The original documents are located in Box 6, folder "National Oceanic and Atmospheric Administration (1)" of the Norman Ross Files, 1974-75 at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Norman E. Ross, Jr. donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

U.S. DEPARTMENT OF COMMERCE

9/26/74

To : Norman Ross

From: Jack Connolly NOAA

Thought you might be interested. A replacement name will have to be submitted.

GERALD R. FORD LIBRARY

UNIVERSITY OF MIAMI
CORAL GABLES, FLORIDA 33124

SCHOOL OF LAW
P. O. BOX 248087

September 23, 1974

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

In order for me to accept an appointment with the Department of State, I hereby resign my appointment as a member of the National Advisory Committee on Oceans and Atmosphere effective October 1, 1974.

I deeply appreciate having had the opportunity to serve on this important Committee, and to have participated in the preparation of its third annual report.

Sincerely,

Thomas A. Clingan, Jr.
Professor of Law

TAC:by

Norman Rao

GERALD R. FORD LIBRARY

Received Sept 30 -

October 4, 1974

Dear Mr. Lunsford:

Thank you for your telegram of September 25 concerning S. 1988, a bill to extend our fisheries jurisdiction to 200 miles pending the outcome of the Law of the Sea Conference. The Administration is aware of the importance of preventing further depletion of our coastal and anadromous stocks before the new Law of the Sea Treaty comes into force. We are taking several important steps to meet this need.

First, we are actively pursuing bilateral and limited multilateral approaches for the protection of our stocks. Progress has been significant in recent months, and we intend to continue to viggrously pursue improved protection bilaterally and within regional fisheries commissions.

Second, we have proposed that fisheries as well as certain other provisions of the new Law of the Sea Treaty should be applied on a provisional basis. That is, they should be applied after signature of the new treaty but before waiting for the process of ratification to bring the treaty into full legal effect.

Third, the Administration has recently announced a significantly new measure to provide increased protection for our stocks until the new Law of the Sea Treaty can be fully applied. That is, new enforcement procedures to substantially tighten control over the incidental catch of living resources from the United States continental shelf.

Mr. Saltonstall - this same letter went out under Mr. Rogers's signature

Despite the interim problem in protection of our coastal and anadromous stocks, the Administration is opposed to the enactment of legislation such as S. 1988 which would unilaterally extend United States fisheries jurisdiction. Enactment of this legislation would not satisfactorily resolve our fisheries problems, would at most merely anticipate a result likely to emerge in a matter of months from a successful Law of the Sea Conference, and would be seriously harmful to United States oceans and foreign relations interest.

Sincerely,

John O. Marsh, Jr.
Counsellor to the President

Mr. William C. Lunsford, Jr.
Zapata Maynie Corporation
5010 York Road
Baltimore, Maryland 21212

NEROSS/ee

[redacted] Files

He other copy to the other fellow me Saltonstall want to C.F.

GERALD R. FORD LIBRARY

October 29, 1974

MEMORANDUM FOR: ROBERT M. WHITE

FROM: NORM ROSS

SUBJECT: President's Trip to Japan

Attached is a letter to the President from the Governor of Alaska concerning the President's upcoming trip to Japan.

Please provide me with an appropriate background paper on the impact of foreign fishing in U.S. coastal water on U.S. fishermen and the domestic fishing industry.

Many thanks.

NEROSS/ee

GERALD R. FORD LIBRARY

WILLIAM A. EGAN
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

WHITE HOUSE
MAIL ROOM

1974 OCT 24 PM 3 56

October 17, 1974

The Honorable Gerald R. Ford
President
The White House
Washington, D. C. 20500

ORIGINAL TO: JAMES FALK

COPY FYI TO: DR. KISSINGER ANI
NORM ROSS

Dear Mr. President:

Three weeks ago the United States advisors to the International North Pacific Fisheries Commission were alerted by staff members of the Departments of State and Commerce of the very good possibility that the subject of fisheries would be included in your forthcoming series of talks with Prime Minister Tanaka in Tokyo in November, 1974. This development was very encouraging to me since even the possibility of presidential level fishery talks with Japan indicated that you were aware of the very serious and detrimental impact of foreign fishing in U. S. coastal waters on U. S. fishermen and the domestic fishing industry.

The recent news of your meeting with Congressmen Young, Studds and others on the subject of S. 1988 (Interim Extended U. S. Fishery Jurisdiction to 200 Miles) and your subsequent promise "to make the issue of extensive Japanese fishing off Alaska's coast a major topic of discussion" when you meet Prime Minister Tanaka, provided further encouragement to me recognizing your present position on the subject of unilateral fishery jurisdiction.

For many years, Alaskan fishermen, fishing industry leaders, the State Legislature, private citizens, the Department of Fish and Game, and I have voiced our concern with:

1. The open ended harvest of Bristol Bay sockeye salmon and other salmon of Alaskan origin by Japan on the high seas;

2. The destruction of our once great halibut resource by foreign trawl fleets in the eastern Bering Sea;

3. The continued harvest of United States crabs by Japan in the eastern Bering Sea;

4. The damage to stationary U. S. fishing gear by mobile gear foreign fleets; and

5. The over-harvest of coastal fishery stocks by foreign fleets on the U. S. Continental Shelf.

The general lack of response at the Federal level in the past to these and other foreign fishing problems, and the adherence to the inflexible and unquestioned concerns of the Pentagon have indeed been disheartening to me as Governor of the State in which commercial fishing has long been the most important industry.

This discouragement has not diminished my determination to achieve extended fishery jurisdiction--a cause which I am convinced is right and which will be realized sooner or later, by one means or another.

You are therefore to be doubly complimented; first, on your openminded attitude on the issue; and second, for your acknowledgement of its seriousness by means of the promise to discuss it with Prime Minister Tanaka.

You are probably aware that a series of very important fishery meetings and negotiations involving the U. S., Canada, Japan and the Soviet Union will soon commence. The first is the annual meeting of the INPFC involving the U. S., Canada and Japan, which will take place in Seattle the last two weeks of October and the first week of November. The second is the bilateral fishery negotiations with Japan involving a variety of northeast Pacific Ocean and eastern Bering Sea fishery matters, which tentatively will commence in mid November in Tokyo. And the third is a similar bilateral fishery negotiation with the Soviet Union which is scheduled to start early in 1975, in Washington, D. C.

The prominence given by the news media to your recent meeting with the congressmen from important fishing states, and your assurance that the issues of concern would be discussed with Prime Minister Tanaka will undoubltedly have a very beneficial effect on these negotiations. That is one benefit that we will realize even before the

GERALD R. FORD LIBRARY

negotiations begin. The substance of your talks will hopefully provide further substantive benefits.

With this in mind, and to assist you with a better understanding of those problems of special importance to Alaska, I am enclosing copies of position papers which were developed by Alaskans for use during both the 1973 and 1974 INPFC meetings.

Sincerely,

William A. Egan
Governor

Enclosures

TRANSMITTAL FORM - U.S. DEPARTMENT OF COMMERCE

FORM CD-82
(11-14-63)
PRESCRIBED BY
DAO 214-2

DATE 11/5/74

TO : Norm Ros~~s~~ Fik NOAA

FROM: Bob Knecht

As per our lunch conversation, here is the draft CZM program approval criteria. Your thoughts and suggestions would be very much appreciated.

Attachment

Bob

11/7

DO NOT USE FOR PERMANENT RECORD INFORMATION

GPO: 1971 OF—443-331

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 923]

COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

Criteria and Procedures

Notice is hereby given that the regulations set forth below are proposed for adoption by the National Oceanic and Atmospheric Administration (NOAA) pursuant to the provisions of the Coastal Zone Management Act of 1972 (86 Stat. 1280, 16 U.S.C. 1451–1464, hereinafter referred to as the Act). The regulations set forth (a) criteria and procedures to be utilized in reviewing and approving Coastal Zone Management Programs pursuant to section 306 of the Act, and (b) procedures by which coastal States may apply to receive administrative grants under section 306(a) of the Act. Upon promulation, the criteria and procedures under (a) will constitute the "Guidelines for section 306" referred to in 15 CFR 920.

These proposed regulations take into account material submitted in a working paper dated November 30, 1973, prepared under contract for NOAA; from public discussions on that paper held during December 1973 and January 1974 in Washington, D.C.; San Francisco, California; Seattle, Washington; Chicago, Illinois; Boston, Massachusetts; Atlanta, Georgia; and New Orleans, Louisiana; and from written comments received from many interested parties. In addition, consideration has been given to relevant portions of various analyses and recommendations in available literature and under contract to NOAA's Office of Coastal Zone Management (OCZM).

Notification has been made of NOAA's intent to prepare and issue during the review period mentioned below an environmental impact statement regarding the proposed approval criteria contained in subparts A–E herein, thus submitting these criteria to review under the terms of the National Environmental Policy Act of 1969. Prior to adoption of the proposed regulations, consideration will be given to comments which are submitted in writing to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852, before October 15, 1974.

ROBERT M. WHITE,
Administrator.

AUGUST 15, 1974.

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

Subpart A—General

Sec.

923.1 Purpose.
923.2 Definitions.
923.3 Submission of management programs.
923.4 Evaluation of management programs—general.
923.5 Environmental impact assessment.

Subpart B—Land and Water Uses

Sec.
923.10 General.
923.11 Boundary of the coastal zone.
923.12 Permissible land and water uses.
923.13 Areas of particular concern.
923.14 Guidelines on priorities.
923.15 National interest facilities.
923.16 Area designation for preservation and restoration.
923.17 Local regulations and uses of regional benefit.

Subpart C—Authorities and Organization

923.20 General.
923.21 Means of exerting State control over land and water uses.
923.22 Organizational structure to implement the management program.
923.23 Designation of a single agency.
923.24 Authorities to administer land and water uses, control development and resolve conflicts.
923.25 Authorities for property acquisition.
923.26 Techniques for control of land and water uses.

Subpart D—Coordination

923.20 General.
923.31 Full participation by relevant bodies in the adoption of management programs.
923.32 Consultation and coordination with other planning.

Subpart E—Miscellaneous

923.40 General.
923.41 Public hearings.
923.42 Gubernatorial review and approval.
923.43 Segmentation.
923.44 Applicability of air and water pollution control requirements.

Subpart F—Applications for Administrative Grants

923.50 General.
923.51 Administration of the program.
923.52 State responsibility.
923.53 Allocation.
923.54 Geographical segmentation.
923.55 Application for the initial administrative grant.
923.56 Approval of applications.
923.57 Amendments.
923.58 Applications for second and subsequent year grants.

AUTHORITY: 86 Stat. 1280, 16 U.S.C. 1451–1464.

Subpart A—General

§ 923.1 Purpose.

(a) This part establishes criteria and procedures to be employed in reviewing and approving coastal zone management programs submitted by coastal States and for the awarding of grants under section 306 of the Act.

(b) The Act sets forth in sections 305, 306 and 307 a number of specific requirements which a management program must fulfill as a condition for approval by the Secretary. These requirements are linked together as indicated in the subparts which follow. Presentation of the State management program in a similar format is encouraged since it will enable more prompt and systematic review by the Secretary. However, there is no requirement that a State present its management program in the format which corresponds exactly to the listing of categories listed below. The broad categories are: Land and Water Uses, Subpart B; Authorities and Organization, Subpart C; Coordination, Subpart D; and Miscellaneous Provisions, Subpart E. Subpart F, Applications for Administrative Grants, deals with applications for administrative grants upon approval of State Coastal Zone Management Programs which will be subject to periodic review by the Secretary in accordance with section 309 of the Act. In addition to providing criteria against which State coastal zone management programs can be consistently and uniformly judged in the approval process and establishing procedures for the application by States for administrative grants, it is the intent of this part to provide guidance to coastal States in the development of management programs. Therefore, many of the sections dealing with approval criteria in the subparts are followed by a "comment" which refers to a section or sections of the Act and indicates the interpretation placed upon the requirements of the Act or the regulation by the Secretary.

§ 923.2 Definitions.

In addition to the terms defined in the Act and 15 CFR 920.2, the following terms shall have the meanings indicated below:

"Final approval" means, with respect to a Coastal Zone Management Program, approval of a program which terminates the eligibility of the State for grants under section 305 of the Act and makes the State eligible for grants under section 306 of the Act.

"Preliminary approval" means, with respect to a Coastal Zone Management Program, approval of a program which does not terminate the eligibility of the State for further grants under section 305 of the Act, and which does not make the State eligible for grants under section 306 of the Act.

"Use of regional benefit" means a land or water use that typically provides benefits to a significant area beyond the boundaries of a single unit of the lowest level of local, general-purpose government.

§ 923.3 Submission of management programs.

(a) Upon completion of the development of its management program, a State shall submit the program to the Secretary for review and final approval in accordance with the provisions of these regulations. A program submitted for final approval must comply with all of the provisions set forth in Subparts A–E, including, in particular, Subpart C, which requires that certain authorities and plans of organization be in effect at the time of the submission.

(b) Optionally, the State may submit for the preliminary approval of the Secretary a program complying with the substantive requirements of this part, but for which the proposed authorities and organization complying with the provisions of Subpart C are not yet legally effective. In reviewing a program submitted for preliminary approval, the Secretary may grant such approval subject to establishment of a legal regime providing the authorities and organization called for in the program. If the State elects this option, it shall continue to be eligible for funding under section 305 but it shall not yet be eligible for funding under section 306 of the Act until such time as its program is finally approved. Upon a showing by the State that authorities and organization necessary to implement the program which has received preliminary approval are in effect, final approval shall be granted.

