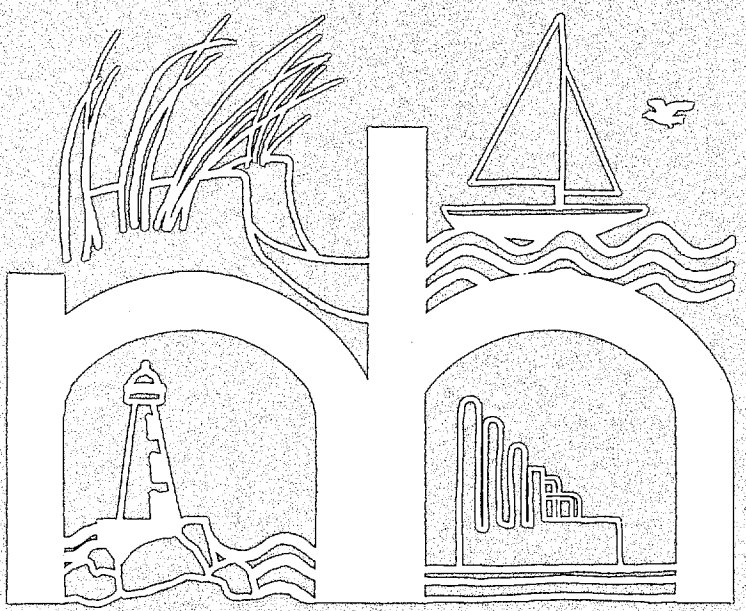
NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



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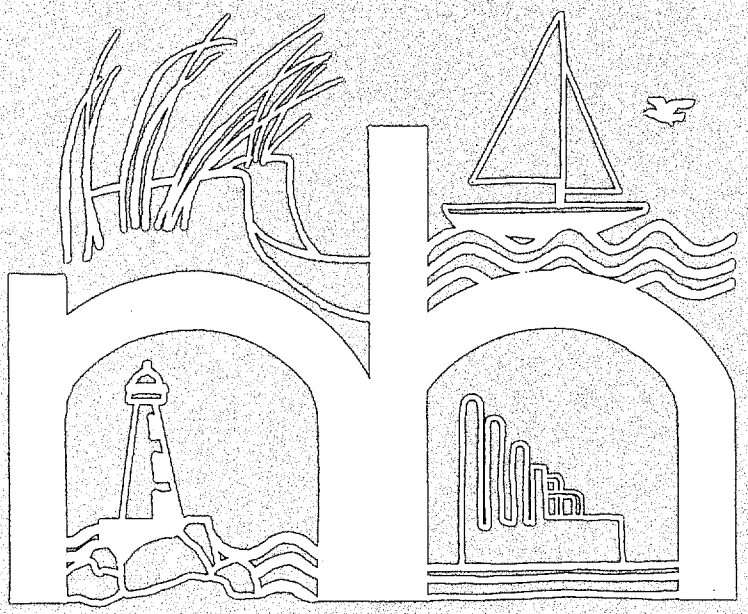
NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



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CHAPTER VI. PROGRAM OPERATION AND IMPLEMENTATION

This chapter identifies the manner in which the program structure and levels of government, as described in Chapter V, will function to produce an effective Coastal Resources Management Program for New Hampshire. Included are the regulatory, coordinative, administrative, funding, and planning techniques which will be utilized in order to achieve the necessary management of certain land and water uses, and to implement the program authorities discussed above. Figure 6-1 presents a chart of the time schedule by which OCP will implement these various management techniques described below.

DIRECT LOCAL AND STATE CONTROLS

Those local and State management controls which will be administered through the CRM Program include the following: Municipal Coastal Plans which utilize municipal land and water use controls in the primary zone; State Coastal Development Approval authority over specific locations and types of development in the coastal zone; State Coastal Plan consistency determination for public plans affecting the coastal zone; OCP-promulgated management standards; and OCP authority to purchase land and property. These controls are discussed, in detail, in the pages that follow.

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Figure 6-1

OCP TIMETABLE FOR IMPLEMENTATION OF MANAGEMENT TECHNIQUES
(in order of appearance in text)

MANAGEMENT TECHNIQUES	Maximum Implementation Time (from effective date of CRM legislation) eff. date	½ yr	1 yr	2 yr	3½ yr
MUNICIPAL COASTAL PLANS					
. Guidelines			X		
. Final approval					X
STATE COASTAL DEVELOPMENT APPROVALS					
. Major developments in primary zone		X			
. APCs, priority uses, in primary zone		X			
. Special case-by-case approval of major development in primary or secondary zones	X				
. Federal consistency determination	X				
STATE COASTAL PLANS CONSISTENCY DETERMINATIONS	X				
MANAGEMENT STANDARDS/MAPS					
. Land and water use standards			X		
. APC standards		X			
. Resource maps	X				
. APC maps		X			
ACQUISITION OF LAND AND PROPERTY	X				
ENFORCEMENT	X				
INTERGOVERNMENTAL COORDINATION		X			
ADMINISTRATIVE FUNDING					
. Overall program funding	X				
. Municipal grants			X		
. Coastal Energy Impact Program	X				
PLANNING					
. Annual report	X				
. Expanded Program Jurisdiction Report				X	
. Areas for Preservation or Restoration Report				X	
. Energy, Shoreline Access, and Shoreline Erosion Reports	X				
. Coastal Resources Studies	X				
. Centralized State Approval Procedure Report			X		

SOURCE: State of New Hampshire, Office of Comprehensive Planning, 1978.

Municipal Coastal Plans for the Seventeen Coastal Zone Municipalities

Through the development and implementation of Municipal Coastal Plans, the seventeen coastal zone municipalities will provide the "front-line" administration and enforcement of the CRM Program. The Plans will provide the framework in which existing local authorities for zoning, subdivision and non-residential site plan approval, and building code permit system, as modified by OCP promulgated management standards, will operate. The Plans will also provide an instrument with which to focus local public attention regarding coastal resources issues. Appendix G identifies the existing land and water use controls in the primary zone municipalities.

Within the first year of program implementation, OCP must promulgate guidelines for the preparation and implementation of the Plans. The Plan for each municipality must include such existing and proposed land and water use standards, regulations and associated maps that will achieve result equivalent to or more restrictive than management standards promulgated by OCP. The exact method of incorporating the management standards in the Plans will be left up to the municipality to decide. For example, one municipality may wish to amend portions of its controls and substitute the State management standards. Another may wish to adopt a "coastal resources management overlay" to supplement existing controls.

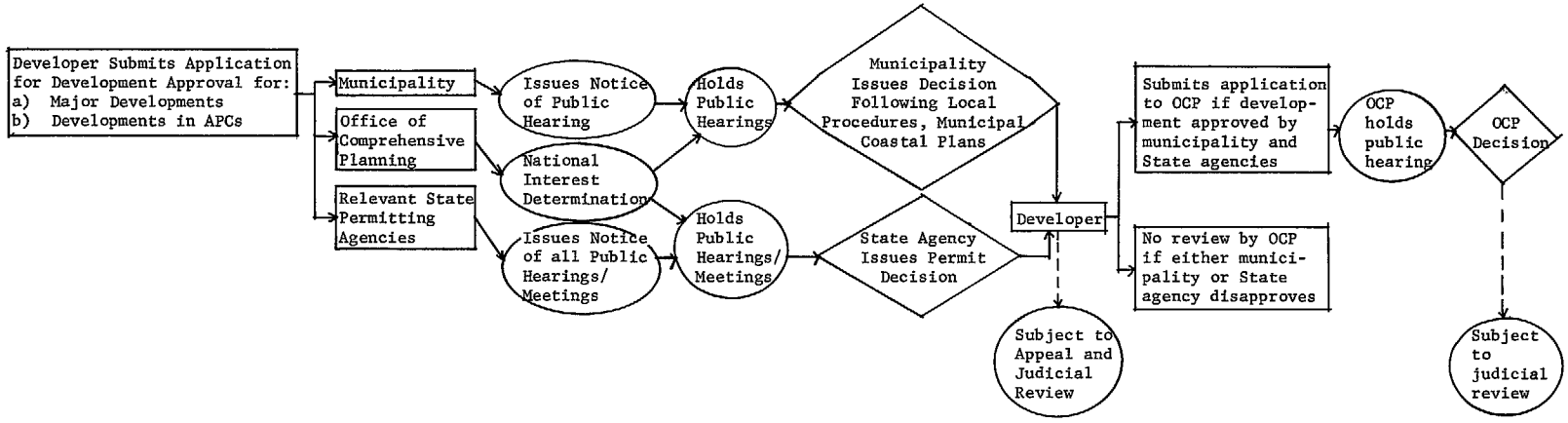
Each coastal zone municipality will have up to two years in which to develop its Plan and submit it to OCP for review and approval. Various forms of assistance will be available to aid the municipalities in developing their Plans. Technical assistance is available from the staffs of OCP and the Strafford-Rockingham Regional Council. The proposed CRM Legislation mandates that specific coastal resources maps, already produced by the OCP,

become part of the master plans of the coastal zone municipalities, to use as they see fit. Furthermore, the proposed legislation provides financial grants to these municipalities to help defray the costs of developing and implementing their Coastal Plans (see "Municipal Grants," page 6-19.)

If OCP disapproves a Municipal Coastal Plan within 60 days after it is submitted to the State for review and approval, the proposed Legislation provides for, at a maximum, 90 additional days during which OCP and the municipality may work together to produce an acceptable Plan. Should this process fail, should a portion of the Plan be inadequate, or should a municipality not submit any Plan, then the proposed legislation stipulates that the OCP-promulgated management standards or portions thereof, upon which the Plans are to be based, will have full force and effect within the primary zone portion of the municipality, and will be administered and enforced by the municipality. However, the proposed legislation further provides that any time subsequent to OCP standards taking effect, the municipality may submit a Plan to OCP for review and approval. Should this occur and should the Plan be approved, it would supercede the State management standards.

Once approved, each of the seventeen coastal zone municipalities will utilize its Municipal Coastal Plan, at a minimum, to guide growth and protect environmental resources in its portion of the primary zone. These Plans shall also provide guidelines to the seventeen coastal municipalities in making major water use decisions throughout their communities. The standards in each Plan will apply to local decision-making regarding the siting, construction and operation of land and water uses within the purview of the CRM Program (see Figure 6-2). These standards will also provide guidance to these localities regarding variances, special exceptions and amendments to their land and water use controls. Furthermore, OCP will monitor municipal variances and amendments to determine consistency with the statewide interest in coastal resources.

FIGURE 6-2
FLOW CHART OF DECISION-MAKING PROCESS
TO MANAGE DEVELOPMENT UNDER THE COASTAL RESOURCES
MANAGEMENT PROGRAM



SOURCE: N.H. Office of Comprehensive Planning, June, 1978.

State Coastal Development Approval Authority

The CRM Legislation gives OCP the final approval authority over specific types of development proposals. This approval will be a significant CRM Program management tool for guiding growth in the coastal zone. Chapters III and IV discussed the specific activities subject to this approval authority. These activities include:

1) Major developments in the primary zone.

2) Major water users in the coastal zone.

3) Developments in Areas of Particular Concern which are located in whole or in part within the primary zone.

4) Special case-by-case approval of major developments in the coastal zones.

5) Activities subject to Federal Consistency in the coastal zone.

The manner in which this approval will be achieved through the program is discussed below.

Data Submission Requirements. The specific requirements for data to be contained in the applications for State Coastal Development Approvals will be promulgated by OCP within six months after the effective date of the CRM Legislation. These requirements may include the following:

. Description of the proposed development activity.

. Description of how the activity will be conducted in a manner consistent with the relevant Coastal Municipal Plan(s), CRM Program goals (271-B:1, VI) and OCP-promulgated management standards.

. Data required for other State agency approvals, as appropriate.

. Information concerning how the proposed activity will effect the environment, land uses, public facilities, and other considerations identified by OCP as part of the approval procedures discussed below.

. Federal licenses and permits needed.

A limited amount of assistance will be available from OCP to aid the applicants in generating the required data, (as discussed in this chapter beginning on page 6-13 .

Approval Considerations. The specific considerations to be addressed during the approval process of development proposals will also be promulgated by OCP within six months after the effective date of the CRM Legislation. However, based on the goals and other management requirements of the CRM Legislation, the following factors may likely be among those for consideration by OCP as part of the State Coastal Development Approval procedure:

. For shoreline activities, the applicant must demonstrate a need for the use of coastal waters, or some other technical requirement which necessitates siting in such close proximity to coastal waters;

. Impacts on ecological systems and coastal resources as expressed in the CRM Legislation, (see Chapter III);

. Impacts on APC selection characteristics (see Chapter IV);

. If a low priority use in an APC (see Chapter IV), the applicant must present a compelling and affirmative demonstration that the proposed activity will not degrade, diminish or adversely affect any characteristic of the APC in question as stated in the CRM Legislation (271-B:11, II);

. If a low priority use is ina"floodplain" APC, it must comply with the minimum requirements of the Regular Program of the National Flood Insurance Program;

. Capability of the land or water area to support the use;

. Compatibility with contiguous land and water uses;

. Capacity of public services to support the proposed use in terms of water supply, sewage and solid waste disposal, transportation access and facilities, and other supporting services and facilities;

. Susceptability to flooding and other natural hazards;

. Consistency with State air and water quality requirements;

. Consideration of national interests, if applicable (see Chapter VII for discussion of national interests in the New Hampshire coastal zone);

. Consideration of plans, studies, surveys, etc. by other public and private sources.

Use of Existing State and Local Agency Authorities. While OCP is responsible for final approval of certain coastal resource development activities, it is the policy of the CRM Program that existing State and local agency approval authorities which deal with coastal resources utilization will not be duplicated or eliminated by the implementation of the CRM Program. Indeed, the CRM Legislation requires OCP to utilize relevant technical expertise and authorities of State and local agencies as much as possible as it accomplishes its broader mandate to manage, or cause to be managed, the coastal resources. As discussed below in the section on "Management Standards" (beginning on page 6-10) the CRM staff of OCP will work with other State agencies and the primary zone municipalities during the next year to identify and evaluate the specific regulatory and programmatic functions of State and local agencies relative to CRM Legislative requirements for the State Coastal Development Approval procedure. Analyses of State and local agencies' statutorily-mandated land and water use management responsibilities in the coastal zone have already been accomplished (see Appendices F and G) and give a preliminary indication of what the above evaluation may determine.

During the first six months after the effective date of the CRM Legislation, OCP will decide, based upon the above evaluation, the extent to which existing State and local approval procedures for coastal resources utilization proposals can be incorporated by reference in the OCP approval procedures, and the extent to which OCP must develop additional expertise to effectively evaluate resource use proposals.

Centralized State Approval Procedure. Many development proposals which are subject to OCP's State Coastal Development Approval will also be subject to approval from other State agencies. The issuance of multiple permits often results in inefficiencies and unnecessary delays and added costs to the applicant due to confusion of the applicant as to requirements for permits, and to duplication of application data and public hearings.

In an attempt to prevent such situations during the implementation of the CRM Program, the proposed legislation requires OCP, within one year after the effective date of the Legislation, to develop and recommend a procedure for establishing a centralized development approval procedure for all development proposals subject to approval by OCP. Through the issuance of a single "OCP-approval" permit, this procedure would attempt to centralize the paperwork and public hearings associated with multiple State agency approvals of these development proposals.

Federal Consistency. As part of the State's Coastal Development approval process, Federal activities which may affect the State's coastal zone shall be reviewed for consistency with the CRM Program. Consistency determinations shall be made for those activities in the coastal zone which require Federal licenses, permits, OCS plans, and assistance grants. In addition to review of federally supported activities, OCP shall review and comment on all other Federal activities through the program's intergovernmental coordination mechanism. Refer to Chapter VIII for a detailed discussion of the Federal Consistency procedures.

State Coastal Plans Consistency Determinations

The OCP shall review and make consistency determinations for all development proposals, capital improvement, comprehensive and functional plans which affect the coastal zone and relate to major developments and areas of particular concern, beginning on the effective date of the Legislation. These plans shall be reviewed and OCP shall determine the consistency of these plans

with Coastal Muncipal Plans, State management standards, and any other State regulation or review criteria established by OCP for ensuring consistency with the CRM Program.

Furthermore, through its membership on State permitting boards (such as the Special Board for Dredge and Fill and the Water Supply and Pollution Control Commission), OCP shall make consistency determinations for projects which require State permit approval and which are subject to management by the coastal program.

Management Standards and Maps

A "management standard" is a qualitative or quantitative rule or regulation which places a limitation or condition on development. The proposed CRM Legislation requires OCP, within six months to one year from the effective date of the act, to issue management standards for the two principal management aspects of the CRM Program: land and water use impacts and geographical areas of particular concern.

Standards for Land and Water Uses. The land and water uses and impacts subject to management were discussed in Chapter III, and include both major developments and fifteen potential impacts from land and water uses. The standards which OCP will promulgate within one year of the effective date of the legislation shall be designed to promote locational, design, construction practices, operational characteristics, or maintenance practices which reduce or eliminate negative environmental impacts due to land and water uses.

Areas of Particular Concern. In Chapter IV, the 15 categories of APCs, the selection characteristics, the APC designation process, and the priority of uses of APCs were discussed. For the designated APCs, the CRM Legislation requires OCP to issue management standards which will ensure that the characteristics of each APC will remain substantially unchanged. The APC management standards will be in the form of performance

criteria and design and operational specifications.

The management standards shall be used in the coastal resources decision-making processes at both the local and State levels. At the local level, the standards will be the basis for development, by the coastal zone municipalities, of Municipal Coastal Plans (discussed above, beginning on page 6-3). The Plans, in turn, will provide the framework for local administration of their land and water use controls, and for local land and water use decisions affecting coastal resources. At the State level, the standards will be utilized by OCP in performing its regulatory duties as described in this section on "Direct Local and State Control."

As previously stated, OCP must promulgate the standards within six months of the effective date of the CRM Legislation. To accomplish this deadline, OCP has already begun to inventory and evaluate the precise functions and daily operations of each relevant State agency (see Appendix F), and to determine which specific rules and regulations of these agencies can be incorporated by reference in the CRM management standards. For example, the CRM Legislation stipulates that the State-administered portions of the Federal water quality and air quality programs are to be incorporated by reference in the standards; portions of the National Flood Insurance Program are also to be included (see Appendix J).

Areas of CRM Program responsibility identified by OCP as not being adequately addressed by other State agencies will require the creation of new performance criteria and specifications. To assist in this task, relevant State and Federal agencies will be called upon by OCP, to provide data and technical assistance, and to keep them involved and fully informed.

Direct Incorporation of Federal/State Programs. The proposed legislation mandates that all rules and regulations adopted by the State in response

to the Federal Water Pollution Control Act and the Federal Clean Air Act (both as amended) will be incorporated by reference in the CRM Program as program requirements. This will mean that the State agencies presently administering these programs will continue to do so during CRM Program implementation, with the added enforcement authority of the CRM Program. The management standards to be adopted by OCP, therefore, reflect this incorporation. The proposed CRM Legislation also requires that the management standards regarding development in floodplain APCs must include the minimum flood proofing requirements of the Regular Program of the National Flood Insurance Program. As such, these requirements will be administered and enforced by OCP and coastal zone municipalities based on CRM Program authorities. Refer to Appendix J for a more detailed discussion of the incorporation of these Federal/State programs into the CRM Program.

Maps. As part of the CRM Program, the following maps shall be utilized: State coastal zone boundary maps; Land and Water use resource maps; and APC maps.

The boundary of New Hampshire's Coastal Zone is established in the proposed legislation. Refer to Chapter I for a discussion of the boundary and the boundary maps. Within six months from the effective date of the CRM Legislation, OCP shall prepare detailed primary zone boundary maps for use by coastal zone municipalities.

The OCP shall adopt Area of Particular Concern (APC) maps within six months of enactment of CRM Legislation. These APC maps as well as land and water use resource maps, prepared by OCP during development of the CRM Program, shall be incorporated directly into Municipal Coastal Plans and also utilized by OCP in its State Coastal Development Approval considerations.

Acquisition of Land and Property

The OCP is authorized by the proposed legislation to purchase fee simple and less than fee simple (e.g., easement) interests in lands, waters and other properties in the name of the State for purposes of program implementation. This OCP acquisition authority does not include acquisitions through eminent domain procedures. Any acquisition project by OCP would be subject to Governor and Executive Council approval.

Assistance to Applicants for OCP Approval Under the CRM Program

Resource management programs, such as the CRM Program, which include the issuance of permits for use of the resource, work best when the permitting agency and the applicant work together during the initial stages of project planning to identify the management concerns and potential mitigating actions. This is good from the management point of view because the major concerns regarding the resource will be identified early and thus given maximum consideration by the applicant. From the applicant's viewpoint, this is good because the applicant will be less likely to expend time and money developing a course of action which ultimately would not be approvable by OCP or other approval authorities. The principal beneficiary, however, will be the general public; their resource will be utilized in a predictable and wise manner, and the costs will be kept to a minimum.

In the CRM Program, OCP is given the responsibility, upon request and within its budgetary and manpower constraints, to advise and assist any governmental agency or private development interest in the siting, construction or operation of any development within the purview of the CRM Program. This assistance would include providing data on resources inventories and land and water capability analysis, as well as other

relevant sources of information and assistance.

Enforcement

As provided in the proposed legislation, any intentional violation of the Legislation or of a lawful order of OCP will be considered a misdemeanor if committed by a natural person, and a felony if done by an unnatural person, e.g., a corporation or incorporated association, each day of violation being a separate offense. This is consistent with the State's criminal code which provides for fines up to $1,000 for a misdemeanor and $50,000 for a felony. An unintentional violation may be subject to a civil penalty of not more than $5,000.

The Director of OCP, the Attorney General, and the municipal governments each have the authority, as provided in the proposed legislation, to petition the Superior Court to exercise the above penalties. The Director of OCP may also issue a written cease and desist order against any action determined by OCP to be in violation of the Legislation or a lawful order of OCP. Activities subject to the Municipal Coastal Plans, and which are not also subject to some type of State level scrutiny, will be enforced by the cognizant municipal government utilizing their traditional enforcement authorities.

COORDINATION

Successful management of the State's coastal resources is dependent upon the effective coordination of those public agency actions and programs which affect the coastal zone in a manner which is unified and predictable. At the Federal level, some twenty agencies have programs directly applicable to New Hampshire's coastal zone; another twelve have interests in coastal and estuarine areas of the United States generally. New Hampshire participates or is authorized to participate in ten interstate commissions and

compacts, two of which are the New England River Basins Commission and the New England Regional Commission. At the State level, there are thirteen major boards, authorities, commissions and departments, including some thirty-one divisions within these departments, with advisory, administrative, regulatory, financing or planning responsibilities affecting the coastal zone. Each of the seventeen coastal zone municipalities exercise numerous land and water use control authorities; e.g., zoning, residential and non-residential site plan approval, building codes and permits. Such a situation presents major coordination problems and a potential inability to adequately cope with demands on the natural resources of the coastal zone, its local governments and its people.

Existing Coordination

Present intergovernmental coordination in the coastal zone primarily involves only Federally-related activities and two Federally administered mechanisms. The Office of Management and Budget Circular A-95 coordination involves Federal assistance to State and local governments and to individuals; Federal development projects; Federal programs for which a "State plan" is required; and Federal licenses and permits. The Environmental Impact Statement (EIS) process, required by the National Environmental Policy Act and administered by the Environmental Protection Agency, involves actions determined by the cognizant Federal agency to have a significant effect on the environment. The Strafford-Rockingham Regional Council in Exeter serves as a clearinghouse in the coastal zone for A-95 and EIS review and comment by the member municipalities of the Regional Council. The State level clearinghouse for State review and comment on A-95 projects is handled through the Coordinator of Federal Funds Office within the Executive Department; State level clearinghouse functions for

EIS review and comment are conducted by OCP.

This existing level of intergovernmental coordination in the coastal zone has certain shortcomings for direct application to the CRM Program. To begin with, State and local actions with no Federal involvement are not included; e.g., local residential site plan approval of a large subdivision and Department of Fish and Game regulatory control over nearshore and estuarine marine fisheries. In addition, coordination by Federal agencies is often less than adequate, and there is very little enforcement of the requirements by the two cognizant Federal agencies; i.e. OMB and EPA. Furthermore, the coordinative mechanisms are fragmented at both the Federal adminstrative level and the State implementation level. Such fragmentation tends to foster duplication of effort in some instances and a lack of coordination in others.

CRM Intergovernmental Coordination. In an attempt to improve on the existing coordinative mechanisms, the proposed legislation charges OCP with establishing a CRM Intergovernmental Coordinative procedure whereby relevant interested persons, private organizations, or governmental agencies can review and comment upon: all development proposals which are subject to final approval by OCP as provided in the proposed legislation (i.e., major developments in the primary zone, major water users throughout the coastal zone, and developments in APCs); OCP adoption of land and water use management standards; and OCP approval of Municipal Coastal Plans. Furthermore, OCP consistency determinations for capital improvement, comprehensive and functional plans subject to review by the program and all Federal consistency determinations will include procedures for interagency coordination and public hearings as necessary.

The CRM Intergovernmental Coordination procedures will supplement the

NEW HAMPSHIRE

COASTAL RESOURCES MANAGEMENT PROGRAM

Draft Document

The New Hampshire Coastal Resources Management Program Final Document must be approved by the Governor and the Office of Coastal Zone Management.

State of New Hampshire
Office of Comprehensive Planning
1978

The preparation of this publication was funded by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, U. S. Department of Commerce under a Program Development Grant to the State of New Hampshire.

LIVE FREE OR DIE

OFFICE OF COMPREHENSIVE PLANNING
STATE OF NEW HAMPSHIRE
26 Pleasant Street
Concord, N.H. 03301
(603) 271-2155

June 28, 1978

Dear Fellow Citizen,

The seacoast area of New Hampshire is rapidly growing and provides a variety of resources and opportunities for the continued growth of the entire state. This area also contains limited and fragile resources that provide a quality environment which has helped to attract this growth. The following draft document written by the Office of Comprehensive Planning describes a proposed Coastal Resources Management Program for New Hampshire. This program will encourage growth in suitable locations, promote the conservation of limited resources, and provide a strong role for local government in the management process.

There are many benefits to New Hampshire for having a Coastal Resources Management Program. It is important that such a program reflect the priorities and needs of this state and its citizens. Therefore, I invite you to participate in the review of this proposed management program. Your comments will assist us in redrafting this document and the proposed legislation. Only through your participation can we bring your perspective into the decision-making process about the future uses of our coastal resources.

Sincerely,

George A. Lovejoy

George A. Lovejoy
Director

GAL:jyb

Attachment

"LIVE FREE OR DIE"

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FOREWORD

The New Hampshire Coastal Resources Management Program (CRMP), as described in this Draft Document, represents the Office of Comprehensive Planning's proposal for the management of important coastal resources. This Draft Document is being submitted to the Office of Coastal Zone Managment (OCZM) in order to meet the Federal Coastal Zone Management 305(d) grant application requirements for preliminary approval of New Hampshire's coastal program and in order to permit continued program funding in State Fiscal Year 1979. The Office of Comprehensive Planning (OCP) currently has no authority to implement any portion of the program as described in this Document.

This Draft Document contains proposed Coastal Resources Management Program Legislation which will provide the statutory authority and legal framework for implementing the Program. The proposed legislation, found in Appendix S, is similar to Senate Bill 189 passed by the General Court in its 1977 Regular Session and vetoed by the Governor who expressed concern with the referendum section. It is expected that legislation, as approved by the Governor, will be submitted to the 1979 Regular Session of the General Court.

Copies of this Draft Document are being distributed to public and private agencies and individuals with an interest in New Hampshire's CRM Program for their review and comment. Based on the comments received, OCP will redraft this report and, with passage of program legislation, will prepare a final program document for review and approval by the Governor and the Federal Office of Coastal Zone Management. Please direct any comments concerning this Draft Document to:

Laurence E. Goss, Jr.
Program Manager
Coastal Resources Management Program
Office of Comprehensive Planning
26 Pleasant Street
Concord, New Hampshire 03301
(603) 271-2155

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CHAPTER 1

CHAPTER I: INTRODUCTION TO NEW HAMPSHIRE'S COASTAL RESOURCES MANAGEMENT PROGRAM: A RESPONSE TO GROWTH PRESSURES ON A FRAGILE SEACOAST

New Hampshire's coast is an area of varied natural resources and features. The present landscape of hilly and lowland areas is the result of glacial deposits. Beaches, sand dunes, and rocky shores characterize much of the State's 17.8 miles of Atlantic seacoast shoreline. In addition to providing a natural buffer between the sea and upland areas, these beaches and dunes are aesthetic, recreational and economic assets to the entire State. Tidal and coastal wetlands extend inland from the coast in some locations and act as important fish spawning and wildlife resting and feeding areas. Other significant inland features of the coastal area are the Great Bay embayment, the Piscataqua River estuary and the Hampton/Seabrook marsh estuarine system. These tidal and estuarine systems are of commercial, recreational and economic value. New Hampshire's offshore coastal assets include many fish and lobster concentration areas and the Isles of Shoals which contains several small islands rich in plant, fish, and wildlife habitats.

People and industry have been attracted to the New Hampshire seacoast due to its location, natural beauty, and abundant resources. The historic seacoast towns with their active commercial recreation, tourist, and fishing centers make New Hampshire's coast a desirable place to live and visit. The continued development of coastal dependent marine and ocean resource industries, the port and harbor areas, and other tourist related industries will maintain the seacoast as an economically viable area.

COASTAL PLANNING IS NEEDED TO MANAGE GROWTH AND CONSERVE RESOURCES

Currently, more and more people are choosing to live and work in the seacoast area. The coastal population in 1977 was estimated at 103,087 persons, up 14% over the 1970 population. By the year 2000, it is projected that the total coastal population will reach 157,670, an increase of 53% over the 1977 population (OCP estimates and projections for the 17 coastal zone municipalities). This growth, in turn, is resulting in an increased demand for housing, public services, job opportunities, shopping facilities, scenic enjoyment, and recreation. The limited supply of land, water and air resources is under increasing pressure in order to support this growth and economic development. However, if beaches, dunes, salt marshes, and other unique natural features disappear in the process, the special character of the area and its unique appeal will be lost.

The challenge is to find a way to meet these two valid and increasingly conflicting needs at the same time -- the need to use and the need to conserve coastal resources. It is of paramount importance that there be a responsible public program for the utilization and protection of the State's coastal resources. How such a program can work is the basic concern of the New Hampshire Coastal Resources Management Program.

NEW HAMPSHIRE'S COASTAL PROGRAM BOUNDARIES FOLLOW THE INLAND LIMITS OF THE SEVENTEEN MUNICIPALITIES TOUCHING COASTAL TIDAL WATERS

New Hampshire's coastal zone extends from the Maine border on the north to the Massachusetts border on the south, seaward to the outer limits of the United States territorial seas, and inland to the westerly boundaries of those municipalities which touch the State's tidal waters,

(as defined in the CRM Legislation in Appendix S). Included in the coastal zone are seventeen (17) municipalities (see Figure 1-1) which encompass an area of 238 square miles, representing 2.6% of New Hampshire's total land area and 12% of the State's population, at 103,087 persons in 1977 (OCP Estimates). Refer to the Boundary Map, M-1, on page 1-15 for the location and boundaries of the coastal municipalities.

Figure 1-1

THE 17 MUNICIPALITIES COMPRISING NEW HAMPSHIRE'S COASTAL ZONE

Dover	Newington
Durham	Newmarket
Exeter	North Hampton
Greenland	Portsmouth
Hampton	Rollinsford
Hampton Falls	Rye
Madbury	Seabrook
New Castle	Stratham
Newfields	

THE COASTAL BOUNDARIES CONTAIN TWO SUBZONES BASED ON DISTANCE FROM THE SHORELINE

Within New Hampshire's coastal zone, two (2) subzones have been designated: a primary zone and a secondary zone. (For a description of the alternatives considered in developing the subzones, refer to Appendix Q.) The boundaries of these two subzones are detailed in the CRM Legislation in Appendix S and also described below.

Primary Zone. This zone includes all tidal estuarine and oceanic waters to the outer limits of the United States territorial seas; all submerged lands under such waters; all intertidal zones; all tidal and freshwater wetlands, bodies of saltwater and directly adjacent freshwater, and beaches and sand dunes adjacent to tidal waters; all islands surrounded by tidal waters; and all land extending inland from the mean high water mark, or from the landward edge of the tidal wetland where present, to either the first 20-foot elevation contour which is non-cyclical within the State of New Hampshire, or a horizontal distance of 1,000 feet, whichever is the farthest inland. (See Map, M-2 on page 1-17).

Secondary Zone. This zone includes the non-primary zone portions of the seventeen (17) New Hampshire municipalities which have areas designated as part of the primary zone, as listed in Figure 1-1.

Exclusion of Federal Lands. Excluded from either of the above zones are land and water, uses of which are subject by law solely to the discretion of, or held in trust by, the United States government, its officers and agents. However, Federally owned or operated properties which are located within New Hampshire's coastal zone have been inventoried and mapped. (See Map, M-3 on page 1-19.) Based on this inventory, Pease Air Force Base, two Coast Guard Installations and a parcel of land managed by the General Services Administration are the major federally maintained properties located in the coastal zone.

It should be noted that the major emphasis of the program will be to manage land and water uses in the primary zone portions of the seventeen (17) coastal zone municipalities. Both major developments and developments proposed in specified areas of particular concern (APCs) will be subject to special management attention under this program. The coastal municipalities will provide the "front-line" administration and enforcement of the program, through their local land and water use controls and their Municipal Coastal Plans.

COASTAL ISSUES AND PROBLEMS ARISE AS GROWTH PUTS PRESSURES ON FINITE SEACOAST RESOURCES

Housing, industry, commerce, recreation, fishing and agriculture are interrelated land and water uses which place demands on the limited supply of man-made and natural resources such as public facilities, water supply, coastal shoreline and beaches, wetlands, scenic areas and other resources in the seacoast. Rarely can one land or water use occur without affecting others. Rapid population growth coupled with economic development, activities in one community which frequently affect adjacent municipalities, and potential onshore impacts from offshore oil and gas exploration, place even greater demands on available coastal resources.

Population Growth

Expected increases in coastal area population are an effective indicator of future demand for land and other resources. Based on Office of Comprehensive Planning (OCP) estimates, the population of the seventeen (17) primary/secondary zone towns increased by 12,977 persons or 14% between 1970 and 1977, from 90,110 persons in 1970 to 103,087 in 1977. The population by the year 2000 for this area is projected to reach 157,670 persons. This represents a 53% increase over the 1977 population or a population increase of 54,583 persons between 1977 and 2000. However, since many areas in New Hampshire are experiencing growth, the coastal population, as a proportion of the State's population, is expected to remain at about 12% between 1977 and the year 2000. (All population data was extrapolated from OCP reports "1977 Resident Population Compilation," 8/77, and "1980-2000 Population Projections," 11/75).

Housing Demand and Economic Development

Well established areas of residential development already exist on the coast. As the population grows, demands for new housing will increase. In 1970 there were 30,260 dwelling units in the seventeen primary/secondary zone communities and a housing deficiency of 616 units, according to the Strafford-Rockingham Regional Council (S-RRC) report "Current Data On Coastal Zone Planning Area." It is projected that an additional 22,640 dwelling units will need to be built between 1970 and the year 2000 in order to accommodate the expected increase in population. (OCP extrapolation from S-RRC regional housing data.)

Industrial and commercial growth has been concentrated in the Portsmouth-Newington area. In addition, commercial development has occurred along the oceanfront in all coastal towns, especially Hampton Beach, and

in a linear fashion along major highways with concentration at major intersections. Projections indicate that approximately 750 acres will be needed to accommodate new industrial and commercial growth in the seventeen coastal communities between 1977 and the year 2000 (extrapolated from S-RRC - "Current Data on Coastal Zone Planning Area").

The potential onshore impact from oil and gas exploration, development and production on the outer continental shelf (OCS) is unknown at the present time. Any onshore activities will most likely be limited to service bases with associated onshore ancillary facilities. However, new employment opportunities and capital investment could also be anticipated if OCS facilities were located on New Hampshire's coast. Demands on the coastal resources can be expected to vary depending upon the nature and extent of onshore development.

Land and Water Resource Availability and Guiding Growth to Suitable Areas

Some 11,000 acres of land in seacoast communities have excellent development potential for industry and commerce, which should be more than enough to meet foreseeable needs. The projected need for some 22,640 new housing units by the year 2000 can easily be met on land suitable for residential development. The major problems involving land and water resources relate to an ability to guide development into areas best suited for growth, and to keep development from encroaching on and damaging areas which are not suitable for development activities.

The seacoast is an area of varied and unique natural resources including tidal wetlands and floodplains; rocky shores and beaches; fishing and water recreation areas; water supply and aquifer recharge areas; and other unusual natural areas. However, since the mid-1940's, more than ten percent of New Hampshire's coastal wildlife and estuarine habitat has been

lost because of dredging and filling activities. (United States Senate Report #1419, 1968). These wetland areas, lacking natural development potential, were altered from their natural state to accommodate various types of development,as were other coastal floodplains and erosion hazard areas. Barrier dunes have virtually disappeared from the New Hampshire shoreline, replaced largely by seasonal homes. Beaches, dunes, open space and other scenic coastal resources are major recreational and economic assets. Beach users alone spent an estimated $16.6 million in 1974 (S-RRC, 1975). New Hampshire residents in 1971 spent $3.7 million on saltwater sports, fishing, and an additional $1.2 million on shellfishing (S-RRC 1975). Sustaining or increasing the value of recreation in the seacoast economy depends upon maintaining much of the natural character of the area, which now attracts so many visitors.

Water supply is a limiting resource factor to future development in the seacoast area. Many existing municipal facilities will not be adequate to accommodate the expected demand by the year 2020 (New Hampshire Water Supply and Pollution Control Commission, 1975). Several municipalities are already exceeding or encroaching upon the long-term sustainable safe yields of their water supplies. Water imports from outside the coastal area or impoundments, and limitations on water use are among the alternatives which will need to be considered. The seventeen (17) communities comprising the coastal zone use groundwater as a water supply source. Overuse of this limited resource could result in dry wells, saltwater intrusion and depletion of stream flows. Such effects should be considered when planning for the future of the area.

Water Quality, Sewage and Solid Waste Disposal, and Air Quality Top List of Environmental Concerns

At present, the major waterways of the coastal area do not meet

legislated water quality standards. Major point source contributors to the problem are discharges of domestic sewage from four of the larger communities in or adjacent to the coastal zone, five private industries, and a public utility company; four smaller coastal towns contribute to this problem to a lesser degree (New Hampshire Water Supply and Pollution Control Commission, 1975). Achievement of State 1983 water quality objectives to correct this situation will require the coordinated effort of all those involved.

Water quality problems also result from non-point source pollution in both urban and non-urban areas. Stormwater runoff from roads, streets, parking lots, construction sites, yards and farms, where it is not adequately treated or diluted before discharge into coastal waters, contributes to water pollution. Thus, coastal waters may receive excessive amounts of nutrients, heavy metals and sedimentation which are potentially harmful to public health, recreation, fish and wildfowl habitats, and marine food webs. Consequently, this too is an important aspect of present and future water quality management for the coastal area.

As a result of population growth and environmental considerations, solid waste disposal in the coastal zone is of increasing concern. Existing municipal dumps no longer meet Federal EPA Standards and alternative disposal facilities are costly. Solid waste planning and management will be of major importance for ensuring future growth and protecting natural resources in the seacoast area.

Air quality does not yet approach the severely degraded conditions found in many large metropolitan areas. It is a continuing concern, nonetheless. The coastal program is interested in seeing that State and Federal Clean Air Standards are complied with on the coast.

Due to the present level of environmental quality or "quality of life," residents and tourists of the seacoast area perceive it as a good place to live or vacation. Preservation of natural resources, scenic and other amenities, however, is not just an environmental concern: it is a necessity for an area where tourism and recreation contribute so heavily to the economy. The protection of beaches, dunes, marshes, open space and scenic prominences is essential in order to maintain the economic base of the coastal area.

Fragmentation of Governmental Decision-making

At the Federal level, some twenty agencies have programs directly applicable to New Hampshire's coastal area; another twelve have interests in coastal and estuarine areas of the United States generally. New Hampshire participates or is authorized to participate in ten inter-state commissions and compacts, two of which are the New England River Basins Commission and the New England Regional Commission.

On the State level, there are thirteen major departments--and some thirty-one divisions or offices within these departments, and boards, authorities and commissions--with advisory, administrative, regulatory, financing or planning responsibilities affecting the coastal area. The seventeen coastal area communities are located in two counties, and all are within the Strafford-Rockingham Regional Council's area of jurisdiction; all have established planning boards; all but one have conservation commissions.

