, federal consistency addresses the need for federal actions to adequately consider state policies for protecting natural resources. Under Section 320, Purpose 7 of the Water Quality Act of 1987, it is required that the Management Conference provide a federal consistency review strategy to evaluate federal assistance and development programs which may conflict with or advance bay restoration goals contained in *Charting the Course for Tampa Bay*. In essence, this requirement was included because of the recognition of the need for coordination among government programs and program goals that could affect the success of the CCMP. Purpose 7 review is intended as a means of resolving potential conflicts among agencies pursuing approvals of federal activities by fostering early consultation, cooperation, and coordination.

To fulfill this requirement, each estuary program must develop a federal consistency report, which must be included in the CCMP or referenced in it. This report must contain:

- ☐ an inventory of federal programs which would be applicable to priority problems in the estuary;
- ☐ an evaluation or discussion (one-time assessment) of currently planned or on-going relevant federal programs which may conflict or be inconsistent with CCMP goals and objectives, and remedies to resolve inconsistencies; and
- ☐ a review strategy or process of how the Management Conference will review federal programs for consistency with CCMP goals in the future.

Since a primary goal of federal consistency is to foster coordination among programs, and most NEPs tend to have small staff acting primarily as facilitators for action in the region, most NEP federal consistency strategies have tried to avoid duplication of efforts with other existing consistency review programs within their states. In the strategy for Tampa Bay, it is proposed that the National Estuary Program coordinate efforts with the State of Florida Clearinghouse and Florida Coastal Management Program consistency review processes. These will be discussed in detail in the following sections.

INVENTORY OF FEDERAL PROGRAMS

The Statutory authority under Section 320(b)(7) specifies that the Management Conference is to:

"review all federal financial assistance programs and federal development programs in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan [CCMP] prepared under this section."

It further states that the review shall not be limited to the EO 12732 programs, but

"may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the [CCMP]."

The Tampa Bay NEP has reviewed the federal activities subject to EO review and the Catalog of Domestic Assistance and identified which activities and programs may support or conflict with the priority actions identified in the CCMP. The following is a brief summary of the basic characteristics of each of these sources and programs.

Executive Order 12372

Executive Order (EO) 12372 was implemented in 1983 and allows states and local governments to design their own processes to coordinate reviews of federal grants, cooperative agreements, and direct federal development activities that are proposed within their jurisdictions. Though the process differs from state to state, it is generally a clearinghouse through which state, local, or regional government entities can communicate concerns about proposed activities to be funded to the appropriate federal agency before final funding decisions are made.

Once a process is approved, the state selects which financial assistance programs and development programs it wants to review from the list of activities eligible for EO review, and notifies the federal agencies of its choices.

In Florida, the Single Point of Contact designated to coordinate EO review was originally within the Executive Office of the Governor, but as of 1996, pursuant to Gubernatorial Executive Order 95-359, it was moved to the Department of Community Affairs. Known as the Florida State Clearinghouse, Florida has elected to review all eligible programs, and review procedures closely resemble the State's former A-95 review system.

The Florida State Clearinghouse is responsible for sending proposed federal assistance programs and development projects to each state agency and local government that has requested to receive

the specified proposal. After a certain time frame, Clearinghouse collects any comments, concerns, and recommendations and forwards them to the responsible federal agency. That federal agency must either (1) accept the recommendations, (2) negotiate acceptable solutions, or (3) explain in writing why the State's concerns cannot be accommodated.

Catalog of Federal Domestic Assistance

The *Catalog of Federal Domestic Assistance* is an annual publication of federal programs, projects, services, and activities that provide technical or financial assistance benefits to the public. It currently contains well over 1000 programs administered by 50 federal agencies. Such assistance includes, but is not limited to, grants, loans, loan guarantees, scholarships, insurance, counseling and other expertise, cooperative agreements, and property.

To assist Management Conferences in targeting programs found in the *Catalog* that are applicable to coastal environmental management, EPA has developed a compendium of federal financial assistance programs, entitled *Federal Financial Assistance Programs: Targeting Programs Applicable to Coastal Management*. Specific examples are provided in its guidance document.

Compiling an Inventory

The Tampa Bay NEP has utilized the above referenced documents, reviewed the lists previously compiled from other National Estuary Programs, and compared these lists of federal assistance and development programs with priority actions contained in the six CCMP action plans. Those federal assistance, development programs and direct federal actions that could potentially conflict with or support these priority actions are listed in Tables 1 and 2 (the CCMP actions are contained in Appendix A). This inventory also includes activities with indirect effects, cumulative impacts, and activities that *may* affect the goals of the CCMP. This inventory will be the basis for the continuing review process described below in the section titled "Future Review Strategy," but will remain flexible in the future as the federal consistency review process proceeds.

Table 1. Federal Assistance Programs Related to the CCMP				
CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
	Department of Agriculture			
10.062	Water Bank Program	✓		Water and Sediment Quality WQ-1, SW-7, SW-9, SW-10, WW-1, TX-4
10.063	Agriculture Conservation Program	✓		
10.069	Conservation Reserve Program	✓		
10.416	Soil and Water Loans	✓	✓	Bay Habitat BH-1, BH-2, BH-7
10.418	Water and Waste Disposal Systems for Rural Communities	✓	✓	
10.761	Technical Assistance & Training Grants	✓		
10.763	Emergency Community Water Assistance Grants	✓	✓	
10.764	Resource Conservation & Development Grants	✓	✓	
10.765	Watershed Protection & Flood Protection Grants	✓		
10.766	Community Facilities Loans	✓	✓	
10.769	Rural Development Grants	✓	✓	
10.770	Water and Waste Disposal Loans & Grants (Section 306C)	✓	✓	
10.901	Resource Conservation & Development	✓	✓	
10.904	Watershed Protection & Flood Prevention	✓	✓	
	Department of Commerce			
11.300	Economic Development-Grants for Public Works	✓	✓	Water and Sediment Quality WQ-1, SW-2, SW-5, SW-6, WW-2, TX-1, TX-3
11.304	Economic Development-Public Works Impact Projects	✓	✓	
11.305	Economic Development-State and Local Economic Development Planning	✓	✓	Bay Habitats BH-1, BH-2, BH-3, BH-4, BH-5, BH-8
11.307	Special Economic Development & Adjustment Assistance Program	✓	✓	
11.405	Anadromous Fish Conservation Act Program	✓		Fish & Wildlife FW-2, FW-3, FW-4, FW-5
11.417	Sea Grant Support	✓		
11.419	Coastal Zone Management Program Administrative Grants	✓		Spill Prevention & Response SP-2, SP-3