Comment. The purpose of the optional procedure is to provide a State with an opportunity for Secretarial review of its program before State legislation is enacted to put the program into legal effect. Some States may prefer not to utilize the optional procedure, especially those which have legislative authority enabling the coastal zone agency of the State to put the program into effect by administrative action. In any event, the Office of Coastal Zone Management will be available for consultation during all phases of development of the program.

Reference. Section 305(d) of the Act.

§ 923.4 Evaluation of management programs—general.

(a) In reviewing management programs submitted by a coastal State pursuant to § 923.3, the Secretary will evaluate not only all of the individual program elements required by the Act and set forth in Subpart B–E of this part, but the objectives and policies of the State program as well to assure that they are consistent with national policies declared in section 303 of the Act.

(b) Each program submitted for approval shall contain a statement of issues and problems, objectives and policies. These statements shall address:

(1) Major issues and problems both within and affecting the State's coastal zone;

(2) Objectives to be attained in interagency and intergovernmental cooperation, coordination and institutional arrangements; and enhancing management capability involving issues and problem identification, conflict resolution, regulation and administrative efficiency at the State and coastal level;

(3) Objectives of the program in preservation, protection, development, restoration and enhancement of the State's coastal zone;

(4) Policies for the protection and conservation of coastal zone natural systems, cultural, historic and scenic areas, renewable resources, and the preservation, restoration and economic development of selected coastal zone areas.

(c) The Secretary will review the management program for the adequacy of State procedures utilized in its development and will consider the extent to which its various elements have been intergrated into a balanced and comprehensive program designed to achieve the above objectives and policies.

Comment: Evaluation of the statutory requirements established in this subpart will concentrate primarily upon the adequacy of State processes in dealing with key coastal problems and issues. It will not, in general, deal with the wisdom of specific land and water use decisions, but rather with a determination that in addressing those problems

and issues, the State is aware of the full range of present and potential needs and uses of the coastal zone, and has developed procedures, based upon scientific knowledge, public participation and unified governmental policies, for making reasoned choices and decisions.

Management programs will be evaluated in the light of the Congressional findings and policies as contained in sections 302 and 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the "urgent need to protect and to give high priority to natural systems in the coastal zone." States are encouraged by the Act to take into account ecological, cultural, historic and esthetic values and the need for economic development in preparing and implementing management programs through which the States, with the participation of all affected interests and levels of government, exercise their full authority over coastal lands and waters.

Further assistance in meeting the intent of the Act may be found in the Congressional Committee Reports associated with passage of the legislation (Senate Report 92–753 and House Report 92–1049). From these reports, it is anticipated that coastal States will address the following representative considerations in the development of their management programs:

(1) Present laws and regulations on land and water uses and water quality and activities by all levels of government;

(2) Present ownership patterns, including administration of publicly owned properties;

(3) Present populations and future trends, including assessments of the impact of population growth on the coastal zone and estuarine environments;

(4) Present uses, unknown proposals for changes, and long-term use requirements of the coastal zone;

(5) Energy generation and transmission;

(6) Estuarine habitats of fish, shellfish and wildlife;

(7) Industrial needs;

(8) Housing requirements;

(9) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming and pleasure boating;

(10) Open spaces, including educational and natural preserves, scenic beauty, and public access, both visual and physical, to coastlines and coastal and estuarine areas;

(11) Mineral resources requirements;

(12) Transportation and navigation needs;

(13) Floods and flood damage prevention, erosion (including the effect of tides and currents upon beaches and other shoreline areas), land stability, climatology and meteorology;

(14) Communications;

(15) Commercial fishing; and

(16) Requirements for protecting water-quality.

In assessing programs submitted for approval, the Secretary, in consultation with other concerned Federal agencies, will examine such programs to determine that the full range of public issues and problems affecting the coastal zone have been identified and considered. In this connection, developments outside the coastal zone may often have a significant impact within the coastal zone and create a range of public issues and problems which must be dealt with in the Coastal Zone Management Program.

The Secretary encourages the States to develop objectives toward which progress can be measured and will review program submissions in this light. While it is recognized that many essential coastal zone management objectives are not quantifiable (e.g. public aspirations, "quality of life"), others are, and should be set forth in measurable terms where feasible (e.g. shore erosion, beach access, recreational demand, energy facility requirements). Identifying and analyzing problems and issues in measurable terms during the program development phase will facilitate the formulation of measurable objectives as part of the approval submission.

§ 923.5 Environmental impact assessment.

At the time of or prior to the submission of a program under § 923.3, a State shall submit an assessment of the environmental impact of the program.

Comment. Because the criteria relating to approval of management programs contained herein provide the standards by which such programs will be judged, it has been determined that it is appropriate for a generic environmental impact statement to be prepared by the Secretary on the criteria contained in Subparts A–E, which are primarily concerned with the adequacy of State processes involved in development management programs. Notification has been given of NOAA's intent to prepare and circulate such an environmental impact statement prior to final adoption of these criteria. Approval by the Secretary of a State's coastal zone management program may constitute a "major Federal action having a significant impact on the human environment", thus requiring the preparation of an environmental impact statement by the Secretary pursuant to the terms of the National Environmental Policy Act.

Subpart B—Land and Water Uses

§ 923.10 General.

(a) This subpart deals with land and water uses in the coastal zone which are subject to the management program.

(b) In order to provide a relatively simple framework upon which discussion of the specific requirements associated with this subpart may proceed, it may be helpful to categorize the various types of land and water uses which the Act appears to envision.

(c) The statutory definition of the landward portion of the coastal zone states that it "extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." Thus, the coastal zone will include those lands and only those lands where any existing, projected or potential use will have a "direct and significant impact on the coastal waters." Any such use will be subject to the terms of the management program, pursuant to section 305(b)(2). There may well be uses of certain land included within the coastal zone which will not have the "direct and significant impact." Such uses may be subject to regulation by local units of government within the framework of the management program.

(d) The Act also requires that management programs contain a method of assuring that "local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit." This requirement is described more fully in § 923.17.

(e) As part of the State's management program, it must address and exercise authority over the following:

(1) *Land and water uses which have a direct and significant impact upon coastal waters.* These uses are described more fully in § 923.12.

(2) *Areas of particular concern.* Section 305(b)(3) specifies that the management program include an inventory and designation of areas of particular concern within the coastal zone. Section 923.13 deals more thoroughly with this statutory requirement. Such areas must be considered of Statewide concern and must be addressed in the management program.

(3) *Siting of facilities necessary to meet requirements which are other than local in nature.* The management program must take "adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature" (section 306(c)(8)). This requirement is more fully discussed in § 923.15. It should be stressed that this section requires the State to consider adequately the national interest involved in the siting of certain facilities, not the national interest concerned with the facilities themselves.

§ 923.11 Boundaries of the coastal zone.

(a) *Requirement.* In order to fulfill the requirement contained in section 305(b)(1), the management program must show evidence that the State has developed and applied a procedure for identifying the boundary of the State's coastal zone meeting the statutory definition of the coastal zone contained in section 304(a). At a minimum this procedure should result in:

(1) A determination of the inland boundary required to control, through the management program, shorelands the uses of which have direct and significant impacts upon coastal waters,

(2) A determination of the extent of the territorial sea, or where applicable, of State waters in the Great Lakes,

(3) An identification of transitional and intertidal areas, salt marshes, wetlands and beaches,

(4) An identification of the boundaries of lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal government, its officers and agents.

(b) *Comment.* Statutory citation: Section 305(b)(1)

> Such management program shall include * * * an identification of the boundaries of the coastal zone subject to the management program.

Useful background information concerning this requirement appears in 15 CFR 920.11, which is incorporated into this part by reference.

(1) The key to successful completion of this requirement lies in the development and use of a procedure designed to

identify the landward extent of the coastal zone. Included in this procedure must be a method for determining those "shorelands, the uses of which have a direct and significant impact upon the coastal waters." These uses shall be considered the same as the "land and water uses" described in § 923.12, reflecting the requirements of section 305 (b) (2) of the Act regardless of whether those uses are found, upon analysis, to be "permissible." The coastal zone must include within it those lands which have any existing, projected or potential uses which have a direct and significant impact upon the coastal waters and over which the terms of the management program will be exercised. In some States, existing regulations controlling shoreland uses apply only in a strip of land of uniform depth (e.g. 250 feet, 1,000 yards, etc.) behind the shoreline. Such a boundary will be acceptable if it approximates a boundary developed according to the procedure outlined above and extends inland sufficiently for the management program to control lands the uses of which have a direct and significant impact upon coastal waters. States may wish, for administrative convenience, to designate political boundaries, cultural features, or property lines as boundaries of the coastal zone. While the Secretary will take into account the desirability of identifying a coastal zone which is easily regulated as a whole, the selection of the boundaries of the coastal zone must bear a reasonable relationship to the statutory requirement. Nothing in this part shall preclude a State from exercising the terms of the management program in a landward area more extensive than the coastal zone called for in this part. If such a course is selected, the boundaries of the coastal zone must nevertheless be identified as above and the provisions of the Act will be exercised only in the defined coastal zone. It should be borne in mind that the boundary should include lands and waters which are subject to the management program. This means that the policies, objectives and controls called for in the management program must be capable of being applied consistently within the area. The area must not be so extensive that a fair application of the management program becomes difficult or capricious, nor so limited that lands strongly influenced by coastal waters and over which the management program should reasonably apply, are excluded.

(2) Inasmuch as the seaward boundary of the coastal zone is established in the Act, the States will be required to utilize the statutory boundary, i.e. in the Great Lakes, the international boundary between the United States and Canada, and elsewhere the outer limit of the United States territorial sea. At present, this limit is three nautical miles from the appropriate baselines recognized by international law and defined precisely by the United States. In the event of a statutory change in the boundary of the territorial sea, the question of whether a corresponding change in coastal zone boundaries must be made, or will be made by operation of law, will depend on the specific terms of the statutory change and cannot be resolved in advance. In the waters of Lake Michigan, the boundary shall extend to the recognized boundaries with adjacent States.

(3) A State's coastal zone must include transitional and intertidal areas, salt marshes, wetlands and beaches. Hence the boundary determination procedure must include a method of identifying such coastal features. In no case, however, will a State's landward coastal zone boundary include only such areas in the absence of application of the procedures called for herein.

(4) Since the coastal zone excludes lands the use of which is by law subject solely to the discretion, or which is held in trust by the Federal Government, its officers and agents, the coastal zone boundary must identify such lands which are to be excluded from the coastal zone. These will typically include national parks and seashores, U.S. forest lands, Federal Indian reservations, and some military installations. Mere ownership of land by the Government of the United States, however, shall not result in the exclusion from the coastal zone.

§ 923.12 Permissible land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in section 305(b)(2), the management program must show evidence that the State has developed and applied a procedure for defining "permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters," which includes, at a minimum:

(1) A method for relating various specific land and water uses to impact upon coastal waters, including utilization of an operational definition of "direct and significant impact,"

(2) An inventory of natural and man-made coastal resources,

(3) An analysis of the capability and suitability for each type of resource and application to all existing, projected or potential uses,

(4) An analysis of the environmental impact of reasonable resource utilizations.

(b) *Comment.* Statutory citation: Section 305(b)(2):

> Such management program shall include * * * a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significan impact upon the coastal waters.

Useful background information concerning this requirement appears in 15 CFR 920.12, which is incorporated into this part by reference. Completion of this requirement should be divided into two distinct elements: A determination of those land and water uses having a direct and significant impact upon coastal waters, and an identification of which such uses the State deems permissible.

(1) Section 305(b)(4). In identifying those uses which have a "direct and significant impact," the State should define that phrase in operational terms that can be applied uniformly and consistently, and should develop a method for relating various uses to impacts upon coastal waters. Existing, projected and potential uses should be analyzed as to the level and extent of their impact, be it adverse, benign or beneficial, intrastate or interstate. These impacts should then be assessed to determine whether they meet the definition of "direct and significant impact upon coastal waters." (These are the uses by which the boundaries of the coastal zone are defined.) Those uses meeting that definition are automatically subject to control by the management program.

(2) In determining which land and water uses may be deemed permissible, a State should develop a method for assuring that such decisions are made in an objective manner, based upon evaluation of the best available information concerning land and water capability and suitability. This method should include at a minimum:

(i) an inventory of significant natural and man-made coastal resources, including but not limited to shorelands, beaches, dunes, wetlands, uplands, barrier islands, waters, bays, estuaries, harbors and their associated facilities. This should not be construed as requiring long-term, continuing research and baseline studies, but rather as providing the basic information and data critical to successful completion of a number of required management program elements. It is recognized that in some States a complete and detailed inventory of such resources may be expensive and time consuming in relation to the value of information gathered in the development of the management program. Much information, of course, already exists and should be integrated into the inventory. The Secretary, in reviewing this particular requirement, will take into account the nature and extent of the State's coastline, the funding available and existing data sources.

(ii) an analysis of the capabilities of each resource for supporting various types of uses (including the capability for sustained and undiminished yield of renewable resources), as well as of the suitability for such resource utilization when evaluated in conjunction with other local, regional and State resources and uses.