The current situation presents major coordination problems and virtually guarantees an inability to cope adequately with demands on the coastal area, its local governments and its people. The current fragmented decision-making process has serious implications, and the need to move toward more

unified public policies, programs and actions is clear. The opportunity to do so is presented by the Coastal Resources Management Program.

PAST SEACOAST PLANNING EFFORTS IN THE STATE

The idea of coastal management is not a new one in the State. As early as 1927, the Legislature created a commission to study the feasibility of development in Hampton-Seabrook marshes and to find a remedy for coastal erosion. In 1941 the Legislature directed the New Hampshire State Planning and Development Commission to undertake a long-range plan for the development of the Great Bay area. In the early fifties the regional effects of Pease Air Force Base were studied, a Portsmouth Harbor Advisory Committee was established and the State Planning and Development Commission continued its planning for the seacoast area. In the sixties a unified effort between the State, University of New Hampshire and residents of the seacoast area was conducted to develop a Seacoast Regional Plan. During this time, further studies on the recreational potential of Great Bay were also made.

In August, 1971, the State Planning Office initiated a design project for coastal management. The purpose of this study, funded by the New England Regional Commission, was to identify the coastal area problems, the alternative mechanisms available to resolve these problems, the capabilities of different public bodies to carry out the suggested mechanism, and a proposed structure for such a management program. This work formed the basis for the extensive management program which was first funded in 1974 and culminates in this management document.

THE COASTAL PROGRAM

Federal Coastal Zone Management Act

The impetus for the present program originated at the Federal level.

In October, 1972, Congress recognized the urgent need for a comprehensive approach to solving coastal problems by passing the Coastal Zone Management Act. It reflects the national interest in effective management for coastal areas--in their wise development, use and protection. It sets broad policies and stresses balanced planning and management to address both economic and environmental concerns. The Act encourages development of comprehensive coastal resources management programs by the states and their local governments. It anticipates that program development will be followed immediately by program implementation.

The program is voluntary; there are no penalties for failure by a state to enact a coastal resources management program, nor is there a Federal override of state decisions. Between 1974 and 1979, states may receive a maximum of four annual development (planning) grants, after which they must submit a management program to the Secretary of Commerce for approval to become eligible for implementation grants. In developing its management program, a state must address the following:

* identify coastal boundaries;
* identify uses to be managed: uses which have a direct and significant impact on coastal waters and resources;
* identify the means of control over uses to be managed;
* inventory and designate areas of particular concern, including guidelines for priorities of uses;
* establish a process for designating areas for preservation or restoration;
* establish planning processes for managing shorefront access and protection, shoreline erosion, and energy facility impacts;
* provide adequate consideration of the national interest involved in siting major facilities;
* describe the organizational structure proposed to implement the program, including local, regional, state, and federal government responsibility in the management process;
* establish full public participation and intergovernment involvement in developing and carrying out the management program;

* demonstrate that the state coordinate its program with local, areawide and interstate plans.

New Hampshire's Response

In May, 1974, the Governor designated the Office of Comprehensive Planning (OCP) as the lead agency and authorized initiation of coastal resources management planning for the State. Since this time, OCP has worked towards developing a comprehensive and rational approach to managing coastal resources. The OCP has been assisted in this endeavor by the Strafford-Rockingham Regional Council, other local, state, and federal agencies, and the University of New Hampshire's Sea Grant Program. Public input from local governments, interest groups, and the general public has also been utilized in the development of the program.

The Coastal Resources Management Program for New Hampshire, as described in this document, is a result of the program planning efforts over the past four years. This plan is based on more than 55 technical documents, and, several hundred maps of the seacoast area's environment, economy, and zoning. The management program meets the provisions of the Federal Act in a manner that is suited to New Hampshire and its political traditions. In developing the CRM Program, legislation has been proposed which is subject to further public input and when enacted will provide the statutory authority and legal framework for implementing the program. In this proposed CRM Legislation, the Office of Comprehensive Planning (OCP) is charged with overall responsibility for program implementation. (See Appendix S). The program and CRM Legislation provide for consideration of diverse coastal and State interests in the decision-making process. Local coastal municipalities will have a major role in administering the program through their local land and water use controls.

Advantages to having a Coastal Planning and Management Program in New Hampshire

The most desirable benefit of having a coastal management program is its objective to maintain the quality of life that exists in the seacoast area. Coastal New Hampshire is a nice place to live, work, and visit due to the economic, cultural, historic, and natural environment of the region. The successful development and implementation of a coastal management program will ensure that the State's coastal resources are used and conserved for the benefit of all the citizens.

By establishing and implementing a coastal management program, the State will realize the following benefits:

- Federal funds of $300,000 in 1979, with similar amounts expected annually, would be available to assist the State and local governments in managing growth and critical resources in the coastal area;
- At least $100,000 of the 1979 funds would be available to New Hampshire's coastal municipalities, under 100% grants, for local administration of the program;
- The State would be eligible to receive 50% federal matching grants in order to establish estuarine sanctuaries;
- The State would be eligible to apply for a federal license for a deepwater port beyond the State's territorial sea;
- The State will be given a more formal role in reviewing outer continental shelf (OCS) oil and gas development plans;
- Local communities will be eligible to apply for 100% federal grants to construct public facilities necessitated by onshore impacts of offshore oil and gas development or to prevent, reduce or correct any damage to coastal resources due to activities related to offshore oil and gas development;
- 80% federal grants will be available to State and local governments for energy facility siting impact planning;

- There will be greater cooperation and coordination between different levels of government, with local government playing a key role if they so desire;

- Both the State and local participating agencies would gain increased authority in federal agency decision-making regarding permitting and funding activities in the State's coastal area. Federal activities affecting coastal resources would have to be consistent with the New Hampshire Coastal Resources Management Program to the maximum extent practicable;

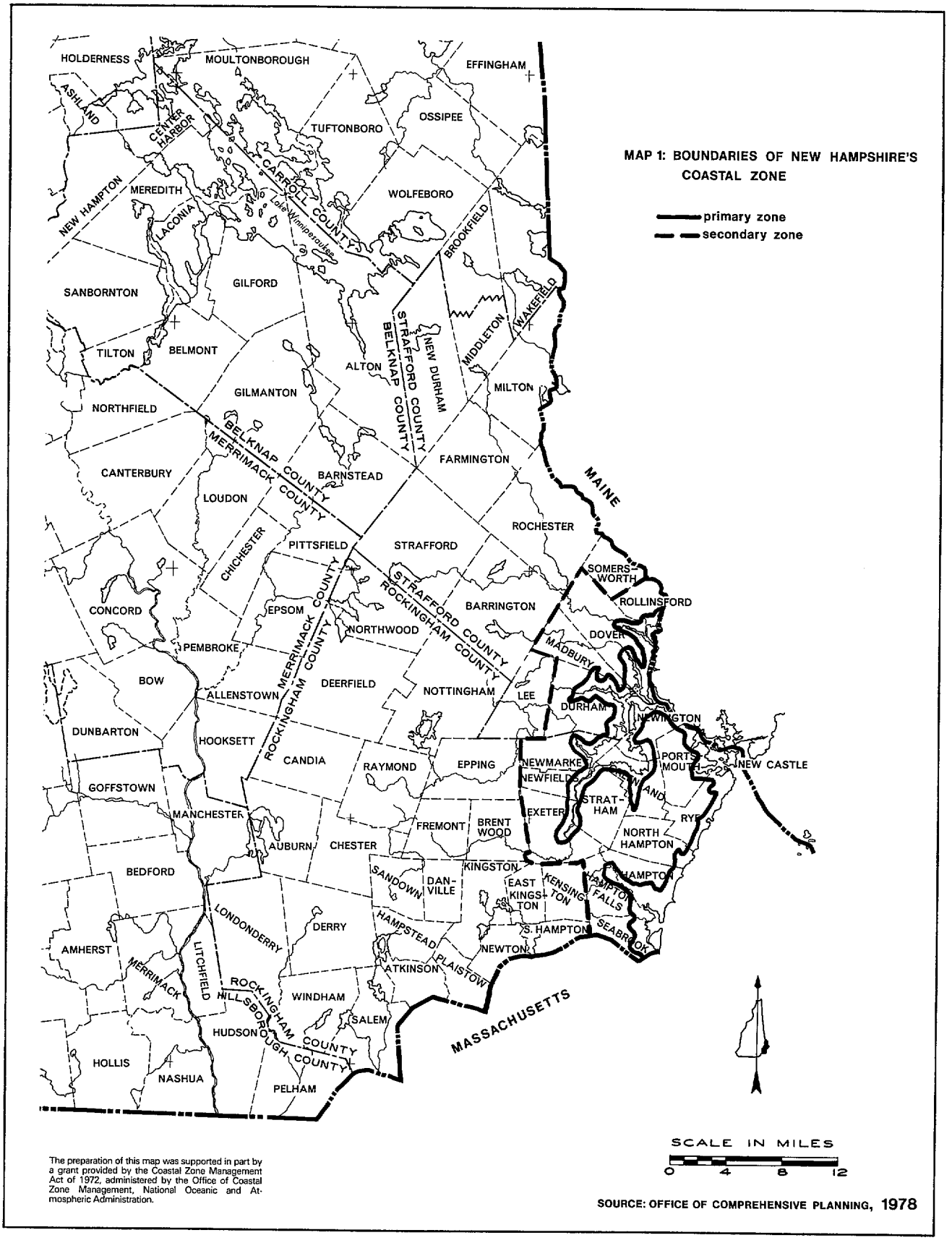
- The continuation of research data, information, and planning services through the coastal program would be ensured;

- Coordination between state agencies with permit and management responsibilities in the seacoast would be maximized through implementation of the program's one-stop permit procedure; and

- A traceable and predictable decision-making process for significant coastal resource management decisions will be ensured, as well as on-going public input in these decisions.

Organization of the Draft Document

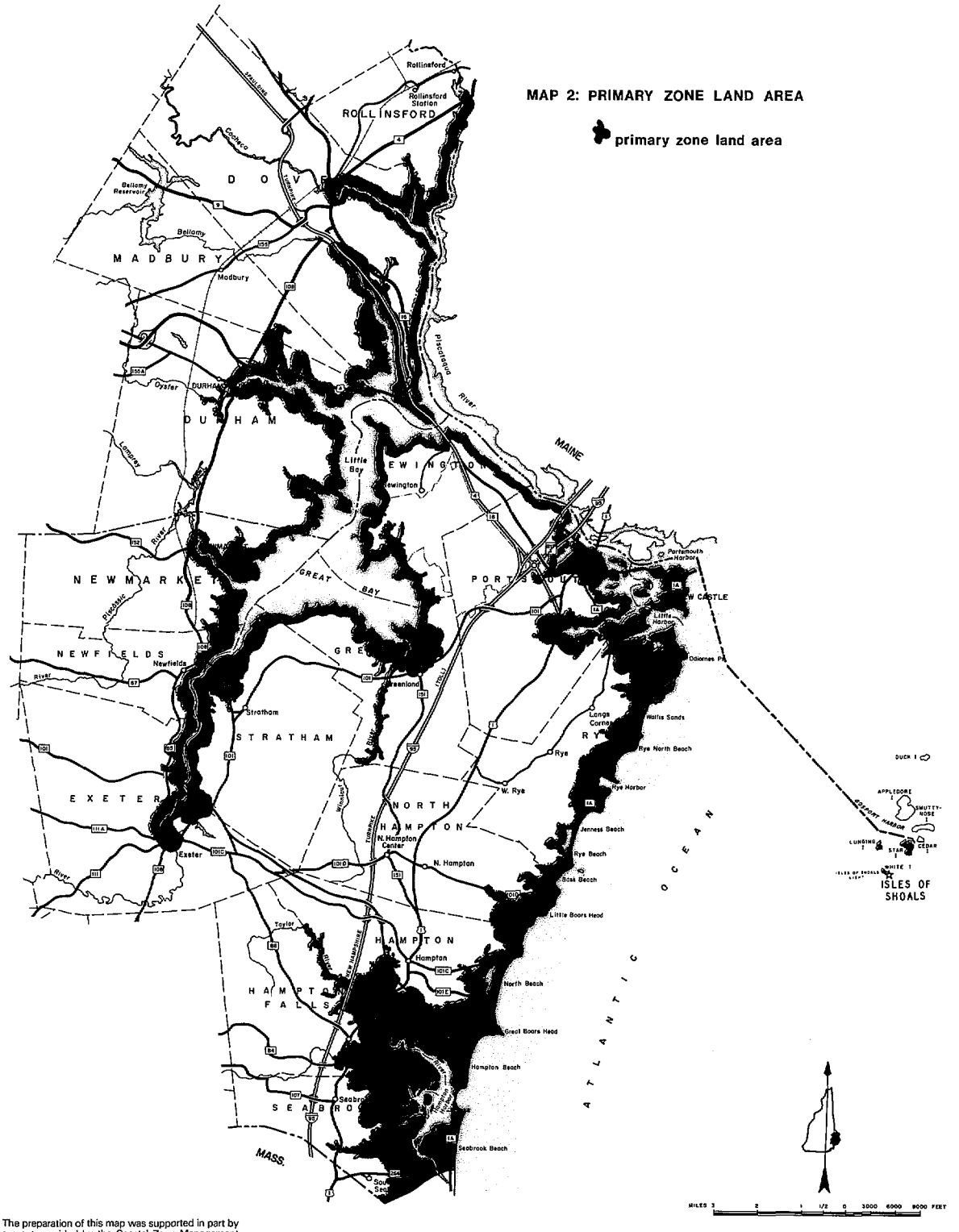
This document outlines the major elements of the proposed program for managing New Hampshire's coastal resources. Chapter I provides an introduction to the program and the boundaries of the coastal zone. Chapter II lists program goals and policies. Chapters III and IV discuss the uses to be managed and special management areas and uses. The authorities and proposed organizational structure for implementing the program are described in Chapters V through VIII. Chapter IX summarizes public involvement and program coordination. This document also contains nineteen appendices which provide detailed background information about the program.



The preparation of this map was supported in part by a grant provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



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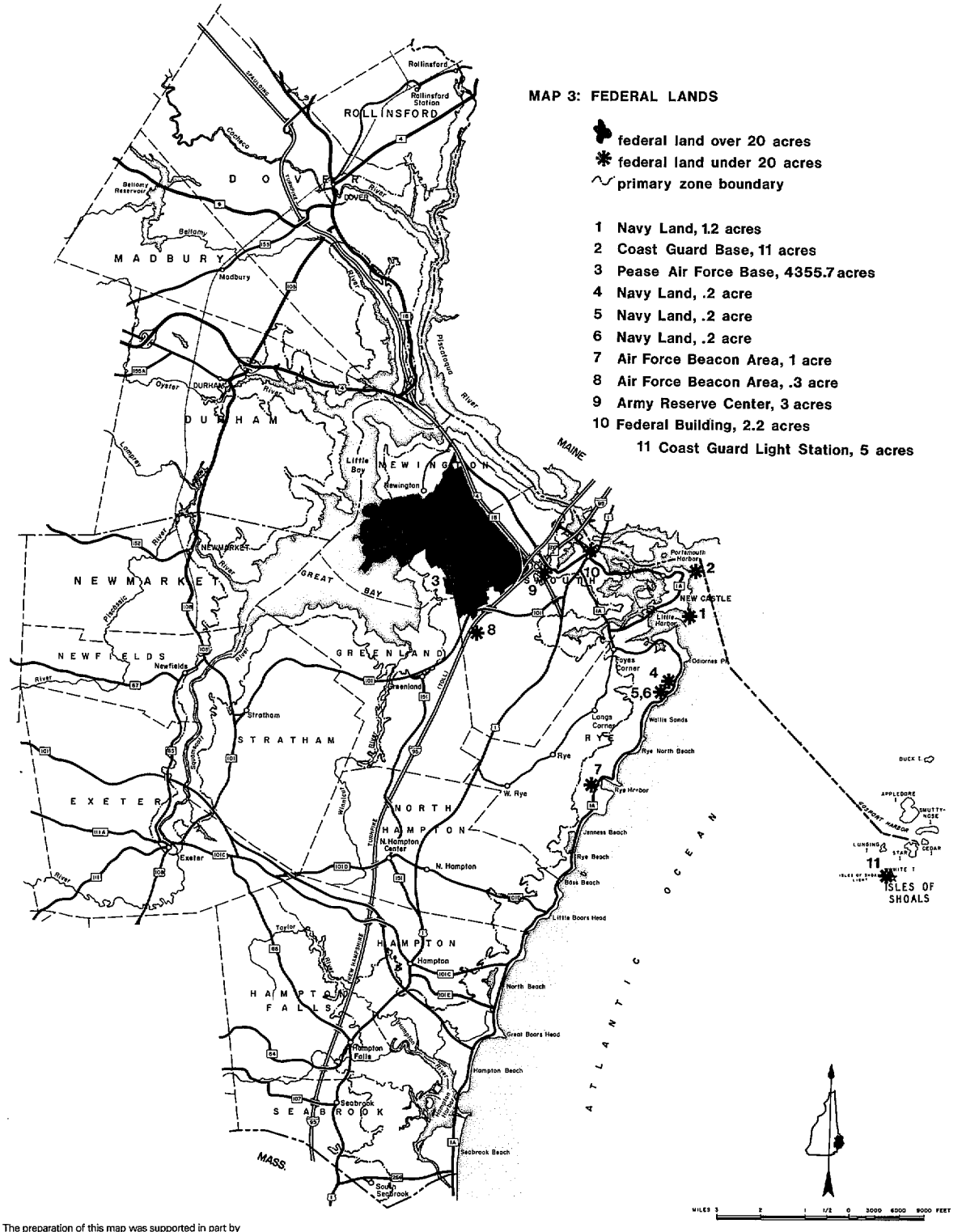
NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



The preparation of this map was supported in part by a grant provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

Figure 1-2
FEDERAL PROPERTY
EXCLUDED FROM THE COASTAL ZONE

USGS 7.5 Min. Quad. Sheet	Location No.	Jurisdiction	Acres	Municipality	Property Use
Kittery	1	Navy	1.2	New Castle	Reserve Center
Kittery	2	Coast Guard	11.0	New Castle	Base
Portsmouth	3	Air Force	4355.7	Newington/ Portsmouth/ Greenland	Pease AFB
Kittery	4	Navy	0.2	Rye	
Kittery	5	Navy	0.2	Rye	
Kittery	6	Navy	0.2	Rye	
Hampton	7	Air Force	1.0	Rye	Air Navigation
Portsmouth	8	Air Force	0.3	Portsmouth	Air Navigation
Portsmouth	9	Army	3.0	Portsmouth	Reserve Center
Portsmouth	10	GSA	2.2	Portsmouth	Federal Building
Isles of Shoals	11	Coast Guard	(White Island) 5.0	Rye (Isles of Shoals)	Light Station
Not Mapped					
		Postal Service	1.50	Durham	Post Office

SOURCE: New Hampshire Office of Comprehensive Planning, May, 1978.

CHAPTER 2

CHAPTER II: GOALS AND POLICIES FOR MANAGEMENT OF COASTAL RESOURCES AND ACTIVITIES

The State of New Hampshire has established goals and policies to guide the development and implementation of its Coastal Resources Management Program. These goals and policies have been established through State law, legislative resolutions, resolutions of the Governor and Executive Council, and executive orders of the Governor. Of particular significance to the Coastal Resources Management Program is "A Resolution Relative to New Hampshire's Coastal Area" adopted by the Governor and Executive Council on May 5, 1976, and the State's proposed Coastal Resources Management Program legislation. Appropriate goals and policies from other laws, resolutions, and executive orders are also presented in this chapter.

GOALS

The Governor and Executive Council's "Resolution Relative to New Hampshire's Coastal Area" is included in its entirety in Appendix B. The following three goals were specified in this resolution for the development of the CRM Program, and the CRM Legislation states it shall be the continuing responsibility to work toward these goals as the program is further developed and administered:

1. preserve, protect, develop and, where possible, restore or enhance the resources of the New Hampshire coastal area for this and succeeding generations;
2. achieve the wisest and best balanced use of land, water, and air resources of the seacoast area giving full consideration to economic and social development and to ecological, cultural,

historic, and aesthetic values; and

3. integrate public policy relative to coastal area matters into a coordinated program for the State of New Hampshire.

GENERAL POLICIES

The Governor and Council resolution and the proposed legislation provide clear policy direction toward achieving these three goals as the program is developed and administered. The proposed legislation provides the following general policy statements:

1. There is a State interest in the effective management, beneficial use, protection and development of the coastal area due to the value of this area to the State.

2. Full realization of the value of coastal resources can be achieved only by encouraging further development in suitable areas and by protecting those areas unsuited to development.

3. The coordinated CRM Program should provide for cooperative State, substate regional, and local planning and management in conjunction with the federal government and private interests, and must be adequate to resolve conflicting demands for land and water uses, evaluate uses of greater than local impact, and ensure Federal consistency of Federal programs with State, substate regional, and local goals, objectives, and programs for the coastal area.

4. In order to maximize responsiveness by the CRM Program to local conditions, accountability, and public accessibility, it is necessary and proper to utilize municipal government and municipal land and water use planning, controls, procedures, and

enforcement as a major means of implementation.

5. The CRM Program must give full consideration to the national interest and national defense and provide that Federal agencies and the public are full participants on a continuing basis in program development and implementation.

6. Ongoing opportunity for full participation by coastal municipalities, public and private interest groups, government agencies, and the public-at-large will be provided throughout the CRM Program.

7. Decisions which arbitrarily exclude any land or water use of greater than local concern from the coastal zone are prohibited.

8. The program shall conduct, sponsor, or assist research in coastal matters to improve the data base on which land and water use decisions are made.

9. Those land and water uses having a potential for direct and significant impacts upon coastal resources of more than local importance shall be subject to management standards.

The Governor and Council resolution provides these additional general policy statements for the development of the Program:

1. The principle of private ownership of property will be preserved.

2. The program shall address ways to guide economic growth but not to discourage it.

3. The land use provisions of the program shall focus on those areas closest to coastal waters.

4. The creation of a new major governmental agency to administer

the program should be discouraged.

SPECIFIC POLICIES

In addition to the above stated general policies, specific policies for the program are included in other appropriate sections of the proposed legislation. These policies can be divided into those that set forth how the Program will be administered and those that relate to development activities in the coastal zone.

Administration of Program

1. The regulation of Areas of Particular Concern should be controlled, to the extent possible, by local municipalities through Municipal Coastal Plans, except where these areas are under the sole jurisdiction of the State.

2. In order to provide that the variety of concerns of citizens of the coastal zone and the State are considered, a Coastal Resources Management Advisory Council shall be established with responsibility for advising the Office of Comprehensive Planning on Program activities and in order to represent a variety of interests and institutions.

3. The Office of Comprehensive Planning, with advice from the CRM Advisory Council, shall adequately inform the public and other government agencies about the Program and shall provide adequate notice as required by existing law and the CRM Legislation in establishing rules, conducting hearings, issuing decisions, and in rehearing appeals of decisions.

4. The Office of Comprehensive Planning, with CRM Advisory Council input, shall review and approve, disapprove, or modify

and approve proposed development activities of concern to the Program only after they have been approved by municipal and other State agencies through the legal process required for the particular proposal and shall make these decisions in a timely manner.

5. The Office of Comprehensive Planning shall not approve any development proposal disapproved by any municipality or State agency as specifically authorized by law.

6. The Program shall provide financial assistance to the coastal zone municipalities for the purpose of defraying the costs of planning and regulatory activities by the municipality in the implementation of the Program.

7. In order to reduce duplication and maximize inter-agency coordination, the Office of Comprehensive Planning shall prepare recommendations for the establishment of a one-stop development approval procedure for all development decisions subject to the Program that require permits from other State agencies.

8. In order to reduce duplication, the Program incorporates other adopted State and Federal standards such as the Federal Water Pollution Control Act, as amended, the Federal Clean Air Act, as amended, and the National Flood Insurance Program.

9. Criminal and civil penalties are provided for enforcement of the Program. Also, to prevent any activities that violate the CRM Legislation or legal regulations of the Program, the Director of the Office of Comprehensive Planning may issue cease and desist orders.

10. Natural land and water use capabilities as mapped by the Office of Comprehensive Planning shall be used as guidelines by OCP and the coastal zone municipalities in the development of the OCP's management standards and the Municipal Coastal Plans.

Development Policies

1. There is a State interest in the preservation, conservation, and orderly development of particular geographic areas, natural and man-made, located in whole or in part in the primary zone because of their environmental, economic, or social importance to the coastal zone and the State; these areas, defined as Areas of Particular Concern include tidal wetlands and coastal floodplains.

2. Maintain the viability of Areas of Particular Concern by encouraging uses which will retain the character of the area and giving low priority to uses that are not consistent with selection criteria established in the Legislation.

3. Water use throughout the entire coastal zone, as well as aquifer and surface water supply sources in the primary zone, are of major importance to the CRM Program. In order to ensure adequate water supply and in order to maintain the quality of estuarine and tidal waters, the Office of Comprehensive Planning and other State and local agencies shall manage the orderly use of these resources.

OTHER POLICY STATEMENTS

Other State statutes and plans which set forth policies that the CRM Program shall encourage are as follows:

1. The Department of Resources and Economic Development shall assist municipalities and citizens in recognizing and protecting our heritage and shall encourage the stewardship and other means of protection of our architectural, archaeological, historical, and other cultural resources.

2. The Statewide Comprehensive Outdoor Recreation Plan encourages acquisition and development of open space in the State's rapidly developing urban areas.

3. All State agencies shall acquire or otherwise obtain access points to public water for the purposes of public use including recreation.

4. The Report of the Governor's Advisory Committee on New Hampshire's Future, Adopted by the Governor in April, 1978, contains goals and policies that are consistent with the goals and policies contained in this chapter.

5. Other Policies - policies for erosion, energy, and access to the shoreline are still under development.

CHAPTER 3

CHAPTER III. LAND AND WATER USES TO BE MANAGED

New Hampshire's coastal area contains a broad range of land and water uses and resources. Of major importance to the State's CRM Program has been the identification of land and water uses which require management. The major emphasis of this management program will focus on the "primary zone" portions of the seventeen municipalities located in the State's coastal zone. This "primary zone" area includes all State waters and 19% of the total land area in the coastal zone. The uses which will be subject to management procedures and the methods by which these uses will be managed are described in this chapter.

USES SUBJECT TO MANAGEMENT

In order to identify which land and water uses in the coastal zone should be subject to the management program, extensive land and water use and resource inventories were conducted. These inventories include: land and water use capability/suitability analyses (see Appendix C), existing and future land and water uses, natural ecosystems, economic data, and other important resource data. Refer to the bibliography in Appendix O, for a list of reports prepared.

Based on analysis of these inventories, three (3) categories for land and water use management were developed including: Areas of Particular Concern; land and water uses which cause specific impacts and which effect citizens of more than one municipality; and major developments. Areas of Particular Concern are addressed in Chapter IV of this document and will not be discussed here.

Management of Land and Water Uses Causing Specific Impacts

Any development, due to its size or location, can have an adverse impact on coastal resources. Although the CRM Program has identified seven (7) types of major developments for review, the primary purpose of the program is to manage the impacts of all land and water uses which affect the citizens of more than one community. Most of these impacts will result from uses located in the primary zone.

The impacts which must be minimized or eliminated by the management program are specified in Section B:10, I of the proposed CRM Legislation (see Appendix S). These impacts would do the following:

(a) Degrade water quality through the introduction into coastal waters of sediments, nutrients, toxic heavy metals, petroleum hydrocarbons, oxygen-demanding chemicals, or pathogenic bacteria;

(b) Deplete groundwater or surface water supplies;

(c) Result in saltwater intrusion into groundwater supplies;

(d) Impede groundwater recharge;

(e) Degrade land or water wildlife, or essential wildlife habitat or fish or shellfish concentration areas;

(f) Alter the composition, migration patterns, distribution, or other population characteristic of the natural species;

(g) Overexploit or despoil living or non-living marine resources;

(h) Erode beaches, sand dunes, rocky shores, or other areas of the shoreline;

(i) Encroach upon or displace tidal wetlands, beaches, sand dunes, or rocky shores;

(j) Result in erosion into or sedimentation in coastal waters;

(k) Impede navigation;

(l) Impede the ebb and flood of tidal waters;

(m) Degrade air quality;

(n) Result in aesthetic degradation; or

(o) Preempt or impede a higher priority use in geographic areas of particular concern.

Statutorily the land and water uses must be located in whole or in part in the primary zone; the impacts must affect citizens of more than one municipality, and must result from a design or locational characteristic, construction practice, operational characteristic, or maintenance practice. With certain important exceptions, this definition of management authority constitutes the breadth of control to be exerted under the program.

This mechanism for identifying uses which are subject to management is very important to New Hampshire. By not cataloging uses subject to management by name, the program is not locked into managing uses, the importance of which may change over time. Rather, by establishing a comprehensive list of impacts which must be managed, any use which causes impacts of sufficient magnitude to meet the legislative requirements must be managed. This method of control will be better able to protect coastal resources for today and for the future.

Management of Major Developments

In addition to the above general identification of land and water uses subject to the management program, the proposed CRM Legislation specifies seven (7) types of major developments which will also fall within the purview of the management program. The following six (6) types of major developments located in whole or in part within the primary zone will require a state permit (see B:10, II a-f):

(a) Single family residential development proposing 12 or more units; or the use of 12 or more acres of land or water area; or the use of 300 feet or more of the shoreline of coastal waters.

(b) Multi-family residential development of 12 or more units, or the use of 300 feet or more of the shoreline of coastal waters.

(c) Non-residential developments proposing the use of 300 feet or more of the coastal shoreline, or 50,000 or more square feet of land area or enclosed floor space.

(d) Development proposing parking space for 100 or more motor vehicles.

(e) Fixed facility or open range area proposed for aquaculture.

(f) Deepwater port or marine terminal facility.

These developments were selected for review and approval because they always have the potential to cause one or more of the impacts specified in the bill due to their magnitude and location. It allows the State to review important major developments in the most critical area of the coastal zone.

The seventh type of major development (B:10, II (g)) extends management authority over water use throughout the coastal zone. The threshold requirement is that the State shall review any:

> development proposing to draw more than 100,000 gallons of fresh water per day from a source in whole or in part in the primary or secondary zone or more than one percent of the known available daily water supply in the coastal zone, whichever is less, from any surface water or groundwater source.

This review criterion was selected due to the declining water resource availability in the coastal area. The use of water in any one area of the coastal zone will influence water availability and quality throughout the region. Water use must be reviewed in order to protect the long-term availability of potable water supplies.

An important area of concern in the management of the above seven (7) major developments is the possible addition or alteration of an existing development which, taken together with the existing development, may meet or exceed the thresholds for reviewing major developments. To ensure that the potential impacts from this situation are reviewed, OCP has the authority to apply the major development regulations to any existing development, the addition or alteration of which in total would meet or exceed the threshold for reviewing major developments.

Finally, during program development, it became evident that uses may occur in the primary or secondary zone, which are not specifically listed in the Legislation, but will result in one or more of the impacts specified in Section B:10, I of the bill. Such a situation might otherwise exempt the proposed use from OCP regulations. To anticipate this possibility, Section B:10, IV allows OCP to find in writing that the proposed use has the potential to cause one or more impacts, and thus subject the use to management authority.

MANAGEMENT PROCEDURES

In order to minimize or eliminate those impacts enumerated above and also in Section B:10, I of the proposed CRM Legislation, OCP shall adopt certain management standards. These standards shall be used to regulate those developments which are subject to control under the CRM Program, by determining the permissibility of certain land and water uses. The seventeen coastal zone municipalities shall be responsible for the

administration of these minimum standards through their approved Municipal Coastal Plans, except where authority traditionally resides with a State agency or when authority over a use is vested in OCP.

Management Standards

The OCP shall develop these management standards within six months to one year after enactment of the CRM Legislation. They will include, but will not be limited to: standards for erosion and sedimentation; run-off; buffers between different uses; aesthetics; open space; and degradation of fish and wildlife habitat. The State standards promulgated under the Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act, as amended, will be incorporated as management standards by reference. Furthermore, these standards are applicable only to the design or location characteristics, construction practices, operational characteristics, or maintenance practices of the development.

The OCP will not adopt management standards which duplicate existing State agency land and water use controls in the coastal zone. In order to avoid duplication, OCP shall rely on existing authorities and standards of appropriate State agencies where possible to enforce certain provisions and management standards of the CRM Program. Where OCP is required to adopt new management standards, in developing these standards OCP will rely on the existing technical expertise in State government and the technical analyses conducted during program development. Chapters V and VI of this document describe the authorities and responsibilities of those groups which will be involved in the management of land and water uses subject to the CRM Program.

CHAPTER 4

During the development of New Hampshire's CRM Program it became evident that certain areas and resources needed special management attention. The identification and designation of these significant economic and natural resource areas, called Areas of Particular Concern (APCs), reflects the State's special interest in protecting and managing the use of important economic, ecological, and cultural resources in the coastal zone; it emphasizes the commitment that New Hampshire has made to ensuring long-term beneficial use and preservation of resources for its citizens.

Fifteen (15) critical resource categories were identified in the coastal zone, as part of the development of the program. Specific areas located in whole or in part within the primary zone which contain these economic, ecological, and cultural resource characteristics were inventoried and mapped. These areas will be adopted as APCs by OCP after adequate public comment and review. Minimum management standards will be established to protect the integrity of these APCs and ensure that the legislatively mandated use priorities for each resource type are implemented. Certain of these areas may need to be preserved or restored and mechanisms are available to OCP to achieve these purposes.

INVENTORY AND DESIGNATION OF APCs

Inventory

The identification of areas for possible inclusion in the management program as APCs was accomplished by comparing coastal land and water resource inventories with specific resource area criteria. This was done as a part of the overall management program. The ten (10) criteria used in this process were:

1. Areas of unique, scarce, fragile, or vulnerable natural habitat or physical feature;
2. Areas of historical or cultural importance;
3. Areas of high natural productivity or of essential habitat

for living resources;

4. Areas of scenic importance;
5. Areas of substantial recreational value and opportunity;
6. Areas where development and facilities are dependent upon the utilization of, or access to, coastal waters;
7. Areas of unique geologic or topographic significance to industrial or commercial development;
8. Areas of urban concentration where shoreline utilization and water uses are highly competitive;
9. Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc; and
10. Areas needed to protect, maintain or replenish coastal lands or resources, including coastal floodplains, acquifer recharge areas, sand dunes, beaches, and offshore sand and gravel deposits.

Using the above criteria the actual designation methodology was relatively simple. The compiled resource inventory information was cross referenced to the 10 factors with appropriate APCs being listed under each heading. In many cases the same resource qualified as an APC under several different criteria. All of the areas identified as potential APCs were then mapped at a scale of 1:24,000. During the inventory process more than twenty types of areas were identified for further evaluation as APCs.

Designation

With a full range of APCs identified through the inventory process, further evaluations of these resource types were conducted in order to establish a final set of APCs for the management program. During this evaluation several APCs on the inventory list were consolidated to reduce the number of categories as well as to make the categories more efficient and comprehensive. Other categories

were deleted because they represented a use design or construction problem and could best be controlled through land and water use management standards. The result of this evaluation was the designating of fifteen (15) resource types as APCs for the CRM Program, as listed below in Figure 4-1. Refer to the APC maps at the end of this chapter for the locations of these areas in the coastal towns.

Figure 4-1
AREAS OF PARTICULAR CONCERN

1. Prime Agricultural Land
2. Tidal Wetlands
3. Rocky Shores
4. Beaches and Sand Dunes
5. Fish Spawning/Concentration Areas
6. Shellfish Concentration Areas
7. Areas of Cultural Historic Significance
8. Access
9. Areas of Scenic Importance
10. Areas where Development is Dependent on Access or Utilization of Coastal Waters
11. Floodplains
12. Water Supply Sources
13. Aquifer Recharge Areas
14. On/Offshore Sand and Gravel Deposits
15. Other Unusual Natural Areas

These APC designations represent an initial statement of State interest in significant coastal resources and forms the basis for continual monitoring and updating of information on these resources. As new technology for the utilization of these resources arises and as the perception of what constitutes a significant economic or environmental resource changes, the CRM Program must be prepared to reevaluate the existing APCs and, when necessary, provide for the designation of new ones.

The fifteen (15) specific types of Areas of Particular Concern listed above are identified in the proposed CRM Legislation and are discussed below including a description of each APC type, the rationale for its designation, and a statement on the New Hampshire situation with respect to the resource.

1. Prime Agricultural Land

Description: A land area used, or with the potential for use, in the production of food or fiber, and which has specific and unique characteristics of soil quality and moisture supply, as determined by the Soil Conservation Service, United States Department of Agriculture.

Rationale: These areas are potentially the best soils for agricultural production. They provide opportunities of long-term economic benefit and are important in maintaining the character of an area. By encouraging the reservation of these areas for farming, the productive use of a valuable natural resource can contribute to the employment and economic well-being of the area. Since these soils take centuries to develop, they are essentially an irreplaceable resource. If they are poorly managed or converted by development, more marginal lands may have to be cultivated in the future to meet food demands, with correspondingly higher operating costs and food prices.

N.H. Situation: Prime agricultural land is a sparse commodity in the State's coastal area particularly the primary zone. Only a few municipalities, including Dover, Stratham, and Exeter, have prime agricultural land within their primary zone boundaries. However, nowhere is it extensive. While the actual dollar value of the land that is available is probably not significant in terms of the State's overall economy, its preservation as farm land is a wise investment for today and the future.

2. Tidal Wetlands

Description: Tidal wetlands are those areas which border on tidal waters where the emergent vegetation is composed of salt tolerant grasses. These areas include banks, bogs, saltmarshes, swamps, meadows, flats or other lowlands subject to tidal action. The surface of these areas has a maximum elevation of three and one half feet above the local mean high water mark. These areas grow or are capable of growing one or more of the following plant species or families of saltmeadow grass: (Spartina patens), spike grass (Distichlis spicata), black grass (Juncus gerardi), saltmarsh grass also known as cord grass (Spartina alterniflora), slatworts

(Salicornia spp.), Sea Lavendar (Limonium carolinianum), saltmarsh bulrushes (Scirpus maritimus, var. fernaldii and Scirpus paludosus var. atlanticus), sand spurrey (Spergularia marina and Spergularia canadensis), high-tide bush (Iva frutescens), spike rush (Eleocharis paruula and Eleocharis halophila), chairmaker's rush (Scirpus americana), bent grass (Argostis palustris), coastblite (Suaeda spp.), orach (Atriplex patula), arrow grass (Triglochin maritima), and seaside goldenrod (Salidago sempervirens). The extent of a tidal wetland is normally indicated by the occurance of wetland substrate of the undisturbed surface of the wetland.

Rationale: The tidal marsh is a fragile natural habitat of high natural productivity. It is important as a spawning and nursery ground as well as a source for crustaceans and small fish, which act in turn, as a food source for larger predators. The marsh and the adjacent mud flats also serve as resting places and feeding grounds for wintering and migratory waterfowl and shorebrids. At present, tidal marshes are being subjected to increased pressure for development including residential, recreational, and other uses. Waste disposal, dredging, filling and oil pollution all adversely effect the natural functions of the marsh. Filling is especially destructive as it blocks the natural tidal flow and permanently destroys the marsh vegetation. The maintenance of tidal wetlands in their natural state is important in order to retain the natural productivity of these areas and the other values they provide to the coast.

N.H. Situation: Requests to fill or dredge tidal marshes are a daily fact of life in the State's coastal area. In most cases the requests are for only a small area of marsh. However, the incremental effect of these requests, if granted, will have a significant impact on New Hampshire's coastal environment. Both the State, through its dredge and fill laws

and local municipalities have indicated their interest in preserving coastal wetlands. This interest must be supported and reinforced to ensure that the integrity of the State's tidal marshes are maintained.

3. Rocky Shores

Description: These areas are shore formations with a rock substrate which are sprayed, washed or submerged by coastal waters. They have been defined as extending to a depth of sixty feet. Rocky shores includes headlands, rocky ledges, outcroppings and glacial erratics.

Rationale: The rocky shore community is a unique one, with long-lived organisms, high competition and simple interactions. They are important contributors to the marine food chain and contribute to the production, consumption and cycling of estuary components. Rocky shores also provide protection to upland areas by dissipating the energy created by wave and storm water. Heavy oil concentrations, sewage outfalls, and removal or disruption of the rock formation can result in the destruction of plant and animal species as well as promote erosion of surrounding land. This unique natural system also provides aesthetic enjoyment.