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CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
11.427	Fisheries Development, Utilization Research & Development Grants/Coop. Agreement Program	✓	✓	
11.413	Marine Fisheries Initiative (MARFIN)	✓		
11.454	Unallied Management Projects			
11.463	Habitat Conservation	✓		
11.464	Financial Assistance for Marine Pollution Research	✓		
11.550	Public Telecommunications Facilities			
11.552	Telecommunications & Information Infrastructure			
	Department of Defense, US Army Corps of Engineers			
12.100	Aquatic Plant Control	✓		Water & Sediment Quality SW-4, SW-5, SW-7, PH-3
12.101	Beach Control Erosion Projects	✓	✓	
12.102	Emergency Rehabilitation of Flood Control Works		✓	Bay Habitats BH-1, BH-2, BH-4, BH-6, BH-7, FI-1
12.103	Emergency Operations Flood Response and Post Flood Program		✓	
12.105	Protection of Essential Highways, Bridge Approaches, & Public Works	✓	✓	Dredged & Dredged Material Management DR-1
12.106	Flood Control Projects		✓	
12.107	Navigation Projects	✓	✓	
12.108	Snagging & Clearing for Flood Control	✓	✓	
12.109	Protection, Clearing and Straightening Channels		✓	
12.110	Planning Assistance to States	✓	✓	
12.610	Joint Military/Community Comprehensive Land Use (Not ACOE)	✓	✓	
	U.S. Department of Housing and Urban Development			
14.182	Lower Income Housing Assistance Program-Section 8 New Construction/ Substantial Rehabilitation	✓	✓	Water & Sediment Quality WQ-1, SW-4, SW-5, SW-6, SW-7, AD-2, WW-1, WW-2
14.199	HUD Mortgage Insurance-Environmental Review	✓	✓	

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CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
	Department of the Interior			
15.503	Small Reclamation Projects	✓	✓	Water & Sediment Quality AD-1, TX-1, TX-3
15.600	Anadromous Fish Conservation	✓		
15.604	Fishery Research	✓		
15.605	Sport Fish Restoration	✓		Bay Habitats BH-1, BH-2, BH-3, BH-4, BH-8, FI-1
15.607	Environmental Contaminants	✓		Fish & Wildlife FW-1, FW-2
15.608	Fish & Wildlife Management Assistance	✓		
15.610	Wildlife Research Information	✓		
15.611	Wildlife Restoration	✓		Dredging & Dredged Material Management DR-1
15.612	Endangered Species Conservation	✓	✓	
15.614	Coastal Wetlands, Planning, Protection, & Restoration Act	✓		
15.615	Cooperative Endangered Species Conservation Fund	✓		
15.616	Clean Vessel Act	✓		
15.806	National Water Resources Research Program	✓		
15.617	Wildlife Conservation and Appreciation	✓		
15.916	Outdoor Recreation: Acquisition, Development, and Planning	✓	✓	
15.918	Disposal of Surplus Federal Real Property	✓	✓	
15.919	Urban Park & Recreation Recovery Program	✓	✓	

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CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
	Department of Transportation			
20.001	Boating Safety	✓		Water & Sediment Quality WQ-1, SW-4, SW-6, AD-1, TX-3, PH-3
20.005	Boating Safety Financial Assistance	✓		
20.106	Airport Improvement Program	✓	✓	Bay Habitats BH-1, BH-2, BH-3, BH-5
20.205	Highway Planning and Construction (ISTEA)	✓	✓	
20.500	Federal Transit Capital Improvement Grants (Section 3)	✓	✓	Dredging & Dredged Material Management DR-1
20.509	Public Transportation-Nonurbanized Areas (Section 18)		✓	
20.801	Development and Promotion of Ports and Intermodal Transportation		✓	Spill Prevention & Response SP-1, SP-2, SP-3
	General Services Administration			
39.002	Disposal of Federal Surplus Real Property	✓	✓	Water & Sediment Quality SW-4, SW-5, SW-6 Bay Habitats BH-1
	Interstate Commerce Commission			
41.000	Railroad Bed Reconstruction and Abandonment	✓	✓	Bay Habitats BH-1, BH-2, BH-8
	Environmental Protection Agency			
66.001	Air Pollution Control Program Support	✓		Water & Sediment Quality WQ-1, SW-1, SW-2, SW-3, SW-5, SW-6, SW-7, SW-8, SW-9, SW-10, AD-1, AD-2, WW-1, WW-2, WW-3, WW-4, TX-1, TX-2, TX-3, TX-4, PH-1, PH-2
66.418	Construction Grants for Wastewater Treatment (201 Facilities Plan)	✓	✓	
66.419	Water Pollution Control-State & Interstate Program Support (Section 106)	✓	✓	

Table 1. Federal Assistance Programs Related to the CCMP				
CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
66.432	State Public Water System Supervision	✓		Bay Habitats BH-1, BH-2, BH-6, BH-7
66.433	State Underground Water Source Protection	✓		
66.435	Water Pollution Control-Lake Restoration Cooperative Agreements	✓		
66.438	Construction Management Assistance	✓	✓	Dredged & Dredged Material Management DR-1
66.454	Water Quality Management Planning	✓		
66.458	Capitalization Grants for State Revolving Funds	✓	✓	
66.460	Nonpoint Source Implementation Grants	✓		Spill Prevention & Response SP-1, SP-2, SP-3
66.461	Wetlands Protection-State Development Grants	✓		
66.463	National Pollutant Discharge Elimination Systems Related to State Program Grants	✓	✓	
66.464	Near Coastal Waters	✓		
66.465	Wellhead Protection Demonstration Projects	✓	✓	
66.501	Air Pollution Control Research	✓		
66.502	Pesticides Control Research	✓		
66.505	Water Pollution Control-Research, Development and Demonstration	✓		
66.506	Safe Drinking Water Research and Development	✓		
66.507	Toxic Substances Research	✓		
66.600	Environmental Protection-Consolidated Special Purpose Grants	✓		
66.700	Consolidated Pesticide Compliance Monitoring Program Cooperative Agreements	✓		
66.701	Toxic Substances Compliance Monitoring Program	✓		
66.707	TSCA Title IV State Lead Grants Certification	✓		
66.708	Pollution Prevention Grants Program	✓		
66.801	Hazardous Waste Management State Program Support	✓	✓	
66.802	Hazardous Substance Response Trust Fund (Superfund)	✓	✓	