(iii) an analysis of the impact of various resource uses upon the natural environment (air, land and water). Based upon these analyses, the State should define permissible uses as those which can be reasonably and safely supported by the resource, which are compatible with surrounding resource utilization and which will have a tolerable impact upon the environment. Where a State prohibits a use within the coastal zone, or a portion thereof, it should identify the reasons for the prohibition, citing evidence developed in the above analyses. It should be pointed out that uses which may have a direct and significant impact on coastal waters when conducted close to the

shoreline may not have a direct and significant impact when conducted further inland. Similarly, uses which may be permissible in a highly industrialized area may not be permissible in a pristine marshland. Accordingly, the definition may also be correlated with the nature (including current uses) and location of the land on which the use is to take place. The analyses which the State will undertake pursuant to this section should also be useful in satisfying the requirements of §§ 923.13 through 923.17.

§ 923.13 Areas of particular concern.

(a) *Requirement.* In order to fulfill the requirements contained in section 305 (b)(3), the management program must show evidence that the State has made an inventory and designation of areas of particular concern within the coastal zone. Such designations shall be based upon a review of natural and man-made coastal zone resources and uses, and upon consideration of State-established criteria which include, at a minimum, those factors contained in 15 CFR 920.13.

(b) *Comment.* Statutory citation: Section 305(b)(3):

> Such management program shall include * * * an inventory and designation of areas of particular concern within the coastal zone.

Useful background information concerning the requirement appears in 15 CFR 920.13, which is incorporated here by reference. It should be emphasized that the basic purpose of inventorying and designating areas of particular concern within the coastal zone is to express some measure of Statewide concern about them and to include them within the purview of the management program. Therefore, particular attention in reviewing the management program will be directed toward development by the State of implementing policies or actions to manage the designated areas of particular concern.

§ 923.14 Guidelines on priority of uses.

(a) *Requirement.* The management program shall include broad policies or guidelines governing the relative priorities which will be accorded in particular areas to at least those permissible land and water uses identified pursuant to § 923.12. The priorities will be based upon an analysis of State and local needs as well as the effect of the uses on the area. Uses of lowest priority will be specifically stated for each type of area.

(b) *Comment.*

> Such management program shall include * * * broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority.

As pointed out in 15 CFR 920.15, the priority guidelines will set forth the degree of State interest in the preservation, conservation and orderly development of specific areas within the coastal zone, and thus provide the basis for regulating land and water uses in the coastal zone, as well as a common reference point for resolving conflicts. Such priority guidelines will be the core of a successful management program since they will provide a framework within which the State, its agencies, local governments and regional bodies can deal with specific proposals for development activities in various areas of the coastal zone. In order to develop such broad guidelines, the management program should indicate that a method has been developed and applied for (1) analyzing State needs which can be met most effectively and efficiently through land and water uses in the coastal zone, and (2) determining the capability and suitability of meeting these needs in specific locations in the coastal zone. In analyzing the States' needs, there should be a determination made of those requirements and uses which have Statewide, as opposed to local, significance. Section 302(h) of the Act states in part that land and water use programs for the coastal zone should include "unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance." The inventory and analyses of coastal resources and uses called for in § 923.12 will provide the State with most of the basic data needed to determine the specific locations where coastal resources are capable and suitable for meeting Statewide needs. In addition, these analyses should permit the State to determine possible constraints on development which may be applied to particular uses. The program should establish special procedures for evaluating land use decisions, such as the siting of regional energy facilities, which may have a substantial impact on the environment. In such cases, the program should make provision for the consideration of available alternatives, specifically alternate sites which will serve the need with a minimum adverse impact. The identifying and ordering of use priorities in specific coastal areas should lead to the development and adoption of State policies or guidelines on land and water use in the coastal zone. Such policies or guidelines should be part of the management program as submitted by the State and should be consistent with the State's specified management program objectives. Particular attention should be given by the State to applying these guidelines on use priorities within those "areas of particular concern" designated pursuant to § 923.13. In addition, States shall indicate within the management program uses of lowest priority in particular areas, including guidelines associated with such uses.

§ 923.15 National interest in the siting of facilities.

(a) *Requirement.* A management program which integrates the siting of facilities meeting requirements which are of greater than local concern into the determination of uses and areas of Statewide concern, through development of a body of information relating to the national interest involved in and such siting through consultation with cognizant Federal and regional bodies, as well as adjacent and nearby States, will meet the requirements of section 306(c)(8).

(b) *Comment.* Statutory citation: Section 306(c)(8):

> Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that: * * * the management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

This policy requirement is intended to assure that national concerns over facility siting are expressed and dealt with in the development and implementation of State coastal zone management programs. The requirement should not be construed as compelling the States to accept certain types of facilities, but to assure that such national concerns are included at an early stage in the State's planning activities. In this regard, the process States should follow should not be seen as significantly different from, and should be a part of, the determination of uses of Statewide concern. It is recognized that there may or may not be a national interest associated with the siting of facilities necessary to meet requirements which are other than local in nature. Requirements which are other than local in nature shall be considered those requirements which, when fulfilled, result in the establishment of facilities designed clearly to serve more than one locality (generally, the lowest unit of local, general-purpose government, excluding situations such as with cities and counties which exercise concurrent jurisdiction for the same geographic areas). Management programs must recognize the need of local as well as regional and national populations for goods and services which can be supplied only through the use of facilities in the coastal zone, and make reasonable provision for such facilities in light of the size and population of the State, the length and characteristics of its coast and the contribution such State is already making to regional and national needs. In order to provide assistance to the States in completing this requirement, a listing is presented below which identifies those requirements which are both (1) other than local in nature, and (2) possess siting characteristics in which, in the opinion of the Secretary, there is a clear national interest. For each such need, there is a listing of associated facilities. In addition, the principal cognizant Federal agencies concerned with these facilities are also listed. This list must not be considered inclusive, but the State should consider each requirement and facility type in the development of its management program. As a preliminary to adequate consideration of the national interest, the State must determine the needs for such facilities. This will require the State to enter into discussions with appropriate Federal agencies and agencies of other States in the region, a process which should begin early in the development of the management program so that the full dimensions of the national interest may be considered as the State develops its program (See §§ 923.31 and 923.32).

REQUIREMENTS WHICH ARE OTHER THAN LOCAL IN NATURE AND IN THE SITING OF WHICH THERE IS A CLEAR NATIONAL INTEREST (WITH ASSOCIATED FACILITIES AND COGNIZANT FEDERAL AGENCIES)

Requirements	Associated facilities	Cognizant Federal agencies
1. Energy production and transmission.	Oil and gas wells; storage and distribution facilities; refineries; nuclear, conventional, and hydroelectric powerplants; deepwater ports.	Federal Energy Administration, Federal Power Commission, Bureau of Land Management, Atomic Energy Commission, Maritime Administration, Geological Survey, Department of Transportation, National Park Service, Forest Service, Bureau of Outdoor Recreation.
2. Recreation (of an interstate nature).	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts, wildlife reserves.	
3. Interstate transportation	Interstate highways, airports, aids to navigation, ports and harbors, railroads.	Federal Highway Administration, Federal Aviation Administration, Coast Guard, Corps of Engineers, Maritime Administration, Interstate Commerce Commission.
4. Production of food and fiber	Prime agricultural land and facilities; forests, mariculture facilities.	Soil Conservation Service, Forest Service, NOAA.
5. Preservation of life and property.	Flood protection facilities, disaster warning facilities.	Corps of Engineers, Federal Insurance Administration, NOAA, Soil Conservation Service.
6. National defense	Military installations; defense manufacturing facilities.	Department of Defense.
7. Historic, cultural, esthetic, and conservation values.	Historic sites; natural areas; areas of unique cultural significance; wildlife refuges; areas of species and habitat preservation.	National Register of Historic Places, National Park Service, Fish and Wildlife Service, NOAA's National Marine Fisheries Service.

The management program should make reference to the views of cognizant Federal agencies as to how these national needs may be met in the coastal zone of that particular State. States should actively seek such guidance from these Federal agencies, particularly in view of the fact that all management programs will be reviewed with opportunity for full comment by all affected Federal agencies prior to approval. It is recognized that Federal agencies will differ markedly in their abilities to articulate policies regarding utilization of individual State's coastal zones. NOAA's Office of Coastal Zone Management will encourage Federal agencies to develop policy statements regarding their perception of national interest in the coastal zone and make these statements available to the States. The States should also consult with adjacent and nearby States which share similar or common coastal resources or with regional interstate bodies to determine how regional needs may be met in siting facilities. Specific arrangements of "trade-offs" of coastal resource utilization should be documented with appropriate supporting evidence. The importance of this type of interstate consultation and cooperation in planning cannot be overemphasized for it offers the States the opportunity of resolving significant national problems on a regional scale without Federal intervention.

§ 923.16 Area designation for preservation and restoration.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(9), the management program must show evidence that the State has developed and applied standards and criteria for the designation of areas of conservation, recreational, ecological or esthetic values for the purpose of preserving and restoring them.

(b) *Comment.* Statutory citation: Section 306(c)(9):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values.

(1) This requirement is closely linked to that contained in § 923.13, dealing with designation of areas of particular concern. Unless the State can make a compelling case to the contrary, all areas designated according to the methods called for in this part shall also be considered as areas of particular concern.

(2) This requirement is reasonably self-explanatory: The State must develop procedures for the designation of areas with certain characteristics. The State, in doing so, must:

(i) Establish standards and criteria for the possible designation of coastal areas intended for preservation or restoration because of their conservation, recreational, ecological or esthetic values, and

(ii) Apply those standards and criteria to the State's coastal resources. (In this, the inventory associated with the requirement of § 923.13 will be most helpful.)

(3) The requirement of the statute goes to the procedures rather than substance; the fact that a State may be unable to move rapidly ahead with a program of preservation or restoration will not prevent the program from being approved. The State should also rank in order of relative priority areas of its coastal zone which have been designated for the purposes set forth in this section. As funds become available, such a ranking will provide a set of priorities for selecting areas to be preserved or restored.

§ 923.17 Local regulations and uses of regional benefit.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(e)(2), the management program must show evidence that the State has developed and applied a method for determining uses of regional benefit, and that it has established a method for assuring that local land and water use controls in the coastal zone do not unreasonably or arbitrarily restrict or exclude those uses of regional benefit.

(b) *Comment.* Statutory citation: Section 306(e)(2):

Prior to granting approval, the Secretary shall also find that the program provides * * * for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

This requirement is intended to prevent local land and water use decisions from arbitrarily excluding certain land and water uses which are deemed of importance to more than a single unit of local government. For the purposes of this requirement, a use of regional benefit will be one which provides services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as in cities and counties which exercise jurisdiction over the same geographic areas). In order to assure that arbitrary exclusion does not occur, the State must first identify those uses which it perceives will affect or produce some regional benefit. This designation would normally be derived from the inventory and analysis of the uses contained in § 923.12. In any event, however, these uses should include those contained in the table of § 923.15. In addition, the State may determine that certain land and water uses may be of regional benefit under certain sets of circumstances; the State should then establish standards and criteria for determining when such conditions exist. There should be no blanket exclusion or restrictions of these uses in areas of the coastal zone by local regulation unless it can be shown that the exclusion or restriction is based upon reasonable considerations of the suitability of the area for the uses or the carrying capacity of the area. The requirement of this section does not exclude the possibility that in specific areas certain uses of regional benefit may be prohibited. However, such exclusions may not be capricious. The method by which the management program will assure that such unreasonable restrictions or exclusion not occur in local land and water use decisions will, of course, be up to the State, but it should include the preparation of standards and criteria relating to State interpretation of "unreasonable restriction or exclusion", as well as the establishment of a continuing mechanisms for such determination.

Subpart C—Authorities and Organization

§ 923.20 General.

This subpart deals with requirements that the State possess necessary authorities to control land and water uses and that it be organized to implement the management programs. It should be em-

phasized that before final approval of a coastal zone management program can be given by the Secretary of Commerce, the authorities and organizational structure called for in the management program must be in place. Preliminary approval, however, can be given to a proposal which will require subsequent legislative or executive action for implementation and eligibility for administrative grants under section 306.

§ 923.21 Means of exerting State control over land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in sections 305(b)(4) and 306(c)(7), the management program must show evidence that the State has identified a means for controlling each permissible land and water use specified in § 923.12, and for precluding land and water uses in the coastal zone which are not permissible. The management program should contain a list of relevant constitutional provisions, legislative enactments, regulations, judicial decisions and other appropriate official documents or actions which establish the legal basis for such controls, as well as a certification by the Governor or his designated legal officer that the State actually has and is prepared to implement the authorities, including those contained in section 306(d), required to implement the objectives, policies and individual components of the program.

(b) *Comment.* Statutory citations: Section 305(b)(4):

Such management program shall include * * * an identification of the means by which the State proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations and judicial decisions;

(c) Section 306(c)(7):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

Useful information concerning this requirement appears in 15 CFR 920.14, which is incorporated into this part by reference. The key words in this requirement are, "to exert control over the land and water uses." This reflects the Congressional finding that "the key to more effective protection and use of the land and water resources of the coastal zone is to encourage the States to exercise their full authority over the lands and waters in the coastal zone * * *" (emphasis added) It is not the intent of this part to specify for the States the "means" of control; this is a State responsibility. The State must, however, describe in the management program its rationale for developing and deciding upon such "means." The "means" must be capable of actually implementing the objectives, policies and individual components of the management program. As such, requirements shall be reviewed in close conjunction with §§ 923.24, 923.25 and 923.26, relating to actual authorities which the State must possess. The management program must provide for control of land and water uses in the coastal zone, although the exercise of control may be vested in, or delegated to various agencies or local government. As part of the approval of a management program, the Secretary must find that the means for controlling land and water uses identified in § 923.21 are established and in place, and that the means include the authorities contained in §§ 923.24 and 923.25. This finding will be based upon certification by the Governor of the coastal State or his designated legal officer that the State possesses and is prepared to implement the requisite authorities.