N.H. Situation: The State's coastline has several prime examples of rocky shores. Boar's Head, Little Boar's Head, Odiorne Point, and portions of the New Castle coast would be included in this category. This ecosystem is presently stable in the coastal zone and can tolerate minor disturbances. The intent of any management system will be to ensure that all rocky shores remain stable and will continue to contribute to the aesthetic and natural qualities of the coast.

4. Beaches and Sand Dunes

Description: Beaches are the zone of unconsolidated material extending landward from the mean low water mark to the place where there is a change in material or physiographic form. A sand dune is an unconsolidated hill or ridge of sand situated landward of the mean high water mark and which is shaped and affected by wind or storm water activities, or both.

Rationale: The beach front is a constantly changing environment which is by no means permanent. It provides a natural buffer between the sea and upland areas by absorbing storm driven wind and waves. It is a fragile habitat vulnerable to man's activities and an area of extreme hazard if developed. The hazard is not only to those people who build on the beach but also to those who live behind these areas and rely on the natural protection of the beaches and dunes. These areas have valuable scenic significance and provide substantial recreational opportunities.

N.H. Situation: The State has approximately 7 miles of sand beaches and dunes on its Atlantic shorefront. The use of these areas is relatively intense with further growth anticipated for the future. Public access to these areas is generally thought not to be a problem with the major constraint being parking. The dunes, except in Seabrook, have either been destroyed or are in very poor condition. The recreation provided by beaches are also a prime economic asset to the State.

5. Fish Spawning/Concentration Areas.

Description: These are coastal water areas in which one or more species of fish regularly aggregate or school to spawn or feed, or through which one or more species of fish regularly migrate. This

area, composed of primarily bottom feeding, benthic organisms ranges in geographic location from coastal estuaries to deep ocean areas and includes anadromous fish runs. The bottom characteristics of the areas they inhabit are highly variable and range from areas of soft mud to areas of rocks and cobbles.

Rationale: The spawning/concentration areas of the benthic habitat are important for commercial, recreational, and environmental reasons. One of the primary values of this system lies in its support of commercially or recreationally valuable ground fish. Encroachments into this system can have significant impacts: sewage and dredge spoil can increase the organic content of bottom sediments and lower oxygen supply; toxic heavy metals can depress productivity; and an increase in turbidity can change the types of species in the community. In addition to the changes in the natural productivity of these areas, man's over use of fish spawning/concentration areas can likewise endanger the integrity of this system. The fishing of these areas beyond maximum sustainable yield will inevitably reduce fishery stocks in the area with a resultant economic loss. Moreover, the obstructing of anadromous fish runs will endanger valuable fishery resources by inhibiting spawning.

N.H. Situation: In the State, cod, haddock, hake, pollock, and flounder are just some of the ground fish which are taken from the spawning/concentration areas. There is only minimum regulation of fishing in this area and catches are hard to identify as the New Hampshire fishermen land most of their catch in either Portland, Maine, or Gloucester, Massachusetts. The gill net fishery is an important and growing commercial operation for ground fish in New Hampshire.

6. Shellfish Concentration Areas (including lobster concentration areas)

Description: These are areas in which one or more species of shellfish or lobster aggregate. These shellfish include clams, mussels,

oysters, and lobster. The bottom characteristics of these areas are similar to those areas occupied by benthic fish.

Rationale: Because of the relationship between shellfish concentration areas and other bottom habitats, the rationale for fish spawning/concentration areas applies here also.

N.H. Situation: Lobster and crab fishing is restricted to residents only and a license is required for commercial activities. The commercial harvesting of sea clams also requires a license and not more than 500 bushels of unshucked clams can be taken daily. Other shellfish, including softshell clams and Atlantic oysters, can only be taken by licensed residents and only for one's personal use. In general the availability of lobsters and shellfish are declining and the harvesting of softshell clams has been virtually prohibited by the State Fish and Game Department.

7. Areas of Cultural or Historic Significance

Description: These are districts, areas, buildings, structures or objects which are archeologically, culturally, architecturally, historically or educationally significant to the citizens of New Hampshire or the Nation. These include properties listed on the National Register of Historic Places or on the State Inventory of Historic Sites, as well as properties which are included in a locally adopted or proposed Historic District.

Rationale: Historic and cultural areas are valuable educational resources. By retaining these areas, present day society can gain a better understanding about the ways and means by which past generations adapted their life styles to the environment and the changing times.

N.H. Situation: In the State's coastal zone, more than fifty (50) buildings or districts have either been placed on the Federal or State

registers or are proposed for inclusion on these lists.

8. Access Points

Description: These are areas which provide public access to coastal waters.

Rationale: The demand for access to public waters is on the rise. In many circumstances, however, the public is excluded from the use of this resource by land adjacent to tidal water which is in private ownership. The available access points between private property must be maintained, and possibly increased, to ensure that coastal waters are available for use by the public.

N. H. Situation: In the State two different situations exist in terms of the availability of public access points. On the Atlantic shorefront, there are numerous access points available for use by the public. On the Great Bay estuarine system only a few access points, maintained either by the local town or the Department of Fish and Game, are available for public use. These existing access points must be maintained to ensure that coastal waters can be used by the public and where possible additional access points need to be developed. In both cases, parking is a major constraint to the use of access points.

9. Areas of Scenic Importance

Description: These are land or water areas which have significant aesthetic value, making an area attractive for tourists and residents alike. A scenic area need not be a natural area; views of shipping, boating, or other human activity can also provide aesthetic pleasure.

Rationale: Scenic areas provide aesthetic enjoyment to people who seek this type of recreational pursuit. Inappropriate development may block views, or development may occur which is not in character with

the surrounding environment and ruin its visual attractiveness. The blocking from view or degrading of areas of scenic importance can reduce the quality of life.

N.H. Situation: Aesthetic enjoyment is one primary reason why people visit the seacoast. Route 1A along the Atlantic shorefront and other vistas in the coastal zone attract thousands of visitors every year. If the scenic qualities of the seacoast are not maintained the quality of life for coastal residents will diminish and the decline in tourism will have an adverse impact on the coastal economy.

10. Areas where development is dependent on access to or utilization of coastal waters.

Description: These are areas which provide direct access to or utilization of coastal waters for one or more land or water uses, and which possess unique geologic, topographic, or locational importance to industrial or commercial development.

Rationale: Certain segments of industry and commerce require locations on coastal waters. Ocean going shipping and commercial fishing are just two of the many uses which are dependent on coastal sites. As use of the seacoast increases and competition for the shoreline becomes more acute, space must be preserved for those important economic activities which are dependent on access to coastal waters and possess the site characteristics which best suit these uses.

N.H. Situation: New Hampshire has a small coastline and competition for available space increases daily. Only a few areas remain where developments which require direct access to or utilization of coastal waters can be sited. These areas can be very important to the future economic growth of the State by ensuring that marine dependent

industry and commercial activities will find suitable locations in the coastal area.

11. Floodplains

Description: These are areas adjacent to the ocean or estuaries that are subject to periodic flooding. The major function of floodplains is to provide temporary water storage during flood periods and to act as a natural system of flood control. The New Hampshire CRM program includes those floodplains which have a one percent chance of being inundated by water in any year.

Rationale: The floodplain is an area of extreme hazard when developed, since development in this area limits the system's ability to absorb and dissipate the energy of floodwaters. The hazard to human life, health and property when permanent habitable structures are constructed in floodplains represents a significant economic and social cost to the State in times of natural disaster.

N.H. Situation: New Hampshire already has extensive development in its coastal floodplains. Recent flooding resulted in an estimated $13 million dollars in damage and demonstrates the hazard to human life and the magnitude of economic loss. Future development in the floodplain must be located in a manner which minimizes or eliminates the flood hazard to life and property.

12. Water Supply Sources

Description: Water supply sources are surface or groundwater areas used or having the potential for use by a municipality or privately, as a source of water for human consumption. Surface water

sources are ponds or reservoirs used by some municipal water systems. Groundwater supplies or acquifers are water bearing geologic strata and till which yield water to municipal and private wells.

Rationale: Safe and dependable sources of water are important for the maintenance of human health and economic growth. Existing ground and surface water supplies can be contaminated by surface runoff and pollutants leaching into the groundwater table. These resources must be protected to maintain existing resource quality.

N.H. Situation: The availability of water may be the single, most important issue for the future in the coastal zone. Coastal New Hampshire is one of the fastest growing regions in the State and studies have shown that many towns will be reaching the safe sustainable yield of existing water supplies in the next ten years. Further there are already fears in the coastal zone that some town dumps may be contaminating ground water supplies.

13. Aquifer Recharge Areas

Description: An aquifer recharge area is a land surface area through which water from precipitation or streams enters a groundwater system.

Rationale: Present and future availability of water for domestic, commercial, and industrial use depend on the recharge of aquifers by unpolluted water. The extensive covering of recharge areas with impermeable surfaces would increase runoff, reduce the recharging of the aquifer, and limit the sustainable yield. Contamination of the aquifer by septic tanks, landfills and sewerage treatment plants, extractive industries, and fuel storage must be prevented to maintain water quality. Once an aquifer is polluted, it is difficult to restore it to its original quality.

N.H. Situation: Groundwater forms a central element in the New Hampshire coastal water supply system. As growth and development occurs the surface areas which recharge the ground water supplies are being covered over and recharge is being reduced. The type of development that is occuring must also be examined to ensure that pollutants do not contaminate groundwater throughout the recharge areas.

14. On/Offshore Sand and Gravel Deposits

Description: These areas, on the land and on the ocean floor, contain commercially valuable sand and gravel.

Rationale: High grade sand and gravel are essentially irreplaceable resources. Some of these land deposits are aquifer recharge areas, which can result in a conflict between these two uses. Offshore sand and gravel have an economic potential, because the deposits represent a future source for an otherwise diminishing resource. Offshore sand and gravel also replenishes beaches. For this reason, the unwise exploitation of these deposits could result in beach starvation and cause turbidity in the area which can effect living marine resources, and destroy the habitats or spawning grounds of lobster and other fish.

N.H. Situation: Sand and gravel is an exploited resource in several locations in the Seacoast. The use of this resource provides jobs and economic benefits. Some sand and gravel deposits are also areas where recharge of ground water supplies occur. The excavation of sand and gravel should be balanced with maintaining the quality and quantity of ground water supplies. Offshore, several potential supplies of sand and gravel have been identified. Future exploitation of these

resources must be conducted in a manner which protects living resources and beach replenishment.

15. Other Unusual Natural Areas

Description: These are areas which, due to their uniqueness or character, are set apart from the other APC categories. They possess or have the conditions particularly suited for the growth of certain species of trees or other vegetation, or birds or have other attributes unique to the area.

Rationale: Many natural areas possess attributes which make them uniquely valuable to the State. They may be breeding and resting areas for birds; they may contain unique vegetation; or they may contain unusual geologic features. Encroachment into these areas may destroy resources which are of environmental, aesthetic, cultural and educational importance.

N.H. Situation: Twenty-six "other unusual natural areas" have been identified in the coastal zone. A brief description of each area is found in Appendix E. .

PRIORITY OF USES IN APCs

The foundation for managing APCs and resolving conflicts among uses is based upon the identification of those uses which can be safely supported in the area of concern. Certain land and water uses are clearly inappropriate in an area, some are desirable, and the remainder may or may not be appropriate based on the specific nature of the proposed use. Section B:11, II identifies the highest priority and lowest priority uses in each APC category. This priority system is based on a use priority methodology described in Appendix D.

The complete priority ranking for the fifteen (15) types of APCs are as follows:

Prime Agricultural Land - Uses of highest priority will be agriculture, wildlife and forest management, communications and utilities transmission, and research and education. Uses of lowest priority will

be solid waste disposal, industrial, commercial, mineral extraction, public water supply, institutional and all water uses.

Tidal Wetlands. Uses of highest priority will be recreation and sportfishing, wildlife and forest management, aquaculture, research and education, and agriculture (saltmarsh haying only). Uses of lowest priority shall be residential, solid waste disposal, industrial, commercial, mineral extraction, agriculture (except saltmarsh haying), shipping, deepwater ports, public water supply, institutional and offshore energy facility siting (except pipelines).

Rocky Shores. Uses of highest priority will be wildlife and forest management, recreation and, research and education. Uses of lowest priority shall be residential, waste disposal, industrial, commercial, mineral extraction, transportation, offshore energy facility siting, shipping, agriculture, deep water ports, institutional and public water supply.

Access Points. Uses of highest priority will be recreation, communications and utilities transmission, and research and education. Uses of lowest priority will be residential, industrial, waste disposal, institutional and mineral extraction.

Beaches and Sand Dunes. Uses of highest priority will be recreation, wildlife and forest management, and research and education. Uses of lowest priority will be residential, waste disposal, industrial, mineral extraction, transportation, agriculture, offshore energy facility siting (except pipelines), shipping, deepwater ports, institutional and public water supply.

Fish Spawning or Concentration Areas. Uses of highest priority will be recreation, commercial fishing, aquaculture, wildlife and forest management, and research and education. Uses of lowest priority will

be waste disposal (except liquid), institutional, residential, industrial, commercial, transportation, shipping, mineral extraction, and institution. These priorities do not apply to those portions of fish spawning or concentration areas which coincide with primary potential sand and gravel deposits located at greater than the 60 foot depth contour.

Shellfish (including lobster) Concentration Areas. Uses of highest priority will be recreation, commercial fishing, aquaculture, wildlife and forest management and research and education. Uses of lowest priority will be waste disposal (except liquid), institutional, residential, industrial, commercial, transportation, shipping, and mineral extraction. These priorities do not apply to those portions of shellfish concentration areas which coincide with primary potential sand and gravel deposit areas located at greater than the 60 foot depth contour.

Areas of Cultural or Historic Significance. Each proposed use will be reviewed by the agency on a case-by-case basis to ensure conformity with the specific cultural or historic character of the area.

Areas of Scenic Importance. Uses of highest priority will be recreation, wildlife and forest management, commercial fishing, and research and education. Uses of lowest priority will be residential, waste disposal, industrial, mineral extraction, offshore energy facility siting, shipping, institutional and deepwater ports.

Areas Where Development is Dependent on Access to or Utilization of Coastal Waters. Uses of highest priority will be industrial, recreation, shipping, onshore support facilities for offshore mineral extraction, commercial fishing, research and education, and institutional. Uses of lowest priority will be waste disposal (except

liquid), mineral extraction (onshore), and agriculture.

Floodplains. Uses of highest priority will be recreation, wildlife and forest management, transportation, shipping, communication and utilities transmission, agriculture, research and education, commercial fishing and offshore energy facility siting (pipelines). Uses of lowest priority will be residential, waste disposal, industrial, commercial, public water supply, institutional and mineral extraction. These priorities will not apply to those portions of the floodplain which coincide with tidal wetlands, rocky shores, beaches and sand dunes, areas of scenic importance, or areas of cultural or historic significance.

Water Supply Sources. Uses of highest priority will be public water supply, wildlife and forest management, research and education and communications and utilities transmission. Uses of lowest priority will be waste disposal, mineral extraction and all water uses (except public water supply).

Aquifer Recharge Areas. Uses of highest priority will be recreation, wildlife and forest management, communications and utilities transmission, public water supply, and research and education. Uses of lowest priority will be solid waste disposal and all water uses.

On/Offshore Sand and Gravel Deposits. Uses of highest priority will be mineral extraction (onshore; offshore, greater than 60-foot depth contour), industrial, (onshore), commercial, offshore energy facility siting, deepwater ports, and public water supply (onshore). Uses of lowest priority will be mineral extraction (offshore and within the 60-foot depth contour) and solid waste disposal. These priorities will not apply to those portions of sand and gravel deposits which coincide with aquifer recharge areas or with fish and shellfish

spawning and concentration areas located at or less than the 60-foot depth contour.

Other Unusual Natural Areas. Priority will be given to uses which will preserve in the natural state the unique or otherwise unusual character of each area.

ADOPTION AND MANAGEMENT OF APCs

Adoption

The fifteen (15) APC types identified in the CRM Legislation in Section B:11, II represent the categories from which specific geographical APCs will be adopted. After passage of the legislation, OCP has six (6) months within which to solicit public input prior to its adoption of specific areas as APCs. The areas adopted must be located in whole or in part within the primary zone and be mapped at a scale which reasonably demonstrates to a property owner whether his property or, a portion thereof, is located in the APC. A copy of these maps will be sent to each municipality which has APCs within its jurisdiction.

Management

The management of adopted APCs will be delegated, to the extent possible, to local communities through State approved Municipal Coastal Plans. Any State agency with existing management authority over the resources contained in the APC will continue such authority, subject to the overall CRM Program management by OCP.

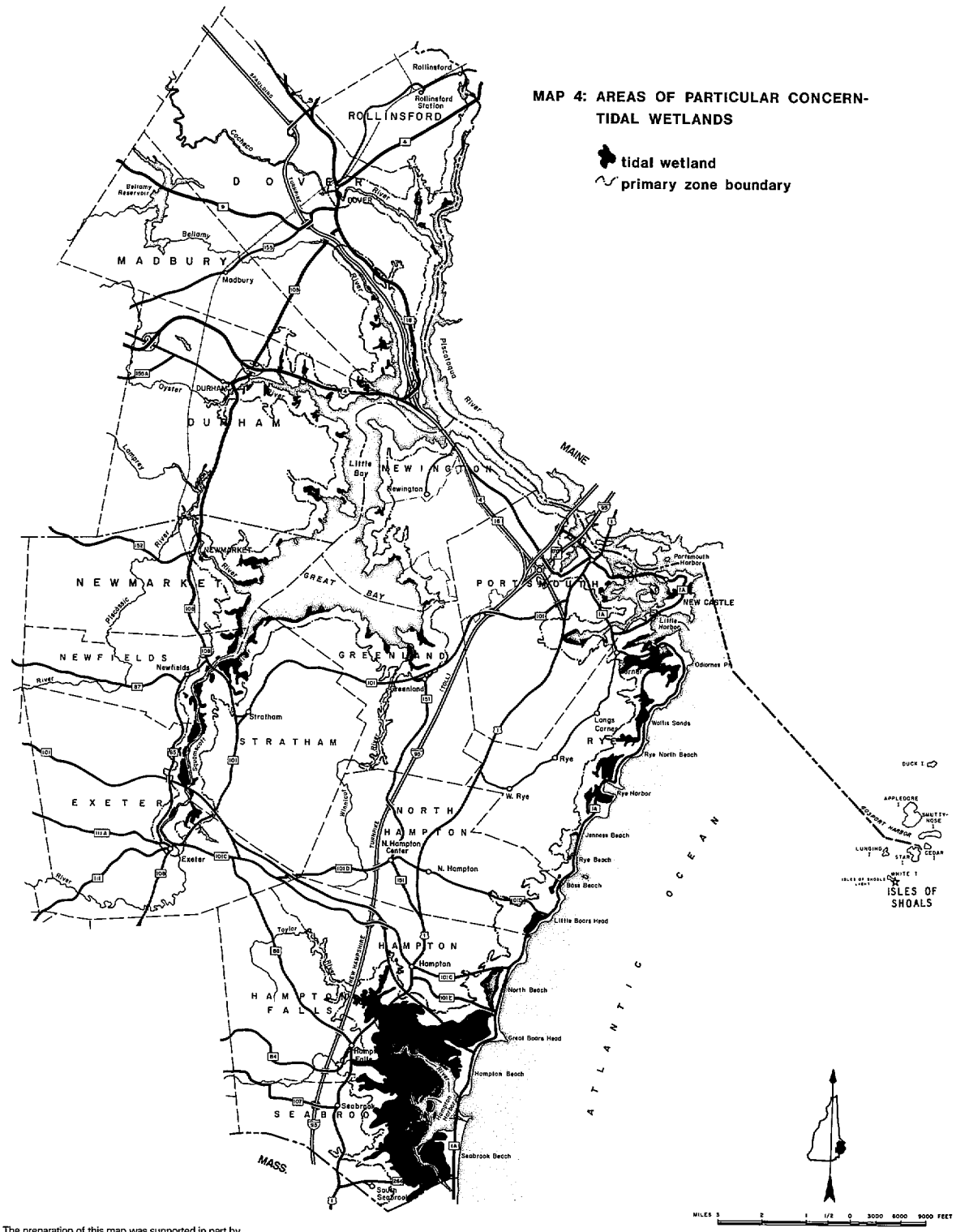
The OCP is required to promulgate management standards for the APCs that it adopts. These standards will be designed to ensure that the characteristics of an APC are substantially unchanged and to encourage uses of highest priority. Exceptions to the standards will be permitted only if the proposed activity does not degrade, diminish or adversely effect the characteristics of the APC. In floodplains, only those uses which comply with the minimum requirements of the National Flood Insurance Program will be permitted.

After OCP has adopted management standards, local municipalities will have one year within which to develop and adopt equivalent management standards for APCs located within their jurisdiction as part of their Coastal Municipal Plans. The local plans will not govern those APCs which are already under the jurisdiction of the State, as in the case of resources in public waters. If a municipality fails to adopt equivalent management standards for APCs, the State standards will apply. During program administration, any development which is approved by a municipality or a State permitting agency and is located within an APC will be subject to review and approval by OCP. Additional discussion of management of APCs can be found on pages 6-10 and 6-11.

AREAS FOR PRESERVATION OR RESTORATION

Certain APCs which have special features, such as rare or interesting flora and fauna, unusual geological formation, outstanding scenic value or significant value to wildlife, may need preservation and restoration. The OCP shall develop specific criteria and designation procedures for these areas within two years of the effective date of the proposed CRM Legislation. The CRM Program has already done a preliminary plan to identify these areas, ownership, and assessed valuation. It also includes recommendations for appropriate use, type of purchase, estimated costs, and possible sources of funds. Additional discussion of these areas can be found on pages 6-21 and 6-22.

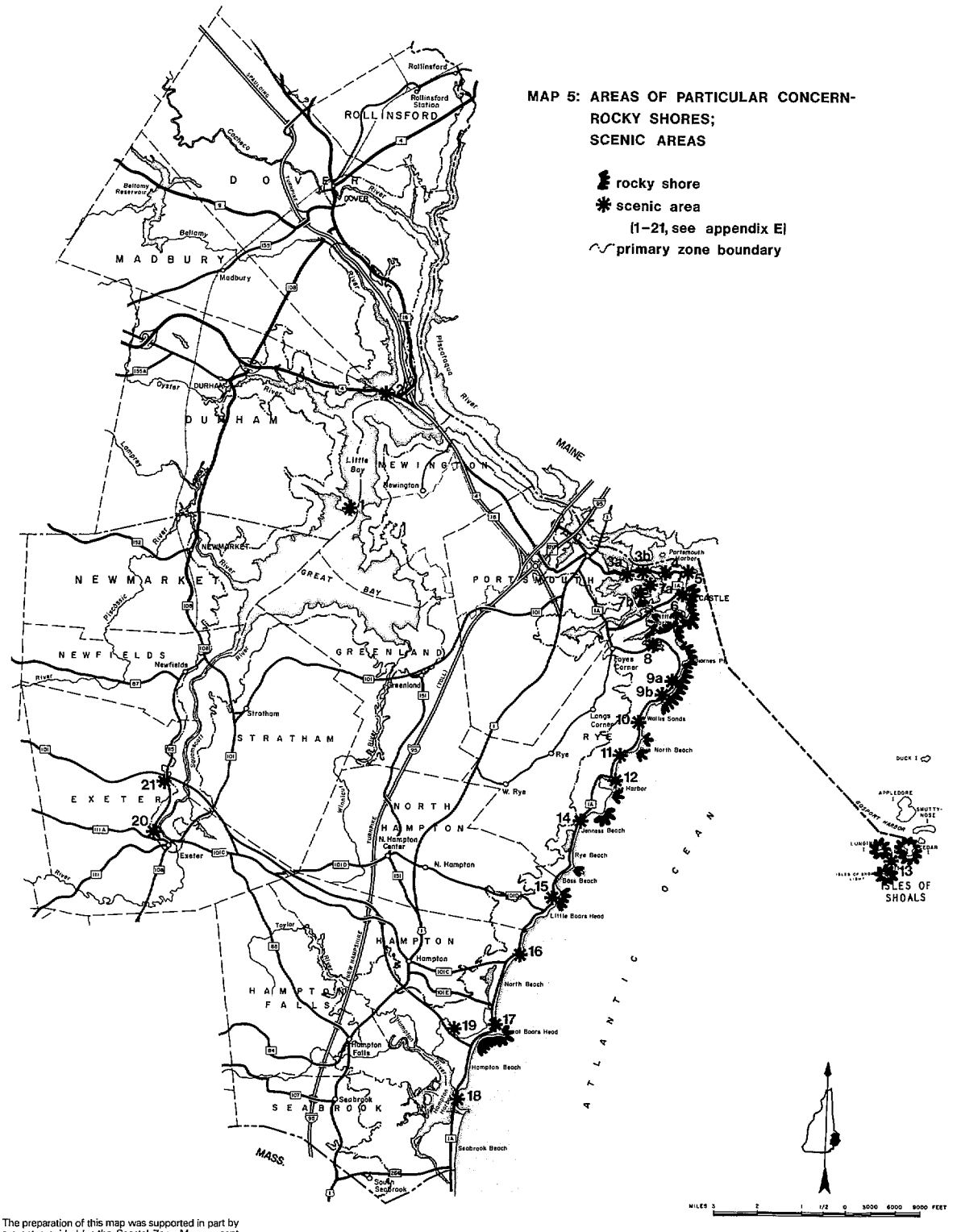
NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



The preparation of this map was supported in part by a grant provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

NEW HAMPSHIRE COASTAL RESOURCES MANAGEMENT PROGRAM



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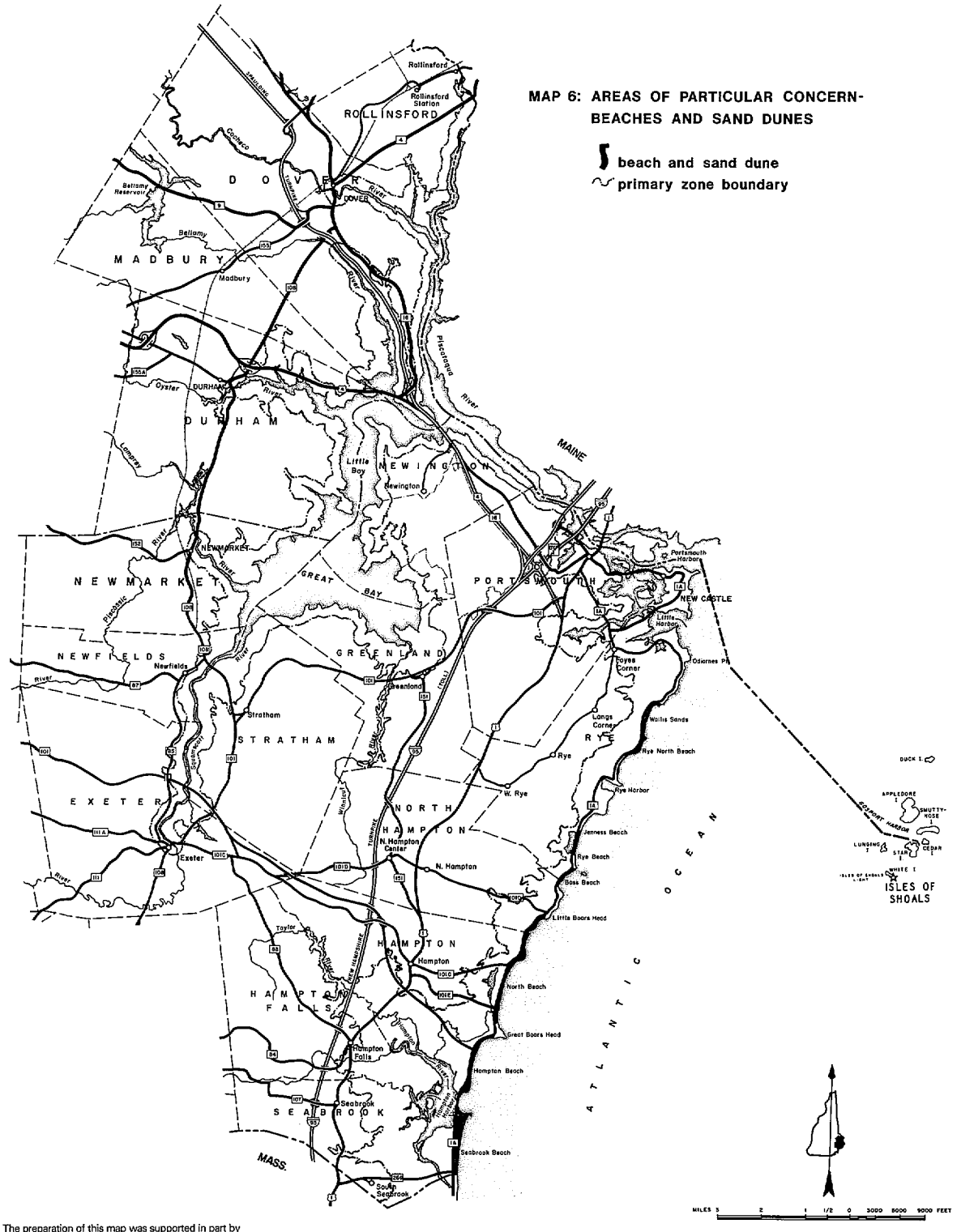

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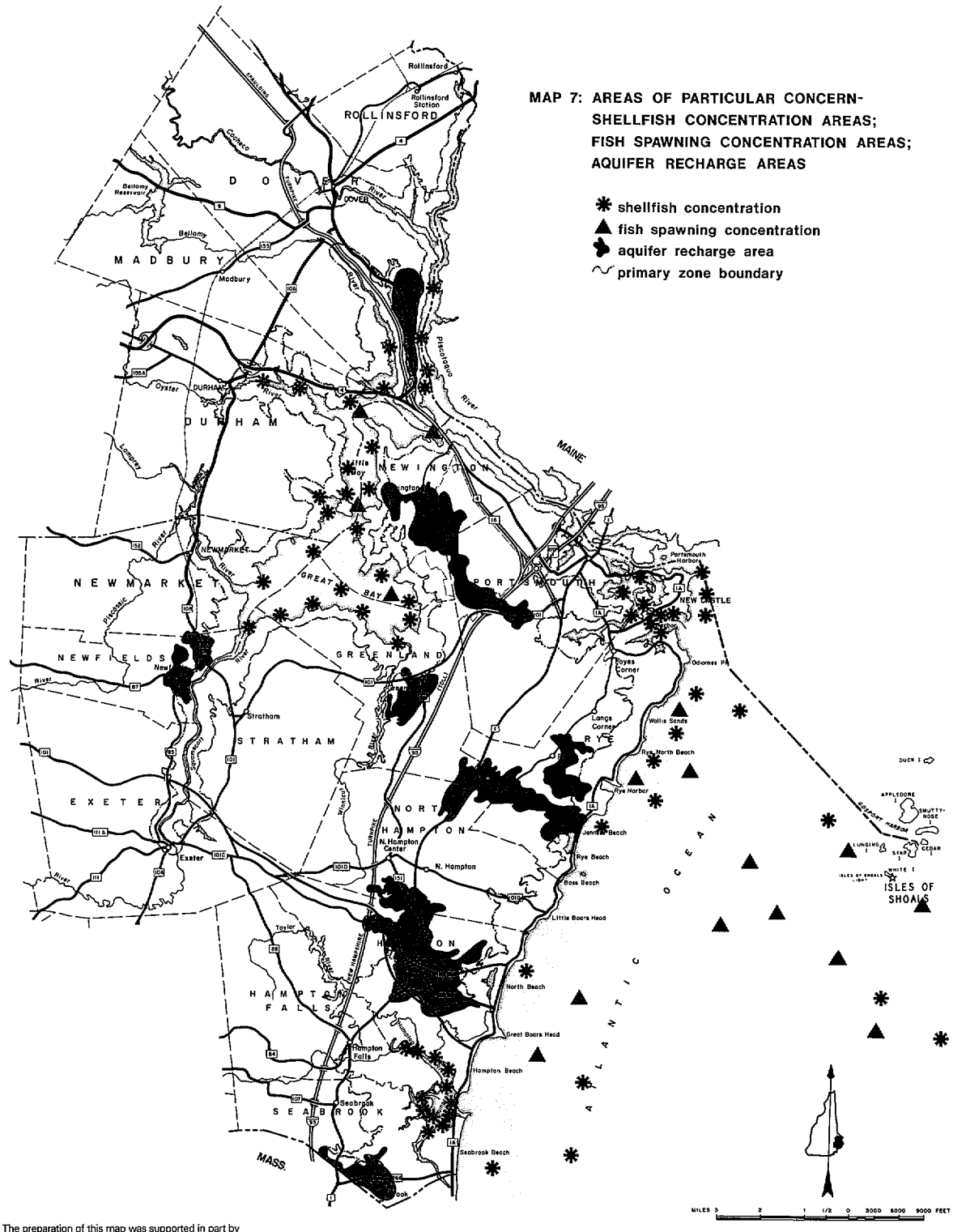

The preparation of this map was supported in part by a grant provided by the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration.

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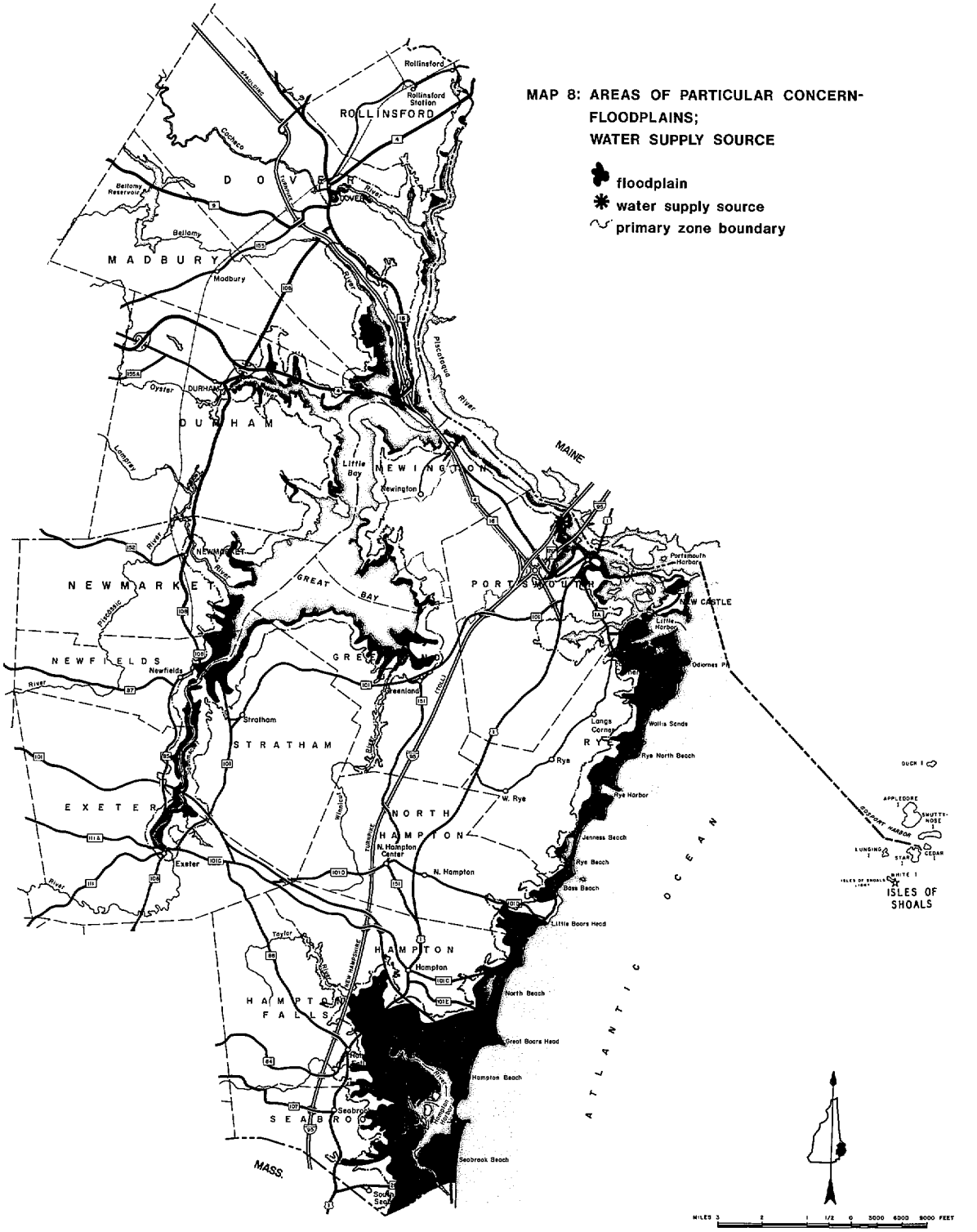

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SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

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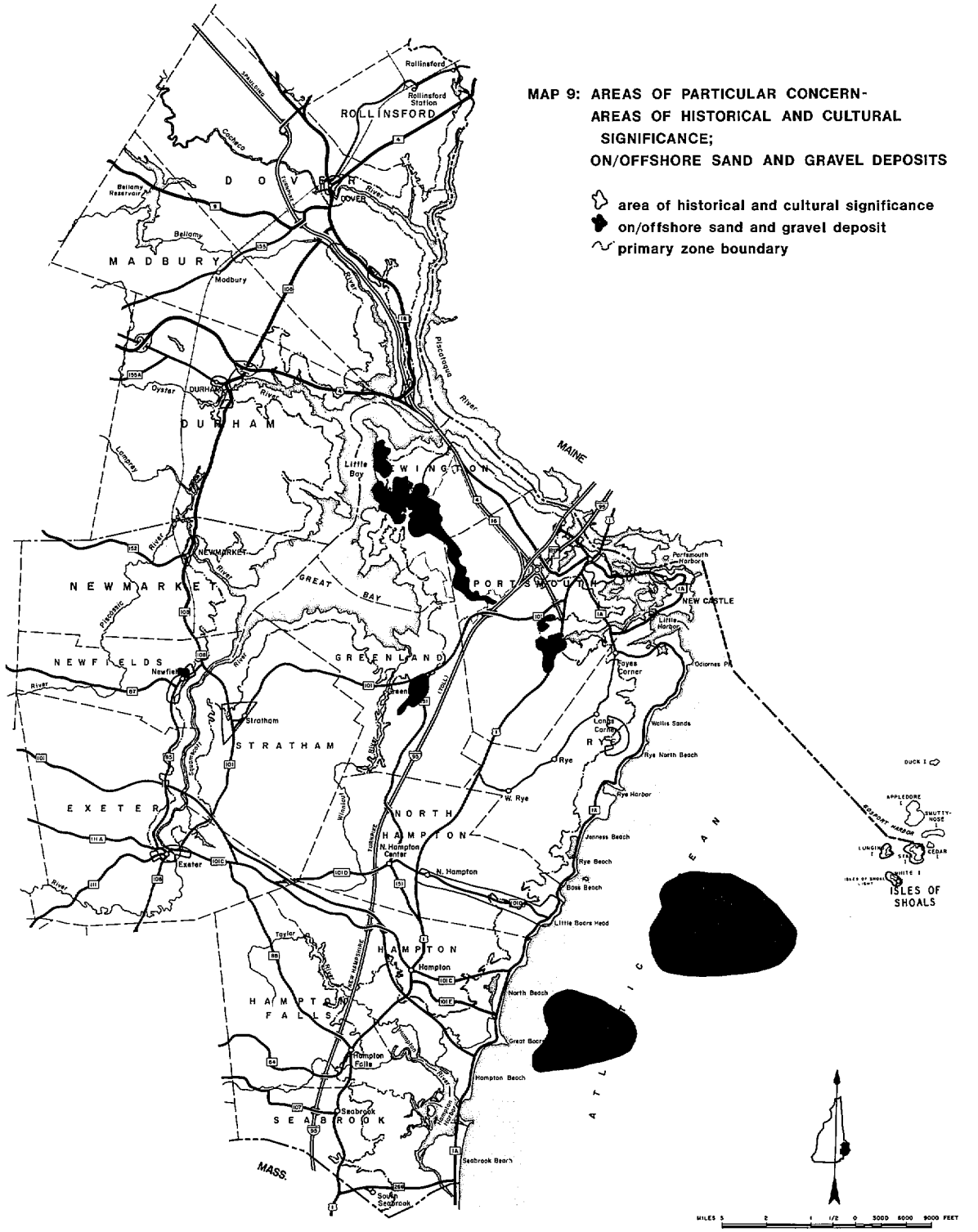