Table 1. Federal Assistance Programs Related to the CCMP				
CFDA#	Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	The federal programs have the potential to support/conflict with these actions
66.804	State Underground Storage Tank Program	✓	✓	
66.805	Underground Storage Tank Trust Fund Program	✓	✓	
66.806	Superfund Technical Assistance Grants for Citizen Groups at Priority Sites	✓		
66.808	Solid Waste Management Assistance (RITTA)	✓		
66.809	Core Program Cooperative Agreements			
66.900	Pollution Prevention Grants Program	✓		
66.925	State/EPA Data Management Financial Assistance	✓		
	Action (?)			
72.003	Americorps Volunteers in Service in America	✓		Bay Habitats BH-3
	Department of Energy			
81.000	Federal Energy Regulatory Commission (Gas Line)	✓	✓	Water & Sediment Quality WQ-1, AD-1, AD-2
81.050	Energy Extension Service	✓		
81.052	Energy Conservation for Institutional Buildings	✓		

Table 2. Direct Development Projects Related to the CCMP			
Agency and Programs	Potential to support CCMP	Potential to conflict with CCMP	These programs have the potential to affect these actions in the Tampa Bay CCMP
Department of Commerce - National Marine Fisheries			
Fisheries Management Plans	✓	✓	FW-1, 3, 4; BH-1, 3, 4
Department of Defense			
National Guard Hazardous Waste Management	✓		TX-1, 3
Spill Prevention and Response	✓		SP-2, 3
Pesticide/Herbicide Management	✓	✓	SW-2, 3; TX-1
Pollution Prevention Activities	✓		AD-2; SW-3,5; TX-1; PH-3; BH-6
Department of Defense - Army Corps of Engineers			
Natural Resource Plans	✓		BH-1, 8
Mitigation Banking	✓	✓	BH-1, 2
Dredge & Fill Activities	✓	✓	BH-1, 2, 6, 7
Beach Renourishment Projects	✓		DR-1
Reservoir Development Programs	✓	✓	FI-1, WW-1
General Services Administration			
Disposal of Federal Surplus Real Property	✓	✓	SW-6; WQ-1; BH-1
Donation of Federal Surplus Real Property	✓		BH-1
Disposal of RTC Properties	✓		
Department of Interior - U.S. Fish and Wildlife Service			
Refuge Management	✓	✓	BH-1, 2, 3, 5, 8
Challenged Cost Share Program	✓		
Coastal Ecosystems Program	✓		BH-1, 8
North America Water Fowl Mangement Plans	✓		BH-1, 8; FW-1

ONE-TIME ASSESSMENT

The purpose of the one-time assessment is to identify current federal activities that have the potential to be inconsistent with the goals and objectives of the CCMP. To determine if a project or activity is inconsistent, NEPs must establish the criteria for determining consistency as clearly as possible. These criteria will also be used for the continuing review strategy, to determine whether projects warrant actual review by the Tampa Bay NEP. If a proposal received will not affect the goals of the CCMP, presumably it will not warrant a review by the Management Conference.

Therefore the criteria have been written as closely as possible to the Tampa Bay NEP goal statements, as they appear in the CCMP. These are listed in Table 3.

If inconsistencies are found with a project reviewed in this one-time assessment, the TBNEP will help determine how conflicts may be resolved. Not only will this help ameliorate any current inconsistencies, it will help identify the process for conflict resolution for the future strategy.

Two current federal activities underway that have the potential of affecting the Tampa Bay or its watershed were chosen for this one-time assessment. They are:

- ☞ Expansion of the Big Bend Shipping Channel
- ☞ Modifications and addition of several new Nationwide Permits under the Army Corp of Engineers 404 permit process

Expansion of Big Bend Shipping Channel

The U.S. Army Corps of Engineers was authorized by a U.S. House Committee Resolution adopted November 14, 1979, to conduct a feasibility study for expansion of the Big Bend Channel at the lower end of Hillsborough Bay, south of the Alafia River. The Big Bend Channel now is privately maintained to serve three users which handle phosphate rock, phosphate chemicals and coal for electrical power generation. Current depth of the channels, berths, and turning basin is about 34 feet, and the entrance and inner channel width is about 200 feet. Deepening and widening of the existing channel is considered necessary to safely accommodate the existing and prospective vessel fleet.

It was concluded through model simulation studies that the channel should be widened from 200 feet to 250 feet, and the selected depth for the channel bottom area is 41 feet, based on an economic analysis. The authorized bottom depth of the Tampa Harbor Main Channel, to which this channel provides access, is 43 feet.

The feasibility study considered the resources that would be affected by the navigation improvements, the disposal of the dredged material for the initial construction and future maintenance over the first 20 years or more of the project, the capacity of existing disposal sites,

Table 3. Criteria for Determining Consistency

The following criteria will be used to determine whether a proposed federal activity is consistent with the goals of the CCMP:

- maintain or reduce future nitrogen loadings to Tampa Bay to support holding the line at existing nitrogen loading average levels for 1992-1994;
- protect relatively clean areas of the bay from increases in toxic contamination or reduce toxic contamination in impacted areas;
- minimize risks to marine life and humans associated with toxic contaminants in impacted areas;
- reduce bacterial contamination in impacted areas of the bay to levels safe for swimming and shellfish harvesting;
- reduce the occurrence of municipal sewer overflows to the bay;
- facilitate recovery of 12,350 acres of seagrasses baywide; or protect the bay's 25,600 existing grass beds;
- restore the optimum balance of habitats and facilitate restoration of low-salinity tidal stream habitat, supporting the minimum goal of restoration of 100 acres of this habitat every five years;
- support the direct purchase of identified priority habitat sites or support their protection through methods such as conservation easements;
- maintain or enhance salt marsh and mangroves at levels existing in 1996;
- establish and preserve adequate freshwater inflows to Tampa Bay and its tributaries;
- restore water quality and habitats or reduce physical impacts to habitats to support the diversity and health of the bay's fish and wildlife populations;
- protect and restore small freshwater ponds and salt barrens critical to the region's birds;
- support development and implementation of a long-term, coordinated management plan for dredging and dredged material management; or
- prevent catastrophic spills of oil or other hazardous materials, reduce chronic small

and beneficial uses for the dredged material. The Environmental Assessment addressed water quality, manatee, seagrass, and migratory bird issues.

Management of dredged material is an important issue and has an action plan in the CCMP. The selected plan option for the expansion of the Big Bend Channel chooses to place the dredged material into the southern end of disposal island 3D, due to its high content of fines (45 percent of total volume), which makes it unsuitable for immediate placement at either of two proposed beneficial use sites. Placement at this end allows for a natural settling that will help separate the majority of the fines from the coarse material.