§ 923.22 Organizational structure to implement the management program.

(a) *Requirement.* In order to fulfill the requirement contained in section 305(b)(6), the management program must contain a description of how the State is organized to implement the authorities identified in § 923.21. In addition, the management program must contain a certification by the Governor of the State or his designated legal officer that the State has established its organizational structure in order to implement the management program.

(b) *Comment.* Statutory citation: Section 305(b)(6):

Such management program shall include * * * a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional and interstate agencies in the management process.

Statutory citation: Section 306(c)(6):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the State is organized to implement the management program required under paragraph (1) of this subsection.

Useful background information and guidance concerning this requirement appears in 15 CFR 920.16, which is incorporated into this part by reference. The legislative history of the Act makes it clear that the States should be accorded maximum flexibility in organizing for implementation of their coastal zone management programs. Thus, neither the Act nor this part provide an organizational model which must be followed. While individual State programs may have a wide range of interstate, State, local or areawide agency roles to play, the program will be reviewed closely for assurance that it constitutes an organized and unified program. Consistent with this principle, there must be a clear point of responsibility for the program, although program implementation may be undertaken by several entities. In those cases where a complex interagency and intergovernmental process is established, the State must submit a description of roles and responsibilities of each of the participants and how such roles and responsibilities contribute to a unified coastal zone management program. This description should be sufficiently detailed to demonstrate that a coherent program structure has been proposed by the State and the State is prepared to act in accordance with the objectives of the management program. Although the Act does not prescribe the creation of a central management agency at the State level, it envisions the creation of a coastal zone management entity that has adequate legislative and/or executive authority to implement the policies and requirements mandated in the Act. Review of the management program for compliance with this requirement will be undertaken as a single review with review of the requirements contained in § 923.31, full participation by interested bodies in adoption of management programs, and § 923.23, designation of a single State agency.

§ 923.23 Designation of a single agency.

(a) *Requirement.* In order to fulfill the requirement of Section 306(c)(5), the management program must contain appropriate documentation that the Governor of the coastal State has designated a single agency to be responsible for receiving and administering grants under section 306 for implementing an approved management program.

(b) *Comment.* Statutory citation: Section 306(c)(5):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the Governor of the State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

This requirement is closely related to that contained in § 923.22, relating to a description of the organizational structure which will implement the management program. While this requirement is self-explanatory, it should be pointed out that States will undoubtedly come forward with a wide variety of organizational structures to implement approved management programs. Some will probably be quite complex, utilizing a variety of control techniques at a number of governmental levels. Nothing in this part should be construed as limiting the options available to a State for implementing its program. The purpose of the requirement is simply to identify a single agency which will be fiscally and programmatically responsible for receiving and administering the grants under section 306 to implement the approved management program.

§ 923.24 Authorities to administer land and water uses, control development and resolve conflicts.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(d)(1), the management program must contain a certification by the Governor or his designated legal officer that the agencies and governments chosen by the State to administer the management program have the authority to administer land and water regulations, control develop-

ment in accordance with the management program and to resolve use conflicts.

(b) *Comment.* Statutory citation: Section 306(d)(1):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, area-wide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power * * * to administer land and water use regulations, control development in order to ensure compliance with the management program and to resolve conflicts among competing uses * * *

This requirement shall be reviewed in close conjunction with that of §§ 923.21, 923.25 and 923.26, dealing with authorities which the State's organizational structure must possess in order to ensure implementation of the management program. The language of this requirement makes it clear that the State may choose to administer its program using a variety of levels of governments and agencies but that if it does, the State must have available to it the authorities specified. In order to demonstrate that the State and/or its chosen agencies actually have authority to administer land and water use regulations, to control development in accordance with the management program and to resolve conflicts in uses addressed in the management program, the program should contain a legal certification to that effect by the Governor or his designated legal officer.

§ 923.25 Authorities for property acquisition.

(a) *Requirement.* In order to fulfill the requirement of section 306(d)(2), the management program shall contain a certification by the Governor or his designated legal officer that the agency or agencies responsible for implementation of the management program has available the power to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means where necessary to achieve conformance with the management program. Where the power includes condemnation, the State shall so indicate. Where the power includes other means, the State shall specifically identify such means.

(b) *Comment.* Statutory citation: Section 306(d)(2):

Prior to granting approval of the management program, the Secretary shall find that the State, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power * * * to acquire fee simple and less than fee simple interests in lands, waters and other property through condemnation or other means when necessary to achieve conformance with the management program * * *.

In most cases it will not be necessary to acquire fee simple ownership. Normally, appropriate use restrictions will be adequate to achieve conformance with the program. In other cases an easement may be necessary to achieve conformance with the management program. Where acquisition is necessary, this section contemplates acquisition by condemnation or through other means. However, the mere authority to acquire an interest in lands or waters by purchase from a willing vendor will not be sufficient in cases where the acquisition of interests in real property is a necessary and integral part of the program. In such cases, the power of condemnation need be no broader than necessary to achieve conformance with the program. For example, if a State's program includes provisions expressly requiring that power transmission lines and pipelines be located in specified energy and transportation corridors to minimize environmental impact, and for State acquisition of such transportation corridors, then the State should have the power to acquire such corridors for such purposes through condemnation. It is not necessary that the power to acquire real property be held by any particular agency involved in implementing the management program. To the extent required, the authority must, however, be held by one or more agencies or local governments with a statutory responsibility to exercise the authority without undue delay when necessary to achieve conformance with the management program.

§ 923.26 Techniques for control of land and water uses.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(e)(1), the management program must contain a certification by the Governor or his designated legal officer that all existing, projected and potential land and water uses within the coastal zone may be controlled by any one or a combination of the techniques specified in section 306(e)(1).

(b) *Comment.* Statutory citation: Section 306(e)(1):

Prior to granting approval, the Secretary shall also find that the program provides * * * for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct State land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

The State may choose to utilize only one of the specified techniques, or more than one, or a combination of them in different locations or at different times. Within the parameters set forth in the requirement, there is a large variety of tools which the management program could adopt for controlling land and water uses. The program should identify the techniques for control of land and water uses which it intends to use for all existing, projected and potential uses of State concern, and all areas of State concern within the coastal zone. Management programs should be accompanied by a certification by the Governor or his designated legal officer that the techniques for control of land and water uses in the coastal zone conform to any one or a combination of the techniques specified. This requirement will be reviewed in close conjunction with those contained in §§ 923.21, 923.24 and 923.25, dealing with State authorities to implement the management program.

Subpart D—Coordination

§ 923.30 General.

One of the most critical aspects of the development of State coastal zone management programs will be the ability of the States to deal fully with the network of public, quasi-public and private bodies which can assist in the development process and which may be significantly impacted by the implementation of the program. Each State will have to develop its own methods for accommodating, as appropriate, the varying, often conflicting interests of local governments, water and air pollution control agencies, regional agencies, other State agencies and bodies, interstate organizations, commissions and compacts, the Federal government, and interested private bodies. It is the intent of these requirements for coordination with governmental and private bodies to assure that the State, in developing its management program, is aware of the full array of interests represented by such organizations, that opportunity for participation was provided, and that adequate consultation and cooperation with such bodies has taken place and will continue in the future.

§ 923.31 Full participation by relevant bodies in the adoption of management programs.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(1), the management program must show evidence that:

(1) The management program has been formally adopted in accordance with State law or, in its absence, administrative regulations;

(2) The State has notified and provided an opportunity for full participation in the development of its management program to all public and private agencies and organizations which are liable to be affected by, or may have a direct interest in, the management program. The submission of the management program shall be accompanied by

a list identifying the agencies and organizations referred to in (2), the nature of their interest, and the opportunities afforded such agencies and organizations to participate in the development of the management program. These organizations should include those identified pursuant to § 923.32, which have developed local, areawide or interstate plans applicable to an area within the coastal zone of the State as of January 1 of the year in which the management program is submitted for approval; and

(3) The management program will carry out the policies enumerated in section 303.

(b) *Comment.* Statutory citation: Section 306(c)(1):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

This requirement embodies the actual approval by the Secretary of Commerce of a State's coastal zone management program pursuant to all of the terms of the Act, plus associated administrative rules and regulations. As the operative section, it subsumes all of the requirements included in this part, which shall be considered the "rules and regulations promulgated by the Secretary" mentioned in section 306(c)(1). The citation, however, also includes some specific additional requirements, for which guidance and performance criteria are necessary. These additional requirements include:

(1) Adoption of the management program by the State. The management program must demonstrate that it represents the official policy and objectives of the State. In general, this will require certification in the management program that (i) the State management entity has formally adopted the management program in accordance with either the rules and procedures established by statute, or in the absence of such law, administrative regulations.

(2) Opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private. A major thrust of the Act is its concern for full participation and cooperation in the development and implementation of management programs by all interested and affected agencies, organizations and individuals. This is specifically included in the statement of national policy in section 303(c). The State must provide evidence that the listed agencies and parties were, in fact, provided with an opportunity for full participation. It will be left to the States to determine the method and form of such evidence, but it should contain at a minimum:

(i) A listing, as comprehensive as possible, of all Federal and State agencies, local governments, regional organizations, port authorities and public and private organizations which are likely to be affected by, or have a direct interest in, the development and implementation of a management program (including those identified in § 923.32), and

(ii) A listing of the specific interests of such organizations in the development of the management program, as well as an identification of the efforts made to involve such bodies in the development process.

(*a*) "Opportunity for full participation" is interpreted as requiring participation at all appropriate stages of management program development. The assistance which can be provided by these public and private organizations can often be significant, and therefore contact with them should be viewed not only as a requirement for approval, but as an opportunity for tapping available sources of information for program development. Early and continuing contact with these agencies and organizations is both desirable and necessary. In many cases it may be difficult or impossible to identify all interested parties early in the development of the State's program. However, the public hearing requirement of § 923.41 should afford an opportunity to participate to interested persons and organizations whose interest was not initially noted.

(3) Consistency with the policy declared in section 303 of the Act. In order to facilitate this review, the State's management program must indicate specifically how the program will carry out the policies enumerated in section 303.

§ 923.32 Consultation and coordination with other planning.

(a) *Requirement.* In order to fulfill the requirements contained in section 306(c)(2), the management program must include:

(1) An identification of those entities mentioned which have plans in effect on January 1 of the year submitted [paragraph (A)],

(2) A listing of the specific contacts made with all such entities in order to coordinate the management program with their plans [paragraph (B)],

(3) An identification of the conflicts with those plans which have not been resolved through coordination, and continuing actions contemplated to attempt to resolve them [paragraph (A)], and

(4) Indication that a regular consultive mechanism has been established and is active, to undertake coordination between the single State agency designated pursuant to § 923.23, and the entities in paragraph (B).

(b) *Comment.* Statutory citation: Section 306(c)(2):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find * * * that the State has:

(A) Coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) Established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

Relevant background information on this requirement appears in 15 CFR 920.45(f), and is incorporated by reference herein. While the State will exercise its authority over land and water uses of Statewide significance in the coastal zone by one or more of the techniques set forth in § 923.28, the State management program must be coordinated with existing plans applicable to portions of the coastal zone. It should be noted that this section does not demand compliance of the State program with local plans, but the process envisioned should enable a State not only to avoid conflicts and ambiguities among plans and proposals, but to draw upon the planning capabilities of a wide variety of governments and agencies. Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will, of course, differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step. Effective cooperation and consultation must continue as the management program is put into operation so that local governments, interstate, regional and areawide agencies can continue to participate in the carrying out of the management program. The "plans" referred to in (A) shall be considered those which have been officially adopted by the entity which developed them, or which are commonly recognized by the entity as a guide for action. The list of relevant agencies required under § 923.31 will be of use in meeting this requirement. It will enable the State to identify those entities mentioned in (A) which have such plans and to provide evidence that coordination with them has taken place. The process envisioned should not only enable a State to avoid conflicts between its program and other plans applying within its coastal zone, but to draw upon the planning capabilities of a wide variety of local governments and other agencies. In developing and implementing those portions of the program dealing with power transmission lines, pipelines,

interstate transportation facilities and other facilities which will significantly impact on neighboring States of a region, particular attention should be paid to the requirements of this section.

Subpart E—Miscellaneous

§ 923.40 General.

The requirements in this subpart do not fall readily into any of the above categories but deal with several important elements of an approvable management program. They deal with public hearings in development of the management program, gubernatorial review and approval, segmentation of State programs and applicability of water and air pollution control requirements.

§ 923.41 Public hearings.

(a) *Requirements.* In order to fulfill the requirement contained in section 306 (b)(3), the management program must show evidence that the State has held public hearings during the development of the management program following not less than 30 days notification, that all documents associated with the hearings are conveniently available to the public for review and study at least 30 days prior to the hearing, that the hearings are held in places and at times convenient to affected populations, that all citizens of the State have an opportunity to comment on the total management program and that a report on each hearing be prepared and made available to the public within 45 days.

(b) *Comments.* Statutory citation: Section 306(c)(3):

> Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has held public hearings on the development of the management program.

Extensive discussion and statements of policy regarding this requirement appears in 15 CFR 920.30, 920.31 and 920.32, which is incorporated herein by reference.