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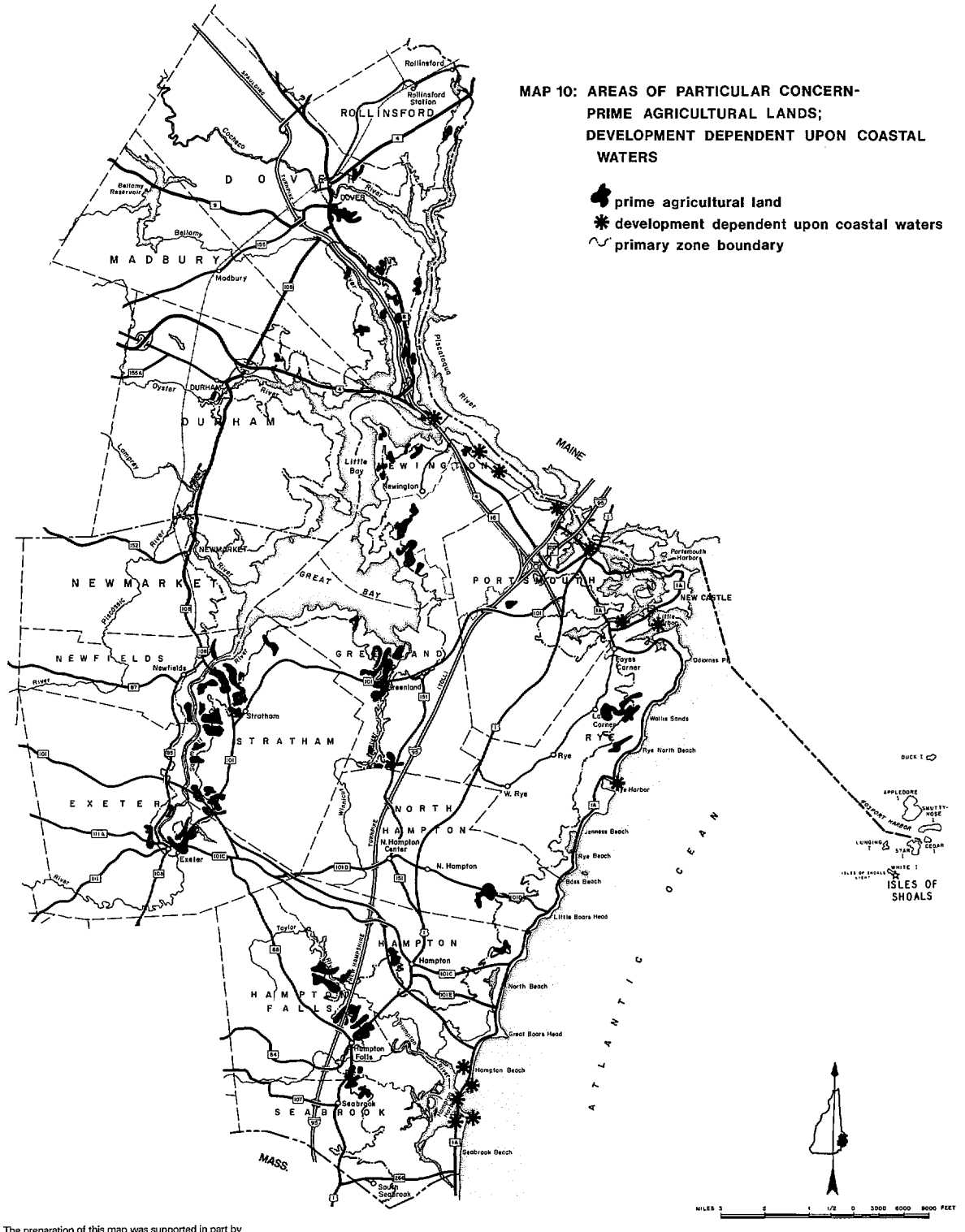

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SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

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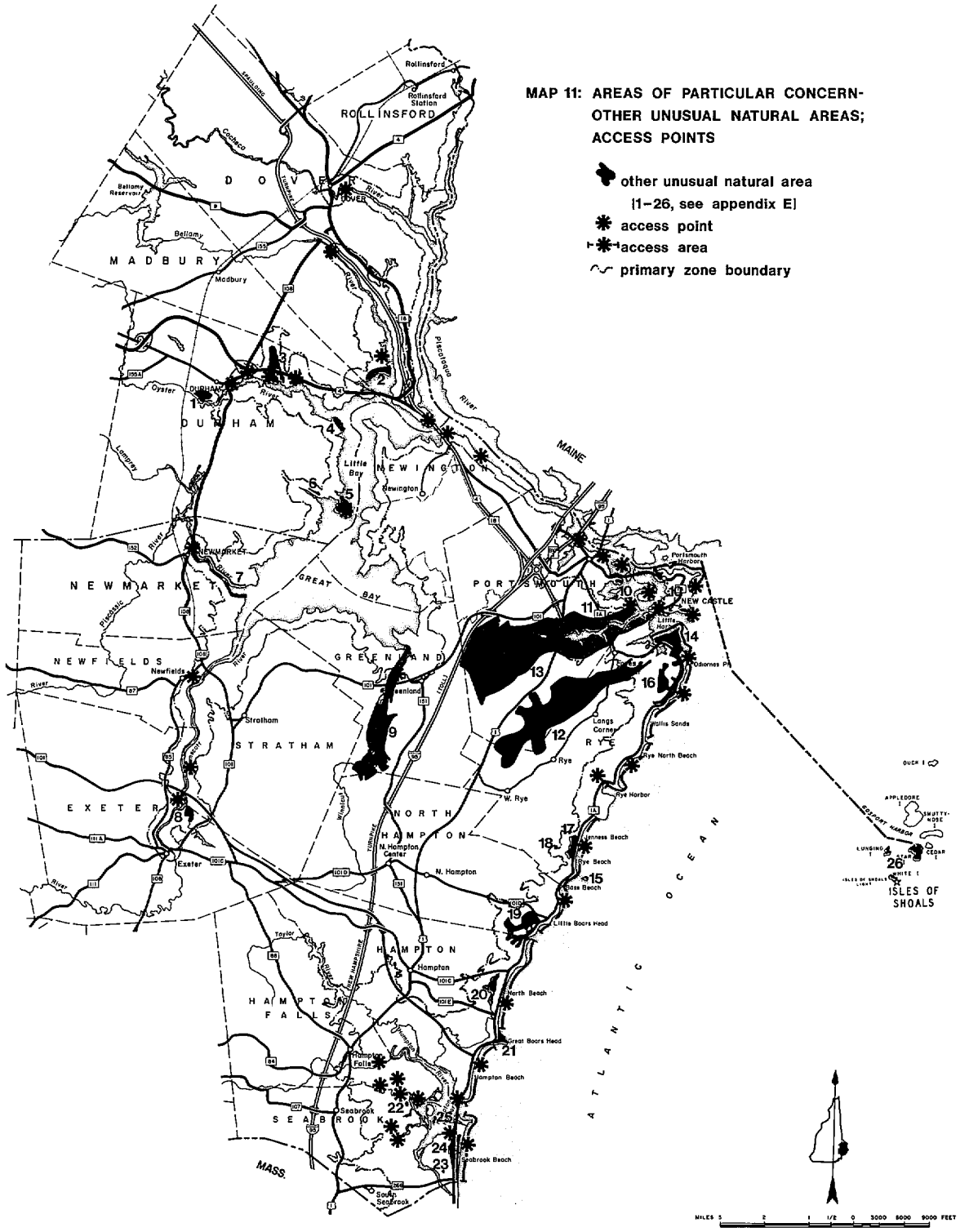

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SOURCE: OFFICE OF COMPREHENSIVE PLANNING, 1978

CHAPTER 5

CHAPTER V. PROGRAM AUTHORITY AND ORGANIZATION

Program implementation and structure, as stipulated in the proposed CRM Legislation, will be centered around the Office of Comprehensive Planning (OCP) as the primary decision-making body for the program. The Legislation also establishes a Coastal Resources Management Advisory Council whose purpose is to advise OCP on statewide interests in coastal resources and program implementation. The seventeen coastal zone municipalities will also be directly involved in program implementation. The proposed legislation further requires that OCP utilize, and not duplicate, all the authorities and technical expertise to be found in existing State and local agencies. Where OCP determines that these authorities and expertise do not exist or are inadequate to meet program goals and responsibilities, it has the authority and duty to provide for supplementary actions. This chapter will identify the local, State and Federal agency participants in the program implementation and their relevant duties and authorities. Chapter VI describes the manner in which this structure will be brought together to produce a functioning Coastal Resources Management Program.

OFFICE OF COMPREHENSIVE PLANNING (OCP)

Existing Authorities and Duties

The OCP is charged by the proposed legislation with the direct management of the CRM Program. The selection of OCP was based upon the consideration of several factors: OCP's major involvement with the development of the CRM Program; its organizational position within the executive branch of State government; and its other planning functions.

CRM Program Development. OCP has been and continues to be the lead agency in the development of the CRM Program and proposed legislation. As such, the CRM planning staff in OCP will be able to provide the necessary

continuity and transition assistance to OCP and its Director as the program now moves from the planning to the implementation phase. The CRM planning staff will also be able to utilize their experience gained with CRM Program development to administer program funds and provide technical support to assist the Director in his execution of the CRM Program duties.

Organization. In the organization of the executive branch of New Hampshire's State government, OCP is situated within the Office of the Governor, and its director is appointed directly by the Governor. Consequently, OCP occupies a strategic position to advise the Governor on any matter relating to coastal resources.

The Governor's office has the ability to exert a significant amount of influence over natural resources management in the State. The Governor, with the approval of the Executive Council, appoints all resources management decision and policy makers in State government including members of regulatory commissions, agency heads, and all judges in the State court system. In addition, the Governor, with the approval of the Executive Council, accepts new federal funding programs, approves interagency service agreements and State agency contracts, issues some permits, and approves the disposition of State lands. The Executive Council is composed of five members elected by geographical districts for two year terms. Finally, only the Governor can make formal recommendations to the General Court regarding the biennial budget for the executive branch agencies.

Other Planning Functions. In addition to OCP's involvement in the development of the CRM Program, other functions of the agency will also prove to be beneficial to the implementation of the CRM Program:

- Assistance to municipalities and the regional planning commissions with regard to local planning and land use control;
- Statewide land use planning, and administration of Federal pass-through grants to regional planning commissions for regional land use and housing planning (U. S. Dept. of Housing and Urban Development 701 Program);
- As State representative to the New England River Basins Commission, functions. as the lead agency in statewide and interstate water basin studies;
- State level coordinator for the National Flood Insurance Program;
- Shares the lead agency role with the State Bureau of Solid Waste Management, Dept. of Health and Welfare, for statewide solid waste management planning (U. S. Environmental Protection Agency Resource Conservation and Recovery Program);
- As lead agency for Coastal Energy Impact Program (Section 308 of CZMA of 1972, as amended), passes-through grants to coastal communities and State agencies to mitigate the affects of new energy facilities.
- Administration of Federal pass-through grants to regional planning commissions for rural mass transportation planning (U. S. Dept. of Transportation Mass Transportation Program);
- Statewide economic development planning, and technical assistance to municipalities and regional planning commissions applying for Federal economic development grants (U. S. Dept. of Commerce, Economic Development Authority);
- Generation of statewide resident population data and projections;
- The Director of OCP is a member of four state resource regulatory boards; Water Supply and Pollution Control Commission; Special Board of the Water Resources Board; Bulk Power Supply Site Evaluation Committee; the Energy Facility Evaluation Committee; and

. The Director of OCP is also the permanent chairman of the State Council on Resources and Development, a resource-use coordination body.

In performing these functions, OCP has developed a thorough functional knowledge of the operation of State and local agencies relative to natural resources, and has established informal working relationships with the staffs of many of these agencies. This will greatly aid OCP in performing many of its CRM duties which will require active participation by other State and local agencies.

CRM Program Authorities and Duties. The proposed legislation charges OCP with the overall responsibility and authority to implement the CRM Program. A listing of specific Program authorities and duties assigned to OCP, and the corresponding legislative references, appears in Figure 5-1. Chapter VI discusses the relevancy of these authorities to the CRM Program, in particular the manner in which these authorities will be implemented.

COASTAL RESOURCES MANAGEMENT ADVISORY COUNCIL

The CRM Program recognizes the need to provide OCP with a sounding board to which it can submit proposed management procedures, regulations, plans, etc., and from which it can receive comments and advice representative of a broad range of coastal interests. The CRM Legislation, therefore, establishes a CRM Advisory Council to bring together a variety of statewide and coastal viewpoints to provide mandatory review and comment to OCP in the implementation of the Program. The Advisory Council will receive staff support and funding from OCP, The Organizational chart Figure 5-2, shows the placement of OCP and the Coastal Advisory Council in State government.

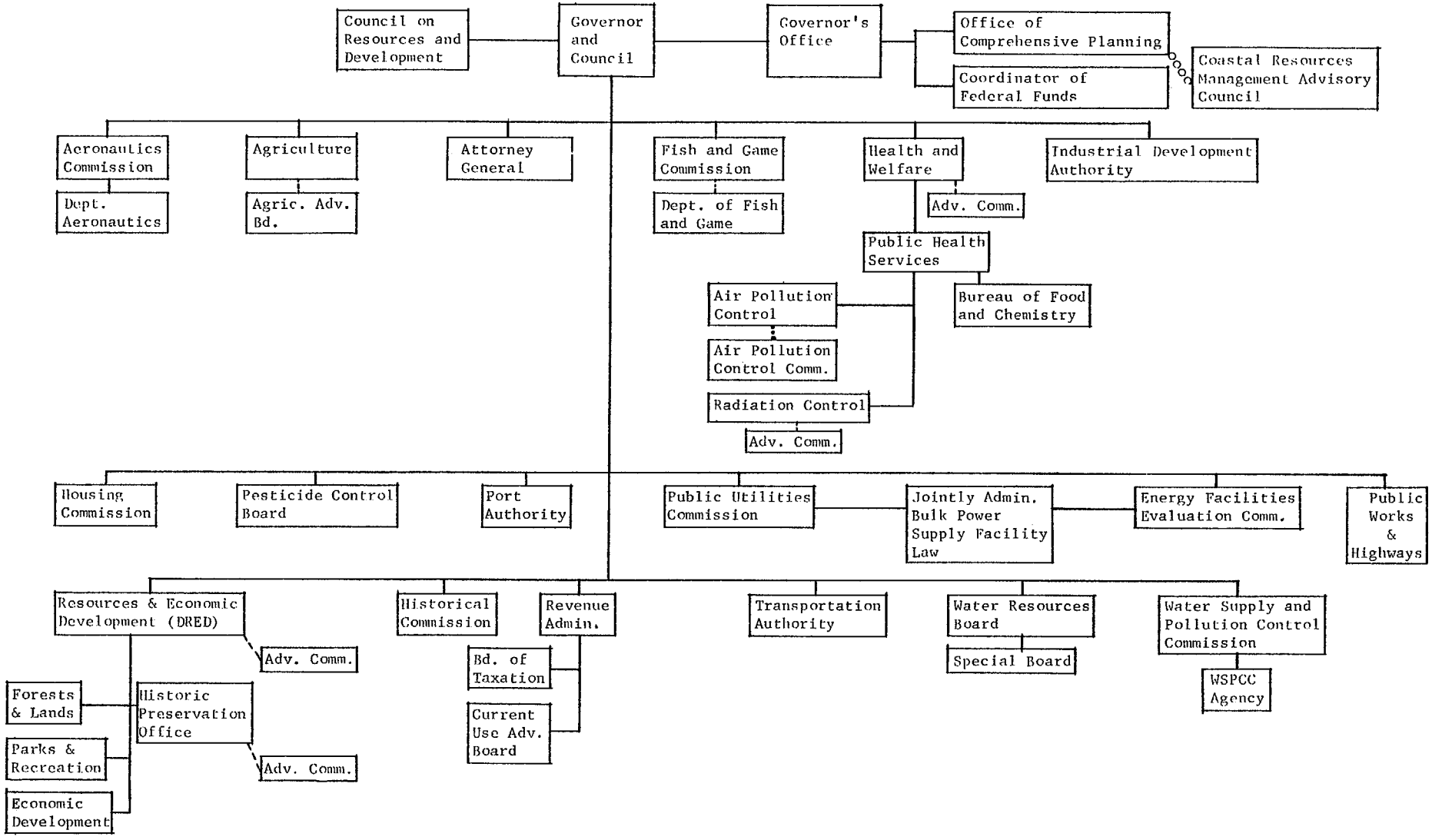
Figure 5-1
OFFICE OF COMPREHENSIVE PLANNING
CRM PROGRAM DUTIES AND AUTHORITIES

Program Duties of OCP	Authority*
MUNICIPAL COASTAL PLANS	
◦ Guidelines for development of Plans	RSA 271-B:12, II
◦ Final approval	RSA 271-B:12, III-V
STATE COASTAL DEVELOPMENT APPROVALS	
◦ Major developments in primary zone	RSA 271-B:10, II
◦ Major water users in coastal zone	RSA 271-B:10, II
◦ Development in APCs	RSA 271-B:11, VII
◦ Special case-by-case approval of major developments in primary or secondary zones	RSA 271-B:10, IV
◦ Federal consistency determinations	RSA 271-B:14, III
STATE COASTAL PLANS CONSISTENCY DETERMINATIONS	RSA 271-B:14, I
MANAGEMENT STANDARDS/MAPS	
◦ Primary zone boundary map	RSA 271-B:8, IV
◦ Land and water use standards for primary zone	RSA 271-B:10, III
◦ APC maps	RSA 271-B:11, III
◦ APC standards	RSA 271-B:11, VII
ACQUISITION OF LAND AND PROPERTY	RSA 271-B:5, II (i)
ENFORCEMENT	RSA 271-B:18, III, IV
INTERGOVERNMENTAL COORDINATION	RSA 271-B:14, I
ADMINISTRATIVE FUNDING	
◦ Overall program funding	RSA 271-B:5, II (c)
◦ Municipal grants	RSA 271-B:13, I
◦ Coastal Energy Impact Program	RSA 271-B:5, II (c)
PLANNING	
◦ Annual report	RSA 271-B:5, II (k)
◦ Expanded Program Jurisdiction Report	RSA 271-B:10, VII
◦ Areas for Preservation or Restoration Report	RSA 271-B:11, IX
◦ Energy; Shoreline Access; and Shoreline Erosion Reports	RSA 271-B:5, II (j)
◦ Coastal resources studies	RSA 271-B:5, II (j)
◦ Centralized State Approval Procedure	RSA 271-B:14, II

* References to "RSA 271-B ... " refer to Section 1 of the proposed CRM Legislation (see Appendix S).

Source: State of New Hampshire, Office of Comprehensive Planning, "Proposed Coastal Resources Management Program Legislation," 1978.

Figure 5-2
ORGANIZATIONAL CHART:
STATE AGENCIES WITH COASTAL PLANNING,
LAND USE AND DEVELOPMENT AUTHORITY



LEGEND

_____ Department or Independent Agency
------- Advisory Role
..... Appellate Role
oooooo Proposed Advisory Role

SOURCES: Office of Comprehensive Planning, 1978

Membership

The Advisory Council will consist of the following five (5) voting members (see also Figure 5-3):

- One representative of the statewide general public, to serve as chairman;
- One person representing economic development in the coastal zone;
- One person representing the recreation industry in the coastal zone;
- One person representing conservation or environmental protection in the coastal zone; and
- One elected municipal official of a coastal zone municipality to represent municipal government.
- Each member of the Advisory Council is appointed by the Governor and Executive Council to a two year term, except that two members are initially appointed for one year terms as shown in Figure 5-3. The Advisory Council meetings are public and will normally take place at a location in the coastal zone.

COASTAL RESOURCES MANAGEMENT ADVISORY COUNCIL
MEMBERSHIP, APPOINTMENT, INITIAL TERM, AND REGULAR TERM

Membership	Appointment by Governor & Executive Council	Initial Term	Regular Term
Chairman, Statewide General Public	Yes	2 years	2 years
Economic Development in Coastal Zone	Yes	1 year	2 years
Recreation Industry in Coastal Zone	Yes	2 years	2 years
Conservation or Environmental Protection in Coastal Zone	Yes	2 years	2 years
Elected Municipal Official in Coastal Zone	Yes	1 year	2 years

Source: New Hampshire Office of Comprehensive Planning, 1978

Role in the CRM Program

Certain Program duties assigned to OCP by the CRM Legislation are also required to be first submitted to the Advisory Council for its review and comment. Furthermore, OCP must respond in writing to any comment by the Council. Figure 5-4 indicates which Program duties and associated actions of OCP are subject to this consultation procedure. Considering "State Coastal Development Approval" for example, the Council will comment only on OCP's promulgation of procedures, requirements, criteria, etc. associated with the duty; "procedures," therefore, appears in the column under the Council.

The Advisory Council meetings can be called by the Director of OCP. It also has the authority to call itself together, i.e., by its chairman or any three members, for the purpose of advising OCP on any program matter it so chooses. As before, OCP must respond in writing to any such comment by the Council.

As a final mechanism to ensure input by the Council into the Program, the Council is required to submit annually to OCP a written report of any recommendations relative to the implementation of the Program. This report must be included by OCP in its annual CRM Program Report.

OTHER STATE AGENCIES

There are approximately 36 other State agencies which perform functions directly related and useful to the CRM Program. These functions include coordination, planning, regulation and management of certain coastal resources, and are summarized in Appendix F. The membership of OCP and other State agencies on regulatory and advisory boards relevant to the Coastal program is depicted in Figure 5-5. As previously mentioned, it is Program policy for OCP to utilize all existing and pertinent State and local agency expertise and authorities in the implementation of the Program (see Chapter VI for a detailed discussion).

Figure 5-4
CRM PROGRAM DUTIES SUBJECT TO MANDATORY
REVIEW AND COMMENT BY THE CRM ADVISORY COUNCIL

Program Duties of OCP	OCP Actions Subject to Council Review and Comment
MUNICIPAL COASTAL PLANS	
. Guidelines for development of Plans	promulgation
. Final approval	each approval
STATE COASTAL DEVELOPMENT APPROVALS	
. Major developments in primary zone	procedures
. Major water users in coastal zone	procedures
. Development in APCs	procedures
. Special case-by-case approval of major developments in primary or secondary zones	each approval
. Federal consistency determinations	procedures
STATE COASTAL PLANS CONSISTENCY DETERMINATIONS	procedures
MANAGEMENT STANDARDS/MAPS	
. Primary zone boundary map	none
. Land and water use standards for primary zone	promulgation
. APC maps	promulgation
. APC standards	promulgation
ACQUISITION OF LAND AND PROPERTY	each acquistion
ENFORCEMENT	none
INTERGOVERNMENTAL COORDINATION	procedures
ADMINISTRATIVE FUNDING	
. Overall program funding	application & distribution
. Municipal grants	procedures
. Coastal Energy Impact Program	application & distribution
PLANNING	
. Annual report	Council comments included in report
. Expanded Program Jurisdiction Report	promulgation
. Areas for Preservation or Restoration Report	promulgation & designation
. Energy; Shoreline Access; and Shoreline Erosion Reports	none
. Coastal resources studies	none
. Centralized State Approval Procedure	none

Source: State of New Hampshire, Office of Comprehensive Planning, "Proposed Coastal Resources Management Program Legislation, " 1978.

Figure 5-5
Office of Comprehensive Planning and other State Agency
Membership on State Regulatory and Advisory Boards
Relevant to the Coastal Program

STATE BOARDS/COMMITTEES	STATE AGENCY/DEPARTMENT	Agriculture	Education	Fish & Game	Health & Welfare	Office of Comprehensive Plng.	Public Utilities Comm.	Public Works & Highways	Resources & Econ. Dev.	Revenue Administration	Safety	Water Resources Board	Water Supply & Poll. Control Comm.
Bulk Power Supply Site Eval. Committee				X	X	X	X		X			X	X
Current Use Advisory Board		X		X					X	X			
Energy Facility Eval. Committee				X	X	X	X		X			X	X
Pesticide Control Board		X		X	X				X				X
Special Board for Dredge and Fill				X		X		X	X		X	X	X
Water Supply & Pollution Control Commission				X	X	X			X		X	X	X
Council on Resources and Development		X	X	X		X		X	X				X

Source: Office of Comprehensive Planning, 1978.

MUNICIPAL GOVERNMENT

As previously discussed in Chapter I, the major management emphasis of the Program will be focused on the primary zone areas within the seventeen coastal zone municipalities. It is Program policy, as stated in the proposed legislation, that the successful management of coastal resources will require a significant involvement of the coastal zone municipal governments and their land and water use controls and authorities. The Legislation further provides that the principal mechanism to achieve this involvement will be the preparation and implementation of Municipal Coastal Plans, a detailed discussion of which can be found in Chapter VI. Each Plan will identify specific local authorities and agencies to be used by the respective coastal zone municipality in implementing relevant portions of the Program. The existing authorities and controls possessed by the coastal zone municipalities are summarized in Appendix G.

FEDERAL GOVERNMENT

Certain Federal agencies will also be directly involved in the Program management structure by virtue of various planning, regulatory or management functions they exercise relative to resources in our coastal zone. These agencies and their functions are summarized in Appendix H. Their involvement in the Program is discussed in Chapter VI.

CHAPTER 6

CHAPTER VI. PROGRAM OPERATION AND IMPLEMENTATION

This chapter identifies the manner in which the program structure and levels of government, as described in Chapter V, will function to produce an effective Coastal Resources Management Program for New Hampshire. Included are the regulatory, coordinative, administrative, funding, and planning techniques which will be utilized in order to achieve the necessary management of certain land and water uses, and to implement the program authorities discussed above. Figure 6-1 presents a chart of the time schedule by which OCP will implement these various management techniques described below.

DIRECT LOCAL AND STATE CONTROLS

Those local and State management controls which will be administered through the CRM Program include the following: Municipal Coastal Plans which utilize municipal land and water use controls in the primary zone; State Coastal Development Approval authority over specific locations and types of development in the coastal zone; State Coastal Plan consistency determination for public plans affecting the coastal zone; OCP-promulgated management standards; and OCP authority to purchase land and property. These controls are discussed, in detail, in the pages that follow.

Figure 6-1

OCP TIMETABLE FOR IMPLEMENTATION OF MANAGEMENT TECHNIQUES
(in order of appearance in text)

MANAGEMENT TECHNIQUES	Maximum Implementation Time (from effective date of CRM legislation) eff. date	½ yr	1 yr	2 yr	3½ yr
MUNICIPAL COASTAL PLANS					
. Guidelines			X		
. Final approval					X
STATE COASTAL DEVELOPMENT APPROVALS					
. Major developments in primary zone		X			
. APCs, priority uses, in primary zone		X			
. Special case-by-case approval of major development in primary or secondary zones	X				
. Federal consistency determination	X				
STATE COASTAL PLANS CONSISTENCY DETERMINATIONS	X				
MANAGEMENT STANDARDS/MAPS					
. Land and water use standards			X		
. APC standards		X			
. Resource maps	X				
. APC maps		X			
ACQUISITION OF LAND AND PROPERTY	X				
ENFORCEMENT	X				
INTERGOVERNMENTAL COORDINATION		X			
ADMINISTRATIVE FUNDING					
. Overall program funding	X				
. Municipal grants			X		
. Coastal Energy Impact Program	X				
PLANNING					
. Annual report	X				
. Expanded Program Jurisdiction Report				X	
. Areas for Preservation or Restoration Report				X	
. Energy, Shoreline Access, and Shoreline Erosion Reports	X				
. Coastal Resources Studies	X				
. Centralized State Approval Procedure Report			X		

SOURCE: State of New Hampshire, Office of Comprehensive Planning, 1978.

Municipal Coastal Plans for the Seventeen Coastal Zone Municipalities

Through the development and implementation of Municipal Coastal Plans, the seventeen coastal zone municipalities will provide the "front-line" administration and enforcement of the CRM Program. The Plans will provide the framework in which existing local authorities for zoning, subdivision and non-residential site plan approval, and building code permit system, as modified by OCP promulgated management standards, will operate. The Plans will also provide an instrument with which to focus local public attention regarding coastal resources issues. Appendix G identifies the existing land and water use controls in the primary zone municipalities.

Within the first year of program implementation, OCP must promulgate guidelines for the preparation and implementation of the Plans. The Plan for each municipality must include such existing and proposed land and water use standards, regulations and associated maps that will achieve result equivalent to or more restrictive than management standards promulgated by OCP. The exact method of incorporating the management standards in the Plans will be left up to the municipality to decide. For example, one municipality may wish to amend portions of its controls and substitute the State management standards. Another may wish to adopt a "coastal resources management overlay" to supplement existing controls.

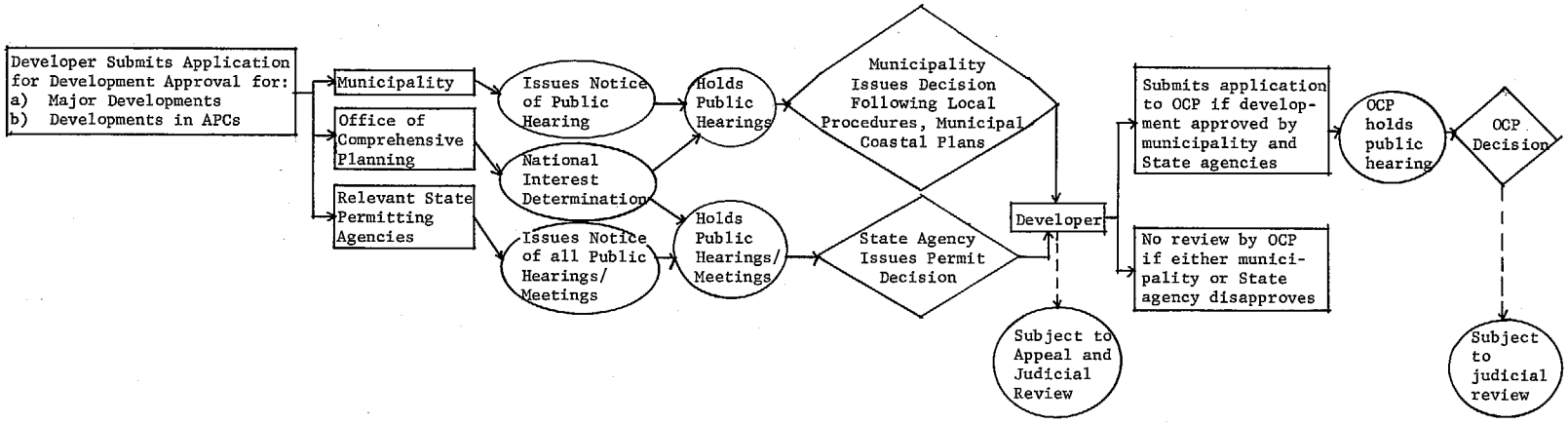
Each coastal zone municipality will have up to two years in which to develop its Plan and submit it to OCP for review and approval. Various forms of assistance will be available to aid the municipalities in developing their Plans. Technical assistance is available from the staffs of OCP and the Strafford-Rockingham Regional Council. The proposed CRM Legislation mandates that specific coastal resources maps, already produced by the OCP,

become part of the master plans of the coastal zone municipalities, to use as they see fit. Furthermore, the proposed legislation provides financial grants to these municipalities to help defray the costs of developing and implementing their Coastal Plans (see "Municipal Grants," page 6-19.)

If OCP disapproves a Municipal Coastal Plan within 60 days after it is submitted to the State for review and approval, the proposed Legislation provides for, at a maximum, 90 additional days during which OCP and the municipality may work together to produce an acceptable Plan. Should this process fail, should a portion of the Plan be inadequate, or should a municipality not submit any Plan, then the proposed legislation stipulates that the OCP-promulgated management standards or portions thereof, upon which the Plans are to be based, will have full force and effect within the primary zone portion of the municipality, and will be administered and enforced by the municipality. However, the proposed legislation further provides that any time subsequent to OCP standards taking effect, the municipality may submit a Plan to OCP for review and approval. Should this occur and should the Plan be approved, it would supercede the State management standards.

Once approved, each of the seventeen coastal zone municipalities will utilize its Municipal Coastal Plan, at a minimum, to guide growth and protect environmental resources in its portion of the primary zone. These Plans shall also provide guidelines to the seventeen coastal municipalities in making major water use decisions throughout their communities. The standards in each Plan will apply to local decision-making regarding the siting, construction and operation of land and water uses within the purview of the CRM Program (see Figure 6-2). These standards will also provide guidance to these localities regarding variances, special exceptions and amendments to their land and water use controls. Furthermore, OCP will monitor municipal variances and amendments to determine consistency with the statewide interest in coastal resources.

FIGURE 6-2
FLOW CHART OF DECISION-MAKING PROCESS
TO MANAGE DEVELOPMENT UNDER THE COASTAL RESOURCES
MANAGEMENT PROGRAM



SOURCE: N.H. Office of Comprehensive Planning, June, 1978.

State Coastal Development Approval Authority

The CRM Legislation gives OCP the final approval authority over specific types of development proposals. This approval will be a significant CRM Program management tool for guiding growth in the coastal zone. Chapters III and IV discussed the specific activities subject to this approval authority. These activities include:

1) Major developments in the primary zone.

2) Major water users in the coastal zone.

3) Developments in Areas of Particular Concern which are located in whole or in part within the primary zone.

4) Special case-by-case approval of major developments in the coastal zones.

5) Activities subject to Federal Consistency in the coastal zone.

The manner in which this approval will be achieved through the program is discussed below.

Data Submission Requirements. The specific requirements for data to be contained in the applications for State Coastal Development Approvals will be promulgated by OCP within six months after the effective date of the CRM Legislation. These requirements may include the following:

. Description of the proposed development activity.

. Description of how the activity will be conducted in a manner consistent with the relevant Coastal Municipal Plan(s), CRM Program goals (271-B:1, VI) and OCP-promulgated management standards.

. Data required for other State agency approvals, as appropriate.

. Information concerning how the proposed activity will effect the environment, land uses, public facilities, and other considerations identified by OCP as part of the approval procedures discussed below.

. Federal licenses and permits needed.

A limited amount of assistance will be available from OCP to aid the applicants in generating the required data, (as discussed in this chapter beginning on page 6-13 .

Approval Considerations. The specific considerations to be addressed during the approval process of development proposals will also be promulgated by OCP within six months after the effective date of the CRM Legislation. However, based on the goals and other management requirements of the CRM Legislation, the following factors may likely be among those for consideration by OCP as part of the State Coastal Development Approval procedure:

. For shoreline activities, the applicant must demonstrate a need for the use of coastal waters, or some other technical requirement which necessitates siting in such close proximity to coastal waters;

. Impacts on ecological systems and coastal resources as expressed in the CRM Legislation, (see Chapter III);

. Impacts on APC selection characteristics (see Chapter IV);

. If a low priority use in an APC (see Chapter IV), the applicant must present a compelling and affirmative demonstration that the proposed activity will not degrade, diminish or adversely affect any characteristic of the APC in question as stated in the CRM Legislation (271-B:11, II);

. If a low priority use is ina"floodplain" APC, it must comply with the minimum requirements of the Regular Program of the National Flood Insurance Program;

. Capability of the land or water area to support the use;

. Compatibility with contiguous land and water uses;

. Capacity of public services to support the proposed use in terms of water supply, sewage and solid waste disposal, transportation access and facilities, and other supporting services and facilities;

. Susceptability to flooding and other natural hazards;

. Consistency with State air and water quality requirements;

. Consideration of national interests, if applicable (see Chapter VII for discussion of national interests in the New Hampshire coastal zone);

. Consideration of plans, studies, surveys, etc. by other public and private sources.

Use of Existing State and Local Agency Authorities. While OCP is responsible for final approval of certain coastal resource development activities, it is the policy of the CRM Program that existing State and local agency approval authorities which deal with coastal resources utilization will not be duplicated or eliminated by the implementation of the CRM Program. Indeed, the CRM Legislation requires OCP to utilize relevant technical expertise and authorities of State and local agencies as much as possible as it accomplishes its broader mandate to manage, or cause to be managed, the coastal resources. As discussed below in the section on "Management Standards" (beginning on page 6-10) the CRM staff of OCP will work with other State agencies and the primary zone municipalities during the next year to identify and evaluate the specific regulatory and programmatic functions of State and local agencies relative to CRM Legislative requirements for the State Coastal Development Approval procedure. Analyses of State and local agencies' statutorily-mandated land and water use management responsibilities in the coastal zone have already been accomplished (see Appendices F and G) and give a preliminary indication of what the above evaluation may determine.

During the first six months after the effective date of the CRM Legislation, OCP will decide, based upon the above evaluation, the extent to which existing State and local approval procedures for coastal resources utilization proposals can be incorporated by reference in the OCP approval procedures, and the extent to which OCP must develop additional expertise to effectively evaluate resource use proposals.

Centralized State Approval Procedure. Many development proposals which are subject to OCP's State Coastal Development Approval will also be subject to approval from other State agencies. The issuance of multiple permits often results in inefficiencies and unnecessary delays and added costs to the applicant due to confusion of the applicant as to requirements for permits, and to duplication of application data and public hearings.

In an attempt to prevent such situations during the implementation of the CRM Program, the proposed legislation requires OCP, within one year after the effective date of the Legislation, to develop and recommend a procedure for establishing a centralized development approval procedure for all development proposals subject to approval by OCP. Through the issuance of a single "OCP-approval" permit, this procedure would attempt to centralize the paperwork and public hearings associated with multiple State agency approvals of these development proposals.

Federal Consistency. As part of the State's Coastal Development approval process, Federal activities which may affect the State's coastal zone shall be reviewed for consistency with the CRM Program. Consistency determinations shall be made for those activities in the coastal zone which require Federal licenses, permits, OCS plans, and assistance grants. In addition to review of federally supported activities, OCP shall review and comment on all other Federal activities through the program's intergovernmental coordination mechanism. Refer to Chapter VIII for a detailed discussion of the Federal Consistency procedures.

State Coastal Plans Consistency Determinations

The OCP shall review and make consistency determinations for all development proposals, capital improvement, comprehensive and functional plans which affect the coastal zone and relate to major developments and areas of particular concern, beginning on the effective date of the Legislation. These plans shall be reviewed and OCP shall determine the consistency of these plans

with Coastal Muncipal Plans, State management standards, and any other State regulation or review criteria established by OCP for ensuring consistency with the CRM Program.

Furthermore, through its membership on State permitting boards (such as the Special Board for Dredge and Fill and the Water Supply and Pollution Control Commission), OCP shall make consistency determinations for projects which require State permit approval and which are subject to management by the coastal program.

Management Standards and Maps

A "management standard" is a qualitative or quantitative rule or regulation which places a limitation or condition on development. The proposed CRM Legislation requires OCP, within six months to one year from the effective date of the act, to issue management standards for the two principal management aspects of the CRM Program: land and water use impacts and geographical areas of particular concern.

Standards for Land and Water Uses. The land and water uses and impacts subject to management were discussed in Chapter III, and include both major developments and fifteen potential impacts from land and water uses. The standards which OCP will promulgate within one year of the effective date of the legislation shall be designed to promote locational, design, construction practices, operational characteristics, or maintenance practices which reduce or eliminate negative environmental impacts due to land and water uses.

Areas of Particular Concern. In Chapter IV, the 15 categories of APCs, the selection characteristics, the APC designation process, and the priority of uses of APCs were discussed. For the designated APCs, the CRM Legislation requires OCP to issue management standards which will ensure that the characteristics of each APC will remain substantially unchanged. The APC management standards will be in the form of performance

criteria and design and operational specifications.

The management standards shall be used in the coastal resources decision-making processes at both the local and State levels. At the local level, the standards will be the basis for development, by the coastal zone municipalities, of Municipal Coastal Plans (discussed above, beginning on page 6-3). The Plans, in turn, will provide the framework for local administration of their land and water use controls, and for local land and water use decisions affecting coastal resources. At the State level, the standards will be utilized by OCP in performing its regulatory duties as described in this section on "Direct Local and State Control."

As previously stated, OCP must promulgate the standards within six months of the effective date of the CRM Legislation. To accomplish this deadline, OCP has already begun to inventory and evaluate the precise functions and daily operations of each relevant State agency (see Appendix F), and to determine which specific rules and regulations of these agencies can be incorporated by reference in the CRM management standards. For example, the CRM Legislation stipulates that the State-administered portions of the Federal water quality and air quality programs are to be incorporated by reference in the standards; portions of the National Flood Insurance Program are also to be included (see Appendix J).

Areas of CRM Program responsibility identified by OCP as not being adequately addressed by other State agencies will require the creation of new performance criteria and specifications. To assist in this task, relevant State and Federal agencies will be called upon by OCP, to provide data and technical assistance, and to keep them involved and fully informed.