Providing suitable construction material for increasing the heights of the dikes on 3D (to extend the life of this disposal site) is the first priority for the dredged material that will settle out at the southern end of 3D. Filling two holes next to Whiskey Stump Key is one of the proposed beneficial uses that will enhance the environment. Once filled, these areas will be at an appropriate depth to support seagrass growth. However, after the work on 3D there will not be enough remaining suitable material for the task. Therefore, the COE plans to first use the fine material to fill the holes, then cap it with the remaining coarser material.

The Tampa Bay National Estuary Program supports this and the second beneficial use option (to place material at Sunken Island, a rookery, where erosion has been a problem) for the dredged material. Filling the holes and re-creating habitat suitable for seagrass growth directly supports actions BH-1 (implement the master plan for habitat restoration), BH-3 (reduce prop scarring and pursue seagrass transplanting opportunities), and DR-1 (develop a coordinated dredged material management plan). However, there are concerns that turbidity could be a problem while placing the fines in the holes, affecting the existing nearby seagrasses. The COE expects to handle the operation carefully to reduce this problem.

The Tampa Bay NEP is working directly with the Jacksonville Office of the U.S. Army Corps of Engineers on development of a coordinated dredged material disposal plan for Tampa Bay. Executed through a specific intergovernmental agreement, this project demonstrates an established working relationship between the two entities, and it complements the proposed plan for disposal of the dredged material from the Big Bend Channel expansion. Therefore, there are no foreseen inconsistencies in this COE project. If any arise, it is expected that differences will be resolved through existing lines of communication.

Modifications to Section 404 Nationwide Permits

The U.S. Army Corps of Engineers has proposed to reissue the existing 37 Nationwide Permits (NWP) and conditions with some modifications, and to issue four new NWPs under the Clean Water Act Section 404 permitting process. Section 404 controls certain activities, including dredging and filling, in waters of the United States or the oceans. As defined in the act, "waters of the U. S." includes wetlands. NWPs are designed to reduce review time and paperwork for a wide variety of activities that the Corps believes would be routinely authorized, if they were evaluated under the individual permit process because they have a minimal adverse environmental

impact on waters of the U.S. In addition, NWP's are generally or regionally conditioned to ensure compliance with state water quality standards or consistency with state CZM plans.

Three types of modifications are proposed: (1) clarifications of existing NWP's to address questions and issues that have arisen since the NWP's were first issued; (2) changes due to the modification of the definition of discharge of dredged material in the Excavation Rule; and (3) modifications to existing NWP's that change the number and types of activities now authorized by the NWP.

In accordance with the President's Wetlands Plan (announced in August 1993), four new NWP's are included in the proposal to authorize additional regulated activities with minimal effects that resulted from the excavation rule. These include (A) Moist Soil Management for Wildlife; (B) Food Security Act Minimal Effect Exemptions; (C) Minor Mining Activities; and (D) Maintenance of Existing Flood Control Projects.

The Corp proposal regarding NWP's was routed through the Florida federal consistency review process. The Tampa Bay Regional Planning Council informally requested the Tampa Bay NEP staff to review the proposal with respect to the goals and actions of the Draft CCMP. The NEP staff supports the Corp proposal to reduce the size threshold for NWP 26, Headwaters and Isolated Wetland Discharge. Additionally, the NEP encouraged use of native vegetation plantings and use of riprap before allowing fill and vertical seawalls structures in artificial canals. This would support CCMP Action BH-6, encouraging the softening shorelines, and the goal of recovering as many as 12,350 acres of seagrasses baywide, directly, and Actions SW-1, SW-2, BH-1, BH-7, and WQ-1 indirectly.

The NEP staff comments for NWP's 26 and 27, Wetland and Riparian Restoration And Creation Activities, mention that a Mitigation Criteria Working Group is currently meeting to develop mitigation and mitigation banking criteria unique for Tampa Bay. Establishing criteria fulfills CCMP action BH-2 and supports the CCMP goals that address water and sediment quality, bay habitats, fish and wildlife, and dredging and dredged material management overall. Once these recommendations are completed, they may be recommended as regional conditions for 404 permits as a whole, and the appropriate NWP's.

The Corp proposal is still in its review process. Currently, no major conflicts between NWP's and the goals and actions of the CCMP are foreseen. Staff from the Army Corps of Engineers Jacksonville District Office are participating in the Mitigation Criteria Working Group. They and the Corp representative(s) in the NEP Management Conference will become the point of contact for requesting that the recommendations that are the outcome of that effort become incorporated, to the extent possible, in the 404 permitting process.

FUTURE REVIEW STRATEGY

The Tampa Bay National Estuary Program has developed a continuing review strategy that defines the process for reviewing federal activities and programs for consistency with the goals of the CCMP, and establishes mechanisms to resolve potential inconsistencies. This review strategy has two components that build on activities already underway within the region and the NEP. The first is to encourage early coordination and review of projects that potentially conflict with or further the goals of the CCMP. The second is to participate in the Florida Coastal Management Program federal consistency review process. Each of these is described below.

EARLY COORDINATION

The first course of action to ensure that proposed federal activities are consistent with the goals of the CCMP is to encourage the federal, state, and local government partners in the NEP to consult and coordinate as early as practical with the NEP program office regarding relevant federal projects. Activities warranting early coordination will be selected from the list in Tables 1 and 2. Project types that pose potentially significant conflicts with CCMP goals would be included in the group selected for early coordination.

The purpose of the early coordination step would be to identify if and where conflicts exist and to explore options for resolving those conflicts. The intent would be to resolve potential conflicts with CCMP goals prior to the state clearinghouse review, at which point significant project modifications become more problematic.

At the early coordination step, the applicant or federal sponsor of a proposed activity could use the forum of the NEP Management Committee and/or Technical Advisory Committee to facilitate resolution of potential conflicts.

Local government and agency partners in the Tampa Bay NEP expect to sign an intergovernmental agreement pledging to achieve the goals of the CCMP. How those goals are met will be left up to individual communities and agencies who may select from a range of acceptable alternatives. Many, though not all, of the options are described in the CCMP. Under the CCMP Implementing Agreement, participating local governments and agencies will be given up to one year from the execution of the Agreement to develop specific action plans detailing the activities they will be undertaking to achieve the goals of the CCMP.