§ 923.42 Gubernatorial review and approval.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(4), the management program must contain a certification signed by the Governor of the coastal State to the effect that he has reviewed and approved the management program and any amendments thereto. Certification may be omitted in the case of a program submitted for preliminary approval.

(b) *Comment.* Statutory citation: Section 306(c)(4):

> Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program and any changes thereto have been reviewed and approved by the Governor.

This requirement is self-explanatory. The State may wish to combine the certification for this requirement with those set forth in §§ 923.26, 923.27 and 923.28.

§ 923.43 Segmentation.

(a) *Requirement.* If the State intends to develop or adopt its management program in segments, it shall advise the Secretary as soon as possible stating why segmentation is appropriate under the circumstances and requesting his approval. The management program must show evidence (1) that the State has identified the geographic boundaries of all segmented management programs at the time of the first submission, (2) that a timetable and budget have been established for the timely completion of the remaining segments, and (3) that the State will exercise policy control over each of the segmented management programs prior to and following their integration into a complete State management program.

(b) *Comment:* Statutory citation: Section 306(h):

> At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided,* That, the State adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

This section reflects a recognition of the fact that certain segments of the coastal zone are under more intensive pressure than others and controls there may be of immediate importance. However, all segments within a State's coastal zone should ultimately be integrated in timely fashion. Segmentation is at the State's option but requires the approval of the Secretary. States should come forward with proposals for segmentation at as early a date as possible. The States may decide a reasonable configuration of segments, as well as the timing for the inclusion of those segments into a unified, comprehensive coastal zone management program. Here too, these determinations must be approved by the Secretary. At the time when the State submits the first segment of a State's coastal zone management program for approval by the Secretary, the State must specify not only the geographic configuration of the segment under consideration, but that of all other segments contemplated when the State management program is completed. In addition, the State must submit a timetable for completion of the remaining segments as well as a proposed budget for developing such additional segments. The first segmented management program shall, in addition, include a description of how the State proposes to exert control over the operation of each of the segmented management programs as well as the total combination of segmented management programs. The program for each segment must provide the powers, authorities and management capabilities needed to carry out the objectives of the Act. Segmented management programs will be reviewed for approval in exactly the same manner as entire State programs.

§ 923.44 Applicability of air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements contained in section 307(f), the management program must contain documentation by the official or officials responsible for State implementation of air and water pollution control activities, that those requirements have been incorporated into the body of the coastal zone management program.

(b) *Comment:* Statutory citation: Section 307(f):

> Notwithstanding any other provision of this title, nothing in this title 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 any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title, and shall be the water pollution control requirements and air pollution control requirements applicable to such program.

The requirements of this section are reasonably self-explanatory and are designed to ensure that there is adequate coordination betwen the closely related air and water pollution control techniques authorized under the specified acts and the coastal zone management program. The management program must contain certification by the appropriate State agencies administering programs under these two Acts that the requirements of those two Acts or regulations established by State or local governments pursuant to such Acts are in fact incorporated into the coastal zone management program. Likewise, the relevant information and plans of coastal zone management programs should be incorporated into air and water programs of the respective agencies. It is recognized that some States have established standards which are more stringent than those required by the above mentioned Acts. The incorporation of those standards into the coastal zone management program will not disqualify the states from approval of the management program or eligibility for administrative grants under section 306.

Subpart F—Applications for Administrative Grants

§ 923.50 General.

The primary purpose of administrative grants made under section 306 of the Act is to assist the States to implement coastal zone management programs following their approval by the Secretary of Commerce. The purpose of these guidelines is to define clearly the processes by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal

Zone Management Act, hereinafter referred to as the "Manual." This Manual contains procedures and guidelines for the administration of all grants covered under the Coastal Zone Management Act of 1972. It has been designed as a tool for grantees, although it addresses the responsibilities of the National Oceanic and Atmospheric Administration and its Office of Coastal Zone Management, which is responsible for administering programs under the Act. The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application. Inclusion of recommended policies and procedures for grantees does not limit the choice of grantees in selecting those most useful and applicable to local requirements and conditions.

§ 923.51 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration (NOAA) as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Director, Office of Coastal Zone Management
National Oceanic and Atmospheric Administration,
U.S. Department of Commerce
Rockville, Maryland 20852

§ 923.52 State responsibility.

(a) The application shall contain a designation by the Governor of a coastal State of a single agency to receive and have fiscal and programmatic responsibility for administering grants to implement the approved management program.

(b) A single State application will cover all program management elements, whether carried out by State agencies, areawide/regional agencies, local governments, interstate or other entities.

§ 923.53 Allocation.

Section 306(f) allows a State to allocate a portion of its administrative grant to sub-State or multi-State entities. If the State intends to allocate a portion of its grant, the application shall set forth the manner in which a State plans to allocate any portion of its grant to sub-State units, multi-State units, or any other allocation. Requests for allocation will not be approved unless it is clearly demonstrated that the work to be accomplished as the result of such allocations is identified in, and will contribute to effective implementation of the State's approved coastal zone management program.

§ 923.54 Geographical segmentation.

Authority is provided in the Act for a State's management program to be developed and adopted in segments. Additional criteria for the approval of a segmented management program are set forth in Subpart E § 923.43. Application procedures for an administrative grant to assist in administering an approved segmented management program will be the same as set forth in this subpart for applications to administer an approved management program for the entire coastal zone of a State.

§ 923.55 Application for the initial administrative grant.

(a) The Form CD–288, Preapplication for Federal Assistance, required only for the initial grant, must be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required. The preapplication form may be submitted prior to the Secretary's approval of the applicant's management program provided, after consultation with OCZM, approval is anticipated within 60 days of submittal of the preapplication.

(b) All applications are subject to the provisions of OMB Circular A–95 (revised). The Form CD–288, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to the Office of Coastal Zone Management (OCZM). If the application is determined to be Statewide or broader in nature, a statement to that effect shall be attached to the Preapplication form submitted to OCZM. Such a determination does not preclude the State clearinghouse from involving areawide clearinghouses in the review. In any event, whether the application is considered to be Statewide or not, the Preapplication form shall include an attachment indicating the date copies of the Preapplication form were transmitted to the State clearinghouse and if applicable, the identity of the areawide clearinghouse(s) receiving copies of the Preapplication form and the date(s) transmitted. The Preapplication form may be used to meet the project notification and review requirements of OMB Circular A–95 with the concurrence of the appropriate clearinghouses.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. The allowability of costs will be determined in accordance with the provisions of OMB Circular No. A–87. Administrative grants made under section 306 (a) of the Act are clearly intended to assist the States in administering their approved management programs. Such intent precludes tasks and related costs for long range research and studies. Nevertheless it is recognized that the coastal zone and its management is a dynamic and evolving process wherein experience may reveal the need for specially focused, short-term studies, leading to improved management processes and techniques. The OCZM will consider such tasks and their costs, based upon demonstrated need and expected contribution to more effective management programs.

(d) The Form CD–292, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date.

(e) The State's work program implementing the approved management program is to be set forth in Part IV, Program Narrative, of the Form CD–292 and must describe the work to be accomplished during the grant period. The work program should include:

(1) An identification of those elements of the approved management program that are to be supported all or in part by the grant and the matching share, hereinafter called the grant project.

(2) A precise statement of the major tasks required to implement each element.

(3) For each task, the following should be specified:

(i) A concise statement of the task's objective, including a description of the methods and procedures to be used to accomplish the objective. The roles and responsibilities of other State agencies, areawide or regional agencies, local governments or interstate agencies that will be responsible for carrying out all or portions of the task should be indicated.

(ii) By agency or entity, list the personnel by title and the estimated weeks or months each will devote to the task.

(iii) For each task, list the estimated cost using the object class categories 6.a. through k., Part III, Section B—Budget Categories of Form CD–292.

(4) The sum of all the task costs in subparagraph (3) of this paragraph should equal the total estimated grant project costs.

(5) A table summarizing total staff requirements for all elements of the grant project by position title, total months or weeks required for each position and the number of persons required for each position.

(6) An identification of those management program elements, if any, that will not be supported by the grant project, and how they will be implemented.

§ 923.56 Approval of applications.

(a) The application for an administrative grant of any coastal State with a management program approved by the Secretary of Commerce, which complies with the policies and requirements of the Act and these guidelines, shall be approved by OCZM, assuming available funding.

(b) Should an application be found deficient, OCZM will notify the applicant in writing, setting forth in detail the manner in which the application fails

to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) OCZM may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 923.57 Amendments.

Amendments to an approved application must be submitted to, and approved by, the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with OCZM well in advance. It is recognized that, while all amendments must be approved by OCZM, most such requests will be relatively minor in scope; therefore, approval may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 923.58 Applications for second and subsequent year grants.

(a) Second and subsequent year applications will follow the procedures set forth in this subpart, with the following exceptions:

(1) The Form CD–292, Application for Federal Assistance (Non-Construction Programs) shall be submitted to OCZM 90 days prior to the desired grant beginning date.

(2) All applications for second and subsequent year grants are subject to the provisions of OMB Circular A–95.

(3) The application must contain a statement by the Governor of the coastal State or his designee that the management program as approved earlier by the Secretary of Commerce, with any approved amendments, is operative and has not been materially altered. This statement will provide the basis for an annual OCZM certification that the approved management program remains in effect, thus fulfilling, in part, the requirements of section 309(a) for a continuing review of management programs.

(4) The Governor's document designating the applicant agency is not required, unless there has been a change of designation.

(5) Copies of the approved management program or approved amendments thereto are not required.

[FR Doc.74–19167 Filed 8–20–74;8:45 am]

U.S. DEPARTMENT OF COMMERCE

November 7, 1974

Plans
SAVE
NOAA

To : Norm Ross

From: John K. Clotworthy

As per your discussion with Bob White on NOAA program cutbacks.

GERALD R. FORD LIBRARY

Proposed NOAA Program Reductions for FY '75

In Order of Program Importance.

1. Slow down Automation of Field Operations and Services (AFOS) designed to streamline and modernize weather service field activities in support of disaster warnings and forecasts.

   Impact: The potential savings in manpower utilization and improved service will be delayed approximately a year.

   Congressional Reaction: None

2. Defer Sea Grant activity in developing and utilizing living and mineral marine resources.

   Impact: Reduce level of marine resource and technology development and its application to local and regional needs.

   Congressional Reaction: Complaints from both affected Universities and Congressional delegations from coastal states. Sea Grant Association already has passed resolution about cutbacks.

3. Reduce grants under PL 88-309 and 89-304 for cooperative State-Federal fishery management projects.

   Impact: Will reduce many long standing State-Federal fishery programs of both recreational and commercial interest.

   Congressional Reaction: There will be extensive State complaints since the formula reduction will require withdrawal of some money already allocated and some already being received.

GERALD R. FORD LIBRARY

11/8

4. Curtail Estuarine Sanctuaries Program designed to assist states in acquiring and developing natural field laboratories in estuarine areas.

   Impact: Will eliminate NOAA's ability to assist state governments in establishing sanctuaries after FY '75.

   Congressional Reaction: This program is of high priority to Senate Commerce Committee and House Merchant Marine and Fisheries Committee. Complaint will come from Senators Hollings, Magnuson, Stevens, Congressmen Downing and Sullivan.

5. Curtail Data Buoy Program for providing weather and oceanographic data from remote ocean areas.

   Impact: Will reduce the availability of data from the already sparsely reported ocean areas, with particular impact on hurricane prediction and marine weather forecasting.

   Congressional Reaction: Congressional delegations from Gulf Coast because of impact on Hurricane predictions, Pacific Northwest because of impact on marine weather forecasting, and East Coast because of winter storm forecasts will be upset. Complaints can be expected from Senators Stennis, Pastore and Stevens.

6. Defer procurement of radar data processing units needed for improved natural disaster forecasts and warnings to the public.

GERALD R. FORD LIBRARY

Impact: Data handling will continue on a manual basis, resulting in limited availability of timely support for storm forecasting and warnings.

Congressional Reaction: None

7. Defer establishment of Severe Storm Unit specializing in development of more accurate warnings of tornadoes and other severe storms.

Impact: Defer NOAA's ability to take advantage of improved technology for increasing the usefulness and timeliness of severe storm warnings.

Congressional Reaction: House Science & Astronautics Committee will be unhappy. Probable complaints from Missouri, Kansas, Oklahoma, Texas and possibly other congressional delegations as they become aware that the Severe Storms Forecast Center at Kansas City is not able to improve its service.

8. Defer MESA Puget Sound Project designed to provide baseline data for the balanced development of the Puget Sound area.

Impact: This deferral will preclude the establishment of adequate baseline data before Alaskan oil starts moving through the area, with its potential adverse impact on the environment.

Congressional Reaction: This program was added on by and is of direct interest to Senator Magnuson. It will cause international protests because of its impact on U.S.-Canadian environmental planning, regional protests

GERALD R. FORD LIBRARY

because of its Alaskan oil impact, and Seattle protests because of its METRO sewage planning impact.

9. Curtail university work on applications of satellite remote sensing techniques for environmental measurements.

   Impact: This will slow down the development of improved methods for obtaining and using satellite data for environmental assessments, warnings, and forecasts.

   Congressional Reaction: None

10. Rescind funds for fisheries research through use of regional fishery commissions.

   Impact: This will slow down the development of a national fishery policy based in part on inputs from regional fishery commissions.

   Congressional Reaction: This program was added on by and is of direct interest to Senator Eastland. Loud blasts can be expected from him and representatives of other coastal states.

11. Rescind funds for construction of congressionally designated Columbia River fish hatcheries.

   Impact: No additional fish production will be made available to offset the recent award of 50% to native Indian fishing.