Direct Incorporation of Federal/State Programs. The proposed legislation mandates that all rules and regulations adopted by the State in response

to the Federal Water Pollution Control Act and the Federal Clean Air Act (both as amended) will be incorporated by reference in the CRM Program as program requirements. This will mean that the State agencies presently administering these programs will continue to do so during CRM Program implementation, with the added enforcement authority of the CRM Program. The management standards to be adopted by OCP, therefore, reflect this incorporation. The proposed CRM Legislation also requires that the management standards regarding development in floodplain APCs must include the minimum flood proofing requirements of the Regular Program of the National Flood Insurance Program. As such, these requirements will be administered and enforced by OCP and coastal zone municipalities based on CRM Program authorities. Refer to Appendix J for a more detailed discussion of the incorporation of these Federal/State programs into the CRM Program.

Maps. As part of the CRM Program, the following maps shall be utilized: State coastal zone boundary maps; Land and Water use resource maps; and APC maps.

The boundary of New Hampshire's Coastal Zone is established in the proposed legislation. Refer to Chapter I for a discussion of the boundary and the boundary maps. Within six months from the effective date of the CRM Legislation, OCP shall prepare detailed primary zone boundary maps for use by coastal zone municipalities.

The OCP shall adopt Area of Particular Concern (APC) maps within six months of enactment of CRM Legislation. These APC maps as well as land and water use resource maps, prepared by OCP during development of the CRM Program, shall be incorporated directly into Municipal Coastal Plans and also utilized by OCP in its State Coastal Development Approval considerations.

Acquisition of Land and Property

The OCP is authorized by the proposed legislation to purchase fee simple and less than fee simple (e.g., easement) interests in lands, waters and other properties in the name of the State for purposes of program implementation. This OCP acquisition authority does not include acquisitions through eminent domain procedures. Any acquisition project by OCP would be subject to Governor and Executive Council approval.

Assistance to Applicants for OCP Approval Under the CRM Program

Resource management programs, such as the CRM Program, which include the issuance of permits for use of the resource, work best when the permitting agency and the applicant work together during the initial stages of project planning to identify the management concerns and potential mitigating actions. This is good from the management point of view because the major concerns regarding the resource will be identified early and thus given maximum consideration by the applicant. From the applicant's viewpoint, this is good because the applicant will be less likely to expend time and money developing a course of action which ultimately would not be approvable by OCP or other approval authorities. The principal beneficiary, however, will be the general public; their resource will be utilized in a predictable and wise manner, and the costs will be kept to a minimum.

In the CRM Program, OCP is given the responsibility, upon request and within its budgetary and manpower constraints, to advise and assist any governmental agency or private development interest in the siting, construction or operation of any development within the purview of the CRM Program. This assistance would include providing data on resources inventories and land and water capability analysis, as well as other

relevant sources of information and assistance.

Enforcement

As provided in the proposed legislation, any intentional violation of the Legislation or of a lawful order of OCP will be considered a misdemeanor if committed by a natural person, and a felony if done by an unnatural person, e.g., a corporation or incorporated association, each day of violation being a separate offense. This is consistent with the State's criminal code which provides for fines up to $1,000 for a misdemeanor and $50,000 for a felony. An unintentional violation may be subject to a civil penalty of not more than $5,000.

The Director of OCP, the Attorney General, and the municipal governments each have the authority, as provided in the proposed legislation, to petition the Superior Court to exercise the above penalties. The Director of OCP may also issue a written cease and desist order against any action determined by OCP to be in violation of the Legislation or a lawful order of OCP. Activities subject to the Municipal Coastal Plans, and which are not also subject to some type of State level scrutiny, will be enforced by the cognizant municipal government utilizing their traditional enforcement authorities.

COORDINATION

Successful management of the State's coastal resources is dependent upon the effective coordination of those public agency actions and programs which affect the coastal zone in a manner which is unified and predictable. At the Federal level, some twenty agencies have programs directly applicable to New Hampshire's coastal zone; another twelve have interests in coastal and estuarine areas of the United States generally. New Hampshire participates or is authorized to participate in ten interstate commissions and

compacts, two of which are the New England River Basins Commission and the New England Regional Commission. At the State level, there are thirteen major boards, authorities, commissions and departments, including some thirty-one divisions within these departments, with advisory, administrative, regulatory, financing or planning responsibilities affecting the coastal zone. Each of the seventeen coastal zone municipalities exercise numerous land and water use control authorities; e.g., zoning, residential and non-residential site plan approval, building codes and permits. Such a situation presents major coordination problems and a potential inability to adequately cope with demands on the natural resources of the coastal zone, its local governments and its people.

Existing Coordination

Present intergovernmental coordination in the coastal zone primarily involves only Federally-related activities and two Federally administered mechanisms. The Office of Management and Budget Circular A-95 coordination involves Federal assistance to State and local governments and to individuals; Federal development projects; Federal programs for which a "State plan" is required; and Federal licenses and permits. The Environmental Impact Statement (EIS) process, required by the National Environmental Policy Act and administered by the Environmental Protection Agency, involves actions determined by the cognizant Federal agency to have a significant effect on the environment. The Strafford-Rockingham Regional Council in Exeter serves as a clearinghouse in the coastal zone for A-95 and EIS review and comment by the member municipalities of the Regional Council. The State level clearinghouse for State review and comment on A-95 projects is handled through the Coordinator of Federal Funds Office within the Executive Department; State level clearinghouse functions for

EIS review and comment are conducted by OCP.

This existing level of intergovernmental coordination in the coastal zone has certain shortcomings for direct application to the CRM Program. To begin with, State and local actions with no Federal involvement are not included; e.g., local residential site plan approval of a large subdivision and Department of Fish and Game regulatory control over nearshore and estuarine marine fisheries. In addition, coordination by Federal agencies is often less than adequate, and there is very little enforcement of the requirements by the two cognizant Federal agencies; i.e. OMB and EPA. Furthermore, the coordinative mechanisms are fragmented at both the Federal adminstrative level and the State implementation level. Such fragmentation tends to foster duplication of effort in some instances and a lack of coordination in others.

CRM Intergovernmental Coordination. In an attempt to improve on the existing coordinative mechanisms, the proposed legislation charges OCP with establishing a CRM Intergovernmental Coordinative procedure whereby relevant interested persons, private organizations, or governmental agencies can review and comment upon: all development proposals which are subject to final approval by OCP as provided in the proposed legislation (i.e., major developments in the primary zone, major water users throughout the coastal zone, and developments in APCs); OCP adoption of land and water use management standards; and OCP approval of Municipal Coastal Plans. Furthermore, OCP consistency determinations for capital improvement, comprehensive and functional plans subject to review by the program and all Federal consistency determinations will include procedures for interagency coordination and public hearings as necessary.

The CRM Intergovernmental Coordination procedures will supplement the

existing A-95, EIS, and other State agency procedures by utilizing the present implementing agencies mentioned above. This will be accomplished through a contractual arrangement with the Regional Council, and memorandum of understanding or service agreement with the Coordinator of Federal Funds Office; the inclusion of OCP's EIS State level review will be automatic by virtue of OCP's statutorily mandated involvement in the CRM Program. The "list" of recipients of A-95 applications and EIS's for review will be expanded to the extent possible to include relevant persons, groups, or governmental agencies with an expressed interest. OCP may also initiate a frequent and widespread publication of a listing and description of CRM approval applications pending before the OCP. Interested reviewers could then selectively choose applications they wished to review and comment upon. The OCP must establish such a coordinative system within six months of the effective date of the CRM Legislation.

Intergovernmental coordination between the CRM Program and Federal agencies shall also occur through the federal consistency procedures as previously discussed in this chapter under State Coastal Development Approval procedures beginning on page 6-6 . Refer also to Chapter VIII for a full discussion of federal consistency procedures.

ADMINISTRATIVE PROCEDURE FOR ADOPTING RULES AND REGULATIONS

The proposed legislation requires that OCP promulgate its program rules, regulations, standards, maps, guidelines, plans, and criteria in accordance with the State's Administrative Procedures Act (RSA 541-A) in addition to other procedures specified in the CRM Legislation. In accordance with the Administrative Procedures Act, OCP must give at least twenty (20) days public notice prior to the effective date of its intended action.

Public hearings may be required at the request of another government agency, by petition of twenty-five (25) voters or by request of an association with more than twenty-five (25) members. A written summary of all comments received on the proposed rule may also be required if requested in writing. The proposed rule must be submitted to the Director of Legislative Services and appropriate legislative committees at least twenty (20) days prior to the effective date. The Director of Legislative Services shall compile and may also publish the rule after it becomes effective. There is a procedure for petitioning to repeal or amend a rule and the Superior Court may declare the rule invalid or inapplicable.

In addition to these requirements, the proposed legislation requires: five (5) days of newspaper public notice beginning at least twenty (20) days prior to the effective date of the proposed rule or action; that required public hearings normally be held in the coastal zone; and that the CRM Advisory Council comment and advise on management standards and the designation of APCs, before the effective date. Furthermore, all administrative and permit decisions of OCP that are based on previously promulgated rules and regulations shall be stated in writing and be available to the public.

ADMINISTRATIVE FUNDING

The proposed legislation charges OCP with three important program funding responsibilities: i.e., overall program funding, municipal grants, and the Coastal Energy Impact Program.

Overall Program Funding

The OCP is designated as the State agency to request, receive and administer all of the following Federal funds available under the Federal Coastal Zone Management Act for CRM Program purposes:

. CRM Program general administration grants, 80% of costs;

. Coastal Energy Impact Program planning grants, 80%; construction grants and loans, 100%; and environmental damage mitigation grants, 100%;

. Estuarine sanctuary acquisition grants, 50%;

. Public shoreline access acquisition grants, 50%;

. Coastal resources-related research and training grants, 80%; and

. Interstate coordination grants, 90%.

Municipal Grants

The development and implementation of Municipal Coastal Plans by the seventeen coastal zone municipalities may place a financial burden on their local budgets. To relieve this burden, OCP is authorized to distribute grants annually to any of these municipalities for the purpose of defraying the costs of planning and regulatory activities generated at the local level by the adoption and implementation of the CRM Program. The amount of the grants will be based upon the needs of coastal communities for financial assistance in order to meet the basic requirements of the program and to conduct projects of priority to the adoption and implementation of the program. As a minimum, however, no municipality will receive less than $3,000 annually, providing funding is available.

Coastal Energy Impact Program

As a part of its CRM responsibilities, OCP will distribute Coastal Energy Impact Program grants and loans to eligible coastal municipalities and State agencies. A recent amendment to the FCZMA,* this program provides coastal states and local governments with financial assistance to mitigate adverse onshore effects of new or expanded energy facilities. Under the program various types of financial assistance are available: 80% grants for planning for the consequences of energy facilities; 100% grants or

*Federal Coastal Zone Management Act

loans for the construction of new public facilities required as a result of the siting and operation of a coastal energy activity; and 100% grants to recover environmental and recreational resources lost as a result of coastal energy activities. All funds are distributed to eligible recipients through a Federally approved intra-state allocation procedure which ensures that funding priority is given to those towns or agencies in the greatest need. The OCP has already distributed over $65,000 in 80% planning grants to coastal municipalities and agencies as a result of this program.

PLANNING ACTIVITIES

Annual Report

It is extremely important that governmental agencies, the General Court, and the general public be kept informed on the progress of the CRM Program. In response to this need, the proposed legislation will require OCP to publish an annual report and submit it to the Governor and Executive Council, the General Court, and the general public. The report must address the following topics:

. The OCP program accomplishments and actions in achieving the goals of the CRM Legislation (CRM Bill, I, 271-B:I, VI);

. Any recommended changes in existing statutes, regulations, policies or State governmental practices that OCP feels necessary to better achieve the purposes of the CRM Program;

. New programs or plans to be considered for action by the Governor and Executive Council or by the General Court; and

. Any aspect of the program which is proving difficult to accomplish, with proposals for courses of action to alleviate the situation.

Expanded Program Jurisdiction Report

As has been described in Chapter III, the majority of the CRM Program authorities and actions will be focused on the primary zone. After a year or two of program implementation, it may become evident that the goals of the proposed legislation would better be achieved if certain portions of the CRM Program were extended to the secondary zone. The CRM Legislation, therefore, instructs OCP, within two years after the effective date of the Legislation, to prepare and submit to the Governor and Executive Council and to the General Court, a report and recommendations concerning the need, if any, to geographically extend the CRM Program. Specifically, the report will address the following program authorities and actions of OCP:

. Approval of major developments located in the primary zone;

. Approval of medium and low priority uses of areas of particular concern in the primary zone;

. Review of amendments or variances to municipal land and water use controls in the primary zone;

. Review and approval, if OCP deems necessary and on a case-by-case basis, of major development proposals throughout the coastal zone; and

. Administrative grants to municipalities affected by any proposed change in program jurisdiction.

Areas for Preservation or Restoration Report

The CRM Program contains a procedure whereby specific areas may be designated for preservation or restoration for their conservational, recreational, ecological or aesthetic values. These areas must already be APC's in whole or in part in the primary zone and have special features such as rare or interesting flora or fauna, unusual geologic formation, outstanding scenic value or significant value to wildlife. Specific criteria and the formal

designation procedures for adopting areas needing preservation and/or restoration shall be made by the state planning agency within two years following the effective date of the CRM Legislation. The CRM Program has completed a preliminary plan which identifies these areas, their ownership, and valuation, if privately owned, with recommendations for appropriate future use and priority of purchase if necessary.

Energy, Shoreline Access, and Shoreline Erosion Planning Process Report

Recent amendments to the Federal Coastal Zone Management Act have placed additional planning requirements on the CRM Program. Specifically, the CRM Program must contain a planning process for:

. Anticipating and managing the impacts from energy facilities likely to be located in, or which may significantly affect, the coastal zone;

. The protection of, and access to, public beaches and other public coastal areas of ecological, recreational, historical, aesthetic, or cultural value; and

. Assessing the effect of tidal shoreline erosion, and studying and evaluating ways to control or lessen the impact of such erosion and to restore areas adversely affected by such erosion.

The OCP anticipates having these elements completed by March, 1980.

Coastal Resources Studies

The effective management of any natural resource requires the continual updating of inventory data and the latest state-of-the-art research data regarding resource use impacts. The OCP, therefore, is directed by the proposed legislation to conduct, encourage, and collect and disseminate the results of studies relating to the management of coastal resources.

CHAPTER 7

CHAPTER VII. USES OF GREATER THAN LOCAL CONCERN AND THE NATIONAL INTEREST

Many uses in New Hampshire's coastal zone provide services and benefits to citizens of more than a single municipality and to the Nation. Beaches provide recreational benefits to State residents and out-of-state visitors; oil brought in through the Port of Portsmouth is used to heat homes and businesses throughout New Hampshire; Pease Air Force Base contributes to the national security. The regional and national benefit that is provided by these uses is important to the long-term viability and standard of living of the seacoast area, the State, the New England Region, and the Nation. In a growing Nation of interdependent states, it is important that uses of regional and national benefit are given an adequate and thorough consideration for inclusion in the CRM Program. It is equally important to include mechanisms to assure that such uses are not arbitrarily restricted or excluded from the coastal zone. The interest in preventing the arbitrary exclusion of uses of regional or national benefit does not mean that there is a corollary interest in unreasonably burdening a municipality with uses which cause undesirable economic, social or environmental impacts. To locate a facility without regard to these factors could prove to be a long-term detriment to the municipality and the region as a whole. The discussion below will deal first with the program policies and mechanisms regarding arbitrary exclusions or restrictions; and secondly with the program considerations of uses in which there may be a national interest.

PREVENTION OF ARBITRARY EXCLUSIONS OR RESTRICTIONS

Existing State Law

Under RSA 541, "Rehearings and Appeals in Certain Cases," an individual who is directly affected by a decision of a State agency may request a rehearing and appeal ultimately to the State Supreme Court, on the grounds that the decision is "unlawful or unreasonable."

Under RSA 31:62, municipal zoning must be based on the "reasonable consideration of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land." Furthermore, any person directly affected by a municipal zoning decision may request a rehearing (RSA 31:74) and may appeal that decision to the Superior Court on the grounds that the decision is "illegal, unjust or unreasonable" (RSA 31:77). Since all of the coastal zone municipalities have zoning ordinances, they are subject to these requirements.

CRM Program

The proposed legislation stipulates that no decision of any state, substate regional or local governmental agency, including OCP, can arbitrarily exclude or restrict any land or water use in the coastal zone which is of greater than local concern. This includes uses with a national interest. This prohibition provides for judicial relief to any person directly affected on the grounds that a governmental decision was arbitrary; OCP would have no direct role in this mechanism other than in those cases where it is a defendant.

The proposed legislation provides the following criteria to assist in the determination of "arbitrariness:"

. All of the following must be present:

- the potential exists for the use to provide benefits or services to citizens of more than a single municipaltiy;
- an action has taken place, or is taking place, which prevents or restricts the potential benefits of the use from extending beyond the boundaries of the municipality or municipalities in which the use is proposed to be located; and
- there is no alternative location within the State for the use which is reasonably similar in terms of physical size, land and water capabilities, availability, and costs of acquisition, development and operation.

. The decision to deny a development is not arbitrary if it is based upon reasonable considerations including findings of fact, of the suitability of the area for the use, or of the natural capability of the area for the use; or upon a binding municipal referendum vote specifically provided by law for the siting of oil refineries in towns (RSA 31) and cities (RSA 47), for amendments to municipal zoning ordinances (RSA 31), and for airport developments in towns (RSA 429).

The above stated use of legislatively provided municipal referenda in decisions on development proposals is consistent with a recent U. S. Supreme Court decision on this subject. In City of Eastlake v. Forest City Enterprises,[1] the court held that "as a basic instrument of democratic government, the referendum process does not, in itself, violate the Due Process Clause of the Fourteenth Amendment...." Furthermore, the court found that a referendum was not an unconstitutional delegation of legislative authority by the State (Ohio in this case); all power derives from the people, who may

[1] Citation 416 U. S. at 9, decided 6/21/76

delegate it to a legislature or retain it.

NATIONAL INTEREST

The Federal Coastal Zone Management Act, as amended, contains significant requirements affecting the relationship between the coastal states and the Federal government in land and water resource use in the Nation's coastal areas. The main objective of State-Federal interaction continues to be the identification of the national interest in coastal resources, and its incorporation in the CRM Program. The responsibility for articulating the national interest rests with the Federal government. The Congress and the Executive Branch, through legislation, executive order, and programs, express and represent the interests of the entire Nation. Federal agencies, therefore, generate national interest information for consideration by the coastal states.

The CRM Program clearly recognizes the value of such information to the State's program and to the Nation as a whole. Consequently, the CRM Program has made and will continue to make every effort to solicit information from all interested Federal agencies, to utilize the information to the greatest possible extent, and to inform the Federal agencies of the status of the CRM Program.

Informational Input During Program Development

Beginning in April of 1975 and continuing to the present, OCP has formally contacted 55 Federal agencies and requested information regarding agency missions and perception of the national interest relative to the New Hampshire coastal zone. Forty-seven agencies have responded (See Figure 7-1).

The interests of Congress regarding coastal resources were extracted from appropriate pieces of Federal legislation:

- Clean Air Act, as amended in 1977 (42 USC 1857 et. seg.)
- Deepwater Port Act of 1974 (33 USC 1501 et seg.)
- Department of Energy Organization Act of 1977 (P.L. 95-91)
- Disaster Relief Act of 1974 (42 USC 5121 et seg.)
- Endangered Species Act of 1973 (P.L. 93-205)
- Federal Water Pollution Control Act, as amended in 1977 (P.L. 92-500)
- Fishery Conservation and Management Act of 1976 (16 USC 1801 et seg.)
- Flood Disaster Protection Act of 1973 (P.L. 93-234)
- Mining and Minerals Policy Act of 1970 (P.L. 91-631)
- National Environmental Policy Act of 1969 (P.L. 91-190)
- National Flood Insurance Act of 1968.

CRM Program Consideration of Facilities With a Potential National Interest

The discussion below deals with broad categories of land and water uses, and their associated facilities, for which the CRM Program recognizes there may be a national interest in planning for and siting of such facilities. The following sources were used to generate national interest information:

* Federal laws and legislation
* Presidential policy statements and executive orders
* Federal agencies consultation (as identified in Figure 7-1)
* Plans, reports and studies from Federal, State or interstate agencies.

Also discussed below are the status of such uses and facilities in the coastal zone, and the manner in which they have been considered during the development of the CRM Program.

Figure 7-1
FEDERAL CONSULTATION

Federal Department/Agency Contacted (location) - Agency Representative Date of First Contact	RESPONSE				
	General	National interest information	Agency mission information	Further coordination not necessary	Directed to another agency
Council on Env. Qual. (Wash. D.C.) - K. Gillman. 4/75				X	
Dept. of Agri./Office of Intergovt. Affairs (Wash. D.C.) - A. Freeman. 4/75				X	X
Dept. of Agri./Soil Conservation Service (Wash. D.C.) - R. Sampson. 3/76					
Dept. of Agri./Soil Conservation Service (Durham, N.H.) - L. Porter. 4/75		X	X		
Dept. of Agri./National Forest Service (Portsmouth, N.H.) - K. Johnson. 4/75		X	X		
Dept. of Commerce/Econ. Dev. Admin. (Philidelphia, P.A.) - J. Curran. 8/75	X				
Dept. of Commerce/Econ. Dev. Admin. (Concord, N.H.) - N. Cannon. 10/76					
Dept. of Commerce/Maritime Admin. (New York) - J. McShane. 8/75		X	X		
Dept. of Commerce/National Marine Fisheries Service (Gloucester, MA) - C. Mantzaris. 4/75		X	X		
Dept. of Commerce/Office of Hydrology (Silver Springs, MD) - R. Kresge. 4/75					
Dept. of Commerce/Office of Minority Bus. Enterprises (New York) - N. Downing. 8/75					
Dept. of Defense/Air Force/Installations and Logistics (Wash. D.C.) - L. Turner. 4/75				X	X

Figure 7-1
FEDERAL CONSULTATION
page 2

Federal Department/Agency Contacted (location) - Agency Representative Date of First Contact	RESPONSE				
	General	National interest information	Agency mission information	Further coordination not necessary	Directed to another agency
Dept. of Defense/Air Force/Civil Engineering (Wash. D.C.) - L. Dominguez. 4/75				X	X
Dept. of Defense/Air Force/Civil Engineering (Atlanta, GA) - Cpt. Gray. 11/75					
Dept. of Defense/Air Force/S.A.C. Headquarters (Offutt AFB, NB) - D. Jansing. 6/77		X			
Dept. of Defense/Air Force/Pease AFB (Portsmouth, N.H.) - G. Kraus. 4/75		X	X		
Dept. of Defense/Army/Corps of Engineers (New York) - (not designated by Army). 2/78		X			
Dept. of Defense/Army/Corps of Engineers (Waltham, MA) - G. Blodgett. 4/75		X	X		
Dept. of Defense/Navy/Office of the Secretary (Wash. D.C.) - J. Bowers		X		X	X
Dept. of Defense/Navy/First District (Boston, MA) - Cdr. Engle. 7/75		X	X		
Dept. of Defense/Navy/Portsmouth Naval Shipyard (Kittery, ME) - Cpt. Jones. 11/74	X				
Dept. of Health, Ed., & Welfare/Regional Admin. (Boston, MA) - D. Boyle. 4/75	X				
Dept. of Housing and Urban Development/Regional Admin. (Boston, MA) - A. Tonini. 4/75		X	X		
Dept. of Housing and Urban Development/Flood Insurance Admin. (Boston, MA) - E. Thomas. 3/76		X	X		

Figure 7-1
FEDERAL CONSULTATION
page 3

Federal Department/Agency Contacted (location) - Agency Representative Date of First Contact	RESPONSE				
	General	National interest information	Agency mission information	Further coordination not necessary	Directed to another agency
Dept. of the Interior/Regional Admin. (Boston, MA) - B. Ryder. 4/75		X	X		
Dept. of the Interior/Bur. of Land Mng./Regional Office (Silver Spring, MD) - R. Arndt. 3/78	X				
Dept. of the Interior/Bur. of Land Mng./OCS Office (New York) - R. Barnett. 12/75		X	X		
Dept. of the Interior/Bur. of Mines (Newmarket, N.H.) - W. Barton. 3/76		X	X		
Dept. of the Interior/Fish and Wildlife Service (Newton Corner, MA) - R. Andrews. 4/75		X	X		
Dept. of the Interior/Fish and Wildlife Service (Concord, N.H.) - B. Currie. 3/76	X				
Dept. of the Interior/Geological Survey (Reston, VA) - R. Shoen. 5/76		X	X		
Dept. of the Interior/Geological Survey (Boston, MA) - J. Baker. 2/77	X				
Dept. of the Interior/Geological Survey (Concord, N.H.) - C. Hale. 10/75	X				
Dept. of the Interior/Heritage Conservation & Resources Service (Philidelphia, PA) - R. Gift. 4/75		X	X		
Dept. of the Interior/National Park Service (Boston, MA) - J. Benjamin. 3/76	X				
Dept. of Transportation/Regional Office (Boston, MA) - Rear Adm. W. Schwob. 4/75		X	X		

Figure 7-1
FEDERAL CONSULTATION
page 4

Federal Department/Agency Contacted (location) - Agency Representative Date of First Contact	RESPONSE				
	General	National interest information	Agency mission information	Further coordination not necessary	Directed to another agency
Dept. of Transportation/Coast Guard (Boston, MA) - Lt. Cmd. K. Matthews. 4/75		X	X		
Dept. of Transportation/Fed. Av. Admin. (Burlington, MA) - R. Stone. 12/75	X				
Dept. of Transportation/Fed. Highway Admin. (Albany, N.Y.) - R. Kirby. 4/75	X				
Dept. of Transportation/Fed. Highway Admin. (Concord, N.H.) - H. Hodgdon. 11/76	X				
Dept. of Transportation/Fed. Railroad Admin. (Philadelphia, PA) - H. Levine. 12/76					
Dept. of Urban Mass Transportation Admin. (Cambridge, MA) - regional director. 1/78					
Energy Research & Dev. Admin. (Wash. D.C.) - J. Swinebroad. 4/75		X	X		
Energy Research & Dev. Admin. (Argonne, IL) - L. Banahan	X				
Environmental Protection Agency (Boston, MA) - B. Hague. 4/75		X	X		
Fed. Energy Administration (Boston, MA) - P. Fairbank. 4/75		X	X		
Fed. Maritime Comm. (Wash., D.C.) - D. Lenehan. 2/77			X	X	
Fed. Maritime Comm. (New York) - J.Barken. 1/77				X	
Fed. Power Comm. (Wash., D.C.) - C. Shuster. 12/76		X	X		

Figure 7-1
FEDERAL CONSULTATION
page 5

Federal Department/Agency Contacted (location) - Agency Representative Date of First Contact	RESPONSE				
	General	National interest information	Agency mission information	Further coordination not necessary	Directed to another agency
Fed. Power Comm. (New York) - M. Inwald. 4/75		X	X		
Fed. Regional Council of New England (Boston) - R. Michaud. 3/76	X				
General Services Administration (Boston, MA) - B. James. 4/75		X	X		
Interstate Commerce Comm. (Boston, MA) - R. Abare. 5/76					
Nuclear Regulatory Comm. (Wash., D.C.) - A. Robart 5/76		X	X		
Water Resources Council (Wash., D.C.) - F. Lanzetta. 4/77	X				

Source: Office of Comprehensive Planning, 1978.

National Defense. The CRM Program recognizes the paramount importance of national defense. A major military installation, Pease Air Force Base, is located in the coastal zone. Due to the existence of national defense facilities in the coastal zone, the establishment of new or expanded facilities for national security reasons remains a possibility. The CRM Program excludes from its jurisdiction existing Federally owned or leased land and facilities.

If specific proposals for new or expanded defense facilities are made, the New Hampshire program will not seek to question the national security justification. New Hampshire will make every effort, however, to ensure maximum practicable conformance with the CRM Program by assisting the Department of Defense in investigating alternative sites and mitigation methods. It is New Hampshire's understanding that defense agencies shall conform to New Hampshire's Coastal Resources Management Program to the maximum extent practicable. Federal consistency mediation procedures will be used as necessary.

Energy Production and Transmission. The most useful statement of the national interest in energy is found in the National Energy Plan issued by the President on April 29, 1977. The overriding objectives for the United States, as discussed in this report, are:

- as an immediate objective that will become even more important in the future, to reduce dependence on foreign oil and vulnerability to supply interruptions;
- in the medium term, to keep U.S. imports sufficiently low to weather the period when world oil production approaches its capacity limitation; and

- in the long term, to have renewable and essentially inexhaustible sources of energy for sustained economic growth. (Plan Overview, p. 1X).

The salient features of the National Energy Plan are:

- conservation and fuel efficiency,
- national pricing and production policies,
- reasonable certainty and stability in Government policies,
- substitution of abundant energy resources for those in short supply; and
- development of nonconventional technologies for the future (Plan Overview, pp IX-X).

The New Hampshire coast already accommodates a variety of energy related activities. Based on a review of coastal energy facilities, several large power plants in the coastal zone have been indentified including a nuclear power plant under construction in the town of Seabrook. The Port of Portsmouth is the site for several marine terminals, an LPG facility and a small refinery. Only energy facilities which meet the thresholds for Major Developments as described in Chapter III will be considered to have a potential national interest. Furthermore, marine dependent industries, including energy facilities, which require access to coastal waters will be encouraged in the port area and identified as Areas of Particular Concern (APC).

The final Energy Facility Planning Process required under Section 305 (b) (8) of the Federal Coastal Zone Management Act will provide additional information on energy facilities in which there may be a national interest.

Recreation. The potential national interest in recreation facilities is best determined through review of the Nationwide Outdoor Recreation Plan, the Historic Preservation Act, the Land and Water Conservation Fund Act and the Statewide Comprehensive Outdoor Recreation Plan. Some of the major objectives identified through this review include the recognition that: recreation should be an equal among competing uses of the coastal region; high quality recreational opportunities should be provided to all citizens while protecting the coastal environment; and public recreation opportunities should be increased in high density areas.

In New Hampshire's seacoast, recreation constitutes a major industry and opportunity. Public beaches, state parks, and public mooring areas all provide recreational opportunities to New Hampshire citizens and out-of-state visitors. In response to this situation, recreational resources such as beaches, historic districts and designated scenic areas are identified as Areas of Particular Concern for New Hampshire. However, only major public recreational facility proposals will be considered to have a potential national interest.

Transportation. The potential national interest in transportation is best determined by reviewing the Department of Transportation Act and the Coast Guard, Primary Duties (14 USC 2). In reviewing this material, the major objective in transportation appears to be to provide fast, safe, efficient and convenient access via one or more modes of transportation for the movement of people, goods and services to, from, and through the coastal region.

In New Hampshire the Port of Portsmouth and Interstate 95 are the only transportation facilities in which there may be a national interest. The land bordering the port area has been identified as an APC, where commerce and industry which require access to public waters will be given priority.

Furthermore, the CRM Program staff will work closely with the agencies responsible for navigational aid and safety. The CRM Program staff will also work with the relevant agencies in the siting, expansion, or construction of interstate highways.

Future plans to develop transportation facilities must be balanced with other potential national interests in wetlands and resources. The N. H. program will work with the relevant transportation agencies to identify the best sites and ensure that all reasonable mitigation methods are employed.

Regional Waste-Water Treatment Plants. The potential national interest in regional waste-water treatment plants is best determined by consulting the Federal Water Pollution Control Act of 1972 and amendments. The objective for these treatment plants identified by this review is to provide adequate funds for sewage treatment facilities so that the pollution of the Nation's waters can be abated.

The New Hampshire program recognizes that adequate sewage treatment facilities may be needed in the coastal zone as a part of the program's support of the attainment of national water quality goals. Under the CRM Legislation, the program will review and approve all plans and capital budgets for the construction of waste treatment facilities.

The development of regional water treatment plants must be balanced against the national interests which may exist in wetlands, recreation, floodplains and living marine resources in that treatment plants and outfalls are to be sited so as to minimize potential adverse effects on beaches and shellfish and so as to minimize the growth-inducing effects caused by providing sewer services in floodplains and wetlands.

Resources with a Potential National Interest

As with certain broad categories of land and water uses which may be in the national interest there are generic categories of resources which

also may be in the national interest. In the consideration of this interest the following sources were used:

* Federal laws and regulations
* Presidential policy statements and executive orders
* Federal agencies
* Plans, reports and studies from Federal, State, or interstate agencies.

Water and Air. The New Hampshire CRM Program incorporates by reference the requirements of the Federal Water Pollution Control Act and Clean Air Act. These standards will be maintained or achieved through the issuing of State and Federal air emissions and waste water discharge permits.

Wetlands. The national interest for the protection of wetlands is contained in Section 404 of the Federal Water Pollution Control Act, the National Environmental Policy Act of 1969, and the President's May 24, 1977 Executive Order #11990 on the Protection of Wetlands. The New Hampshire CRM Program recognizes the importance of wetlands for habitat and food sources, for waterfowl and aquatic life and other natural functions. All tidal wetlands have been identified as APCs in the CRM Legislation and use priorities have been assigned. Permits to dredge and fill these wetlands will be granted only if an applicant can demonstrate an overriding public benefit.

Endangered Flora and Fauna. The Endangered Species Act of 1973 (P.L. 93-205) identifies the national interest in endangered flora and fauna. Important habitats with outstanding or unique flora and fauna in New Hampshire's coastal zone have been identified as APCs in the CRM Legislation. Most of these areas have also been preliminarily identified as Areas for Preservation and Restoration and slated for possible acquisition or easement.

Floodplains and Erosion Hazard Areas. The major objectives of national interest in these areas is to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains, as described in the following legislation: Flood Disaster Protection Act; National Flood Insurance Act of 1968; Water Resources Development Planning Act of 1974; and the President's May 24, 1977 Executive Order #11988 on Floodplain Management.

In New Hampshire the significance of floodplains has been most recently demonstrated in the blizzard of February, 1978 when $14 million in damages resulted to roads and breakwater, residential and commercial structures. The New Hampshire program has identified floodplains as APCs and the minimum standards of the regular program of the National Flood Insurance Program will be applied in all coastal floodplains.

Barrier Island and Beaches. All coastal beaches and sand dunes are APCs in the New Hampshire program. Use priorities will ensure that the natural and recreation values of beaches and sand dunes will be protected. In considering the national interest in barrier beaches the same documents as identified in the "Floodplain" section were consulted.

Historic and Cultural Resources. The major national interest objectives to protect federally designated historic and archaeological sites and to consider cultural resources in EIS assessments of proposed activities are described in: the Antiquities Act of 1906; Historic Sites Act of 1935; Archaeological and Historical Preservation Act of 1974; National Historic Preservation Act of 1966; and, National Environmental Policy Act of 1969. In New Hampshire's coastal zone, areas of significant cultural and historical values are identified as APCs for the CRM Program. Use priorities and other regulations will ensure that the integrity and value of these areas are maintained.

Wildlife Refuges and Reserves. In considering the national interest in Wildlife Preserves, the Federal Aid to Wildlife Restoration Act of 1938 was consulted. Presently there are no Federally owned refuges in the New Hampshire coastal zone. However, the presence of feeding and breeding areas for waterfowl or birds dependent on coastal resources is one of the criteria used in identifying the APC category, "other unusual natural areas." Use priorities and other management techniques will be used to maintain the quality of the wildlife areas.

Minerals. As identified in the Mineral Leasing Act of February 25, 1920, the Bureau of Mines, and U.S. Geological Survey, national interest in minerals and mineral extraction includes stimulating private industry, providing for the Nation's mineral needs as best protects the public interest and providing scientific and technical assistance in defining the Nation's mineral resources.

In New Hampshire's coastal zone onshore and offshore sand and gravel deposits have been identified as APCs and appropriate use priorities have been assigned in the CRM Legislation. However, onshore and offshore sand and gravel deposits also serve such natural functions as ground water recharge areas and beach replenishment. The use of these mineral deposits will be managed to ensure that these natural functions are not impaired.

Prime Agricultural Lands and Forests. There are no agricultural lands or forests of national significance in the New Hampshire coastal zone. For this reason, the national interest in these areas, as cited in the Soil Conservation Act of 1935, Watershed Protection and Flood Protection Act of 1955, and the Food and Agricultural Act of 1962, are not applicable.

Living Marine Resources. The national interest in conserving, enhancing, and managing commercial fishing, strengthening the contribution of marine resources to recreation, and developing and protecting marine resources and wildlife habitats are addressed in the Fishery Conservation and Management Act of 1976, the U.S. Department of Commerce publication Marine Fisheries Program for the Nation, and the Congressional Research Services' Compilation of Federal Laws Relating to Conservation and Development of Our Nation's Fish and Wildlife Resources, Environmental Quality, and Oceanography.

Continued Consideration of the National Interest

Throughout the development of New Hampshire's CRM Program it has been the State's policy not to exclude or endorse any category of land or water use activity, including those with a potential national interest, in the coastal zone as a whole. Instead, the intent of the CRM Program is to review and manage specific developments and plans as they are proposed on a case by case basis. Consequently, the Program does not now take a position regarding the national interest in any particular category of land or water use activity, including those discussed in the previous section. However, during the implementation of the CRM Program, several management mechanisms discussed in Chapter VI will assure that the continued consideration of the national interest will occur, on a case by case review, for any facility or resource use proposal discussed in the previous section as potentially satisfying a national need. The relationship between these mechanisms and the five categories of facilities with a potential national interest is summarized in Figure 7-2 and discussed below.

State Coastal Development Approval. Specific types of development activities, listed in Chapter III, must receive final approval

Figure 7-2
Mechanism for Continued Consideration
of Potential National Interests by
the CRM Program

CATEGORY	ASSOCIATED FACILITY	CRM PROGRAM * 1 2 3 4 5	OCP MEMBERSHIP ON RELEVANT STATE BODIES
NATIONAL DEFENSE	Military bases		
ENERGY PRODUCTION AND TRANSMISSION	Support facilities for OCS oil and gas power plants and energy facilities storage and transmission	x x x x x x x x x x x x	Special Board; WSPCC Bulk Power SSEC; Energy Facility EC Bulk Power SSEC; Energy Facility EC
RECREATION	Large and outstanding public beaches, parks and recreational waterfronts	x x	Special Board
TRANSPORTATION	Interstate highways Ports Aids to navigation, including Coast Guard stations	x x x x x x	Special Board Special Board, WSPCC
REGIONAL WASTE-WATER TREATMENT PLANTS	Sewage treatment plants; desalinization plants	x x x x x	Special Board, WSPCC

* KEY
1. State Coastal Development Approval
2. State Coastal Plan Approval
3. Municipal Coastal Plan
4. OCP Membership on Relevant State Approval Board
5. Arbitrary Exclusion Prohibition

* KEY
Special Board: administrative body of the Water Resources Board delegated responsibility for dredge and fill permitting.
WSPCC: Water Supply and Pollution Control Commission.
Bulk Power SSEC: Bulk Power Supply Siting Evaluation Committee coordinates its activities with the Public Utilities Commission.
Energy Facility EC: Energy Facility Evaluation Committee coordinates its activities with the Public Utilities Commission.

Source: N.H. Office of Comprehensive Planning, May, 1978.

from OCP. As Figure 7-2 indicates, most of the associated facilities with a potential national interest would require this approval. In making its decision of approval or disapproval, OCP will be required by its procedural

regulations to consider and address, among other things, the following national interest factors:

1. Coastal dependent nature of facility;
2. The potential demand for the service or benefit to be provided by the activity.
3. The effect on the national interest in resource conservation and protection by the facility; and
4. Configuration, capability, and size of State coastal zone;

Through the Intergovernmental Coordination procedure, Federal agencies with an interest in the facility or the resource affected will be afforded an opportunity to articulate their perception of the national interest. Such agencies should include in their review and comment:

- An assessment of available alternatives; e.g. an equitable distribution of national needs among coastal states, particularly regarding those activities which are dependent upon a location in the coastal zone.
- Data addressing the four national interest consideration factors listed above for OCP.

State Coastal Plan Consistency Determinations. The OCP will make consistency determinations for all proposed developments, captial improvement, comprehensive and functional plans which might affect the coastal zone.

Many such plans may involve some of the facilities listed in Figure 7-2. In those instances, OCP will procede with a national interest determination in the same manner as described above.

Municipal Coastal Plans. The CRM Legislation prohibits OCP from approving any development proposal which has been disapproved by a municipality when specifically authorized by law as in residential and non-residential site plan approval; zoning variance or special exception; and oil refinery and airport referenda. Thus, if disapproved at the local level, a development proposal involving a facility with a potential national interest might not receive national interest consideration by OCP during the State Coastal Development Approval process.

To rectify this situation, the Municipal Coastal Plans will include a requirement that the relevant coastal municipality, prior to its final decision, must inform OCP when any development proposal under its review meets any of the minimum definitional criteria for major development (any development not meeting these minimum criteria would be of such a low magnitude as to probably not possess a national interest). The OCP must then submit national interest information for mandatory consideration by the locality in approving or disapproving the proposals, should OCP determine there may be a national interest in the development proposal.