The partners who will be signing the agreement include: Hillsborough, Pinellas and Manatee counties; the cities of Tampa, St. Petersburg and Clearwater; the Southwest Florida Water Management District; Environmental Protection Commission of Hillsborough County; the Tampa Port Authority; Florida Department of Environmental Protection; U.S. Army Corps of Engineers; and the U.S. Environmental Protection.

The NEP partners will consider formalizing this early coordination process in the CCMP

Implementing Agreement which is scheduled to be signed by the parties in April 1997.

Many federal activities, in particular financial assistance programs, have the potential to support or further the goals of the CCMP, thereby advancing the specific commitments that each partner agrees to in signing the implementing agreement.

COASTAL ZONE MANAGEMENT FEDERAL CONSISTENCY REVIEW

As described in the sections that detail Executive Order 12372 (p.3), the Florida State Clearinghouse (SCH) is the Single Point of Contact for coordinating review of proposed federally funded programs and development activities. Also housed within the Florida Department of Community Affairs is the Florida Coastal Management Program (FCMP).

Certified under the Federal Coastal Zone Management Program (CZM), the FCMP is granted consistency review authority over permits as well as federal assistance and development projects. Due to the importance of protecting the coastal zone, the consistency review authority for the FCMP allows for a potential "veto" of certain federal actions that are not consistent with enforceable goals and policies that are spelled out within Florida's Coastal Management Plan. This consistency review authority differs from the Executive Order (EO) 12732 Clearinghouse Review Process and the NEP authority, neither of which allows for a federal project to be denied. In these processes, the federal agency must consider the State and NEP recommendations and accommodate its concerns, or the federal agency is allowed to explain in writing why the concerns cannot be accommodated.

The most efficient way in which the Tampa Bay NEP could be involved with the CZM consistency review process is to include the NEP in the local government review process coordinated by the Tampa Bay Regional Planning Council (RPC). Local government review is not required of the federal consistency process, however the State of Florida has chosen to have the SCH distribute proposed consistency projects to local governments and the RPCs so they can review the project for consistency with the local government comprehensive plan, the regional plan, or other local projects. If there are conflicts, assistance can be requested from the state to resolve the concerns. Local governments provide their comments, concerns and preferred alternatives or solutions to the RPC, which then includes all comments in its project report package to the SCH.

By including the Tampa Bay NEP in this loop, it would ensure that relevant projects and activities are being reviewed in relation to CCMP goals. This level of review is most important for activities proposed by agencies that are not partners in the NEP and have not had the benefit of the early coordination step. Although it would not stop an activity that is not consistent or supportive of these goals, it would alert the federal agency to the concerns of the NEP and advance possible solutions, consistent with the goals of the CCMP.

The second avenue involves the possible inclusion of specific actions or goals into the Florida

Coastal Management Plan. In this way, any proposed federal action would be reviewed by the Florida Coastal Management Program, or other state agencies with the authority, for consistency with the goals of the CCMP.

Florida's Federal Consistency Review Process

There are four categories of federal activities that are reviewed for consistency, and the process for each category has some variations. The categories and some examples of each are:

- A) Direct federal activities, including federal licenses, or permits to federal applicants, and federal financial assistance to private applicants
Examples: Public works projects, fishery management plans, land acquisition and disposal, construction or waste disposal plans for federal facilities.
- B) Federal licenses and permits to non-federal applicants
Examples: Army Corp 404 wetlands permits, NPDES permits, mineral mining or oil and gas development on public lands.
- C) Outer Continental Shelf (OCS) exploration, development, and production activities
Examples: plans submitted to the Department of Interior for the above activities by OCS leases.
- D) Federal financial assistance to state or local governments
Examples: grants, loans, subsidies such as those listed in Table 1.

The goals of the CCMP may be affected either negatively or positively by three of the categories of federal actions, however it is unlikely that Category C, Outer Continental Shelf activities, would have an impact. Therefore it is being excluded from the discussion at this time.

The Tampa Bay NEP would submit to the Tampa Bay RPC a list of the federal activities, programs or permits it wished to receive for review. This list would be compiled from Tables 1 and 2 which includes activities or federal assistance programs that potentially affect the goals of the CCMP.

When the RPC received documentation on a project from the SCH which was on the NEP list, it would notify the NEP and provide a copy of the documentation if requested. The RPC would collect all comments from local governments and the NEP and return them to the SCH by the due date.

Reviewers generally have 21 days from the date the SCH received the project to initially respond. By the due date, reviewers may choose to comment, request more time, or not comment on the project. The total review period for general projects is 60 days, and 45 days for consistency projects. If the SCH is unable to forward a clearance letter by the 45th or 60th day, the applicant is notified in writing, and the due date is extended a maximum of 15 days.

The specific notification process, review timeline, and procedures for conflict resolution for each category are described in Florida's *Federal Consistency Evaluation Procedures* manual for all categories. The procedures for categories A, B, and C from this manual are summarized below.

Category A. Direct Federal Activities

Direct federal activities are those that are conducted or supported by a federal agency, are conducted on behalf of a federal agency, and include development projects. The FCMP reviews these activities if they directly affect Florida's coastal waters and adjacent shorelines and are not included in other consistency categories. Some examples of activities that are presumed to directly affect the coastal zone include Army Corp of Engineers (ACOE) dredging, channel works, spoil disposal, beach renourishment, reservoirs, and other navigation works; location, acquisition and design of new or enlarged military installations; National Marine Fishery Service (NMFS) Fishery Management Plans; National Park, Seashore or Wildlife Refuge acquisition and management; highway or bridge construction, designed and constructed by the Federal Highway Administration (FHWA); and ocean dumping site designations or construction.

In general, the construction or development activities of the ACOE and FHWA can potentially affect water quality and coastal habitats, and therefore could negatively impact goals of the CCMP. However, development of a comprehensive dredging and dredged material management plan by the ACOE, that minimizes bay impacts, would directly support this goal of the CCMP.

Projects of the National Park, Seashore or Wildlife Refuge systems or NMFS are not likely to negatively impact CCMP goals.

Notification Procedures and Consistency Evaluation

The federal agencies are "strongly encouraged to obtain the views and assistance of the state regarding CMP provisions...relevant to the proposed activity" prior to submitting a consistency determination. A consistency determination is conducted by the agency (not the state) and it must state either that the activity does not directly affect Florida's coastal zone, is consistent with Florida's CMP, or that it "is consistent to the maximum extent practicable with Florida's CMP." The latter statement must include the legal authority which limits the federal agency's ability to comply with the CMP.