   Congressional Reaction: This problem of Columbia River hatchery production is embroiled in the whole issue of how to

GERALD R. FORD LIBRARY

respond to the 50% Indian claim decision which has a serious impact on both commercial and recreational fishing. Complaint from delegates from Oregon and Washington.

GERALD R. FORD LIBRARY

File
NOAA

THE WHITE HOUSE
WASHINGTON

11.13.74

TO: Warren Hendriks

For Your Information: ✓

For Appropriate Handling: _____

Original sent to Dr. Kissinger

GERALD R. FORD LIBRARY

Robert D. Linder

THE SECRETARY OF COMMERCE
Washington, D.C. 20230

NOV 12 1974

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I hereby certify under the Pelly Amendment to the Fishermen's Protective Act, 22 U.S.C. § 1978 (1971), that the minke whale catches of the U.S.S.R. and Japan during the 1973-1974 season exceeded the International Whaling Commission (IWC) quotas for that season, thereby diminishing the effectiveness of the conservation program of the Commission.

Although the law provides that, upon certification, the President may direct the Secretary of the Treasury to prohibit the import of Soviet and Japanese fish products, I recommend that no such prohibition be imposed at this time. My recommendation is based upon the results of the June meeting of the IWC in London.

At the meeting, most of the member nations adopted an Australian amendment to the United States 10-year moratorium resolution. The amended resolution establishes the principle of a selective moratorium applicable to any stocks of whales which fall below their maximum sustainable yield levels or optimum population levels as these are determined. In effect, the selective moratorium shall prevent any whale stock from becoming endangered. According to its terms, the resolution shall be implemented in the 1975-1976 whaling conservation measures fixed by the IWC next year.

The June meeting also produced an agreement to strengthen the Secretariat and to convene a working level meeting to consider changes in the International Whaling Convention itself. In addition, the Commission's quotas for the 1974-1975 season incorporated some conservation improvements not included in the quotas for the last season. Finally, the Soviets and Japanese appeared to be more conciliatory than during previous meetings and, therefore, provided some hope that all member nations would comply with the resolution and with the 1974-1975 quotas.

GERALD R. FORD LIBRARY

Since trade sanctions would entail important domestic costs and could generate significant friction in our relations with Japan and the U.S.S.R., such restrictions should be imposed only as a remedy of last resort after all reasonable alternatives for the achievement of the conservation objective have proven ineffective. With the progress made at this year's IWC meeting, the current situation does not warrant such stringent measures and I recommend no action be taken now. There is, of course, the possibility that subsequent action by Japan and the U.S.S.R. may require a reassessment. In that event, I shall submit a new report together with such recommendations as may be warranted by the situation at that time.

The law provides that within sixty days following certification, the President shall notify the Congress of any action taken by him, and, in the event that he shall take no action, he shall inform the Congress of the reasons for not acting. In accordance with my recommendation, I enclose a draft report to Congress stating that no action is being taken and the reasons therefor.

More detailed background information with respect to the Pelly Amendment and the background of my economic recommendation is enclosed.

Respectfully,

Secretary of Commerce

Enclosures

cc: Hon. Henry A. Kissinger
Hon. William E. Simon
Hon. William D. Eberle

GERALD R. FORD LIBRARY

APPENDIX

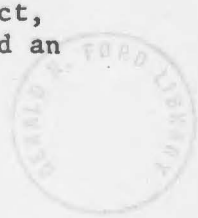
Background Information

The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. § 1978 (1971), states that when the Secretary of Commerce determines that the nationals of a foreign country are conducting fishing operations which diminish the effectiveness of a conservation program of an international fishery convention to which the United States is a party, he shall so certify to the President, and the President may then direct the Secretary of the Treasury to prohibit the importation of fish products of the offending country. Within sixty days following certification, the President is required to notify the Congress of any action taken by him pursuant to such certification. If the President takes no action, or if he imposes an import prohibition which does not cover all fish products of the offending country, he is required to inform Congress of his reasons for following these courses.

Quotas on the number of whales to be taken each year are set at the annual meeting of the International Whaling Commission, and these quotas together with certain other limitations constitute an "international fishery conservation program." Objections to adopted quotas are permitted by the terms of the Convention and an objecting country is not legally bound by the quota. Whether or not the objection is legal, however, does not alter the fact that exceeding the quotas will diminish the effectiveness of the program and constitutes a prima facie case for application of the Pelly Amendment.

To date, no prohibition has been imposed under the terms of the Amendment. The question of applying a Pelly Amendment prohibition at this time arises from the whaling operations of the U.S.S.R. and Japan. Last year, both countries objected to the 1973-1974 minke and sperm whale quotas set by the International Whaling Commission (IWC), and the official statistics for the 1973-1974 season indicate that these countries did in fact exceed the minke quota in their whale catch.

In the case of the minke whale, a quota of 5000 whales was set for the Antarctic. This figure was admittedly an informed estimate of the maximum sustainable yield of the stock, since precise figures on existing populations were lacking, and relatively few of these small whales had been previously taken. But it nonetheless represented the best considered opinion of the scientific advisors and was duly adopted by the member nations. The Soviet Union and Japan voted against this quota, stated their view that the figure should be 8000, took formal objection to the quota and announced that each would take 4000 minke whales during the 1973-1974 season. In fact, the Soviet Union took 4000 and Japan took 3713. This represented an excess of 2,713, or approximately 50 percent over quota.



As stated in the letter of certification, the recommendation that no prohibition of imports be imposed pursuant to the certification is based on the results of this year's meeting of the IWC. Although the U.S.S.R. and Japan opposed the Australian amendment to the United States 10-year moratorium resolution, the attitudes of the representatives of both countries appeared to be more conciliatory than during previous meetings and the representatives voted in favor of the 1974-1975 quotas, with a minor exception. Therefore, it is felt that the prospects for agreement and compliance by these countries in the future implementation of conservation measures are bright enough to warrant no action being taken at present.

If the President does elect to prohibit the import of Soviet or Japanese fish products, the prohibition must comply with Article XX of General Agreement on Tariffs and Trade, which requires that such a measure not be applied in a manner which would constitute arbitrary or unjustifiable discrimination between countries where the same conditions prevail or be a disguised restriction on international trade.

The Japanese may argue that a prohibition of fish product imports from Japan and the Soviet Union would constitute an arbitrary or unjustifiable discrimination against Japan in violation of GATT Article XX because Japan exports a much larger quantity of fish products to the United States than does the Soviet Union. However, this is not a strong argument, as the nondiscrimination requirement of GATT Article XX appears to be met if the same sanctions are applied to all offending countries, regardless of the unequal impact that those sanctions may have upon different countries.

In addition to the dissimilar impact on the two countries if a total prohibition were imposed because of the amount of imports, the economic impact of a total embargo on the United States should also be considered. Withdrawal of the Japanese fish product supplies would result in higher prices for fish products in the United States. It would also adversely affect the U.S. tuna canning industry, which obtains one-quarter of its raw tuna supply from Japan, and those fish processing plants which manufacture fish sticks and portions from Japanese fish blocks.

There is no doubt that public opinion will be divided on the issue of whether a prohibition on imports should be imposed. It will be pointed out that implementation of the resolution for an improved conservation program in 1975-1976 depends on the cooperation of the U.S.S.R. and Japan at the 1975 meeting of the Commission and thereafter in actual fishing operations, and that no assurances on this subject have been given. This is true, and a question of

GERALD R. FORD LIBRARY

judgment is involved. However, there appears to be sufficient likelihood of compliance with future conservation programs by the U.S.S.R. and Japan to justify the recommendation. In this connection it should be noted that imposition of a prohibition of imports is by no means a guarantee that the U.S.S.R. and Japan will in fact comply with future conservation programs. However, any future violations which diminish the effectiveness of international fishery conservations may lead to new certifications and additional recommendations.

GERALD R. FORD LIBRARY

DRAFT REPORT TO CONGRESS

The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. § 1978 (1971), states that when the Secretary of Commerce determines that the nationals of a foreign country are conducting fishing operations which diminish the effectiveness of a conservation program of an international fishery convention to which the United States is a party, he shall so certify to the President, and the President may then direct the Secretary of the Treasury to prohibit the importation of fish products of the offending country. Within sixty days following certification, the President is required to notify the Congress of any action taken by him pursuant to such certification. If the President takes no action, or if he imposes an import prohibition which does not cover all fish products of the offending country, he is required to inform Congress of his reasons for following these courses.

The Secretary of Commerce has certified to me that the minke whale catches of the U.S.S.R. and Japan during the 1973-1974 season exceeded the International Whaling Commission (IWC) quotas for that season, thereby diminishing the effectiveness of the conservation program of the Commission.

Quotas on the number of whales to be taken each year are set at the annual meeting of the IWC, and these quotas together with certain other limitations constitute an "international fishery conservation program." Objections to adopted quotas are permitted by the terms of the Convention and an objecting country is not legally bound by the quota. Whether or not the objection is legal, however, does not alter the fact that exceeding the quotas will diminish the effectiveness of the program and constitutes a prima facie case for application of the Pelly Amendment.

Last year both Japan and Russia objected to the minke and sperm whale quotas set by the IWC. In the case of the minke whale, a quota of 5,000 whales was set for the Antarctic. This figure was admittedly an informed estimate of the maximum sustainable yield of the stock, since precise figures on existing populations were lacking, and relatively few of these small whales had been previously taken. But it nonetheless represented the best considered opinion of the scientific advisors and was duly adopted by the member nations. The Soviet Union and Japan voted against this quota, stated their view that the figure should be 8,000, took formal objection to the quota and announced that each would take 4,000 minke whales during the 1973-1974 season. In fact, the Soviet Union took 4,000 and Japan took 3,713. This represented an excess of 2,713, or approximately 50 percent over quota.

GERALD R. FORD LIBRARY

To date, no prohibition has been imposed under the terms of the Pelly Amendment. I have decided to impose no such prohibition at this time. My decision is based upon the results of this year's meeting of the IWC in London. At this meeting, most of the member nations adopted an Australian amendment to the United States 10-year moratorium resolution. The amended resolution establishes the principle of a selective moratorium applicable to any stocks of whales which fall below their maximum sustainable yield levels or optimum population levels as these are determined. In effect, the selective moratorium shall prevent any whale stock from becoming endangered. According to its terms, the resolution shall be implemented in the 1975-1976 whaling conservation measures fixed by the IWC next year.

The June meeting also produced an agreement to strengthen the Secretariat and to convene a working level meeting to consider changes in the International Whaling Convention itself. In addition, the Commission's quotas for the 1974-1975 season incorporated some conservation improvements not included in the quotas for the last season. The Soviets and Japanese voted for the 1974-1975 quotas and, in general, appeared to be more conciliatory than during previous meetings, and, therefore, provided some hope that all member nations would comply with the resolution and with the 1974-1975 quotas.

There are, of course, the serious economic impacts of trade sanctions to consider, particularly in the case of Japan which, in 1972, shipped $2,025 million in fishery products, 44 percent of its fishery exports, to the United States. Domestically, withdrawal of Japanese imports, amounting to about 15 percent of our supplies, would result in higher prices for fish products.

Because of the important economic and political ramifications of such sanctions, they should be imposed only as a remedy of last resort after all reasonable alternatives for the achievement of the conservation objective have proven ineffective. With the progress made at this year's IWC meeting, the current situation does not warrant such stringent measures and, therefore, I am taking no action now.

There is, of course, the possibility that subsequent action by Japan or the U.S.S.R. may require a reassessment. In this event I will expect the Secretary of Commerce to submit such reports and recommendations as he finds warranted. The Secretary's present certification, prepared by the National Oceanic and Atmospheric Administration, recommends the course of action I have decided upon.

Environment Canada / Environnement Canada

Fisheries and Marine / Pêches et sciences de la mer

cc: Mr. Ross WHS
AB
File
NOAA

November 20, 1974

Your file / Votre référence

Our file / Notre référence

Mr. William L. Sullivan, Jr.,
Acting Coordinator of Ocean Affairs,
U.S. Department of State,
Washington, D.C. 20520,
U.S.A.

Dear Mr. Sullivan:

This is in reply to your letter of October 2nd in which you advise us of the instructions given to the United States Commissioners of IPSFC with respect to implementing recent court decisions within the United States for the protection of Indian fishing rights. Mr. W.R. Hourston, Canadian Government Commissioner on IPSFC was informed of these instructions on October 15, and have since been discussed with him.

With respect to the first instruction relating to appointing an Indian to the IPSFC Advisory Committee, the Canadian Commissioners will consider favourably any suggestion put forward by the U.S. Commissioners in this respect, so long as the suggestion conforms to Article V of the Protocol to the Convention.

Regarding the second instruction concerning the need for flexibility in IPSFC regulations that domestic U.S. decisions on the Indian fishery can be implemented, the Canadian Commissioners have been advised that the general approach incorporated in the instruction is acceptable to the Canadian Government provided that 1975 and subsequent IPSFC regulations do not contain explicit reference to U.S. native Indian fisheries and that adjustments made in the IPSFC regulations to provide U.S. authorities with the desired flexibility do not interfere unduly with the Commission's ability to conserve the stocks adequately and to provide a 50:50 split between Canada and the United States of the Convention Area of sockeye and pink salmon.

GERALD R. FORD LIBRARY

. . . 2

Ottawa K1A 0H3

125

I hope this response will permit Commissioners on both sides to resolve the problems satisfactorily.