OCP Membership on Relevant State Approval Bodies. In addition to local disapprovals of development, OCP is prohibited from approving any development proposal which has been disapproved by another State agency which is specifically authorized by law to do so (e.g. Water Supply and Pollution Control Commission approval authority over sewage system and effluent discharges). Thus, as is the case at the local level, a development proposal disapproved by another State agency, and which involves a facility with a potential national interest, might not otherwise receive national interest consideration by OCP during the State Coastal Development Approval process.

This situation will be avoided by virtue of OCP's membership on several State approval bodies which collectively are authorized to approve all of the private developments listed in Figure 7-2. Specifically, the Director of OCP, or his designee, is a voting member of (see also Appendix F):

- the Energy Facility Evaluation Committee;
- the Bulk Power Supply Facility Site Evaluation Committee;
- the Special Board of the Water Resources Board; and
- the Water Supply and Pollution Control Commission.

Whenever these agencies deal with a development which will affect the coastal zone, the Director or his designee will be required by OCP operating regulations under the CRM Program to bring the same national interest consideration factors to the agency as would appear in the CRM Program State Coastal Development Approval process.

Arbitrary Exclusion Prohibition. In spite of the above four mechanisms to ensure adequate consideration of the national interest in the siting of facilities, the situation may occur where a development proposal is of such a type or magnitude that it would not be subject to any CRM Program authority as exercised by OCP or local government through Municipal Coastal Plans, and yet possesses a national interest (such a situation is extremely unlikely; but as a possibility, it deserves discussion). By not being subject to the Program, the proposal might not receive adequate national interest consideration. Should this occur, and should the proposal be disapproved, the applicant could possibly receive satisfaction through the State judicial process on the grounds that the decision was an arbitrary exclusion of a use of regional benefit, as defined in the CRM Legislation, and discussed in the beginning of this chapter.

CHAPTER 8

CHAPTER VIII: FEDERAL CONSISTENCY

The use of land and water in the coastal zone is affected by Federal, as well as State and local decisions. In recognition of this fact, Section 307 of the Federal Coastal Zone Management Act (FCZMA) requires that any Federal activity which will affect a state's coastal zone must be conducted in a manner consistent with the state's approved management program. Specifically, these activities are:

- Federal licensing and permitting
- OCS Plan approval;
- Federal assistance grants to state and local governments; and
- All other Federally conducted or supported activities, including development projects.

Furthermore, the state coastal zone management agency is given the authority and responsibility to make the consistency determination regarding licensing and permitting, OCS Plan approval, and assistance grant activities. In New Hampshire, this authority will be given to OCP by the CRM Legislation. Consistency determinations regarding these three types of Federal activities will be made by OCP as a part of the State Coastal Development Approval process described in Chapter VI. Only those activities otherwise subject to CRM Program authorities will be reviewed by OCP for such consistency determinations. If determined by OCP to be inconsistent, these activities cannot be approved by the cognizant Federal agency unless the Secretary of Commerce, upon appeal or her own initiative, determines the activity to be consistent with the objectives or purposes of the FCZMA or is necessary in the interest of national security.

The consistency determination regarding the fourth type of Federal activity, Federal development projects, will be made by the cognizant Federal agency, with review and comment opportunities extended to the affected

coastal state. The review and comment authority given to OCP regarding all other Federally conducted or supported activities, including Federal development projects, will be carried out by means of the CRM Intergovernmental Coordination procedure which is also discussed in Chapter VI.

For each of the four types of Federal activities subject to Federal consistency, OCP has developed a list of activities which, upon first analysis, might appear to significantly affect the State's coastal zone and should be subject to a consistency determination.OCP expects this list, found in Appendix K, to be substantially revised based on the comments received from Federal agencies.

LICENSING AND PERMITTING

The FCZMA* requires that no Federal agency can issue a license or permit for an activity determined by OCP to be inconsistent with the CRM Program. Federal regulations, 15 CFR 930.51, define a "license or permit" as any authorization, certification, approval, or other form of permission, which any Federal agency is empowered to issue to an applicant. This includes all Federal leases with the exception of OCS leases issued under the Federal Outer Continental Shelf Land Act (see "OCS PLANS" below). Also excluded from this definition are Federal licenses issued to another Federal agency (see "FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS" beginning on page 8-7). The OCP is required to develop a listing of all Federal licensing and permitting activities, including those described in OCS plans, which significantly affect land and water uses in the State's coastal zone and which, therefore, would be subject to a consistency determination by OCP. The list appears in Appendix K (I), and is intended to be an administrative tool to ease the notification of applicants that their proposals require a consistency determination from OCP.

* Federal Coastal Zone Management Act

Federal licensing and permitting data were obtained from the numerous Federal agency statements received by OCP regarding their interest in our coastal zone. It is the intention of OCP to include in Appendix K (I). Federal licensing and permitting activities which occur within the coastal zone unless otherwise noted in the listing. It is also our intention to list each license or permit by its official title (e.g., the "Certification of Public Convenience and Necessity" issued by the former Federal Power Commission). Where data is not sufficient for such a listing, the statutory authority for the license or permit is noted. Lacking that information, the most accurate description of the license or permit is presented. It is hoped by OCP that, where necessary, the relevant Federal agencies will supply OCP with license and permit titles and statutory authorities during their review of and comment on this document.

Any applicant for a license or permit listed in Appendix K (I) is required by Federal regulations (15 CFR 930.57) to submit a Certificate of Consistency to OCP in conjunction with his application to the Federal agency. The OCP will also monitor Federal activity notifications (e.g., Office of Management and Budget A-95 review, National Environmental Policy Act environmental impact statement review) for any potentially relevant activities which do not appear in Appendix K (I). In such instances, the CRM Program will require an applicant for any Federal license or permit activity in the coastal zone, and not listed in Appendix K (I), to submit a Certificate of Consistency to OCP.

The applicant's Certificate of Consistency must be accompanied by a detailed description of the proposed activity and its effects on the coastal zone, plus information and data, in accordance with confidentiality and proprietary requirements, sufficient to support the consistency certifi-

cation. After receipt of the applicant's Certificate of Consistency and all necessary data, OCP is required by the FCZMA to accomplish its consistency determination "at the earliest practicable time," but no later than six months, after which its approval is presumed. In making its determination, OCP will evaluate the proposed activity on the basis of the permit approval criteria for State Coastal Development Approvals (see Chapter VI). All consistency determinations by OCP, including those for licensing and permitting activities, will be subject to the public notice and hearing requirements contained in the CRM Legislation.

OCS PLANS

Persons holding Federally-issued leases to submerged lands on the outer continental shelf (e.g. the Georges Bank) are required under the Federal Outer Continental Shelf Lands Act to submit to the U.S. Geological Survey for approval a plan, i.e. an OCS Plan, for the exploration for or development of oil and gas resources (see Appendix K (I)). Among other things, the OCS Plan must describe in detail those activities affecting a state's coastal zone and for which a Federal license or permit will be required. For activities in the New Hampshire coastal zone, the applicant must send a copy of the OCS Plan and a Certificate of Consistency for each activity to OCP for a consistency determination. The OCP will then proceed with a consistency determination as described above regarding "licenses and permits." When the applicant applies for the actual Federal license or permit, the cognizant Federal agency cannot issue the license or permit if OCP has not concurred with the applicant's consistency certification.

The FCZMA further requires that an applicant receiving OCP concurrence for Federal licensing and permitting activities described in an OCS Plan need not resubmit another Certificate of Consistency to OCP when he applies

to the Federal agency for the actual permit. At such time, however, the Federal regulations require the applicant to submit to OCP:

- certificate that the activity is identical to that described in the OCS Plan; and
- pertinent information regarding, or a copy of, the Federal license or permit application (e.g., Federal agency, application number and date, etc.) to allow OCP to monitor subsequent actions on the application should it so desire.

The purpose of this procedure is to inform OCP of Federal permit applications subsequent to the OCS Plan concurrence to prevent an applicant from receiving a Federal permit for an activity that was altered from that described in the OCS Plan, and which otherwise might be inconsistent with the CRM Program.

FEDERAL ASSISTANCE

Section 307 (d) of the FCZMA requires that any type of Federal assistance to a state or local government agency for a project affecting a state's coastal zone can be granted only after the state management agency determines the project to be consistent with the state's management plan. Federal regulations, 15 CFR 930.91, define "Federal assistance" as assistance provided under a Federal program to any unit of state or local government, or to any related public entity, through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other forms of financial aid, Examples of Federal assistance include: Soil Conservation Service grants for watershed protection and flood prevention; Economic Development Administration grants and loans for public works and development facilities; Army Corps of Engineers beach erosion control projects

Each coastal state's management program is encouraged by Federal regulations to contain a listing of Federal assistance activities upon which it wishes to make a consistency determination. The OCP believes that such a listing would be most useful in administering the Federal con-

sistency provisions dealing with these activities. Data on Federal assistance activities were obtained from Federal agency statements, and from the Catalog of Federal Domestic Assistance, as revised in November of 1976, published by the Federal Office of Management and Budget. A decision was then made by OCP as to which Federal actions had the potential to significantly affect the coastal zone; i.e. to cause significant changes in the quality, range of uses, or manner of use of coastal resources. Furthermore, these changes were considered in terms of the primary, secondary and cumulative effects on coastal resources.

The results are presented in Appendix K (II). Unless otherwise noted, Appendix K (II) refers to assistance actions to be located within the coastal zone. Numbers in parentheses appearing after a listed activity refer to the program numbers in the Catalog of Federal Domestic Assistance, as revised in November, 1976.

As required by Federal regulations, this listing will be provided to Federal agencies, to State and local agencies empowered to undertake Federally assisted projects in the coastal zone, to the State Coordinator of Federal Funds, and to the A-95 areawide clearinghouse for the coastal zone, the Strafford-Rockingham Regional Council. Subsequently, any applicant agency must notify the State and areawide clearinghouse (i.e. the State Coordinator of Federal Funds and the Strafford-Rockingham Regional Council respectively), utilizing the Office of Management and Budget Circular A-95 coordination process, of its intent to apply for Federal assistance for a project listed in Appendix K (II). The two clearinghouses must then ensure that OCP is given the opportunity to review the application and make a consistency determination.

SECRETARY OF COMMERCE APPELLATE AUTHORITY

Section 307 (c) (3) of the FCZMA* provides a procedure by which the Secretary of Commerce may find that a Federal license or permit activity, an OCS Plan, or a Federal assistance project, which OCP determines to be inconsistent with the CRM Program, may be Federally approved because the activity is consistent with the objectives or purposes of the FCZMA, or is necessary in the interest of national security. A more detailed discussion of this procedure can be formed in Federal regulations, 15 CFR 930 Subpart H.

FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

In addition to the above described regulatory mechanisms, the Federal consistency provisions of the FCZMA provide an explicit coordinative mechanism for what are termed "Federal activities." As defined in Federal regulations 15 CFR 930.31, "Federal activities" are any function performed by or on behalf of a Federal agency, with the exception of licensing and permitting activities, or Federal assistance activities (described above). The definition does, however, include Federal development projects; i.e. the planning, construction, modification, or removal of public works, facilities, or other structure, and the acquisition, utilization or disposal of land or water resources. Examples of Federal activities include: Federal agency activities requiring a license or permit from another Federal agency; Federal assistance to entities other than State or local governments, such as private interests; Federal leasing of submerged lands on the outer continental shelf for oil and gas exploration and development; development projects on military bases.

The FCZMA requires that each Federal agency conducting or supporting such an activity which will directly affect a state's coastal zone must

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* Federal Coastal Zone Management Act

undertake the activity in a manner which is, to the maximum extent practicable, consistent with the state's approvement management program. It will be the cognizant Federal agency that makes the consistency determination rather than OCP as is the case with Federal licenses, permits, OCS Plans, and assistance to State or local agencies. However, the FCZMA further requires that the Federal agency notify the state management agency, of the activity and allow a 90-day period for review and comment. In New Hampshire, this review and comment will be conducted by OCP and will utilize the CRM Intergovernmental Coordination procedure discussed previously in Chapter VI.

All Federal activities located within the State coastal zone are subject to Federal agency review to determine if the activity will "directly affect" the coastal zone. Federal regulations, 15 CFR 930 Subpart C, contain detailed criteria to assist Federal agencies in determining which of their activities directly affect a state's coastal zone. For example, any Federally conducted or supported development project to be located within the coastal zone is presumed to directly affect the coastal zone. Federal activities located outside the coastal zone (e.g. on excluded Federal lands, offshore on the outer continental shelf, landward of the coastal zone) are subject to the same review regarding affects on the coastal zone.

Appendix K (III) lists those Federal activities which the CRM Program staff believes will normally affect the State coastal zone. Data for this figure were obtained from Federal agency statements and the Catalog of Federal Domestic Assistance, as revised in November of 1976. A decision was then made by the OCP staff as to which Federal activities had the potential to significantly affect the coastal zone; i.e. to cause significant changes in the quality, variety of uses, or manner of use of coastal resources. Further-

more, these changes were considered in terms of the primary, secondary and cumulative effects on coastal resources. Unless otherwise noted, the listings in Appendix K (III) refer to activities to be located within the coastal zone, on excluded Federal property in the coastal zone (see Chapter I), and on excluded Department of Navy property associated with the Portsmouth Naval Shipyard in Kittery, Maine. Any numbers in parentheses appearing after a listed action refer to the program numbers in the Catalog of Federal Domestic Assistance, as revised in November of 1976.

Any activity listed in Appendix K (III) will automatically be subject to a consistency determination by the cognizant Federal agency. In addition, OCP will monitor the OMB Circular A-95 review process and the National Environmental Policy Act environmental impact statement review process for unlisted activities. Should an unlisted activity be discovered which OCP believes could affect the coastal zone, it will have a maximum of 45 days to inform the Federal agency, which must then respond with a consistency determination.

Following its determination, the Federal agency must notify OCP either that: 1) the proposed activity will not affect the State coastal zone and, therefore, no consistency determination is necessary; 2) the proposed activity will affect the coastal zone, and will be consistent with the CRM Program; or 3) the proposed activity will affect the coastal zone, but cannot be conducted in a manner consistent with the CRM Program. This determination must include detailed supporting data. Such notification must be provided to OCP at least 90 days before the activity reaches a decision stage likely to restrict the use of alternative measures to undertake the activity, unless the Federal agency and OCP agree to an alternate notification schedule.

There is no Federal requirement for the method of notification of OCP, and none has yet been established. There are two basic alternative

means of notification: 1) direct notification; or 2) use of an existing Federal intergovernmental coordination procedure (e.g., A-95 or EIS reviews) so long as it is modified or supplemented as necessary to meet the requirements of the FCZMA and Federal regulations for notification. During the forthcoming final year of CRM Program development, the CRM planning staff of OCP will consult with relevant Federal agencies to resolve this issue; the final decision rests with the Federal agency. The CRM Program would prefer direct notification. It is important to note that the lack of any agreed-upon method of notification, or the failure of the CRM Program to either list or monitor Federal activities, does not remove the requirement for Federal agencies to provide OCP with information regarding all Federal activities which significantly affect the State's coastal zone.

Following Federal agency notification of its consistency determination, OCP will have a 90-day period in which to agree or disagree. Disagreement by OCP will not obligate the Federal agency to halt action on its activity. The OCP, however, would have two options should the Federal agency not voluntarily halt the action. The OCP may request voluntary mediation services from the Secretary of Commerce, or may seek a temporary or permanent injunction through the Federal courts.

CHAPTER 9

CHAPTER IX. PUBLIC INVOLVEMENT AND PROGRAM COORDINATION

The CRM Program is committed to providing ongoing opportunities for public and government involvement during program development and implementation. Those public participation and government coordination activities which occurred during the development of the program are documented in Appendices M and N. Ongoing opportunities and mechanisms for public and government input throughout the implementation of the CRM Program, as discussed below, are established in the proposed CRM Legislation, required under existing State laws, or will be provided through the Program's public information efforts.

Existing State Public Information and Access Laws

The public is ensured the right to be heard and have access to all government decision-making processes, as required by State law. All rules, regulations, and management program decisions made by the OCP and coastal area governments are subject to sufficiently advertised public meeting and public hearing procedures, as mandated in the following New Hampshire State Statutes: RSA 541-A (ADMINISTRATIVE PROCEDURE ACT); RSA 541 (REHEARING AND APPEALS IN CERTAIN CASES); RSA 91-A (ACCESS TO PUBLIC RECORDS); RSA 31 (ZONING REGULATIONS); and, RSA 36 (PLANNING BOARDS.)

Proposed State CRM Legislation

Over and above existing processes, public participation and intergovernmental coordination is established in the proposed legislation through the following mechanisms: the CRM Advisory Council, OCP and municipal public meeting/hearing requirements and intergovernmental coordination requirements.

Coastal Resources Management Advisory Council. This Council, through its diversified membership, represents a variety of state, municipal, resource users, and public-at-large interests in the coastal area and statewide. The Council is composed of five members from the following interest groups:

- coastal zone economic development
- coastal zone recreation industry
- coastal zone conservation interests
- coastal zone municipal government
- statewide general public

Public Meetings/Hearings Required. Activities of OCP which are subject to the existing state statutory requirements regarding public meetings or hearings include: the promulgation of land and water use management standards; approval/denial decisions for those land and water use developments regulated by OCP; adoption of APC maps, and; approval/denial of Municipal Coastal Regulations. In addition, prior to State OCP review, the preparation and adoption of these Municipal Coastal Regulations are subject to local public review and input as required under existing State law for adoption of ordinances. Furthermore, certain changes in local land and water use controls or variances for new developments are subject to OCP review.

Specifically for geographic Area of Particular Concern (APC) Maps, the CRM Legislation requires that "OCP shall establish a procedure that shall provide for substantial participation by any interested persons relative to nomination, review, and comment during the development of said map" (CRM Legislation.) Furthermore, amendments to the maps are subject to public notice and public hearings.

Review and Comment Procedure. The CRM Legislation mandates that OCP establish a review and comment procedure. This review and comment procedure shall occur prior to OCP approval/denial on all development proposals, capital improvement, and plans subject to the provisions of the Legislation. This process will allow routine public and agency input prior to major decisions affecting the coastal zone. It will provide interagency coordination by establishing an effective mechanism for continuing coordination between OCP and affected local, regional, State, and Federal agencies.

Public Information Program

In order to inform, educate, and solicit public input throughout the program's implementation, the following ongoing public information activities will occur: media and public information releases; public meetings and workshops;ad hoc committee; legislative process; and other public information and participation activities as may be needed to ensure active public participation and understanding of New Hampshire's CRM Program.

Intergovernmental Coordination

The major mechanism for intergovernmental coordination in the implementation of the CRM Program is the "Review and Comment" procedure established in the CRM Legislation, as previously discussed. In addition to this procedure, OCP will continue to be active on the NERBC Task Force Committees and the Council

on Resources and Economic Development. The OCP may enter into service agreements with other agencies, as is necessary, in order to coordinate and utilize coastal related activities and studies conducted by other agencies. In addition, OCP will keep track of all coastal resource related agency reports which might be useful to the program.

Traceable Decision-Making Process

Of major importance to the CRM Program is its traceable decision-making process mandated by the proposed legislation and based upon formalized procedures. These procedures include the coordination of permitting mechanisms, review and comment procedures, time-tables for decision-making activities, public meetings, and the maintenance of records open to the public. Such a traceable decision-making process is critical if the public is to participate in coastal management decisions.

APPENDIX A

APPENDIX A

GUIDE TO COASTAL ZONE MANAGEMENT

306 PROGRAM REQUIREMENTS

(Meeting the Federal Requirements Index: A cross reference of the specific requirements of Section 306 of the CZMA with chapters of the New Hampshire CRM Program which describe how the program meets these requirements)

CZM Requirements 15 CFR Part 923, Section:	New Hampshire CRMP Document Chapter/Appendix	Legislation Ch. 271-B, Section:
.3(e) Policies	II B	B:1, pp 1, 2
.11 - .12 Uses Subject to Management	III	B:10, pp 25-28
.13 Uses of Regional Benefit	VII	B:15, pg 46
.14 Energy Facility Planning Process	VI, pg 22 L	
.21 Areas of Particular Concern	IV E	B:3, pp 6-9 B:11, pp 29-37
.22 Priorities of Uses	IV D	B:11, pp 29-34
.23 Further Designation of Areas of Particular Concern	IV, pg 3	B:11, pp 34-37
.24 Areas for Preservation or Restoration	IV, pg 20 VI, pp 21-22	B:11, VIII, pg 36
.25 Shorefront Access Planning	VI, pg 22 L	
.26 Shoreline Erosion/Mitigation Planning	VI, pg 22 L	
.31 - .34 Boundaries	I Q	B:8, pp 19-20

New Hampshire CRMP

CZM Requirements 15 CFR Part 923, Section:	Document Chapter/Appendix		Legislation Ch. 271-B, Section:
.41 Authorities	V	F, G, H, I	Entire Legislation, Specifically note B:5, pp 11-13
.42 Control Techniques			B:12, pp 38-41 (MCP)
- State Standards for Local Implementation			B:5
- Direct State Land & Water Use Control			B:10, pp 25-28 (SCAA, V)
- State Adm. Review w/approval authority	V, VI	J	B:14, pp 43-45 (IC)
.43 Authorities related to Uses of Regional Benefit	VII		B:15, pg 46
.44 Air and Water Pollution Control Requirements	VI, pp 11-12	J	B:10, pg 28
.45 Organizational Structure	V	R, S	B:5, pp 11-13 B:6, pp 14-17 B:7, pg 18
.46 Designated State Agency	V		B:5, pg 11
.47 Documentation			
.51 Federal-State Consultation	VII, IX	H, J, M, N	
.52 Consideration of National Interest	VII		B:1, VI b, pg 2
.53 Federal Consistency Procedures	VIII	K	B:14, III, pg 44
.55 Full Participation	IX	M, N	B:1, VI c, pg 2, B:6, pp 14-17 B:14, I c, pg 43 B:16, pg 47 B:17, pg 48
.56 Plan Coordination			B:1, IV and VI pp 1, 2
.57 Continuing Consultation	V, VI, IX		B:5, B:12, B:14, pp 43-45
.58 Public Hearings	IX	M, N	B:16, pg 47
.62 Environmental Impact Assessment		L	

APPENDIX B

A RESOLUTION

Relative to New Hampshire's Coastal Area

WHEREAS, the seacoast area of New Hampshire is a statewide asset; and

WHEREAS, this area provides employment, recreation and scenic enjoyment for thousands of New Hampshire residents and out-of-state visitors; and

WHEREAS, fuel and other important cargoes pass through the waters off the coast of this area to the Port of Portsmouth supplying some of the State's energy and supply needs as well as those of neighboring states; and

WHEREAS, exploration for oil and gas will commence later this year on the Outer Continental Shelf of George's Banks; and

WHEREAS, there may soon be intense growth pressures in this area which will affect the future of our coastal region; and

WHEREAS, the experience of other coastal states provides dramatic evidence that unplanned development can lead to urban decay, population flight, tax-base deterioration, unemployment, and related social problems; and

WHEREAS, the Congress has passed the Coastal Zone Management Act funding a program for the orderly management of growth in the seacoast areas of the United States; and

WHEREAS, land held in private ownership is a cornerstone of our economic system; and

WHEREAS, water and air are public trusts that should be protected, conserved and wisely used;

NOW, THEREFORE, BE IT RESOLVED, that His Excellency, Governor Meldrim Thomson, Jr. in concurrence with the Honorable Council recognize that the seacoast area of New Hampshire is a valuable asset to our entire state encourage all state agencies to cooperate fully with the Office of Comprehensive Planning in the development of a Coastal Zone Management program with the specific goal to:

Preserve, protect, develop and, where possible, restore or enhance the resources of the New Hampshire coastal area for this and succeeding generations;

Achieve the wisest and best balanced use of land, water and air resources of the seacoast area giving full consideration to economic and social development and to ecological, cultural, historic and aesthetic values; and

Integrate public policy relative to coastal area matters into a coordinated program for the State of New Hampshire.

AND, FURTHER, Be It Resolved that:

The principle of private ownership of property will be preserved.

The program shall address ways to guide economic growth but not to discourage it.

No land or water use shall be categorically excluded from the sea-coast area by administrative action.

Only those land and water uses having a potential for direct and significant adverse effects upon coastal waters shall be subject to management standards under the program, and then only after adequate due process procedures prescribed by law.

A direct and significant adverse effect must also be of such character that it is of concern to more than one municipality.

The land use provisions of the program shall focus on those areas closest to coastal waters.

The primary responsibilities for implementation of management standards shall remain at the local level.

The creation of a new major governmental agency to administer the coastal zone program should be discouraged.

The Governor and Council, on motion of Councilor Yeaton, and seconded by Councilor Streeter, unamimously adopted the above Resolution at their meeting on May 5, 1976

APPENDIX C

APPENDIX C

SUMMARY OF LAND AND WATER USE CAPABILITY/SUITABILITY ANALYSES

LAND USE CAPABILITY ANALYSES

One mechanism for managing land uses is through a land use capability analysis which is based on the proposition that the natural environment should significantly determine future land use. The natural factors of soil type, slope and surface water drainage are inventoried and individually evaluated for their ability to support general development. The results are then individually mapped on mylar sheets. By combining the mylars in an overlay process, four development capability classifications are defined which are based on the convergence of the three natural factor characteristics. The resulting four (4) land use capability classifications are summarized below:

- Area 1 (Excellent). Flat or gently undulating slopes; well drained soils and streams with excellent to good assimilative capacity will support industrial, commercial and residential development up to intense levels.

- Area 2 (Good). Flat or gently undulating slopes, some clayey soils or stony hardpan soils; streams with excellent to fair assimilative capacity. These combinations will support less intensive industrial, commercial and residential development.

- Area 3 (Fair). Slopes may range from flat to moderate steepness; soil conditions may range from sand and gravelly to seasonally wet and shallow to bedrock soils; stream assimilative capacity may range from poor to excellent. This classification includes some factors which make the areas suitable for light residential, small commercial activities, recreation or other non-intensive activities. Natural factors will preclude large industries and high density residential areas.

- Area 4 (Poor). These areas usually include floodplains, wetlands, steep slopes, highly erodible soils, ice contact deposits or prime agricultural soils. They fall into a category calling for resource protection and usually are also classified as areas of particular concern. They may support activities such as recreation, forestry, water supply, agriculture and wildlife management.

WATER USE CAPABILITY ANALYSIS

Unlike the land use capability analysis, the CRMP water use suitability analysis is not based totally on the proposition that the natural environment should significantly determine all future water use. Because of the paucity of detailed data on marine and estuarine environments, construction of a pure natural factor capability analysis is not yet possible.

The situation, therefore, demands a closer examination of existing uses to allow some level of determination of suitability. Implicit in this approach is the assumption that existing water uses to some extent account for both natural and economic factors. This is not to say that the decisions which result in the existing water uses are correct in terms of water resource development capability. Rather it is a recognition that the state of the art does not yet allow a more detailed methodology such as the McHarg-type analysis for land use capability.

Originally, it was felt that numerical indicators of use intensity and resource availability would be used whenever possible in naming suitablity classifications. It was soon evident, however, that numerical data was (except in isolated cases) either spotty, outdated, or non-existent. Assessing suitability became a more subjective problem.

The possibility of suitability classification on the basis of resource usage conflicts was also considered. However, subsequent evaluation revealed that all present or potential uses identified for inclusion in this analysis posed conflicts of multiple resource use with at least one other use, and little progress towards water use suitability classification could be made on this basis alone.

Finally, it was determined that a series of subjective parameters should be used in the determination of water use suitability, given the inventory data available. The parameters chosen represents the best estimate of key determinants of the suitability of coastal waters for supporting some or all of the diverse uses being considered.

Criteria chosen to separate New Hampshire coastal waters into suitability areas were the following:

a) Location and intensity of existing coastal and estuarine water uses;

b) Presence or proximity of marine and estuarine resources of value to the natural environment (e.g. salt marsh habitat, rocky shores habitat);

c) Existing land uses adjacent to these areas and capability of adjacent lands for supporting development;

d) Presence of marine and estuarine resources of potential value to man, either industrially, commercially or recreationally (including lobsters, finfish, snad and gravel, water depth and bottom type suitable for offshore structures);

e) Expected impact on coastal waters and adjacent land of possible future uses of coastal and estuarine areas either in, or in close proximity to, waters under New Hampshire control. This includes increased intensity of present uses as well as the introduction of new uses;

f) Presence of physical restrictions on development and use (shallow water depths, bridges, currents); and,

g) Existing water quality and subsequent limitations on water use.

Classifications extend beyond simple "development potential." They include an "intensity of use" component as well. It is felt that to be confined to development potential alone would result in great loss in generality of the suitability model.

It should be noted that the term "development" is applied to those uses requiring significant physical alterations to coastal waters and submerged lands beneath. This might include industrial uses such as sand and gravel dredging, the construction of mooring structures, pleasure boat docking facilities, and so forth. "intensity of use," however, is more general, applying to those uses which do not result in significant physical alteration to coastal lands and waters. Extraction of renewable living marine resources, swimming, and much boating fall into those activities controlled by the "intensity of use" category.

The four water suitability classifications are:

- Area 1 (Excellent). Located well away from ecologically important areas. Existing uses include shipping, commercial fishing and recreation. Physical features allow for generally unrestricted navigation. Development potential is classified as excellent.

- Area 2 (Good). Distance from ecologically important areas ameliorates most impacts from existing uses, such as commercial fishing and shipping. Some potential use conflicts may exist in these areas. Where these water areas are close to land, the capability classification of the land is generally fair to good. Adjacent land uses may be tied directly to marine uses. Overall development potential is classified as good.

- Area 3 (Fair). Existing water uses are generally confined to recreational boating, fishing and shell fishing. Mooring and docking facilities may exist. Water depths, bridges, and currents generally restrict boat activity to recreation and small commercial activity. Adjacent land is usually of poor development potential. Overall development potential is classified as fair.

- Area 4 (Poor). Existing water uses are usually of low intensity. These areas may be in or adjacent to estuaries, saltmarsh or rocky shores. Adjacent land generally has poor development potential. This area is quite sensitive to intrusions by man. Overall development potential is classified as poor.

SUMMARY OF LIMITATIONS

Both the land use capability analysis and the water use suitability analysis have limitations which constrain their use as the sole means for making land and water use decisions. The problems with the land capability analysis are:

1) In many cases the implementation of proper design and site planning can overcome the natural limitations of the land which would normally receive a substantial impact. Technology is sufficiently advanced to ameliorate most impacts if the proper contraints are placed on the use.

2) Coastal and estuarine waters have different responses to impacts. Since impact can often be best measured by changes in water quality, location of land uses can be very important. The ability of estuarine and salt water to assimilate pollutants is a direct function of dilution rates. Since there are so many factors which determine dilation rates, it is difficult to predict the impact of a given use on coastal waters from one geographic area to the next. It is entirely possible for the identical use in the same capability type but located in different areas to have distinctly different impacts on the environment.

3) Both the capability areas and the coastal boundary subzones are not defined specifically by boundaries sensitive to the micro-features of the land. The use of overlays to develop capability classifications aggregates data from specific site classes, and in the process, becomes generalized. Therefore, some uses generally appropriate for a capability area may not always be so, because of the fact that in the generalized areas varying natural conditions co-exist.

The limitations to the water use analysis are:

1) Changes in the marine environment are not as abrupt as a suitability classification might indicate. To allocate uses based on such a system would be indefensible as it ignores the gradual transitions that take place and the possible inclusion of either suitable or inappropriate areas in a zone.

2) Tidal ranges of approximately eight feet occur throughout the seacoast region of New Hampshire. Thus, an area which might have water depths too shallow for use by boats at low tide may be perfectly usable to mid or high tide. The suitability analysis was based on mid tide water depths. All use constraints must recognize the variations of depth that could occur.

3) The parameters choosen for the analysis do not adequately represent inter-temporal changes. The coastal environment is dynamic while the water suitability analysis is static. It does not change with the changing environment. Continual reassessment and updating of the model is necessary for it to remain useful.

APPENDIX D

APPENDIX D

LAND AND WATER USE PRIORITIZATION IN AREAS OF PARTICULAR CONCERN

The foundation for managing areas of particular concern (APC) and resolving conflicts between uses is an identification of those uses which can be safely supported in the area of concern. Some land and water uses are clearly inappropriate in an area, some are desirable and the rest fall into the middle. The determination of the consistency of a use with the natural character of the area develops a system of priorities upon which to manage these important resources.

Eight criteria with which each State might select APC's are enumerated in 15 CFR 923.13. For reasons of clarity and of relevance to specific needs in New Hampshire, these eight criteria were refined into the "APC selection criteria" (see Figure D-1). Categories of geographical areas in the coastal zone were then identified which satisfied one or more of the selection criteria (see Figure D-2). A matrix was then constructed of the APC categories versus categories of land and water use (see Figure D-3). The purpose of the matrix was to relate the degree of general consistency of each land and water use with the specific selection criteria of each APC category. For example, as shown in Figure D-3, "Recreation" use is considered to be generally consistent with all of the four selection criteria of the APC category, "Tidal Wetland." This does not mean that every conceivable recreational use is considered to be consistent with such selection criteria. Clearly, some are not (e.g. a sports arena), and such anomolies will be corrected by the management standards to be promulgated for all of the APCs. By comparison, "Transportation" is considered to be generally consistent with only selection criteria #10 for the "Tidal Wetland" category, and "Residential" consistent with none.

The completed matrix allows for the establishment of a priority listing of land and water uses within each APC. Three priority levels, or classification, were chosen for the sake of simplicity. These are "high," "medium" and "low." The priority of use rankings within each APC are based on the number of incidents of consistency of each resource use with the selection criteria of each APC category. A resource use which is consistent with all of the criteria in an APC is ranked in the "high priority" level. A use consistent with none of the criteria, or which is not applicable to the category, is ranked in the "low priority" level. The remaining uses fall into the "medium priority" level. Using the tidal wetland example above, "Recreational" land use is ranked in the "high priority" level, "Residential" in the "low" level, and "transportation" falls in the "medium" level. The completed priority rankings for the designated APCs are shown in Figure D-4.

FIGURE D-1

APC SELECTION CRITERIA

1. Areas of unique, scarce, fragile, or vulnerable natural habitat or physical feature.
2. Areas of historical or cultural importance.
3. Areas of high natural productivity or of essential habitat for living resources.
4. Areas of scenic importance.
5. Areas of substantial recreational value and opportunity.
6. Areas where development and facilities are dependent upon the utilization of, or access to, coastal waters.
7. Areas of unique geologic or topographic significance to industrial or commercial development.
8. Areas of urban concentration where shoreline utilization and water uses are highly competitive.
9. Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.
10. Areas needed to protect, maintain or replenish coastal lands or resources, including coastal floodplains, acquifer recharge areas, sand dunes, coral and other reefs, beaches, and offshore sand and gravel deposits.

FIGURE D-2

APC CATEGORIES AND SELECTION CRITERIA

Categories	Selection Criteria (from Fig. D-1)									
	1	2	3	4	5	6	7	8	9	10
Prime Agricultural Land			X							X
Tidal Wetlands	X		X						X	X
Rocky Shores	X		X	X					X	X
Beaches and Sand Dunes	X			X	X				X	X
Fish Spawning Areas	X		X		X					X
Shellfish Concentration Areas	X		X		X					X
Cultural/Historic Sign.		X								
Scenic Importance				X	X					
Development Dependent on Coastal Waters						X		X		
Floodplains									X	X
Water Supply Sources	X									X
Aquifer Recharge Areas	X									X
On/Offshore Sand and Gravel Deposits							X			X
Other Natural Areas	X		X							
Access Points					x	x				

Source: Office of Comprehensive Planning 1976

FIGURE D-3
CONSISTENCY OF LAND AND WATER USES WITH APC SELECTION CRITERIA

Land and Water Uses	APC Categories and Selection Criteria														
	Access Points - 5, 6	Prime Agricultural Land - 3, 10	Tidal Wetlands - 1, 3, 9, 10	Rocky Shores - 1, 3, 4, 9, 10	Beaches & Sand Dunes - 1, 4, 5, 9, 10	Fish Spawning Areas - 1, 3, 5, 10	Shellfish Concentration Areas - 1, 3, 5, 10	Cultural & Historic Sign - 2	Scenic Importance - 4, 5	Development Dependent on Coastal Waters - 6, 8	Floodplains - 9, 10	Water Supply Sources - 1, 10	Aquifer Recharge - 1, 10	On/Offshore Sand & Gravel - 7, 10	Other Natural Areas - 1, 3	
Residential	none	10	none	none	none	N/A	N/A	all	none	none	none	10	1	10	*	
Industrial	none	none	none	none	none	none	none	none	none	all	none	10	1	all	*	
Onshore Mineral Extraction	none	none	none	none	none	N/A	N/A	none	none	none	none	none	10	all	*	
Offshore Mineral Extraction	none	N/A	N/A	N/A	N/A	none	none	none	none	all	10	N/A	N/A	60'd none 60'd all	*	
Comms. & Util. Trans-mission	all	all	9,10	1,3, 9,10	5	3,5, 10	3,5, 10	none	5	8	all	all 1	all	10	*	
Commercial	6	none	none	none	5	N/A	N/A	all	5	8	none	10	1	all	*	
Commercial Fishing	6	N/A	3, 9,10	3,4 9,10	4,5, 9,10	all	all	all	all	all	all	N/A	N/A	10	*	
Recreation	all	10	all	all	all	all	all	all	all	all	all	10	all	10	*	
Wildlife & Forest Mngmt.	5	all	all	all	all	all	all	all	all	8	all	all	all	10	*	Site Specific
Transportation	6	10	9	none	none	N/A	N/A	none	5	8	all	10	1	10	*	
Shipping	6	N/A	none	none	none	3,10	3,10	none	none	all	all	N/A	N/A	10	*	
Solid Waste Disposal	none	none	none	none	none	none	none	none	none	none	none	none	none	none	*	
Liquid Waste Disposal	none	none	1,9	none	none	1,5	1,5	none	none	6	none	none	1	10	*	
Agriculture	6	all	salt-hay all rest, none	N/A	none	N/A	N/A	all	5	none	all	10	10	10	*	
Aquaculture	6	N/A	1,3, 9,10	1,3, 9,10	1,9 10	all	all	all	5	6	10	10	N/A	10	*	
Water Supply	5	N/A	N/A	N/A	N/A	5,10	5,10	none	4	6	N/A	all	all	all	*	
Institutional	none	none	none	none	none	N/A	N/A	all	none	none	none	10	1	10	*	
Research & Education	all	all	all	all	all	all	all	all	all	6	all	all	all	10	*	

* site specific
N/A not applicable

SOURCE: Office of Comprehensive Planning 1976

FIGURE D-4
PRIORITY OF USES*

Land and Water Uses	APC Categories and Selection Criteria														
	Access Points - 5, 6	Prime Agricultural Land - 3, 10	Tidal Wetlands - 1, 3, 9, 10	Rocky Shores - 1, 3, 4, 9, 10	Beaches & Sand Dunes - 1, 4, 5, 9, 10	Fish Spawning Areas - 1, 3, 5, 10	Shellfish Concentration Areas - 1, 3, 5, 10	Cultural & Historic Sign - 2	Scenic Importance - 4, 5	Development Dependent on Coastal Waters - 6, 8	Floodplains - 9, 10	Water Supply Sources - 1, 10	Aquifer Recharge - 1, 10	On/Offshore Sand & Gravel - 7, 10	Other Natural Areas - 1, 3
Residential	L	M	L	L	L	L	L	H	L	L	L	M	M	M	*
Industrial	L	L	L	L	L	L	L	L	L	H	L	M	M	H	*
Onshore Mineral Extraction	L	L	L	L	L	L	L	L	L	L	L	L	M	H	*
Offshore Mineral Extraction	L	L	L	L	L	L	L	L	L	H	pipe -H / M	L	L	60'd-L* / 60'd-H	
Comms. & Util. Trans-mission	H	H	M	M	M	M	M	L	M	M	H	H	H	M	*
Commercial	M	L	L	L	M	L	L	H	M	M	L	M	M	H	*
Commercial Fishing	M	L	M	M	M	H	H	H	H	H	H	L	L	M	*
Recreation	H	M	H	H	H	H	H	H	H	H	H	M	H	M	*
Wildlife & Forest Mngmt.	M	H	H	H	H	H	H	H	H	M	H	H	H	M	*
Transportation	M	M	M	L	L	L	L	L	M	M	H	M	M	M	*
Shipping	M	L	L	L	L	M	M	L	L	H	H	L	L	M	*
Solid Waste Disposal	L	L	L	L	L	L	L	L	L	L	L	L	L	L	*
Liquid Waste Disposal	L	L	M	L	L	M	M	L	L	M	L	L	M	M	*
Agriculture	M	H	salt-hay H / Rest L	L	L	L	L	H	M	L	H	M	M	M	*
Aquaculture	M	L	M	M	M	H	H	H	M	M	M	M	L	M	*
Water Supply	M	L	L	L	L	M	M	L	M	M	L	H	H	H	*
Institutional	L	L	L	L	L	L	L	H	L	L	L	M	M	M	*
Research & Education	H	H	H	H	H	H	H	H	H	M	H	H	H	M	*

* H = high; M - medium; L - low
** site specific

SOURCE: Office of Comprehensive Planning 1976

APPENDIX E

APPENDIX E

OTHER UNUSUAL NATURAL AREAS WHICH ARE APCs

(Excerpt from S-RRC Report entitled "Inventory and Designation of Geographic Areas of Particular Concern," pp. 26A-59).