Five copies of the consistency determination must be submitted to the state at least 90 days before final project approval, but it is expected to be submitted at the earliest practicable time in the planning process, once sufficient information is available to make a determination. The SCH routes the project proposal to the reviewers in the different agencies who forward comments back to the SCH. The state must respond to the applicant or request an extension within 45 days of receipt if more time is needed, and the federal agency is required to grant a 15 day extension. Agreement with the consistency determination is assumed if the state does not respond in the allotted time.

Conflict Resolution

State disagreement with the proposed activity's consistency determination must describe how it is inconsistent with specific elements of the CMP. The federal agency is prohibited from taking

action on the proposal until 90 days from the consistency determination to allow for intergovernmental consultation, which in most cases resolves any disagreement. If a disagreement continues, it is recommended that the Interagency Management Committee mediate the conflict or in the event of serious disagreement, mediation by the U.S. Secretary of Commerce can be sought by either party. In cases of continued disagreement, the federal agency is encouraged, but not required, to suspend implementation after the 90 period until the dispute is resolved.

The state's consistency determination may be appealed to the Governor and Cabinet, the Secretary of the U.S. Department of Commerce, or the courts.

Category B. Federal Licenses and Permits to Non-Federal Partners

Federal permits or licenses sought by non-federal applicants are required for activities in wetlands, construction in navigable waters, transporting hazardous waste, oil and gas pipelines rights of way, and deep water ports. They also include permits and licenses issued under the Marine Protection, Research and Sanctuaries Act; Mineral Leasing Act; Nuclear Regulatory Commission; Federal Energy Regulatory Commission; and Department of Transportation. Such activities could potentially be inconsistent with the CCMP goals.

In cases where an analogous state permit is required, no formal consistency statement is required. The issuance or denial of the analogous state permit constitutes the consistency certification. If no state permit is required, the applicant must certify that "the proposed activity complies with Florida's Coastal Management Program and will be conducted in a manner consistent with that program," and supply a copy of the federal application and supporting information.

Notification Procedures and Consistency Evaluation

For federal licenses and permits that have analogous state permits, applicants must notify the state when an application is filed (this automatically occurs for Section 404 ACOE permits). Where there is no analogous state permit, the applicant must provide a consistency certification in the application to the federal agency and submit 10 copies to the SCH. The consistency evaluation period commences upon receipt of a complete application for the analogous state permit, or consistency certification where there is no analogous state permit. State and federal procedures allow for 90 days to review and process applications; the federal time period may be extended to 6 months if the state notifies the federal agency before the end of the first 3 months. If the analogous state permit the applicant is seeking is through DEP, any state agency that finds the application to be inconsistent must notify DEP within 30 days of commencement of the evaluation period.

In Florida, the most common Category B application is for a Section 404 wetlands permit, for which there is an analogous state permit, the newly revised Environmental Resource Permit (ERP). The ERP, as one permit, has replaced several old permits dealing with waste water and other discharges, alterations to wetlands, navigation projects and other water-related activities. Two state/regional agencies, the Department of Environmental Protection and Southwest Florida Water Management District share responsibility for the ERP in the Tampa Bay area, and for the

specific activities that are analogous to a 404 permit. Each agency is responsible for distributing 404-analogous permit applications to other state and local agencies for consistency review, rather than the State Clearinghouse. Therefore, the Tampa Bay NEP would need to notify both agencies and inform them of the types of projects it wished to review in relation to the CCMP.

In the case of activities without an analogous state permit, the federal agency may grant the license or permit if the state concurs with the consistency certification. If the state objects, the federal agency shall not grant the license or permit, and the state objection will state how the proposed activity is inconsistent, and include alternative measures (if any) which would make the application consistent.

Conflict Resolution

If the applicant disagrees with the state's objection to the issuance of the federal license or permit, discussions among all parties are recommended as a first step, and "applicants are encouraged to re-examine their proposals in light of state remarks particularly when...alternative strategies" are suggested. It is expected that consultations between the parties will result in state concurrence or applicant agreement with the conditions that would allow state concurrence.

If agreement is not achieved, the Interagency Management Committee may be asked to mediate, or if there is serious disagreement between a federal or state agency, either party may request the U.S. Secretary of Commerce to mediate. If not resolved through mediation or if the applicant does not choose to go through mediation, appeals may be made to the Secretary within 30 days of receipt of the state's objection. Appeals may also be made to the Governor and Cabinet, or the courts.

If the state denies the analogous state permit, the applicant may seek administrative or judicial review, or may appeal to the Governor and Cabinet.

Category D: Federal Financial Assistance to State and Local Governments

Federal programs that offer grants, loans, subsidies, or matching funds to state or local governments (including universities and community colleges) are subject to State Clearinghouse review, and federal consistency review if they affect Florida's environment. These types of projects that can potentially support or hinder the goals and actions of the Tampa Bay National Estuary Program's CCMP are listed in Table 1 by agency, with the relevant CCMP goals and actions listed in the adjacent column. Overall, federal assistance programs have a greater potential to support CCMP goals than to hinder them.

Notification Procedures and Consistency Evaluation

In general, applicants are expected to submit at least eight copies of a project application to the State Clearinghouse (SCH) at the earliest feasible time; however for federal assistance applications, the Notification of Intent (NOI) is usually sufficient for most reviewers, avoiding the need of submitting the entire detailed application. The NOI should include several Standard Forms that detail the budget information, how much is being requested and to which agency; a

concise narrative of the proposal; and maps, an architect's narrative, and information regarding public works, stormwater management, hydrology, etc. for construction projects.

There are no formal consistency statements or evaluations submitted by the applicant for federal assistance, as in the other Categories A or B, although applicants are encouraged to contact the state to understand Coastal Management Program provisions and how they may relate to the project application prior to submission of the formal application. Once an application is received, the review period commences and follows the timeframes established under the E.O. The SCH distributes the application to the reviewing parties, which usually have 21 days to respond back to the SCH. The state has 45 days for consistency reviews to respond to the applicant, although time extensions may be requested if absolutely necessary.

If the state concurs, the federal agency may grant the federal assistance to the applicant agency. If it objects, the state must describe how the proposed project is inconsistent, and the alternative measures (if any) which would allow for consistency. Without state concurrence, the federal agency may not approve the assistance.

Conflict Resolution

The conflict resolution provisions are essentially the same as those outlined for Category B, above.