Yours sincerely,

M.P. Shepard

M.P. Shepard,
Director,
International Fisheries Policy,
International Fisheries & Marine
Directorate.

GERALD R. FORD LIBRARY



Office of the Oceanographer of the Navy

notes 11-27

Norm -

Thought you might be interested in Senator Hollings' remarks at the National Press Club on 11-26.

It was good to see you last week.

Steve Nelson

KING FAISAL'S CONSULTANT, THE U. S. ENERGY CRISIS AND THE OCEANS

By Senator Ernest F. Hollings

Delivered before the National Press Club, Washington, D. C., November 26, 1974

I'd like to share a complaint with you. Under the past two administrations, we've tried so hard to get along in the world that we've forgotten how to get ahead. We have become so obsessed with "detenting" that we have forgotten how to compete. We are out-produced, out-traded and out-negotiated at every turn. We've given away our food, our technical know-how, our weapons at the drop of a foreigner's demand. And so we find ourselves running out of money, running out of oil, running out of clout and running out of time.

Who would have supposed that the Arab countries, all by themselves, could throw the United States into an economic tailspin? The truth is they've had some help -- from us. The Arabs are using their economic wealth in a logical and powerful manner. It's the only weapon they have. But when they look at America, they see no sense of urgency. We haven't increased gasoline taxes. We have allowed our domestic oil prices to soar to the level of the Arab price. Cars speed past you going 75 miles an hour and the President is off watching judo in Japan.

We have an energy crisis but no energy policy. So when Kissinger begs and pleads and cajoles, the sheiks chalk it up to American politics rather than American policy and there is no give. When we make up our minds to show the Arabs we mean business by showing ourselves we mean business then we can move this country forward again.

I want to compete with the Arabs in the energy contest and I mean to lick them. Let's look at the administration game plans. The Kissinger-Simon team has opted for conservation. They say that if we can conserve 3 million barrels a day worldwide then the oil cartel will be beaten and the price will start coming down. One million barrels a day saving is America's share of the burden. Let's assume that the 3 million barrel goal is attained. The Saudis alone are producing some 8 million barrels a day, and they need to sell only 3 million a day to satisfy their wildest dreams of economic progress. The King will still go laughing off to the bank.

There's another game plan put forward by the major oil companies and Secretary Morton -- better known as the team of Major Morton. They say the way to lick the oil cartel is to increase production. Lease 10,000,000 acres on the Atlantic seaboard during the year 1975 and you will have the Arabs in a corner. What a cruel joke. The Arabs have the world's best consultants because they can pay and get the best -- and because they are serious. King Faisal's top consultant isn't worried about the Major Morton Plan. The consultant advises: "Your Highness, relax. With the lack of money in the U. S., with the lack of drilling rigs and with the geological studies yet to be made, there isn't a chance of drawing a quart of oil from the Atlantic seaboard in less than 6 years. This game is for 4 quarters and time will run out before that plan works. Assorted teams on the U. S. side have assorted game plans. Some of them propose insulating houses, greater automobile fuel economy, more public transportation, deregulation of gas and -- as a last resort -- invasion. But the emphasis here, Your Highness, is assorted. As long as the Americans stay assorted, all you have to do is sit tight."

So what do the Arabs have to fear? What will make the Arabs deal? Obviously, the first step is to assimilate the assorted Americans. Package these initiatives and ideas and approaches. Package them all into one energy strategy with emphasis on American technology. And then we can get back into the game and be taken seriously.

Continued.....

Let me quote what your speaker, David Freeman, told you last week: "The energy crisis we face is not caused by a lack of material resources or technology. It is a political crisis." Twenty-two years before, in 1952, the Paley Study Commission issued an 8 volume report. The volume on energy contained this language: "In the past, government has dealt with energy problems largely on a piecemeal basis...The hydra heads of energy policy must be reined together."

The lesson is clear: when everyone is in charge, no one is in charge. And the national interest suffers. Realizing this in the Senate, three years ago we organized the National Fuels and Energy Policy Study. Each of the energy-related committees was represented. When the Arab oil embargo hit us in late October 1973, we were geared for the battle and responded. By the 19th of December we had passed an energy policy council bill, an emergency fuel allocation bill, an energy conservation bill, an energy research and development bill and a Federal Energy Administration bill. We knew that the Executive department suffered from the same organizational dilemma and this is why we tried to provide the Energy Policy Council so the Executive could fix responsibility and respond effectively.

But the administration has not responded. And this is why the consultant can tell King Faisal: "Forget it, the Americans aren't serious." Now and again, of course, a white paper is issued, a new button ordered, and another "czar" appointed. But there's no gasoline rationing, no rollback on prices, no accelerated Manhattan-type project in energy technology. Czars come and czars go, but the major oil companies continue to control the Interior Department and day-to-day energy decision-making.

It seems to me that Major Oil operates much like a nation. Taking their text from Lord Palmerston, the companies apparently believe, "We have no permanent friends, we have no permanent enemies. We have only permanent interests." These interests being financial and primarily overseas, Major Oil makes most of its money outside of the United States. What is an energy crisis to the rest of the country can be, and indeed has become an economic boon to Major Oil. The oil companies have infiltrated governments abroad and of course they have had a home for decades in Washington in the House of Oil, better known as the Department of the Interior.

Secretary Morton had this to say while briefing oil executives in the White House on August 16, 1973: "Our mission is to serve you, not regulate you. We try to avoid it. I have tried to avoid regulation to the degree that I possibly can."

So when the consultant advises King Faisal, he must tell him that Major Oil has an energy policy, courtesy of Secretary Morton, but the rest of the United States doesn't -- and can't until the Major Morton connection is broken. The President had a few things to say about energy in his recent WIN message. He labeled energy as the chief culprit of inflation and then proposed to remove the only protection consumers of energy now enjoy by deregulating natural gas, thereby adding some $10 to $11 billion to the nation's already inflated energy bill. That's a LOSE program for sure. But the members applauded.

We had better wake up. First, we should institute in the White House an Energy Policy Council. This group should be responsible for correlating all the information that is necessary to an energy policy, and then coordinating its implementation through a national strategy.

We must acknowledge what King Faisal's consultant knows and the American people should be told -- our ox is in the ditch. There is no one solution to our energy fix. We must move forward deliberately on all fronts. Next, conservation. Cut that speed limit and ration that gas. There are too many

Continued.....

political hurdles to a gasoline tax increase. So let's not play around. Issue the ration stamps that have been printed and accelerate the regulations for improved automobile fuel economy. Move faster to improve public transportation. Tell the Secretary of Housing to announce new regulations for insulation requirements no later than January 1. Adopt a schedule for generating plants to convert from oil to coal. Quit palavering about regulation versus deregulation of natural gas and put in a statutory formula that will constitute a generous profit for the gas developer balanced off with a fair price to the consumer. Fix a time limit on the unpardonable procrastination of the Federal Power Commission decisions. Announce a Manhattan Project in nuclear fusion and coal gasification. Pass the strip mining bill and start mining the coal. Start drilling the oil. Proclaim the reserves of Teapot Dome and Elk Hills for defense. But state candidly that the emergency warrants drilling Naval Petroleum Reserve No. 4 -- now. Petroleum Reserve No. 4 and the Gulf of Mexico fields can be brought in a good two years earlier than anything along the Atlantic seaboard. In two years the States can determine environmental impact and firm up the Coastal Zone Management plans. Don't delay drilling to plan. Drill immediately where you have planned. And plan immediately so that you can drill. Delay Atlantic and Pacific frontier area drilling as a business judgement, not environmental.

Before we lease the Atlantic and Pacific to the oil companies, we ought to do some government sponsored exploratory drilling. It is pitiful to see Secretary Morton say we are going to lease but we don't know where and we don't know what. He wants to lease 10,000,000 acres for oil now -- but for 30 billion bucks to balance the budget. Bonus bidding has always been a favorite of the Secretaries of the Treasury. But even Major Oil lacks 30 billion -- and a giveaway to the oil companies is ensured. This is why leasing has always dovetailed with the plans of Major Oil. They buy cheap and sell high. At the moment, they have no idea of developing proposed leases along the Atlantic. Already they are moving to stretch out the 5 year requirement for production to 10 years on the basis of the lack of steel or drilling equipment. It is also pitiful to see this same needed drilling equipment going abroad to the far corners of the earth during the past bleak year while we are all crying for more domestic production or proclaiming Operation Independence. The 10,000,000 acre leasing program off the Atlantic and Pacific at this time is a fraud on the American public. It will produce no energy in the next few years when we need it. It will only divert our attention from the sources that already have been found and that could be developed immediately. By trying to develop everything, Major Morton develops nothing.

Clearly the problems of offshore drilling and energy supply give impetus to the need for a national ocean policy. What happens when a productive oil field is found beneath lucrative fishing grounds, or when drilling rigs must be built in the center of busy shipping lanes, or when pipelines carrying offshore oil pass through an estuarine area of particular importance? Who plays traffic cop for all these interests? Who mediates the public interest and the special interest? As in energy, we need an ocean policy. As in energy, we in the Senate have instituted the National Ocean Policy Study. The 1969 recommendation of the Stratton Commission for an independent ocean agency should be implemented at once. The National Oceanic and Atmospheric Administration, presently within the Department of Commerce, is the logical nucleus.

The oceans will make or break this planet of ours. They are our ultimate life support system. Yet even as I speak, the oceans are dying. Jacques Cousteau, the oceanographer, testified before the Congress. The day before he testified he had fish for lunch in Malta but he explained that the fish were caught off the shores of faraway Iceland. The Mediterranean was dying. And the Black Sea was dead. He testified that the coastal waters around the several continents had been dying at an accelerated rate. By the year 2000, 35% of these waters would be dead. Fifty percent would mean the beginning of the end of

Continued.....

life. Thor Heyerdahl also testified about his raft voyage across the Atlantic from Morocco to the Barbados. On only 3 of the 43 days at sea could he dip his toothbrush into the mid-ocean because of oil slicks. Coastal oil is a one-time crop. It must be harvested -- but without injury to the coastal zone. For here we have fish. Here we have our people. These are life-time crops -- and more. Life was born in the ocean, evolved in the ocean. With Cousteau and Heyerdahl we have reached the Age of Environment. With King Faisal we have reached the Age of Energy. These ages meet down at the sea. Or they can end there. A reconciliation is in order.

FORM CD-14
(5-10-71)
Prescr. by
DAO 214-2

U.S. DEPT. OF COMM.

TRANSMITTAL SLIP

DATE: 12/4/74

TO: Norman Ross : White House

REF. NO. OR ROOM, BLDG.: Domestic Council

FROM: R. B. Abel

REF. NO. OR ROOM, BLDG.: NOAA/OSG

ACTION

☐ NOTE AND FILE	☒ PER OUR CONVERSATION
☐ NOTE AND RETURN TO ME	☐ PER YOUR REQUEST
☐ RETURN WITH MORE DETAILS	☐ FOR YOUR APPROVAL
☐ NOTE AND SEE ME ABOUT THIS	☐ FOR YOUR INFORMATION
☐ PLEASE ANSWER	☐ FOR YOUR COMMENTS
☐ PREPARE REPLY FOR MY SIGNATURE	☐ SIGNATURE
☐ TAKE APPROPRIATE ACTION	☐ INVESTIGATE AND REPORT

COMMENTS:

File

GPO c43—16—81474-1 451-759

USCOMM-DC 789-P

6-24-71

The Contents of this Package are: Master

1. Memo from Dr. White to Townsend and Pollock on Deep Ocean Floating Platforms
2. Memo to Dr. White on results of the meeting between Lill, Eckles, Randall, Lane and Abel.
3. Draft memo from Dr. White to the Secretary
4. Draft memo from Dr. White to his FCST Committee
5. Draft letter from the Secretary to the President
6. Draft memo from the President to Department heads
7. Memo from Lill on a prototype ocean platform
8. Memo from Lane on a deep water port
9. Memo from Goodwin on Sea Grant related activities
10. Memo from Armstrong to Abel, transmitting paper prepared by Randall on MarAd program to provide offshore deep water terminal facilities.

GERALD R. FORD LIBRARY

12/7-

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

OFFICE OF THE ADMINISTRATOR

Date: JUN 10 1971

Reply to Attn of: A

Subject: Deep Ocean Floating Platforms

To: Jack Townsend
Howard Pollock

Recent events have brought home to me the desirability of attempting to move ahead with the possibilities of a major marine technological effort directed at the experimental use of deep ocean floating platforms. These events have involved such things as:

(a) A pending decision by the State of Delaware which could prevent the construction of a deep ocean port in the lower Delaware Bay seriously restricting the availability of deep ocean ports along the East Coast of the United States.

(b) Proposals of Tap Pryor and John Craven in Hawaii to establish an experimental floating city off the Island of Hawaii

(c) The urgency of doing something meaningful in the technological sense about remedying the growing pollution of our coastal zone areas

(d) The desirability of mounting a major relevant technological effort that could employ unemployed scientists and engineers.

It has occurred to me, after a bull session with Bob Abel, that we have capabilities in the Department of Commerce for moving ahead with such a technological effort. NOAA, as leader in ocean affairs in our government, and the Maritime Administration as a leader in port, harbor and shipping activities, together have common interests and complementary capabilities to undertake such a project. I think it is important for the Department to take a lead here.

I have met with Andy Gibson, the Administrator of the Maritime Administration and he is receptive to the following concept:

That the Maritime Administration and NOAA jointly prepare a position paper for the Secretary which, if he approves, could go forward as a major initiative of the Department in the marine technology area as part of our 1973 budgetary cycle.