The following twenty-six (26) areas have prominent features which sets them apart, or which are unique in New Hampshire. For example, Browns Mill Pond is listed as a Wetland but it has a feature, a stand of white Cedar, that sets it apart from wetlands in general, and so is noted here. They are listed, generally, in a north-south order, beginning in Dover, encircling Great Bay, and then north to south along the coast. The information is contained in the following format: name of area, town/towns it is located in, the special features of the area and its size if known.

1. College Woods - Durham - natural vegetation - 64 acres

2. Bellamy River Sanctuary - Dover - small mammals; birds - 28 acres

3. Johnson's Creek - Dover, Durham, Madbury - unspoiled tidal estuary - 30 acres

4. Maple, Oak, Hickory Forest - Durham - natural vegetation - 6 acres

5. Adams Point Marsh - Durham - recreational preserve - 80 acres

6. Crommet Creek - Durham - natural vegetation - 20 acres

7. Lamprey River - Newmarket - unspoiled natural estuary - 170 acres

8. Wheelwright Brook - Exeter, Stratham - estuary, bird habitat - acreage unavailable

9. Winnicut Creek estuary - Greenland - sport fishing - acreage unavailable

10. Little Harbor - New Castle, Portsmouth, Rye - scenic, natural vegetation, bird habitats - 350 acres

11. Sagamore Creek - Portsmouth - bird habitat - acreage included in "Little Harbor"

12. Berry's Brook Estuary - Portsmouth, Rye - natural vegetation, fisheries - acreage included in "Little Harbor"

13. Great Bog - Portsmouth - white cedar, game habitat - 700 acres

14. Ordiones Point State Park - Rye - natural flora and fauna, archeological, historical - 137 acres

15. Rye ledge - Rye - scenic, marine habitat - partially submerged

16. Fairhill Swamp - Rye - white cedar - 70 acres

17. Eel Pond - Rye - bird habitat - 40 acres

18. Burke's Pond - Rye - wildlife, recreation, education - 15 acres

19. Little River Swamp - North Hampton - bird habitat - 50 acres

20. Meadow Pond - Hampton - bird habitat, flood control - 47.5 acres

21. Tombolo at Great Boars Head - Hampton - geologic formation - acreage unavailable

22. Hunts Island - Seabrook - natural vegetation, bird habitat, archeological - 3 acres

23. Granny's Rock - Seabrook - glacial formation - acreage unavailable

24. Seabrook Dunes - Seabrook - last remaining natural dune system - 80 acres

25. Seabrook Sandspit - Seabrook - bird habitat - 10 acres

26. Isle of Shoals - Rye - geology, plant life, bird habitat, marine life, historical, cultural - acreage unavailable.

APPENDIX E

LIST OF AREAS OF SCENIC IMPORTANCE
(1 - 21)

1 Adams Point

2 Scammel Bridge

3a Shapleigh Island - New Castle Causeway

3b Goat Island - New Castle Causeway

4 New Castle Shore

5 New Castle Shore near Fort Constitution

6 Great Island Common, New Castle

7a Pest Island - Little Harbor Area

7b Leaches Island - Little Harbor Area

8 Rte. 1a - Witch Creek

9a Rte. 1a - Ordiorne Point

9b Rte. 1a - Ordiorne Point

10 Rte. 1a - Wallis Sands

11 Rte. 1a - Rye North Beach

12 Rye Harbor

13 Isles of Shoals

14 Rte. 1a - North of Jenness Beach

15 Rte. 1a - Little Boars Head

16 Rte. 1a - Near Plaice Cove

17 Rte. 1a - Great Boars Head

18 Hampton - Seabrook Bridge

19 Hampton - Exeter Expressway

20 Swasey Parkway

21 Rte. 101 - Bridge over Squamscott River

APPENDIX F

APPENDIX F
AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
AERONAUTICS COMMISSION	Airport development and safety: planning, design, construction and operation of airports and airport facilities. (TRANSPORTATION)	422 422-B	Operates Rochester Airport; Licenses private airport in Hampton.
AGRICULTURE Pesticide Control Bd. State Conservation Committee State Entomologist	Water quality preservation and protection of wildlife, soils, forests, and other natural resources: pesticide control; State established county conservation districts undertake soil conservation and water resource protection programs. (ENVIRONMENTAL PROTECTION, LAND AND WATER USE MANAGEMENT)	425 426 430-A,B 149-D	Appoints county conservation district supervisors for Strafford, Rockingham, and Carroll counties in the coastal zone. Assists CCD's in formulating and implementing programs.
ATTORNEY GENERAL Environmental Protection Consumer Protection	Enforcer of environmental protection, control, and preservation statutes; counselor to state agencies on environmental matters; enforces Land Sales Full Disclosure Act; counselor for the public to assure adequate electric power supply. (ENVIRONMENTAL PROTECTION)	7 162-F 371	Enforces state agency environmental protection and resource management regulations which are violated in the coastal area. Counselor for the public concerning site evaluation of energy facilities.
CIVIL DEFENSE	Disaster preparedness including protection from fire, hurricane, flood, earth quake or other natural causes. (ENVIRONMENTAL PROTECTION, PUBLIC SAFETY)	107	Charged with the prevention of coastal contamination. Responsible for coastal flood and natural disaster preparedness and emergency response programs.
EDUCATION Univ. of New Hampshire Cooperative Extension Service	Undergraduate and graduate education; research and continuing education; cooperative extension; Sea Grant Program (RESEARCH and EDUCATION)	187	Coastal and estuarine research; technical assistance to industry/local gov't; natural resource programs under Sea Grant including Marine Advisory Service.

APPENDIX F (con't)

AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
FISH AND GAME Marine Fisheries	Conservation, restoration, regulation, research, and management of fish, game, bird and wildlife resources; regulation and promotion of recreational and commercial fishing in saltwaters; determination and monitoring of pollution harmful to fish and wildlife; review of permit application for impact on fish habitat; and coordination of fish habitat and stocking programs. (ENVIRONMENTAL PROTECTION)	206, 207 211, 213, 483-A	Habitat restoration and management; fish and wildlife stocking; review of environmental impact of public works projects, marine fisheries program; fishing and clamming licenses.
GOVERNOR AND COUNCIL Coordinator of Federal Funds	Administers State affairs: appoints members to state agency boards; reviews and approves/denies federal funds to the executive branch; reviews applications for mining claims and other programs under administrative jurisdiction; delegates dredge and fill responsibility to Water Resources Board; reviews and acts on industrial development bond issues and lease agreements. (ADMINISTRATION)	4 216-B, C 217, 219 253, 258 269-C	The Coastal Resources Management Program (CRMP) is administered through the Office of Comprehensive Planning in the Governor's Executive Office. All program activities are subject to the Governor's approval.
HEALTH AND WELFARE Division of Public Health Services Air Pollution Control Comm. Bureau of Food and Chemistry (Solid Waste Disposal) Radiation Control Agency	Public Health protection: Air Pollution Control agency is responsible for implementing state air pollution control laws, rules and regulations and coordinates program for termination of open dump burning and reviews incinerator permits. Bureau of Food and Chemistry assists communities with solid waste disposal problems, regulates public/private waste disposal facilities. (AIR AND WATER QUALITY PRESERVATION, ENVIRONMENTAL PROTECTION, PUBLIC SAFETY)	125,126-A 147,148,149, 149 A,B,E, F 162-F	Regulates sewage disposal systems near shorelines. Implements air pollution control standards on the coast. Assists coastal communities in solid waste disposal facility planning and siting.
INDUSTRIAL DEVELOPMENT AUTHORITY	Promotes Economic Development and provides economic development assistance. Guarantees bank loans for new industries and issues bonds. Authority to develop and maintain industrial parks and acquire/develop industrial facilities for lease. (ECONOMIC DEVELOPMENT)	162-A 162-E 162-I	Encourages industrial development to locate in appropriate areas on the coast.
NEW HAMPSHIRE HOUSING COMMISSION	Provides Housing Development Assistance. Administers federal HUD housing loan/grant program. (HOUSING DEVELOPMENT)	204-A	Carries out field investigation of housing units involved in HUD Section 8 rental assistance. Conducts on-site inspection of new HUD housing construction and rehabilitation projects.

APPENDIX F (con't)
AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
NEW HAMPSHIRE HOUSING FINANCE AGENCY	Provides Housing Development Assistance by direct mortgage loans, purchase of mortgages on houses, making loans to eligible persons, and issuing bonds. (HOUSING DEVELOPMENT)	204-B	Provides public housing development assistance to eligible coastal communities.
OFFICE OF COMPREHENSIVE PLANNING Council on Resources and Development (CORD) Coastal Resources Management Program (CRMP) Economic Development Planning Regional Planning State Planning	Prepares and implements plans for the orderly development of state resources: statewide land and water use planning; regional, coastal zone, water resources, and economic development planning. OCP Director is member of CORD Council along with Directors of the following departments: Fish and Game, Agriculture, Education, Public Works and Highways, Resources and Economic Development, and Water Supply and Pollution Control Commission. (LAND AND WATER USE PLANNING/ MANAGEMENT, ECONOMIC DEVELOPMENT)	162-C	Administers the coastal resources management program (CRMP), A-95 review over projects in coastal area. CORD acts as state agency review forum in coastal zone program. Assistance to local and regional planning agencies on land use plans, zoning ordinances, subdivision regs., water and other natural resource planning.
PESTICIDE CONTROL BOARD	Consists of Directors of the following state agencies/other groups: Health and Welfare, Resources and Economic Development, Fish and Game, Water Supply and Pollution Control, State Entomologist, N.H. Horticultural Society, N.H. Arborists Assoc., and an ecologist. This Board reviews and issues permits for commercial pesticide application. Prohibits application of pesticides into any stream or body of water. (ENVIRONMENTAL PROTECTION)	149-D	Mosquito control on coast; responsible for pesticide control program in coastal zone which effects water runoff and pollution levels for agricultural areas.
PORT AUTHORITY	Responsible for acquisition, development, and operation of port and harbor transportation facilities and navigable tidal waters. (LAND AND WATER USE MANAGEMENT)	271 271-A	Responsible for Port of Portsmouth, incl. State Pier; control of coastal navigation in cooperation with the U.S. Coast Guard; Harbor Masters Organization responsible for pilotage of harbor and Piscataqua River.
PUBLIC UTILITIES COMMISSION Bulk Power Supply Siting Evaluation Committee Energy Facility Evaluation Committee	Licenses and regulates public utilities including bulk power electrical generation station and lines, as well as other energy facilities. Coordinates applicable hearings and permit requirements. Bulk Power Site Evaluation Committee ensures that planning and siting of bulk power supply	162-F 162-H	Provides public hearings and participation in bulk power (plant and transmission line) siting for all projects proposed in the coastal area. Provides environmental impact

APPENDIX F (con't)
AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
PUBLIC UTILITIES COMMISSION (continued)	facilities will not unduly interfere with the orderly development of an area and will not adversely affect the quality of the environs. The Energy Facility Evaluation Committee reviews, approves, monitors, and enforces compliance in the planning, siting, construction and operation of energy facilities. Agencies represented on these two committees include: Water Supply and Pollution Control, Water Resources Board - Special Board, Health and Welfare's Air Pollution Control and Radiation Control Agencies, Resources and Economic Development, Fish and Game, and Office of Comprehensive Planning. (ENERGY PLANNING)		assessments and considers alternative sitings of coastal energy facilities.
PUBLIC WORKS AND HIGHWAYS	Supervision, control, direction, and planning for the location, route, alteration, construction, reconstruction, maintenance and discontinuance of highways constructed/maintained by State funds. (HIGHWAYS, SHORELINE ACCESS AND PROTECTION)	228 235 258-B 217	Constructs/maintains shoreline protection devices. Responsible for layout of highways to public waters and rights-of-way to recreation waters.
RESOURCES AND ECONOMIC DEVELOPMENT (DRED) DRED Advisory Commission Forests and Lands Parks and Recreation State Historic Preservation Officer State Historical Commission State Entomologist State Geologist Industrial Development Agents	Planning, protection and management of the state's land and water resources including: forests, parks, recreation areas, historic and cultural areas, soils, and other natural resources. Forestry division is responsible for forest fire prevention/control; development and maintenance of state forests/nurseries; reforestation; disease control; designation of forest districts and coordination of timber harvesting/processing. Parks division is charged with planning, development, maintenance, and operation of state park system. Recreation Services division disburses Bureau of Outdoor Recreation, Land and Water Conservation Funds and assists local governments develop their recreation facilities. State Historic Preservation Officer is responsible for historical, architectural, and archaeological research/information program and nominations to national register of historic places. (ECONOMIC DEVELOPMENT, ENVIRONMENTAL PROTECTION, LAND AND WATER USE MANAGEMENT)	12-A 162-C 162-E 216,216-A 218,219 221,224 227-A, C	Federal grant-in-aid to local and regional public agencies for acquisition/development of outdoor recreation sites/facilities; management of beaches and historic sites; development of local park facilities; cooperative watershed forestry management programs for municipal water supplies.

APPENDIX F (con't)
AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
REVENUE ADMINISTRATION Board of Taxation Current Use Advisory Board	Preservation of open space and achievement of property tax equity. Department of Revenue prepares regulation procedures for current use assessment applications. Current Use Advisory Board (including representation for DRED, Fish and Game and Agriculture) approves/denies current use applications. Board of Taxation hears appeals from actions of local assessing officials on applications of current use. (OPEN SPACE)	71 71-B 79-A	Encourages the preservation of open space by conserving land, water, forest and wildlife resources through assessment of land values at current use rates, for land under pressure to convert to more intensive use in the coastal area.
SAFETY Fire Marshall State Fire Control Board	Provides unified public safety services including fire protection, highway patrol and criminal enforcement. Responsible for the supervision of navigation and water transportation. (SAFETY, TRANSPORTATION)	106-A 153 270	Inspects and registers private/commercial vehicles operating in State waters (excluding tidal waters).
TRANSPORTATION AUTHORITY	Planning and coordination of public mass transportation and freight transportation facilities and services. Administers UMTA funds and Regional Railroad Rehabilitation Program. (TRANSPORTATION PLANNING)	21-C	Provides pass-through funds to local coastal governments and social service agencies for transportation equipment and service grants.
WATER RESOURCES BOARD Special Board	Water resources use and protection. Prepares rules, regulations, and procedures governing dredge and fill permits for both fresh and tidal waters. Reviews plans and issues permits for dredge and fill projects. Investigates violations and initiates enforcement procedures. Water use and control over operation of dams and exercise of flowage rights. Administers program of acquisition of land for watershed projects. Other agencies with membership on the special board include: Water Supply and Pollution Control, Fish and Game, Resources and Economic Development, Public Works and Highways, Safety, Office of Comprehensive Planning, and the full membership of the Water Resources Board. (WATER QUALITY AND RESOURCE PROTECTION, ENVIRONMENTAL PROTECTION, LAND AND WATER USE MANAGEMENT)	481 482 482, D,E,K 483-A (D,F) 484 488-A, B	Field inspection for dredge and fill projects, dams, and other water resource projects in coastal zone.

APPENDIX F (con't)
AUTHORITIES AND DUTIES OF STATE AGENCIES
RELATED TO COASTAL MANAGEMENT

STATE AGENCY	AGENCY PROGRAM/MISSION	AUTHORITY (RSA No.)	COASTAL AREA APPLICATION
WATER SUPPLY AND POLLUTION CONTROL COMMISSION Aquatic Biologist	Water quality restoration and preservation. Maintain surface and ground water quality. Prepares water quality management plans. Establishes rules, regulations, standards, criteria, procedures and permits for: construction of sub-surface sewage and waste disposal systems; erosion and sediment control; and water use/control projects. Other agencies on the Water Supply and Pollution Control Commission include: Resources and Economic Development, Safety, Water Resources Board, Fish and Game, and Office of Comprehensive Planning. (WATER QUALITY PRESERVATION, ENVIRONMENTAL PROTECTION, WATER USE MANAGEMENT)	149 149-A-F 33 136 147 148 211	Field inspection and monitoring of surface and ground water quality, municipal treatment facilities, and public water supplies in the coastal zone.

Sources: Office of Comprehensive Planning, "State Departments and Agencies" Volume I - III.
Office of Comprehensive Planning, "State Agency/Program Index"
New Hampshire Revised Statutes Annotated, 1977.

NOTE: Those RSAs which have been underlined refer to legislation which established the State agency, commission or board.

APPENDIX G

APPENDIX G
LOCAL LAND AND WATER USE CONTROLS OF THE
SEVENTEEN COASTAL ZONE MUNICIPALITIES
AS OF JUNE, 1977

Towns/Cities*	CONTROLS									
	(MP) Master Plan	(PB) Planning Board	(ZO) Zoning Ordinances	(SR) Subdivision Regulations	(SP) Site Plan Review	(BC) Building Code	(BP) Building Permit System	(HD) Historic District	(CC) Conservation Commission	(FC) Floodplain Controls
Dover*	1971	1946	1948	1952	yes	1948	yes	yes	1973	1973
Durham	1969	1942	1935	1950	yes	1952	yes	1975	1965	1975
Exeter	1969	1965	1966	1970	1972	1972	1975	1970	1965	1975
Greenland	1971	1935	1952	1952	1975	1952	yes	yes	yes	1976
Hampton	1969	1937	1947	1952	yes	1950	yes		1965	1974
Hampton Falls	1974	1952	1953	1960	1975	1953	yes		1965	1975
Madbury		1957	1962	1962	yes	1957	yes		1973	
New Castle		1952	1954	1971	1971	1951	yes	yes		1975
Newfields	1973	1945	1959	1957	1974	1959	yes		1975	
Newington	1965	1951	1952	1952	1966	1951	yes	1974	yes	
Newmarket		1959	1972	1975	yes	1963	yes		yes	1975
North Hampton	1967	1952	1946	1955		1955	yes		1966	1975
Portsmouth*	1969	1927	1927	1954	1969	1927	yes	1968	yes	1975
Rollinsford	1970	1956	1971	1970	1975		yes	yes	yes	
Rye	1964	1952	1953	1954		1949	yes	1966	1965	1977
Seabrook	1967	1971	1974	1972	1973	1973	yes		inactive	
Stratham		1942	1957	1958		1957	yes		yes	1976
Total (17)	13	17	17	17	14	16	17	9	16	12

Source: Office of Comprehensive Planning, State of New Hampshire, April, 1978.

APPENDIX G (con't)

LOCAL LAND AND WATER USE CONTROLS

CONTROLS

(MP)	Master Plan	(VA)	Variances
(PB)	Planning Board	(HS)	Housing Standards
(ZO)	Zoning Ordinance	(OM)	Official Map
(HD)	Historic District	(AZ)	Airport Zoning
(BC)	Building Code	(MH)	Mobile Home Ordinance
(BP)	Building Permits	(EC)	Electric Code
(SR)	Subdivision Regulations	(PC)	Plumbing Code
(SP)	Site Plan Review	(SO)	Sewer Ordinance
(TM)	Tax Mapping	(PC)	Pipeline Code
(CC)	Conservation Commission	(PUD)	PUD
(FC)	Floodplain Controls	(ORR	Oil Refinery Referendum
(FI)	Flood Insurance Eligibility	(CUT)	Current Use Taxation
(SE)	Special Exceptions	(CTS)	Control of Tall Structure

AUTHORITIES

Town meeting/City council

- approves zoning ordinances and amendments (RSA 31:63-a)
- authorizes and abolishes the planning board, zoning commission, and zoning (RSA 31:63-c and 36:2)
- authorizes and abolishes historic districts (RSA 31:89-b)
- authorizes the planning board to regulate the siting and design of subdivisions (RSA 36:19)
- approves the official map (RSA 36:17)
- authorizes the conservation commission (RSA 36-A:1)
- authorizes the housing standards agency (RSA 48-A:2)
- authorizes the building inspector and approves all building codes and amendments (RSA 156:1 and 156-A:1-a)
- approves the designation of scenic roads (RSA 253:17)
- city council - approves applications for motor vehicle junkyard (RSA 267-A:4)
- city council - may withhold building permit (RSA 36:35)
- approve airport zoning (RSA 424:5)

Board of selectmen

- may hear appeals from building permit actions (RSA 156:4-b)
- approves applications for motor vehicle junkyard (RSA 267-A:4)
- may withhold building permit (RSA 36:35)

Planning board

- develops zoning ordinances (RSA 31:63-a)
- assumes all powers of zoning commission (RSA 36:11)
- prepares the master plan (RSA 36:13)
- may adopt master plan (RSA 36:15)

. may promote and advise municipality in carrying out master plan (RSA 36:10)

. may approve siting and design of subdivisions and non-residential site plans (RSA 36:19 and 36:19-a)

. approves regulations for subdivision control (RSA 36:21)

. may develop official map (RSA 36:16)

Building inspector

. approves building permits (RSA 36:35)

. enforces building codes (RSA 36:35)

Board of adjustment

. approves "special exceptions" to zoning ordinances (RSA 31:72)

. approves variances to the application of zoning ordinances (RSA 31:72)

. may hear appeals on building permit actions (RSA 36:31 and 156:4-b)

. certifies location of motor vehicle junkyard proposals (RSA 267-A:4)

Historic district commission

. proposes historic districts and regulations (RSA 31:89-f)

. approves building permits within districts

Village districts

. may be established to

fight fires

light or water streets

plant and care for trees and shrubs

supply domestic water

build and maintain sidewalks or common sewers

build and operate waste treatment plants

build parks and commons

provide recreation

supply municipal lighting

control pollution and insects

provide police protection

(RSA 52:1)

Housing standards agency

. may order existing structure, determined to be unfit for human habitation, to be repaired or vacated (RSA 48-A:3)

. enforces housing standards (RSA 48-A:4)

Conservation commission

. may acquire land, easement, development rights, etc. through purchase, gift, etc., but not condemnation (RSA 36-A:4)

Source: Office of Comprehensive Planning, Planning Enabling Legislation in New Hampshire, updated through July, 1977.

APPENDIX H

APPENDIX H

AUTHORITIES AND DUTIES OF FEDERAL AGENCIES RELATED TO COASTAL MANAGEMENT

The following list of Federal agencies and their respective authorities and duties is presented for Federal agency review, at this time. Descriptions of agencies functions will be redrafted, based on comments received from relevant agencies. It should be noted that emphasis will be placed on the identification of Federal agency authorities specifically related to coastal zone management.

Department of Agriculture

. Soil Conservation Service

- Provides technical assistance upon request to individuals, groups and units of government.
- Assistance for planning land use and installation of conservation practices.
- New Hampshire Technical Guide outlines planning considerations for maintaining quality in the resource base, environment, and standard of living. It also contains standards and specifications for conservation practices which the SCS assists people in installing.
- Technical assistance programs directed by Soil Conservation Districts (sub-divisions of State government).
- Financial assistance to Soil Conservation Districts for water storage projects: flood control, recreation, agriculture, forestry, water supply, or water quality.

. National Forest Service

- About a dozen basic laws assign primary areas of responsibility and direction for leadership in national forestry to the Forest Service. Some additional 140 laws provide direction for specific aspects of selected programs and activities nationwide.
- Direct research and cooperative assistance with universities and other research agencies, and with land managers.

- Cooperative forestry (State and Private Forestry) which provides technical and financial assistance for the protection and management of forest resources outside the National Forest System. This is carried out with State (Dept. of Resources and Economic Development, Div. of Forests and Lands) and local governments, forest industries, and private landowners.

Department of Commerce

. Bureau of the Census

- Conducts demographic studies.

. Economic Development Administration

- Planning grants and public works loans

. National Marine Fisheries Service/NOAA

- Conservation and assistance in the wise utilization of living marine resources, including their habitat and associated food organisms.
- Views the coastal ecosystems of Maine, New Hampshire and Massachusetts as a single entity, an integrated system where component parts of living and non-living entities ensure the integrity of the whole system.
- Concerned with the conservation of N.H. coastal marshes, estuaries, tidal streams and shoal coastal waters.
- Conducts technical, marketing, statistical and economic studies to assist states and industries.
- Provides 75% of costs for research and development in support of commercial fisheries.
- Issues permits for all activities involving endangered species of marine fish or wildlife.

. Maritime Administration

- Concerned with development of deepwater terminals, future expansion of

conventional shipping ports, channel and berth requirements consistent with existing and future world-wide ship designs, and environmental aspects for shore side facilities to support ship generated wastes, including oil.

. Office of Sea Grant/NOAA

- Funding for UNH-based marine related research and education.
- Supports the N.E. Marine Information Program

. Office of Coastal Zone Management/NOAA

- Administers the Coastal Zone Management Act which includes estuarine sanctuary acquisition grants.
- Establishment and management of Marine sanctuaries.

Department of Defense

. Army Corps of Engineers

- Builds, operates, and maintains projects for flood protection works, coastal beach erosion control, navigation channels, and hurricane protection.
- Delineates flood prone areas.
- Grants permits for the discharge of dredged or fill materials, sewerage, or sludge into the navigable waters of U.S. (with veto by EPA).
- Grants permits for the erection and maintenance of fish weirs, traps, and pounds in navigable coastal waters of New Hampshire
- Grants permits for the dredging of or the erection of a structure in navigable waters.
- Conducts hydrologic, shoreline stabilization, dispersal effects of offshore dredging and disposal, and flood-related studies.
- Plans and designs engineering of public works for flood control, beach erosion, navigation, and hurricane protection.

- Participates in the development of joint state-federal plans for management of water and related land.
- Provides funding for certain levels of activity that do not require Congressional authorization: small flood control projects, and protection of essential highways and public works from flooding. Funds larger projects requiring Congressional approval. Federal direct cost share covers 100% of beach erosion control on federal lands, commercial navigation projects, and flood control costs. Federal cooperative share of costs is limited to 70% for beach erosion control on park and conservation lands, and 50% on non-federal public land; 50% for recreational navigation; and 70% for hurricane barriers.
- Past state coordination has been with N.H. Port Authority for navigation projects, and the Department of Public Works for shoreline erosion projects.
- Possible future major projects: maintenance dredging of Portsmouth Harbor and Piscataqua River.

. Department of the Air Force

- Conducts national defense activities from Pease Air Force Base.

. Department of the Navy

- Conducts national defense activities from the Portsmouth Naval Shipyard in Kittery, Maine; ship traffic lanes pass through the N.H. coastal zone.

Department of Energy

. Energy Research and Development Administration

- Conducts research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from fossil, nuclear, solar, geothermal, and other energy sources.

- Utilizes the facilities and capabilities of Federal agencies, national laboratories, universities, nonprofit organizations, industrial and other non-Federal entities for energy research, development and demonstration projects.
- The Regional Studies Program works with State and regional entities to develop sets of evaluated options for their consideration and to provide them with specialized assessment methodologies for their own use.

. Federal Energy Administration

- Under the Energy Policy and Conservation Act, FEA can authorize the storage of strategic petroleum preserves, and provides grants to State agencies to carry out energy conservation activities.
- Under the Energy Supply and Environmental Coordination Act, FEA can issue construction orders requiring power plants or other major fossil fuel burning installations have the capability to burn coal; can order such facilities to burn coal if they have the capability.
- Under the Emergency Petroleum Allocation Act, FEA allocates crude oil and petroleum - derived products, including naptha.

. Federal Power Commission

- Issues authorization for the construction, extension, acquisition, or abandonment of a natural gas pipeline or storage facility.
- Authorizes the export or import of natural gas.
- Licenses interstate hydroelectric generation facilities.

Department of Housing and Urban Development

. Office of the Regional Administrator

- Administers the "701" program of statewide land use planning.
- Provides 66-75% of operating costs for regional planning agencies.
- Participates in joint state-federal water and related land use plans.

- Provides grants to state-enabled agencies for 50% of costs for planning and developing housing, sewer, water and open space; and 66-75% of operating costs for regional and state planning agencies.

. Flood Insurance Administration

- Goal is to encourage state and local officials to adopt and implement regulations necessary for the wise use of the nation's special flood, mudslide, erosion, and coastal high hazard areas.
- Administers the national flood insurance program which provides insurance to areas which have developed adequate floodplain zoning, control, and enforcement measures.

Department of the Interior

. Bureau of Land Management

- Manages the use of Federally-owned mineral resources; although there are no such resources in the N.H. coastal zone, the submerged lands leasing activities of the Bureau on the Georges Bank is and will continue to have direct impact on the coastal zone.
- Acting through the Secretary of the Interior, the Bureau has the authority to grant rights-of-way for oil and gas pipelines on the outer continental shelf.

. Bureau of Mines

- Provides limited technical and financial assistance to help foster growth of industry-owned coastal mining (e.g., sand and gravel mining).

. Fish and Wildlife Service

- Mission is to conserve and enhance fish and wildlife resources.
- The Service is consulted on all Federal projects and Federally assisted projects that involve manipulation of streams or other navigable waters.
- Enforces Federal laws protecting wildlife, and manages migratory game birds, by regulating the time, degree and manner of taking.

- Assists State programs through a system of Federal aid based on excise taxes on hunting and fishing equipment.

  "National Park Service" below for program responsibilities of NPS).
- Administers the National Recreation Trail Program.
- Responsible for the recreational, historical, archeological, and natural science aspects of regional or river basin planning sponsored by the Federal Water Resources Council or other Federal agencies.
- Extends research, planning and financial assistance for state and Federal public outdoor recreation.
- Reviews the outdoor recreation and aesthetic aspects of proposed developments requiring licenses, permits, or assistance from other Federal agencies.
- Administers provisions of PL 91-485 whereby suitable surplus Federal properties are made available to State and local governments for park and recreational use at discounts up to 100% of fair market value.
- Provides grants from the Land and Water Conservation Fund for 50% of the costs for open space acquisition and development for outdoor recreational purposes.
- Provides funds to the State Department of Resources and Economic Development to prepare the Statewide Comprehensive Outdoor Recreation Plan, which presents the State's policy on recreation.

. National Parks Service

- Administers 294 acres of land (nationally) in the National Park System; none in the coastal zone.
- Under the Wild and Scenic Rivers Program, the Service studies and prepares reports to the President and Congress on the suitability or non-suitability of streams for addition to the National System. They also

conduct such management planning as Congress requires to determine if specific rivers are suitable for wild, scenic or recreational designation.

- Under the National Trails System Act, the Service studies and prepares

. Geological Survey

- Provides information on groundwater recharge.
- Carries out a cooperative State-Federal streamflow gaging and groundwater availability program.
- Performs geological mapping.
- Inspects offshore oil and gas wells.
- Issues permits to offshore drilling companies to ensure safety against blowouts and pollution.

. Heritage Conservation and Research Service

- The Service in the focal point for National Heritage Program actions related to the Nation's cultural and natural heritage, and recreational resources. In general, the Service identifies, classifies, and establishes and maintains registers for heritage resources, formulates policies and programs for their preservation, and coordinates Federal, State and local resource and recreation policies and actions.
- Administers the National Natural Landmarks Program, the Archeology and Historic Preservation Program, which includes preservation grants, and the National Register of Historic Places.
- As part of the Wild and Scenic Rivers Program, the Service reviews State proposals for administering rivers; identifies rivers which should be part of the National System; identifies streams which should be recognized by water resource project planning agencies; and periodically reviews components of the National System (see "National Parks Service" below for program responsibilities of NPS).

- Under the National Trails System Act, the Service identifies trails to be studied for National Trail Status; recommends priorities for studies; and assists State and local governments in their trails efforts (see reports on prospective trails for addition to the National System, and conducts management planning when required by Congress.
- The Service is responsible for the recreational aspects of Federal Water Project Recreation Act implementation studies, and all post-authorized assistance in development planning, interpretation and operation of recreational areas, reservoir management planning, and administrative agreements for reservoir recreational areas.

. Coast Guard

- Operates a search and rescue and communications station in New Castle.
- Maintains and enforces laws pertaining to oil pollution, fishing treaties, and navigational safety on navigable waters.
- Regulates design construction and operation of vessels, and offshore facilities engaged in bulk oil transfer, and cooperates with state certification of such facilities prior to Federal licensing.
- Issues permits for construction of bridges over navigable waters.

. Federal Aviation Administration

- Administers air traffic control and air navigation programs.
- Provides grants and loans to State and local governments for airport construction and operation.

. Federal Highway Administration

- Provides financial and technical assistance to the State Department of Public Works and Highways for highway planning and research, roadside beautification, and acquisition and development of publicly owned and controlled rest and recreation areas.

. Federal Railroad Administration

- Regulates railroad safety.

Environmental Protection Agency

- Provides program operational grants to the State Water Supply and Pollution Control Commission and to the State Air Pollution Control Agency.
- Delegates the authority to the State to issue air and water point source discharge permits. EPA develops minimum effluent limitations, new source performance standards, pretreatment standards and toxic pollutant discharge standards.
- Provides grants to local governments and public agencies covering 75% of the cost of planning and constructing sewage treatment facilities.
- Provides technical and financial assistance to the State and local governments for planning the development and conduct of solid waste management programs.
- Regulates the thermal processing or land disposal of solid wastes by Federally owned or managed facilities or on federally managed lands.
- Issues permits for the dumping of materials into ocean waters.

General Services Administration

- Develops and maintains five-year plans identifying national projects of property acquisition or Federal construction; e.g., Federal buildings and post offices.

Nuclear Regulatory Commission

- Issues permits for the construction and operation of nuclear power reactors.
- Regulates the radiological health and safety of workers and the public.

Source: Office of Comprehensive Planning, 1978.

APPENDIX I

NEW HAMPSHIRE REVISED STATUTES ANNOTATED (RSAs) Which Pertain to THE STATE COASTAL RESOURCES MANAGEMENT PROGRAM (CRMP) (as of Regular Session 1975)

RSA CHAPTER	TITLE
1	STATE BOUNDARIES
	1:14-17 Seaward Limits of Jurisdiction
4	POWERS OF THE GOVERNOR AND COUNCIL
	4:12d Office of State Planning (Transferred to the Governor's Office)
	4:12e Supervision and Duties
	4:30 Acquisition and Disposal of Real Estate by Eminent Domain
	4:40a-e Conveyance of Property Under Water
7	ATTORNEYS - GENERAL, etc
	7:18a-c Environmental Protection Division
12-A	DEPARTMENT OF RESOURCES AND ECONOMIC DEVELOPMENT
	12-A:1-17 (General)
	12-A:2 Commissioner of Resources and Economic Development
	12-A:4-a State Geologist
	12-A:15-17 Recreation Package Plan
12-B	COMMUNITY RECREATION SERVICES
12-C	MAINE-NEW HAMPSHIRE COMMISSION ON OCEANOGRAPHY
12-D	NEW HAMPSHIRE OCEANOGRAPHIC FOUNDATION
21	STATUTORY STRUCTURE
21-C	NEW HAMPSHIRE TRANSPORTATION AUTHORITY
26	CONDEMNATION OF LAND FOR COUNTY USES
31	POWERS AND DUTIES OF TOWNS
	31:1-115 (General)
	31:60 Grant of Power
	31:109 Local Option for Oil Refinery Siting in Towns (by referendum)

RSA CHAPTER	TITLE
33	MUNICIPAL FINANCE ACT
	33:5-c Approval of Sewerage Systems and Sewage Treatment Works
36	PLANNING BOARDS
	36:1-53 (General)
36-A	CONSERVATION COMMISSION
36-B	INTERSTATE REGIONAL PLANNING COMPACT
36-C	INTERIM ZONING ORDINANCE
38	MUNICIPAL LIGHTING AND WATER SYSTEMS
	38:21 Protection of Water Supply
47	POWER OF CITY COUNCILS
	47:27 Local Option for Oil Refinery Siting in Cities
48-A	HOUSING STANDARDS
52	VILLAGE DISTRICTS
	52:1-24 (General)
	52:1-a Flood Control Projects
	52:18-a Water Pollution
53-A	AGREEMENTS BETWEEN GOVERNMENT UNITS
53-B	REGIONAL REFUSE DISPOSAL DISTRICTS
72	PERSONS AND PROPERTY LIABLE TO TAXATION
	72:12a Water and Air Pollution Control Facilities
	72:12b Facilities Previously Exempted
78-C	REFINED PETROLEUM PRODUCTS TAX
79-A	CURRENT USE TAXATION
91-A	ACCESS TO PUBLIC RECORDS
106-A	DEPARTMENT OF SAFETY
	106-A:14 Supervision of Navigation, Duties and Department of Safety

RSA CHAPTER	TITLE
107	CIVIL DEFENSE ACT
	107:6 Civil Defense Powers of the Governor
	107:8 Emergency Powers
	107:8a Prevention of Coastal Contamination
120	ACQUISITION OF LANDS BY UNITED STATES; FEDERAL AID
121	ACQUISITION OF LANDS BY U.S. FOR PURPOSES OF PUBLIC CONSERVATION, FORESTRY, RECREATION, EXPERIMENTATION, OR DEMONSTRATION
122	ACQUISITION OF LAND BY U.S. FOR FLOOD CONTROL AND NAVIGATION
123	JURISDICTION OVER LANDS ACQUIRED: TAX EXEMPTION
125	PUBLIC HEALTH - GENERAL PROVISIONS
	125:1-94 (General)
	125:56 Radiation Protection and Radiation Control Program: Public Policy
	125:78-94 Air Pollution Control Agency
126-A	DEPARTMENT OF HEALTH AND WELFARE
131	LABORATORY OF HYGIENE
	131:3 Testing of Water Supplies
146-A	OIL SPILLAGE IN PUBLIC WATERS
147	NUISANCES; TOILETS; DRAINS; EXPECTORATION; RUBBISH AND WASTE
	147:1-2 Local and General Regulations
	147:8 Toilets; Drains
	147:23-30 Public Dumps
	147:43-44 Solid Waste Disposal
148	PROTECTION OF SOURCES OF WATER AND ICE
	148:1-37 (General)
	148:15-25a Powers of Division of Public Health Services
	148:26-31 Auxiliary Supplies
	148:32-33 Pollution of Waters by Sewage
	148:34-37 Wells
148-A	FUTURE SUPPLIES OF WATER FOR DOMESTIC USE

RSA CHAPTER | TITLE

149 WATER POLLUTION AND DISPOSAL OF WASTES
- 149:1-19 (General)
- 149:2 Water Pollution Commission Established
- 149:3 Standards for Classification of Surface Waters
- 149:3a Policies
- 149:4 Duties of Commission
- 149:6 Classification Procedures
- 149:8 Enforcement of Classification
- 149:8a Dredging
- 149:11 Public Waters Classified

-Other Water Pollution Control Commission renamed N.H. Water Supply and Pollution Control Commission 7/1/67 (1975 RSA Supplement Chapter 149, p. 259).
-Est. as independent agency 7/1/67, see 267:1

149-A MARINE TOILETS AND DISPOSAL OF SEWAGE FROM BOATS

149-B AID TO MUNICIPALITIES FOR WATER POLLUTION CONTROL

149-D PESTICIDES CONTROLS

149-E SEWAGE DISPOSAL SYSTEMS NEAR SHORELINES

149-F CONTROL OF ALGAE AND OTHER AQUATIC NUISANCES

153 STATE BOARD OF FIRE CONTROL - PUBLIC SAFETY AND WELFARE
- 153:4a Duties of State Fire Marshall

155 BY-LAWS RE: LIFE SAFETY CODE

155-A CONSTRUCTION AND INSPECTION OF PUBLIC BUILDINGS

155-B HAZARDOUS AND DILAPIDATED BUILDINGS

156 INSPECTORS OF BUILDINGS; APPROVAL OF BUILDING PLANS

156-A ADOPTION OF BUILDING CODES BY REFERENCE

162-A INDUSTRIAL DEVELOPMENT AUTHORITY

162-B PEACEFUL USES OF ATOMIC ENERGY

162-C COUNCIL ON RESOURCES AND DEVELOPMENT

RSA CHAPTER	TITLE
162-E	STATE OWNERSHIP OF INDUSTRIAL FACILITIES
162-F	ELECTRIC POWER PLANT, TRANSMISSION SITING AND CONSTRUCTION PROCEDURE
	162-F:1-13 (General)
	162-F:3 Site Evaluation Committee
	162-F:9 Council for the Public
162-G	ACQUISITION, DEVELOPMENT AND DISPOSAL OF INDUSTRIAL LAND AND FACILITIES
162-H	ENERGY FACILITY EVALUATION, SITING, CONSTRUCTION AND OPERATIONS
	162-H:1-16 (General)
	162-H:3 Energy Facility Evaluation Committee
	162-H:11 Council for the Public
162-I	INDUSTRIAL DEVELOPMENT REVENUE BONDS
163-A	NEW ENGLAND INTERSTATE PLANNING COMPACT
163-B	LITTER CONTROL LAW
187	STATE COLLEGE AND UNIVERSITY
	187:23 County Extension Work
204-A	NEW HAMPSHIRE HOUSING COMMISSION
204-B	HOUSING FINANCE AGENCY
205-A	REGULATION OF MOBILE HOME PARKS
206	FISH AND GAME COMMISSION
	206:1-7 Commission
	206:8-23a Director
	206:24-27 Conservation Officers, Sup. of Hatcheries, Other Employees
	206:33-40 Game and Fish Fund
	206:41 Conservation Stamps
207	GENERAL PROVISIONS AS TO FISH AND GAME
	207:1-10a Definition, Inclusions, Methods of Taking, etc.
	207:14-15a Importing or Releasing Wildlife
	207:17-18 Disposition of Seizures
	207:19-21 Transportation
	207:22-30 Damage by Game Birds and Game
	207:31-35 Season Closed by Proclamation, etc.