Incorporation of CCMP Goals and Actions into the FCMP

As previously described, the Florida Coastal Management Program reviews all federal activities for consistency with the *enforceable policies* of the federally approved Florida Coastal Management Plan. Advisory policies may also be included in a coastal management plan, however they cannot be used as a measure to determine consistency.

Actions undertaken by agencies and local governments to implement the CCMP may include changes to rules or laws. If revisions to rules or regulations occurs, then these actions would become enforceable and therefore candidates for incorporation into the Florida Coastal Management Plan. As with all enforceable policies in the coastal management plan, the agency responsible for that regulation would become responsible to review proposed federal actions for consistency with that regulation or standard.

REFERENCES

Buzzards Bay Project Federal Consistency Report. Buzzards Bay Project. 19 pages.

Charting the Course for Tampa Bay, Draft Comprehensive Conservation & Management Plan. January 1996 (under revision). Tampa Bay National Estuary Program. 265 pages.

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Federal Consistency Report for The Galveston Bay Plan. November 1994. Galveston Bay National Estuary Program (Galveston, TX), and Shiner, Moseley and Associates, Inc. Publication GBNEP-48. 229 pages.

Federal Financial Assistance Programs: Targeting Programs Applicable to Coastal Management. November 1989. U.S. Environmental Protection Agency, Office of Marine and Estuarine Protection, Washington, D.C. Reference EPA/503/8-90-001. 51 pages.

Florida Coastal Management Program, Federal Consistency Evaluation Procedures. September 1989. Florida Dept. of Environmental Regulation and The Governor's Offices of Planning and Budgeting and Environmental Affairs. 108 pages.

Florida State Clearinghouse Policy and Procedures Manual. May 1996. Department of Community Affairs. 16 pages, plus attachments.

Lemoine, M., and J. Hines. June 1996. **Delaware Estuary Program Federal Consistency Report.** Delaware Estuary Program (DELEP) Report #96-02. 13 pages.

Navigation Study for Tampa Harbor, Big Bend Channel - 10128, Feasibility Report and Environmental Assessment. June 1996. Department of the Army, Jacksonville District Corps of Engineers. 70 pages, with Environmental Assessment, attachments, and appendices.

Appendix A. Index of Action Plans and Actions for Tampa Bay

(Taken from the Tampa Bay Comprehensive Conservation and Management Plan)

Water & Sediment Quality

WQ-1 Implement nitrogen management goals for Tampa Bay.

Actions to reduce stormwater runoff and associated pollution:

- SW-1 Continue implementation of the Florida Yards & Neighborhoods Program.
- SW-2 Assist businesses in implementing best management practices to reduce stormwater pollution, and develop model landscaping guidelines for commercial application.
- SW-3 Encourage local governments to adopt integrated pest management policies and implement environmentally beneficial landscape management practices.
- SW-4 Reduce impervious paved surfaces, focusing on parking space and design requirements for large commercial developments.
- SW-5 Require older properties being redeveloped to meet current stormwater treatment standards for that portion of the site being redeveloped, or provide equivalent value.
- SW-6 Promote compact urban development and redevelopment.
- SW-7 Improve compliance with and enforcement of stormwater permits.
- SW-8 Enforce and require the timely completion of the consent orders for the cleanup of fertilizer facilities in the East Bay sector.
- SW-9 Encourage "fertigation" and low-flow irrigation on farms.
- SW-10 Improve compliance with agricultural ground and surface water management plans.

Actions to reduce the effects of air pollution on the bay:

- AD-1 Continue atmospheric deposition studies and monitor effects of atmospheric deposition, and develop an action plan to address the problem.
- AD-2 Promote public and business energy conservation.

Actions to reduce pollution from wastewater discharged to the bay:

- WW-1 Expand the use of reclaimed water where projects benefit the bay.
- WW-2 Extend central sewer service to priority areas around the bay now served by septic tanks.
- WW-3 Require standardized monitoring of discharges from industrial and municipal facilities.
- WW-4 Revise HRS rules to incorporate environmental performance standards for septic tanks.

Actions to reduce toxic contaminants in the bay:

- TX-1 Address hot spots of toxic contamination.
- TX-2 Improve business and homeowner opportunities for hazardous waste disposal.
- TX-3 Reduce toxic contaminants from ports and marinas.
- TX-4 Promote integrated pest management on farms to reduce pesticides in runoff.

Actions to reduce pathogens:

- PH-1 Reduce the occurrence of municipal sewer overflows to the bay.
- PH-2 Establish water quality standards for saltwater beaches.
- PH-3 Install additional sewage pump-out facilities for recreational boaters and live-aboard vessels.

Bay Habitats

Actions to increase and preserve the number and diversity of healthy bay habitats:

- BH-1 Implement the Tampa Bay master plan for habitat restoration and protection.
- BH-2 Establish and implement mitigation criteria for Tampa Bay, and identify priority sites for mitigation.
- BH-3 Reduce propeller scarring of seagrass and pursue seagrass transplanting opportunities.
- BH-4 Restrict impacts to hard bottom communities.
- BH-5 Improve management of parking and access areas along causeways and coastal areas.
- BH-6 Encourage waterfront residents to enhance shorelines and limit runoff from yards.
- BH-7 Improve compliance with and enforcement of wetland permits.
- BH-8 Expand habitat mapping programs.

Actions to establish and preserve adequate freshwater inflows to Tampa Bay and its tributaries:

- FI-1 Establish and maintain minimum freshwater flows downstream of dams.

Fish & Wildlife

Actions to protect and enhance bay fisheries and wildlife:

- FW-1 Increase enforcement of environmental regulations on the bay.
- FW-2 Establish and enforce manatee protection zones.
- FW-3 Support restoration of the bay scallop.
- FW-4 Assess the need to investigate the cumulative effects of power plant entrainment on fisheries.

FW-5 Continue and expand the Critical Fisheries Monitoring Program.

Dredging & Dredged Material Management

Actions to reduce the impact of dredging and improve dredged material management:

DR-1 Develop a long-term, coordinated dredging and dredged material management plan for Tampa Bay.

Spill Prevention & Response

Actions to improve spill prevention and response:

SP-1 Establish an integrated vessel tracking system for Tampa Bay and permanently fund the PORTS system.

SP-2 Develop spill response plans for priority areas.

SP-3 Improve fueling and bilge-pumping practices among pleasure boaters

Appendix B

THE COASTAL ZONE MANAGEMENT PROGRAM AND THE NATIONAL ESTUARY PROGRAM

In order to avoid duplication of effort, unnecessary expenditures of Federal funds, and the development of conflicting regulatory mechanisms, involving the Coastal Zone Management Program (CZMP) and the National Estuary Program (NEP), the enclosed coordination paper, which we endorse, has been prepared to address NOAA and EPA responsibilities.