I have asked Mr. Gordon Lill, Bob Abel, and Howard Eckles, to act as a small task team, working with counterparts in the Maritime Administration, to draft up the appropriate position paper.

Robert M. White
Administrator

cc: D. Wallace, R. Hallgren, G. Little, D. Moore, R. Abel, H. Eckles, I. Jakobin

GERALD R. FORD LIBRARY

June 24, 1971

SG

Deep Ocean Floating Platforms

Dr. Robert M. White
Administrator

In response to your memorandum of June 10, 1971 a meeting was held between Messrs Lill (National Ocean Survey), Eckles (your office), Amor Lane (independent), Randall (Maritime Administration), and myself, on June 17th. I described discussions with you and with Mr. Gibson, the Maritime Administrator, concerning the possibilities of instituting programs aimed at design, construction, installating and use of offshore floating platforms. To our combined knowledge, the following projects are already in existence:

a. The most sophisticated project is apparently being sponsored by the Maritime Administration and conducted by the Paul Soros Corporation. It concerns the feasibility of designing, constructing and implementing an offshore platform for handling petroleum cargos. This study is due for completion approximately one year from this date.

b. The Federal Aviation Agency has sponsored studies of the possibilities of offshore airports.

c. The Atomic Energy Commission is sponsoring studies of offshore nuclear power plants.

d. A proposal for studies on the socioeconomic aspects of an offshore city is being proposed to the RANN program of the National Science Foundation.

e. The Environmental Protection Agency is considering various techniques for offshore disposal of waste products.

f. Sea Grant is about to receive design module proposals.

The following points were agreed upon by the conferees:

-- Design, construction, and emplacement of such a facility is within reach of modern technology.

-- Such a facility can be practical, as shown by analyses conducted by the Maritime Administration.

-- The Maritime Administration is in position to take steps toward eventual design and installation of such facilities.

-- Several other uses for offshore platforms might include, but not be limited to: aquaculture, aquatic recreation, air transportation, nuclear power plant placement, and waste disposal. Each of these other possibilities is being considered now by agencies with related missions. These agencies include the Federal Aviation Agency, Atomic Energy Commission, National Science Foundation, Environmental Protection Agency, and Department of Interior. It is entirely possible that other agencies may be concerned with such studies, but their activities have not come to our attention. It would seem probable, that design for common usages would be more cost effective than design for individual uses; this should be thoroughly explored.

Interagency cooperation will be extremely important. Now that you have been appointed chairman of a new Interagency Committee on Oceanography under the Federal Council for Science and Technology, such a program ought to lie well within the scope of your committee. While some interested agencies are not directly represented on your committee, their participation could be invited.

The conferees suggested that the best possible way to insure close cooperation among all Federal agencies concerned, and to enable the fastest possible realization of our objectives, would be some sort of Presidential announcement. Accordingly, appropriate memoranda for your signature to the Secretary, a letter from the Secretary to the President, and a memorandum from the President to several agencies are submitted herewith in draft.

If you agree with these conclusions and recommendations, and if the new interagency committee can indeed embrace this objective and agree to cooperation, then a panel of the committee could be formed for the purpose. Its first assignment might be preparation of the initial project plans for inclusion in the fiscal year 1973 budget. It is respectfully suggested that no time be lost, if this is to be the case.

In elaboration of these conclusions, Mr. Lill has authored the attached paper describing a prototype for immediate implementation, to be followed by a broader and more sophisticated structure or series of structures at a later time. Mr. Lane has prepared the attached paper outlining industrial interest, possible participation and ongoing activities. Mr. Randall has prepared a paper describing the Soros Study currently under Maritime Administration sponsorship.

/s/ Robert B. Abel

ROBERT B. ABEL
Director
National Sea Grant Program

Attachments

cc: Mr. Eckles
Mr. Lill
Mr. Lane
Mr. Randall
Chron
Files ✓
Reading File

RBAbel:by

GERALD R. FORD LIBRARY

DRAFT FOR CONSIDERATION

To : Secretary of Commerce

From: Administrator, NOAA

Administrator, Maritime Administration

Subj: Off-Shore Facilities

Recent discussions among representatives of the National Oceanic and Atmospheric Administration and the Maritime Administration have concerned the possibility and desirability of a major marine technological effort directed at the experimental use of deep-ocean floating platforms as prototype off-shore facilities for a variety of purposes. In addition to our own interests, we are, of course, aware of several studies currently being sponsored by the Federal Aviation Agency, Atomic Energy Commission, Department of Interior, and other agencies of Government, aimed at the possible utilization of the coastal zone and near-ocean areas for nuclear power plant emplacement, airports, waste disposal, aquatic recreation, aquaculture, and, of course, cargo handling.

We believe that ocean technology has proceeded to the point where it would be possible to implement a major Department of Commerce initiative in marine technology, starting as part of the 1973 budgetary cycle and culminating in a first experimental ocean platform to be completed by 1976, for inclusion in the Nation's observance of its 200th anniversary. A broader and more sophisticated array could probably be completed for practical utilization about 1980. The attached staff papers outline the possibilities and rationale under which such a technological effort might be implemented by this Department.

In view of the multiplicity and diversity of efforts and interests in this area, however, it is believed that only a Presidential announcement of a sustained, centralized, and well coordinated national effort could

GERALD R. FORD LIBRARY

bring about sufficient cooperation and participation by all of the interested agencies of Government. Accordingly, the attached draft is submitted for your option in addressing the President accordingly.

We have not noted in these papers the strong interests of other nations in creating major ocean platforms, but it is clear that work is progressing in most of the advanced technology nations. The Japanese, who are particularly aggressive in marine matters, and who "think big"--as witness their giant tankers--have a remarkable design for a floating city of 30 million people in South Asia, on which they expect to proceed as rapidly as they can. The activities of other nations are simply added evidence that marine technology has progressed to the point of practical application in the solution to national problems.

Attachments

GERALD R. FORD LIBRARY

(DRAFT FOR CONSIDERATION)

INTERAGENCY COMMITTEE ON MARINE SCIENCE AND ENGINEERING

To : Members, Interagency Committee on
Marine Science and Engineering

From: Chairman

Subj: Deep Ocean Floating Platforms

Recent events have shown clearly the desirability of attempting to move ahead with a major marine technological effort directed at the experimental use of deep ocean floating platforms. The attached documents are self-explanatory and serve to outline possible procedures in steps that our committee might take in arriving at such a goal.

I would be most grateful for your cooperation, therefore, in forming a panel of our committee whose general assignment would be to establish parameters for such a series of platforms and whose initial assignment would be the preparation of each of the agency components of the fiscal year 1973 budget. I would like _____ _____ to be chairman of this panel and would ask _____, _____, _____, _____, and _____ to assist him from NOAA. _____, _____, and _____ would represent the Maritime Administration. I would

GERALD R. FORD LIBRARY

appreciate hearing from each of you as soon as possible. By copy of this memo, the Administrator of the Federal Aviation Agency, the Chairman of the Atomic Energy Commission, and Director of the Office of Science and Technology are invited to assign representatives to this panel.

GERALD R. FORD LIBRARY

DRAFT FOR CONSIDERATION

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Last year, in creating the National Oceanic and Atmospheric Administration, you announced that this represented a major new thrust by the United States into the ocean and a consolidation of federal instrumentalities toward implementation of national oceanic goals. In the year which has elapsed since that announcement, I have had the opportunity to watch the growth of our technological ability to engineer the oceans. I am convinced that this nation has reached the time when it is possible to undertake a major marine technological effort directed at practical utilization of the ocean to solve some of our difficult problems.

I am speaking in terms of a multi-purpose offshore facility which would respond to many problems simultaneously and take advantage of several opportunities for economic and social development. These relate to shipping and cargo handling, power plant emplacement, waste disposal, aquaculture, aquatic recreation, and air transportation, all of which require new and innovative treatment.

In the Department of Commerce, the Maritime Administration and the National Oceanic and Atmospheric Administration have explored the possibilities for initiating such an effort. Analysis of capabilities and opportunities reveals that several federal agencies are now studying the same possibilities with respect to their individual missions. Coordination clearly is needed if such a major effort is to encompass most or all of these missions. The Atomic Energy Commission, the Environmental Protection Agency, the Federal Aviation Agency, the Department of Interior and the National Science Foundation have a common interest with this Department in the great potential of offshore facilities.

GERALD R. FORD LIBRARY

I respectfully suggest that an announcement from you could most forcefully bring about immediate institution of a large scale cooperative program to make best use of existing federal capabilities specifically directed at design, construction, and use of offshore platforms. The attached papers elaborate on these several points.

If you concur, the attached announcement is respectfully submitted for your possible use.

Sincerely,

Secretary of Commerce

Attachments

GERALD R. FORD LIBRARY

DRAFT FOR CONSIDERATION

To : Secretary of Commerce
Secretary of Interior
Secretary of Health, Education & Welfare
Chairman, Atomic Energy Commission
Administrator, Federal Aviation Agency
Director, National Science Foundation
Administrator, Environmental Protection Agency

Subj: Ocean Engineering Program

The Secretary of Commerce has brought to my attention the possibility of instituting a large scale national effort directed at practical utilization of our nearby offshore ocean areas. Opportunities have been identified for waste disposal, placement of nuclear power plants, aquaculture, aquatic recreation, air transportation, and shipping and cargo handling. If, indeed, our national capabilities have reached a stage of development that will permit us to utilize the oceans in solving some of our severe problems, the efforts of several departments must be coordinated in common cause.

I have two objectives in mind: the first is to create a relatively modest demonstration ocean platform mechanism of some kind to symbolize American attainments in ocean engineering; it should be ready for emplacement and practical utilization by 1976, as part of the observance of the 200th anniversary of our nation's birth.

My second objective is much broader and more sophisticated, involving a large scale platform to be placed in our offshore waters and utilized for as many problem-solving purposes as can be made cost-effective. I envision this as occurring some time close to, or in, 1980.

As a first step in achieving these goals, I am directing the Secretary of Commerce to act as leader in preparation of a national plan for both of these activities.

GERALD R. FORD LIBRARY

The first phases are to be included in the fiscal year 1973 budgets of each of your agencies. It is my hope that Secretary Stans will receive the closest possible cooperation from each of you.

Richard M. Nixon

GERALD R. FORD LIBRARY

NATIONAL OCEAN INDUSTRIES ASSOCIATION

Suite 410 / 1100 17th Street, N.W. / Washington, D. C. 20036
(202) 785-5116 TWX 710-822-1971 (NOIA WSH)

Charles D. Matthews
President

December 17, 1974

Dear Friend:

The attached letter was sent today to all Members of the House of Representatives. It is also being sent to you because of your interest in the problems of energy supply, environment, and the national economy.

Anything you may do to accelerate additional development of the so-called frontier areas of the Outer Continental Shelf will be appreciated.

Sincerely yours,

Charles D. Matthews

GERALD R. FORD LIBRARY

NATIONAL OCEAN INDUSTRIES ASSOCIATION

Suite 410 / 1100 17th Street, N.W. / Washington, D. C. 20036
(202) 785-5116 TWX 710-822-1971 (NOIA WSH)

Charles D. Matthews
President

December 17, 1974

Dear Congressman:

You recently received a "Dear Colleague" letter signed by 11 Members asking you to sign a letter to President Ford requesting delays in leasing new areas of the Outer Continental Shelf for possible energy production. On behalf of the National Ocean Industries Association, I urge you to consider the serious consequences of such a delay before signing any such letter.

NOIA represents all segments of the offshore and ocean-oriented industries -- from the exploration phase to catering and boat service companies to the oil and gas producers -- who count on revenues from the OCS areas of the U.S. for their livelihoods. To delay opening new areas of vast potential will have a severe impact on the revenues flowing from these endeavors and, more particularly, will cause the loss of a significant number of jobs. Moreover, without additional leasing in new areas, our Nation will be driven to ever increasing dependence on costly foreign sources of energy, thereby appreciably worsening our serious balance of payments problems. The ultimate result will throw our economy increasingly toward a much more severe recession.

On the other hand, opening these unexplored OCS areas to prudent development will offer large numbers of new jobs, stimulate our economy by providing new sources of energy at prices below those being paid for imports, and actually lower the risk to the environment by reducing the tanker traffic required for imports. It is true that energy supplies from new areas will not reach the market immediately; however, any delays in their discovery and development puts them ever further down the road while our Nation suffers. Industry's 25 years experience in offshore drilling and producing plus extensive safety and environmental regulations supervised by competent USGS personnel insure that these operations will be safe from a total environmental standpoint. There will be adequate time during the preparation, exploration, and development activities for coastal states and committees working with federal agencies and the industry to plan and prepare for any local impact these operations will have. Planning offshore development and onshore impact must proceed in tandem.

The Department of the Interior, in accordance with this Nation's laws, will hold extensive environmental impact hearings on the leasing of unexplored OCS areas. All sides of the issue will be given an opportunity to state their cases. It is premature to suggest extensive delays in OCS leasing without the benefit of that testimony. Therefore, I urge you to defer signing the letter to President Ford or taking any other delaying action until the impact hearings have fully explored this matter which is so vital to our Nation's well being. In fact, you could contribute to improving our energy and economic situations by urging President Ford to move with dispatch in developing the OCS resources by private enterprise.

Sincerely yours,

Charles D. Matthews

Charles D. Matthews

GERALD R. FORD LIBRARY

Def 12-23