This paper serves as guidance to NOAA and EPA program managers in carrying out their respective responsibilities under these two programs. Steps will be undertaken to begin implementation of the specific actions called for under Section V, including the establishment of a mechanism at the national level for coordination and oversight of individual estuary programs under the NEP and to ensure continued integration of the NEP and CZMP.

Coordination of NOAA and EPA activities related to this agreement will be handled by John J. Carey, Deputy Assistant Administrator, NOAA, National Ocean Service and Tudor T. Davies, Director, Office of Marine and Estuarine Protection, EPA.

Enclosure

(signed by William E. Evans)

William E. Evans
Under Secretary for
Oceans and Atmosphere
Department of Commerce

DATE (signed Sept. 12, 1988)

(signed by Lee M. Thomas)

Lee M. Thomas
Administrator
Environmental Protection
Agency

DATE (signed Aug. 18, 1988)

THE COASTAL ZONE MANAGEMENT PROGRAM
AND THE NATIONAL ESTUARY PROGRAM

I. GOALS OF THE TWO PROGRAMS

The Coastal Zone Management Act (CZMA) was enacted by Congress to create a comprehensive management umbrella for the beneficial use, protection, and development of the resources of the nation's coastal zone. Coastal management was conceived as a voluntary program that States would undertake in partnership with the Federal government. To achieve comprehensive management of coastal resources, States wishing to participate were required to develop programs that addressed protection of coastal development in coastal areas to avoid loss of life and property, priority consideration of water dependent uses, improved access to and enjoyment of the coastal zone, conservation and management of living marine resources, and increased coordination of governmental activities. Wetlands and water quality in estuaries are important elements of State coastal management programs.

States are required to weigh the concerns of different levels of government, various interest groups, and the general public in both the development and implementation of coastal management programs. There are 29 approved State CZM programs. Coastal zone programs encompass, through the application of program policies, interagency and Federal coordination and a wide range of management issues throughout the State's entire coastal zone.

The National Estuary Program (NEP) was established in the Water Quality Act of 1987 to develop and implement plans to protect the integrity of nationally significant estuaries threatened by pollution, development, or overuse. In some estuaries, the water pollution control requirements have been shown to be inadequate to protect the environment from degradation.. The main direction of the NEP is to strengthen these requirements.

Some nationally significant estuaries will be selected for inclusion in the program. In the estuaries selected, the participants of a Management Conference are responsible for defining the environmental problems, investigating and determining the causes of system-wide problems, and developing and implementing plans of action to address the problems. Sources of point and non-point pollution are the focus, although the management of living resources, water resources, and land use in the watershed may also be identified causes of some environmental problems.

The conference membership consists of representatives of EPA, each affected State and foreign nation, international, interstate, or regional agencies, each interested Federal agency, local governments, affected industries, public and private educational institutions, and the general public.

II. A MUTUAL GOAL

Although the CZMA is broader in scope, both the NEP and CZMA are focused on the protection of coastal resources and share a common environmental goal: to maintain and enhance or protect the health of the nation's coastal resources. In achieving this goal both EPA's and NOAA's programs seek to ensure that population growth and corresponding development occur in an environmentally sound manner.

III. POINTS OF INTERSECT OF: NEP AND CZM

- Both NEP and CZM are dependent on the political will and institutions of State and local government to take action. These Federal programs depend on the establishment and implementation of effective programs through State and local government.
- Both NEP and CZM have a strong orientation for public education, awareness, and involvement.
- Both NEP and CZM programs require the development of comprehensive plans but also have a strong action orientation.
- Both NEP and CZM are designed to comprehensively address pollution abatement, living resources, and land and water resource management.

IV. TOOLS

There are several distinct tools available within the two programs to integrate these programs and work toward the same environmental goal:

- A NEP Management Conference is convened under Section 320 of the Clean Water Act to provide a forum for consensus building and problem solving.
- A NEP Comprehensive Conservation and Management Plan (CCMP) is developed by the Management Conference. The plan specifies goals and objectives for restoring and maintaining the estuary, and identifies actions, schedules, and resources to meet the goals.
- A Special Area Management Plan is developed by CZM States which create a comprehensive program providing special protection for a designated geographic area.
- A CZM Section 312 evaluation is a biennial review of a CZM program which recommends future actions.
- Section 307(c)(1) of the CZMA requires Federal agencies conducting or supporting activities directly affecting the coastal zone to do so in a manner which is

consistent, to the maximum extent practicable, with Federally approved State coastal zone management programs.

- A CZM implementation grant is made to States with approved CZMPs requiring "significant improvements" ensured in part by Section 312 evaluations.
- A CZM Section 309 grant is a competitive grant to States to integrate coastal programs and solve problems in Coastal Zones affecting more than one State.

V. EPA/NOAA CONCEPTS TO INTEGRATION OF NEPs AND CZMPs

NOAA

- To the extent permitted by law, States will be required to submit CCMPs developed under the NEP for incorporation into approved State CZM programs after approval by the Governor(s) and the EPA Administrator. CZMA Section 312 biennial evaluations will be used to ensure compliance.
- CZMA Section 312 biennial evaluations will stress activities identified by Management Conferences convened under the NEP, including activities outlined in a CCMP, or activities to support the overall objectives of the national demonstration program as defined under the NEP. As appropriate, an EPA representative would be invited to participate on the evaluations.
- CZM guidance governing the allocation of Section 309 grants for interstate coastal waters will give priority consideration to interstate estuaries and seek opportunities to coordinate activities where Management Conferences have been convened under the NEP.
- NOAA will provide scientific support and technical assistance to EPA for the development of national guidance on the management of pollution abatement and control programs to better address the survival and health of living estuarine and marine resources.

EPA

- CCMPs developed under the NEP will voluntarily, as a matter of policy, be submitted for review under the Federal consistency provisions of Section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended.
- NEP guidance and/or regulations will provide that CCMPs should be incorporated into approved CZMPs and will stress the use of existing CZMA tools, including the designation of areas of special concern and public participation and education programs, for implementation activities identified by the Management Conference.

- Mechanisms will be put in place to ensure that Management Conferences convened under the NEP will be coordinated with applicable State CZM planning processes and administration of CZM plans. Similarly, CZM program reviews and grant decisions will seek opportunities to coordinate activities where Management Conferences have been convened, or where objectives of the national demonstration program have been defined, under the NEP.