CHAPTER	TITLE
207	GENERAL PROVISIONS AS TO FISH AND GAME (continued)
	207:40-42 Closing Waters to Protect Ice
	207:46-47 Penalties
	207:48-54 Collecting Seaweed
211	FISH, SHELLFISH, LOBSTERS AND CRABS
	211:1-76 (General)
	211:1-17 Method and Manner of Taking Fish
	211:17a-17c Bob Houses
	211:18-45 Lobsters and Crabs
	211:19-a Rye Harbor Prohibition
	211:46-64a Saltwater Fish, Clams, etc.
	211:61-b Cooperation with Federal Agencies
	211:65-70 Marine Fisheries
	211:71-76 Damage to Fish, Other Aquatic Life, Wildlife or their Habitat
212	PROPAGATION OF FISH AND GAME
	212:1-34 (General)
	212:1-10 Acquisition of Land
	212:11-17 State Fish and Game Refuges
	212:18 Public Hunting and Fishing Grounds
	212:19-20a Rules and Regulations
	212:21-24 Propagation by the State
	212:25-33 Propagation by Private Persons
	212:34 Liability of Land Owners
213	ATLANTIC MARINE FISHERIES
216	FORESTRY AND RECREATION
	216:3 Operation of Beach Parking Facilities
	216:3a Regulation
	216:4 Expenditure of Federal Funds
	216:5 Custody of Certain Historic Places
216-A	EXPANSION OF STATE PARK SYSTEM
216-B	HAMPTON HARBOR CHANNEL AND BEACH EROSION CONTROL
216-C	BACK CHANNEL OF PORTSMOUTH HARBOR
216-F	MULTI-USE STATEWIDE TRAIL SYSTEM
217	SHORE AND BEACH PRESERVATION AND DEVELOPMENT
	217:1 Investigations and Reports

RSA CHAPTER	TITLE
218	DIRECTORS OF FORESTRY AND RECREATION
219	PUBLIC FOREST LANDS 219:1-35 (General) 219:19 Prospecting and Mining
221	REFORESTATION OF LAND
224	FOREST AND BRUSH FIRES; PREVENTIVE MEASURES 224:1-51 (General) 224:44a Care of Lumber Slash - Cutting of Timber Near Public Waters and Highways 224:44b Care of Slash and Mill Waste
227-A	STATE HISTORICAL COMMISSION
227-C	STATE HISTORIC PRESERVATION OFFICE
228	DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
235	LAYOUT OF HIGHWAYS TO PUBLIC WATERS
249	REGULATION AND PROTECTION OF HIGHWAYS
249-A	OUTDOOR ADVERTISING
249-B	CONTROL OF JUNKYARDS 249-B:1-21 (General) 249-B:13-18 Public Lands, Industrial Areas, Compensation, Acceptance of Federal Funds, Penalties, Injunction
252	SIDEWALKS AND SEWERS
252-A	PUBLIC PARKING FACILITIES
253	TREES AND ROADSIDE GROWTH (SCENIC ROADS)
258	PORTSMOUTH - KITTERY BRIDGE
258-B	RIGHTS OF WAY TO RECREATION WATERS
267	JUNK YARDS
267-A	MOTOR VEHICLE JUNK YARDS

RSA CHAPTER	TITLE
269-C	OFF HIGHWAY RECREATIONAL VEHICLES REGISTRATION AND OPERATION
270	SUPERVISION OF NAVIGATION: REGISTRATION OF BOATS AND MOTORS, COMMON CARRIERS BY WATER
270-A	USE OF HOUSEBOATS
270-B	ABANDONED BOATS
271	PILOTS, HARBORMASTERS, AND PUBLIC WATERS 271:8,9,16-21 (General) 271:8 Dumping in Harbor 271:9 Defining Navigable Waters 271:16 Commissioners of Pilotage of the Harbor and River of Piscataqua 271:17-19 Marking Ice Cutting Areas 271:20-21 Defining Certain Public Waters
271-A	NEW HAMPSHIRE STATE PORT AUTHORITY 271-A:1-16 (General) 271-A:1-4 Authority, Purposes, Powers and Duties, Rules and Regulations 271-A:13 Acquisition of Land 271-A:14 Improvements 271-A:15 Reservation of Authority of Towns 271-A:16 Prohibition of Certain Activities
272	COAST SURVEY
319-C	ELECTRICIANS
330	STATE PLUMBING CODE
339	FUEL ADMINISTRATOR
371	PROCEEDINGS TO ACQUIRE PROPERTY OR RIGHTS 371:1-23 (General) 371:15 Eminent Domain by Pipeline Companies 371:17-23 Rights in Public Waters and Lands
422	NEW HAMPSHIRE AERONAUTICS ACT 422:1-45 (General) 422:4-11 State Aeronautics Commission 422:12-14a Director of Aeronautics

RSA CHAPTER	TITLE
422	NEW HAMPSHIRE AERONAUTICS ACT (continued) 422:15-23 Air Navigation Facilities 422:24-33 State Registration Certificates 422:34-45 Prohibitions and Penalties
422-B	CONTROL OF TALL STRUCTURES
423	MUNICIPAL AIRPORTS
424	AIRPORT ZONING
425	DEPARTMENT OF AGRICULTURE
426	COMMISSIONER OF AGRICULTURE AND HIS FUNCTIONS
430-A	IMPLEMENTATION OF THE FEDERAL SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT
430-B	CONSERVATION DISTRICTS 430-B:1-10 (General) 430-B:3 State Conservation Committee 430-B:5 Creation of Conservation Districts
431	IMPROVEMENT OF SWAMP LANDS
437-A	MOSQUITO CONTROL
479-A	UNIT OWNERSHIP OF REAL PROPERTY
481	STATE DAMS, RESERVOIRS AND OTHER WATER CONSERVATION PROJECTS 481:1-28 (General) 481:1:2 Definitions 481:3 Water Resources Board 481:22-24 Consolidation of Water Control Commission and the Water Resources Board
482	DAMS AND FLOWAGE 482:1-73 (General) 482:41e-i Placing Fill in Public Waters
482-D	ACQUISITION OF A CERTAIN DAM AND WATER RIGHTS 482-D:1 Acquisition Authorized - Dam on North River Pond, effecting the towns of Barrington, Northwood, and Nottingham.

CHAPTER TITLE

482-E ACQUISITION OF A CERTAIN DAM AND WATER RIGHTS
- 482-E:1 Acquisition Authorized - Dam at outlet of Angle Pond, effecting the town of Sandown.

482-K ACQUISITION OF A CERTAIN DAM AND WATER RIGHTS
- 482-K:1 Acquisition Authorized - Dam on Pine River in the town of Wakefield

483 LIMITATION ON HYDRO-ELECTRIC CHARTERS

483-A TIDAL WATERS ("DREDGE AND FILL IN PUBLIC WATERS")
- 483-A:1 Excavation and Dredging
- 483-A:1a Definition
- 483-A:1b Finding of Public Purpose
- 483-A:2 Hearing
- 483-A:2a Notice to Abutters
- 483-A:3 Powers of N.H. Port Authority
- 483-A:4 Rehearing
- 483-A:4a Administrative Provisions
- 483-A:4b Posting of Permits and Reports of Violations
- 483-A:5 Penalties
- 483-A:6 Civil Penalties

484 LAKE LEVELS INVESTIGATION AND PROCEEDINGS

486 RESTRICTIONS ON BOATING
- 486:4 Lucas Pond in Northwood

487-B INTERSTATE WATER POLLUTION CONTROL COMMISSION SEWAGE AND WASTE TREATMENT PLANT PERSONNEL

488 WATER POLLUTION CONTROL COMPACT - NEW ENGLAND INTERSTATE WATER POLLUTION CONTROL COMPACT

488-A EXCAVATION AND DREDGING IN PUBLIC WATERS

488-B RESTRICTIONS ON USE OF STRUCTURES BUILT OVER THE WATERS OF THE STATE
- 488-B:1 Residential Use Prohibited
- 488-B:2 Penalty

489 FLOATING TIMBER AND DAMAGE THEREFROM

RSA CHAPTER	TITLE
489-A	NORTHEASTERN WATER AND RELATED LAND RESOURCES COMPACT - Northeastern Resources Commission Established
541	REHEARINGS AND APPEALS IN CERTAIN CASES
541-A	ADMINISTRATIVE PROCEDURE ACT

APPENDIX J

APPENDIX J

INCORPORATION OF FEDERAL/STATE PROGRAMS INTO THE COASTAL RESOURCES MANAGEMENT PROGRAM

1. Federal Water Pollution Control Act
2. Federal Clean Air Act
3. National Flood Insurance Program

The proposed CRM legislation mandates that all rules and regulations adopted by the State in response to the Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act, as amended, will be incorporated by reference in the CRM program as the water pollution control and air pollution control requirements of the program. This will mean that the State agencies presently administering these programs will continue to do so during CRM program implementation, with the added enforcement authority of the CRM program. The management standards to be adopted by OCP, therefore, reflect this incorporation. The proposed CRM legislation also requires that the management standards regarding development in floodplain APCs must include the minimum flood proofing requirements of the National Flood Insurance Program. As such, these requirements will be administered and enforced by OCP and primary zone municipalities based on CRM program authorities.

Federal Water Pollution Control Act (Federal/State Water Quality Program).

The Federal Water Pollution Control Act (FWPCA) was substantially amended in 1972 to require extensive water quality planning and implementation at all governmental levels, particularly at the state level. The

Act specifies that states must establish a Continuing Planning Process to develop water quality standards and state and areawide water quality management plans to implement the standards. The State Water Supply and Pollution Control Commission (WSPCC) was designated by the Governor to be the lead State agency in this process.

The Federal Environmental Protection Agency (EPA) has directed the states to focus the first phase of their water quality management plans on analyses to determine the effluent limitations to place on point sources of pollution in order to meet the water quality standards. The WS & PCC responded in January of 1975 with the issuance of the Piscataqua River and Coastal N.H. Basins Water Quality Management Plan (Staff Report No. 67) in which are established the water quality standards for the coastal zone.

Part of the implementation of phase I of the management plan utilizes the National Pollutant Discharge Elimination System which requires joint EPA/WS & PCC permits for and places discharge limitations on point sources of pollution such as industrial plants and waste treatment plants. The EPA develops the effluent guidelines and new source and toxic pollutant discharge standards which provide the base level of abatement control on which the permits are issued. Whenever these controls are inadequate to meet water quality standards, waste load allocations(provided by the WS & PCC) are applied.

A second implementation mechanism for the Phase I management plan is the Federal "201" construction grant program. Municipalities and public agencies responsible for sewage treatment can apply for Federal funding to cover 75% (the State supplies 20% and the locality, 5%) of the costs of construction for waste treatment facilities.

Under the State Continuing Planning Process, the WS & PCC is currently developing a Phase II water management plan for the State, including the coastal zone. In addition to the point source abatement measures described above, the Phase II plan will include structural and non-structural solutions for the more obscure non-point sources of pollution associated with, for example, construction, agriculture, silviculture, and urban runoff activities. The State must submit its Phase II plan to the EPA for approval by June 30, 1979.

Federal Clean Air Act. The Clean Air Act, with its numerous amendments, mandates a joint Federal/State effort to clean the nation's air. At the Federal level, the EPA is charged with establishing and enforcing a variety of types of minimum air quality standards for pollutant sources. Together, the EPA and the states have designated Air Quality Control Regions (AQCR) which attempt to encompass the physical and demographic factors that contribute to the air quality of a particular region. Each state in turn must develop for their respective portions of the AQCR's an approved State Implementation Plan (SIP) which includes Federal air quality standards as well as a permitting process for pollutant sources. New Hampshire's coastal zone is part of AQCR 121, which is comprised of the seven southern counties of the State.

The State Air Pollution Control Agency (APCA) of the Dept. of Public Health and Welfare is responsible for implementing the State Implementation Plan. As such, the APCA regulates stationary sources of air pollutants, via the permit process, monitors ambient air quality, and continually updates the SIP in response to changes in air quality and to amendments to the Clean Air Act or EPA requirements.

The permit process for new and existing stationary sources of air

pollutants is based upon EPA - promulgated "national ambient air quality standards" for five basic air pollutants. Of these, the APCA has adopted a stricter standard for sulfur dioxide, as it is allowed to do under the Clean Air Act. The SIP permit process is also based upon the EPA's "national emission standards for hazardous air pollutants," i.e. asbestos, beryllium and mercury. In addition to new and existing sources, this review and approval authority of the APCA applies to stationary indirect sources of air pollutants; e.g. large parking lots, shopping centers, major highway systems.

A possible revision to the SIP by the APCA regarding major fossil fuel burning industries has particular importance to the CRM program due to the significant number of such facilities in the coastal zone. By August of 1978, the State must report to the EPA the dependence of its SIP upon the use of petroleum products and natural gas by major fuel-burning stationary sources, and any reasonable anticipation of long-term inadequacies due to such fuel dependency. Also, the State must report the extent to which its SIP is dependent upon the use of coal or coal derivatives which are not locally or regionally available. The EPA will review the report by February, 1979 and may require a revision to the SIP to assure compliance with standards on a reliable and long-term basis.

Regarding most of the basic air pollutants, the coastal zone air quality is cleaner than that required by the national ambient air quality standards. Furthermore, relative to the prevention of significant deterioration of this present air quality, the coastal zone has been given a "Classification II" rating by the EPA. As such, a maximum rate of air quality deterioration is established for the area. Consequently, the continued growth in the coastal zone will be guided in part by this

"prevention of significant deterioration" requirement. By August of 1978, the APCA must revise the SIP to contain procedures for new source pre-construction review and approval by the APCA (presently being done by the EPA) in order to administer this portion of the Clean Air Act.

For one category of pollutant, however, and possibly a second, there exists a more restrictive standard on future growth in the coastal zone. The AQCR 121, which includes the coastal zone, has been declared by the EPA to be a "non-attainment area" for photochemical oxidant pollutants; i.e. the national ambient air quality standards for this pollutant are being exceeded. As required by the Clean Air Act, the APCA is revising the SIP in response to this non-attainment classification. Under the revised SIP, a "major source" (i.e. greater than 100 tons/year of the pollutant), which includes energy generation facilities and other large consumers of fossil fuels, may be sited in a non-attainment area only if the revised SIP provides for attainment of the air quality standard by December 31, 1987. Prior to July 1, 1979, however, a major source may be sited if the resulting increase in pollution discharge is balanced with a corresponding decrease in discharge from another source; thus, the ambient pollution level for the pollutant will remain unchanged.

Carbon monoxide is a second pollutant which is still being investigated in AQCR 121 for non-attainment status. It has presently been given a "non-classification" status by the EPA, which requires the APCA to conduct further monitoring and analysis within a specific time period before a final determination can be made.

There are two remaining provisions of the Clean Air Act, as amended, which have direct significance to the CRM program. The first is the "interstate pollution" requirement; by August, 1978, the states' SIP's

must be revised to prevent a major source in one state from interfering with the attainment and maintenance of air quality standards of another state. This will have particular significance to the industrial facilities along the Piscataqua River, the air quality impacts from which are generally felt in Maine's York County. A second provision of the Act now requires that Federal facilities must comply with all substantive and procedural air quality requirements (e.g. obtain permits from the APCA) of Federal, interstate, state and local law. However, military and military-related facilities which are uniquely military in nature may be exempt by the President.

National Flood Insurance Program. This Federal program was established in the National Flood Insurance Act of 1968 and revised in the Flood Disaster Protection Act of 1973. It is designed to provide flood insurance to private property owners at rates made affordable through a Federal subsidy. In return, communities must adopt and administer Federal minimum floodplain management standards that protect lives and new construction from future flooding. At the Federal level, the Flood Insurance Program is administered and enforced by the Federal Insurance Administration of the Department of Housing and Urban Development.

The minimum floodplain management standards to be adopted by the CRM program will be identical to those adopted by communities when they would enter the "regular program" of the National Flood Insurance Program. These standards deal with the proper elevation or floodproofing of new construction, construction materials and methods, subdivision drainage, and the location and design of utility systems. As part of the CRM program, these standards will become enforceable through OCP's Coastal Resources Utilization Approval authority and local administration of their Municipal Coastal Plans (discussed in Chapter VI).

APPENDIX K

APPENDIX K

FEDERAL ACTIVITIES WHICH MAY BE SUBJECT TO FEDERAL CONSISTENCY

The following lists of Federal activities of potential interest to the coastal program for consistency determination are presented for review by Federal agencies. These lists will be revised based on comments received.

I. FEDERAL LICENSES AND PERMITS

Department of Commerce/National Marine Fisheries Service

- Permit for any activity, including scientific research, involving an endangered marine or anadromous species of fish or wildlife; Endangered Species Act of 1973.
- Permit for taking or importing of marine mammals; Marine Mammal Protection Act of 1972.
- Approval of a fishery management plan of the New England Regional Fisheries Management Council for any fishery in the State coastal zone, or in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Fishery Conservation and Management Act of 1972 (P.L. 94-265).
- Permit for domestic commercial fishing in Federal Waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; P.L. 94-265.
- Permit for foreign fishing in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Sect. 204, P.L. 94-265.

Department of Defense/Army Corps of Engineers

- Permit for any construction or dredging in navigable waters; River and Harbor Act of 1899.
- Permit for discharge of dredged or fill material below the mean high water mark in navigable waters (i.e. lakes and ponds greater than 5 acres, and the remaining waterways upstream to headwaters where the flow becomes less than 5 cu. ft./sec.) and their contiguous or adjacent wetlands; Section 404, Federal Water Pollution Control Act of 1972.
- Permit for discharge of dredged or fill material in wetlands contiguous within, or adjacent to, navigable waters above the mean high water mark; Section 404, Federal Water Pollution Control Act of 1972.
- Permit for the transportation of dredged material; Section 103, Marine Protection, Research, and Sanctuaries Act.

I. continued (2)

Department of Energy (Federal Power Commission)*

- License for non-Federal hydroelectric projects; Section 4 (e) and 15, Federal Power Act.
- Authorization for the interconnection of electric transmission facilities; Section 202, Federal Power Act.
- Authorization for the import or export of natural gas; Section 3, Natural Gas Act.
- Authorization for the abandonment of a gas pipeline; Section 7, Natural Gas Act.
- "Certification of Public Convenience and Necessity," which allows natural gas companies to construct, extend, acquire, or operate transportation and storage facilities for the transportation of natural gas in interstate commerce, or for the sale of natural gas in interstate commerce; Section 7, Natural Gas Act.

* Since the creation of DOE in August of 1977, information sufficient to allow a listing of DOE licensing and permitting authorities has not yet been received by OCP. Consequently, what are listed here are the licensing and permitting authorities of the pre-DOE agencies that have beenabsorbed into DOE.

Department of the Interior/Fish and Wildlife Service

- Permit for any activity, including scientific research, involving an endangered species of wildlife such as the bald eagle; Endangered Species Act of 1973.

Department of the Interior/Geological Survey

- Approval of OCS Plans to explore for and develop oil and gas resources on the outer continental shelf; Outer Continental Shelf Lands Act of 1953.

Department of Transportation/Coast Guard

- Approval of the location of and design plans for bridges over navigable waters; 33 USC 401, 491, 507, 525-534.
- Approval of the alteration of obstructive bridges; 33 USC 511-524.

Department of Transportation/Federal Aviation Administration

- Approval of the construction or alteration of any structure affecting navigable airspace; 14 CFR 77.
- Approval of airports serving air carriers certified by Civil Aeronautics Board.

I. continued (3)

Department of Transportation/Office of the Secretary

- License for a deepwater port in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Deepwater Port Act of 1974.

Environmental Protection Agency

- Approval of the State Implementation Plan for air quality; Clean Air Act.
- Approval of the State Water Quality Management Plan; Federal Water Pollution Control Act.
- National Pollution Discharge Elimination System permit for point source effluent discharge; Section 402, Federal Water Pollution Control Act.
- Disapproval authority over dumping of materials in ocean waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod.

Federal Maritime Commission

- License for ocean freight forwarding activities.

Interstate Commerce Commission

- License for the construction of interstate railroad lines.
- License for the operation of interstate trucking companies, bus lines, freight forwarders, and water carriers.

Nuclear Regulatory Commission

- License for the siting, construction and operation of nuclear power plants.
- License for the possession, use, processing, transport, handling and disposal of nuclear materials.

II. FEDERAL ASSISTANCE ACTIVITIES

Department of Agriculture/Agricultural Stabilization and Conservation Service

. Forestry incentives program (10.064).

Department of Agriculture/Animal and Plant Health Inspection Service

. Eradication and control actions under the plant and animal disease and pest control program (10.025).

Department of Agriculture/Cooperative State Research Service

. Scientific research grants (10.200).
. Formula grants for cooperative forestry research (10.202).
. Formula grants for rural development research (10.204).

Department of Agriculture/Farmers Home Administration

. Farm labor housing loans and grants (10.405).
. Irrigation, drainage and other soils and water conservation loans (10.409).
. Rural housing site loans (10.411).
. Resource conservation and development loans (10.414).
. Rural rental housing loans (10.415).
. Water and waste disposal systems for rural communities (10.418).
. Watershed protection and flood prevention loans (10.419).
. Business and industrial loans (10.422).
. Community facilities loans (10.423).
. Industrial development grants (10.424).

Department of Agriculture/Forest Service

. Project grants for forestry cooperative research (10.651).
. Project grants for forestry research (10.652).
. Project grants for tree planting and reforestation (10.655).
. Formula grants for cooperative forest fire control (10.656).
. Formula grants for cooperative forest management and processing (10.657).
. Project grants for forest insect and disease management (10.658).
. Project grants for production and distribution of forest tree planting stock (10.659).
. Project grants for general forestry (10.660).

Department of Agriculture/Rural Electrification Administration

. Rural electrification loans (10.850).
. Rural telephone loans (10.851).
. Rural telephone bank loans (10.852).

Department of Agriculture/Soil Conservation Service

- Project grants for resource conservation and development (10.901).
- Project grants for watershed protection and flood prevention (10.904).
- Sale, exchange or donation of plant material for conservation (10.905).

Department of Commerce/Economic Development Administration

- Project grants and direct loans for public works and development facilities (11.300).
- Direct and guaranteed loans for business development assistance (11.301).
- Project grants for public works impact projects (11.304).
- Project grants and direct loans for supplemental and basic funding of Titles I, II, and IV activities (11.308).

Department of Commerce/National Marine Fisheries Service

- Project grants for anadromous fisheries conservation (11.405).
- Formula grants for commercial fisheries research and development (11.407).

Department of Commerce/Office of Minority Business Enterprise

- Project grants and research contracts to promote and assist the expansion of minority enterprises (11.800).

Department of Commerce/Sea Grant Office

- Project grants for sea grant support (11.417).

Department of Defense/Army Corps of Engineers

- Specialized services for aquatic plant control (12.100).
- Specialized services for beach erosion control projects (12.101).
- Specialized services for flood control works and federally authorized coastal protection works, rehabilitation (12.102).
- Specialized services for the protection of essential highways, highway bridge approaches, and public works (12.105).
- Specialized services for small flood control projects (12.106).
- Specialized services for small navigation projects (12.107).
- Specialized services for snagging and clearing for flood control (12.108).
- Specialized services for snagging and clearing for navigation (12.109).

Department of Energy (Energy Research and Development Administration)*

- Sale, exchange or donation of used nuclear-type equipment (24.022).
- Project grants for research and development in nuclear, solar, geothermal, and advanced energy systems, and physical, biomedical, and environmental sciences (24.024).
- Project grants for research and development in fossil energy (24.034).
- Project grants for research and development in energy conservation (24.035).

* Since the creation of DOE in August of 1977, information sufficient to allow a listing of DOE assistance activities has not yet been received by OCP. Consequently, what are listed here are the assistance activities of the pre-DOE agencies that have been absorbed into DOE.

Department of Health, Education and Welfare/Office of Education

. Formula Grants for construction of public libraries (13.408).
. Project grants for school construction in federally affected areas (13.477).

Department of Health, Education and Welfare/Office of the Secretary

. Sale, exchange or donation of surplus real property (13.676).

Department of Health, Education and Welfare/Public Health Services

. Project grants for community health center construction (13.240).
. Direct payments or guaranteed loans for nursing school construction (13.369).

Department of Housing and Urban Development/Community Planning and Development

. New communities - loan guarantees (14.207).
. Surplus land for community development (14.211).
. Community development block grants/entitlement grants (14.218).
. Community development block grants/discretionary grants (14.219).

Department of Housing and Urban Development/Federal Disaster Assistance Administration

. Project grants and specialized services for disaster assistance (14.701).

Department of Housing and Urban Development/Housing Management

. Public housing-modernization of projects (14.607).

Department of Housing and Urban Development/Housing Production and Mortgage Credit (FHA)

. Interest reduction - acquisition and rehabilitation of homes for resale to lower income families (14.104).
. Mortgage insurance - construction or rehabilitation of condominium projects (14.112).
. Mortgage insurance - investor sponsored cooperative housing (14.124).
. Mortgage insurance - mobile home parks (14.127).
. Mortgage insurance - hospitals (14.128).
. Mortgage insurance - rental housing (14.134).
. Mortgage insurance - rental housing for low and moderate income families, market interest rate (14.137).
. Mortgage insurance - rental housing for the elderly (14.138).
. Mortgage insurance - rental housing in urban renewal areas (14.139).

- Nonprofit housing sponsor loans for low and moderate income families 914.141).
- Low income housing - acquisition (Turnkey and Conventional production methods)(14.146).
- Low income housing - homeownership for low - income families (14.147).
- Mortgage insurance - experimental homes (14.152).
- Mortgage insurance - experimental projects other than housing (14.153).
- Mortgage insurance - experimental rental housing (14.154).
- Mortgage insurance for the purchase or refinancing of existing multi-family housing projects (14.155).
- Lower - income housing assistance program (14.156).

Department of Housing and Urban Development/Office of Policy Development and Research

- Project grants and research contracts for general research and technology activity (14.506).

Department of the Interior/Fish and Wildlife Service

- Sale, donation, or exchange of property for farm fish-pond management (15.603).
- Project grants for anadromous fish conservation (15.600).
- Formula grants for fish restoration (15.605).
- Formula grants for wildlife restoration (15.611).
- Project grants for rare and endangered species conservation (15.612).

Department of the Interior/Heritage Conservation and Research Service

- Project grants for outdoor recreation; acquisition and development (15.400).
- Specialized services for national registry of natural landmarks (15.910).
- Specialized services for national historic landmarks (15.912).

Department of Transportation/Coast Guard

- Use of facilities and equipment for Coast Guard cooperative marine science program (20.002).

Department of Transportation/Federal Aviation Administration

- Project grants for airport development (20.102).

Department of Transportation/Federal Highway Administration

- Formula and project grants for highway construction (20.205).
- Formula and project grants for highway beautification - control of outdoor advertising, control of junkyards, landscaping and scenic enhancement (20.214).

Department of Transportation/Federal Railroad Administration

- Contracts for railroad research and development (20.304).
- Formula grants for local rail service continuation (20.305).
- Formula grants for rail property acquisition and modernization (20.306).

Department of Transportation/Urban Mass Transportation Administration

- Urban mass transportation capital improvement grants (20.500).
- Urban mass transportation capital improvement loans (20.501).
- Project grants and research contracts for mass transportation technology (20.504).
- Urban mass transportation demonstration grants (20.506).
- Urban mass transportation capital and operating assistance formula grants (20.507).

Environmental Protection Agency

- Air pollution control program grants (66.001).
- Air pollution control survey and demonstration grants (66.005).
- Solid waste disposal demonstration grants (66.028).
- Construction grants for wastewater treatment works (66.418).
- Water pollution control - state and interstate program grants (66.419).
- Water pollution control loans (66.431).
- State public water system supervision program grants (66.432).
- State underground water source protection program grants (66.433).
- Safe drinking water - state and local program development grants (66.434).
- Water pollution control - lake restoration demonstration grants (66.435).
- Environmental protection - consolidated research grants (66.500).
- Air pollution control research grants (66.501).
- Pesticides control research grants (66.502).
- Radiation research grants (66.503).
- Solid waste disposal research grants (66.504).
- Water pollution control - research, development, and demonstration grants (66.505).
- Safe drinking water research and demonstration grants (66.506).
- Environmental protection consolidated grants - program support (66.600).
- Environmental protection consolidated grants - special purpose (66.602).
- Environmental protection - interstate cooperation and uniform laws (66.650).

General Services Administration

- Disposal of surplus Federal real property (39.002).

New England Regional Commission

- Project grants for New England regional economic development (48.001).
- Project grants for supplement Federal grants-in-aid (48.003).

III. FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

Department of Agriculture/Agricultural Stabilization and Conservation Service

- Water bank program (10.062).
- Agricultural conservation program (10.063).
- Forestry incentives program (10.064).

Department of Agriculture/Animal and Plant Health Inspection Service

- Eradication and control actions under the plant and animal disease and pest control program (10.025).

Department of Agriculture/Cooperative State Research Service

- Scientific research grants (10.200).

Department of Agriculture/Farmers Home Administration

- Farm operating loans (10.406).
- Any construction, development or operation action, or the development of land for forestry purposes under the farm ownership loan program (10.407).
- Low-moderate income housing loans (10.410).
- Recreation facility loans (10.413).
- Very low-income housing repair loans (10.417).
- Farm labor housing loans and grants (10.405).
- Irrigation, drainage, and other soil and water conservation loans (10.409).
- Rural housing site loans (10.411).
- Resource conservation and development loans (10.414).
- Rural rental housing loans (10.415).
- Soil and water loans (10.416).
- Project grants and guaranteed loans for water and waste disposal systems for rural communities (10.418).
- Watershed protection and flood prevention loans (10.419).
- Business and industrial loans (10.422).
- Community facilities loans (10.423).
- Industrial development grants (10.424).

Department of Agriculture/Forest Service

- Project grants for cooperative research (10.651).
- Project grants for forestry research (10.652).

Department of Agriculture/Soil Conservation Service

- Project grants for resource conservation and development (10.901).
- Advisory service for soil and water conservation (10.902).
- Project grants for watershed protection and flood prevention (10.904).

Department of Commerce/Economic Development Administration

- Project grants and direct loans for public works and development facilities (11.300).
- Direct and guaranteed loans for business development assistance (11.301).
- Project grants for public works impact projects (11.304).
- Project grants and direct loans for supplemental and basic funding of Titles I, II, and IV activities (11.308).

Department of Commerce/Maritime Administration

- Construction-differential subsidies for ship construction in State coastal zone (11.500).
- Financing guarantees for ship construction in State coastal zone (11.502).
- Ship sales for use in state coastal zone (11.505).
- Construction or reconstruction of a ship in State coastal zone under the capital construction fund program (11.508).

Department of Commerce/Office of the Secretary, and National Marine Fisheries Service

- Promulgation of a fishery management plan for a domestic fishery in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Fisheries Conservation and Management Act of 1972 (P.L. 94-265).
- Promulgation of rules and regulations to implement any fishery management plan for a domestic fishery in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Sect. 305(a), P.L. 94-265.
- Preemption of State regulatory and management authority over a fishery within the State coastal zone; Sect. 306 (b), P.L. 94-265.
- Promulgation of a fishery management plan, and associated regulations for foreign fishing in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Sect. 201 (g), P.L. 94-265.
- Determination of the allocation among foreign nations of the total allowable level of foreign fishing in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod (shared jointly with the Secretary of State); Sect. 201 (e), P.L. 94-265.

Department of Commerce/National Marine Fisheries Service

- Project grants for anadromous fisheries conservation (11.405).

Department of Commerce/Office of Minority Business Enterprise

- Project grants to promote and assist the expansion of minority enterprises (11.800).

Department of Commerce/Sea Grant Office

- Project grants for sea grant support (11.417).

Department of Defense/Department of the Air Force

- Construction, external improvement, or demolition of housing or other facilities.
- Construction of air navigation aids.
- Land acquisition.
- Aircraft flying patterns.
- Runway extensions or construction.
- Discharge of sewage and other liquid wastes.

Department of Defense/Army Corps of Engineers

- Specialized services for flood control works and Federally authorized coastal protection works; rehabilitation (12.102).
- Any license, as listed for the Corps in Figure 8-1, granted to another Federal agency.

Department of Defense/Department of the Navy

- Pier and shipyard construction, maintenance, expansion, or demolition.
- Dredging of shipping lanes, birthing areas, turning basins, etc.
- Disposition of dredged materials in State coastal zone waters, or in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod.
- Discharge of sewage, oily wastes, and other liquid wastes from vessels, pier areas, or other facilities.

Department of Energy (Energy Research and Development Administration)*

- Sale, exchange or donation of used nuclear-type equipment (24.022).
- Project grants for research and development in nuclear, solar, geothermal, and advanced energy systems, and physical, biomedical, and environmental sciences (24.024).
- Project grants for research and development in fossil energy (24.034).
- Project grants for research and development in energy conservation (24.035).

Department of Energy (Federal Energy Administration)*

- Creation of a strategic petroleum reserve; P.L. 94-163.
- Prohibition of any power plant from burning natural gas or petroelum products as the main energy source if the plant has a coal burning capacity.
- Ordering any power plant (other than combustion gas turbine or combined cycle unit) in the early planning process to be designed to be capable of using coal as the primary fuel.
- Prohibiting any other major fuel burning installation from burning natural gas or petroleum products as the primary

energy source if the installation has a practical coal burning capability.
. Allocation of coal to any power plant or major fuel burning installation to which an order has been issued, or to any other person.

Department of Energy (Federal Power Commission)*

. Implementation of measures for the conservation of natural gas to cope with supply deficiencies in emergencies.

* Since the creation of DOE in August of 1977, information sufficient to allow a listing of DOE activities and development projects has not yet been received by OCP. Consequently, what are listed here are the activities and development projects of the pre-DOE agencies that have been absorbed into DOE.

Department of Health, Education and Welfare/Office of the Secretary

. Sale, exchange or donation of surplus real property (13.676).

Department of Health, Education and Welfare/Public Health Services

. Project grants for community health center construction (13.240).
. Direct payments or guaranteed loans for nursing school construction (13.369).

Department of Housing and Urban Development/Community Planning and Development

. New communities - loan guarantees (14.207).

Department of Housing and Urban Development/Federal Disaster Assistance Administration

. Project grants and specialized services for disaster assistance (14.701).

Department of Housing and Urban Development/Flood Insurance Administration

. Flood insurance (14.001).
. Land sales - parcels of subdivided land (14.004).

Department of Housing and Urban Development/Housing Production and Mortgage Credit (FHA)

. Interest reduction payments - rental and cooperative housing for lower income families (14.103).
. Interest reduction - acquisition and rehabilitation of homes for resale to lower income families (14.104).
. Interest reduction - homes for lower income families (14.105).
. Interest reduction - purchase of rehabilitated homes by lower income families (14.106).

- Major home improvement loan insurance - housing outside urban renewal areas (14.108).
- Mobile home loan insurance - financing purchase of mobile homes as principal residences of borrowers (14.110).
- Mortgage insurance - construction or rehabilitation of condominium projects (14.112).
- Mortgage insurance - development of sales type cooperative projects (14.115).
- Mortgage insurance - group practice facilities (14.116).
- Mortgage insurance - homes (14.117).
- Mortgage insurance - homes for certified veterans (14.118).
- Mortgage insurance - homes for disaster victims (14.119).
- Mortgage insurance - homes for low and moderate income families (14.120).
- Mortgage insurance - homes in outlying areas (14.121).
- Mortgage insurance - homes in urban renewal areas (14.122).
- Mortgage insurance - housing in older, declining areas (14.123).
- Mortgage insurance - investor sponsored cooperative housing (14.124).
- Mortgage insurance - land development and new communities (14.125).
- Mortgage insurance - management type cooperative projects (14.126).
- Mortgage insurance - mobile home parks (14.127).
- Mortgage insurance - hospitals (14.128).
- Mortgage insurance - nursing homes and related care facilities (14.129).
- Mortgage insurance - purchase of sales - type cooperative housing units (14.132).
- Mortgage insurance - purchase of units in condominiums (14.133).
- Mortgage insurance - rental housing (14.134).
- Mortgage insurance - rental housing for moderate income families (14.135).
- Mortgage insurance - rental housing for low and moderate income families, market interest rate (14.137).
- Mortgage insurance - rental housing for the elderly (14.138).
- Mortgage insurance - rental housing in urban renewal areas (14.139)
- Mortgage insurance - special credit risks (14.140).
- Nonprofit housing sponsor loans for low and moderate income families (14.141).
- Property improvement loan insurance for improving all existing structures and building of new nonresidential structures (14.142).
- Low income housing - homeownership for low - income families (14.147).
- Rent supplements - rental housing for lower income families (14.149).
- Supplemental loan insurance - multifamily rental housing (14.151).
- Mortgage insurance - experimental homes (14.152).
- Mortgage insurance - experimental projects other than housing (14.153).
- Mortgage insurance - experimental rental housing (14.154).
- Mortgage insurance for the purchase or refinancing of existing multi-family housing projects (14.155).
- Lower - income housing assistance program (14.156).

Department of Housing and Urban Development/Office of Policy Development and Research

- Project grants and research contracts for general research and technology activity (14.506).

Department of the Interior/Fish and Wildlife Service

- Acquisition, development and management of National Wildlife Refuges.
- Management of migratory game birds.
- Regulate importation, transportation and use of foreign and domestic fish and wildlife.
- Project grants for anadromous fish conservation (15.600).
- Sale, donation, or exchange or property for farm fish-pond management (15.603).

Department of the Interior/Geological Survey

- Minerals discovery loan program (15.802).
- Supervision of operations of private industry on geothermal, oil, shale, mining, and oil and gas leases on acquired land and outer continental shelf.
- Establishment of maximum rate of production for producing wells on outer continental shelf.
- Determination of the source, quantity, quality, distribution, movement, and availability of surface and ground waters.

Department of the Interior/Heritage Conservation and Research Service

- Specialized services for national registry of natural landmarks (15.910).
- Specialized services for national historic landmarks (15.912).

Department of State/Office of the Secretary

- International fishing agreement for foreign fishing in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Sect. 202, Fisheries Conservation and Management Act of 1972 (P.L. 94-265).
- Determination of the allocation among foreign nations of the total allowable level of foreign fishing in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod (shared jointly with the Secretary of Commerce); Sect. 201 (e), P.L. 94-265.

Department of Transportation/Coast Guard

- Promulgation of rules and regulations regarding procedures, methods and equipment for preventing discharges of oil; 33 USC 1321 et. seq.
- Establishment of procedures and methods associated with the Region I Multi-Agency Oil and Hazardous Materials Pollution Contingency Plan; 33 USC 1321.
- Establishment of rules, regulations, procedures and methods regarding the removal of oil or hazardous substances from the State coastal zone and from Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod; Sect. 311 (c) (1), P.L. 92-500.

- Establishment of necessary safety precautions, procedures and devices associated with water transportation of dangerous substances; 46 USC 170, 369.
- Promulgation of rules and regulations regarding the design, installation and operation of marine sanitation devices on vessles; 33 USC 1321 et. seq.
- Establishment of traffic separation lanes; 33 USC 154, 157, 353.
- Establishment of anchorage grounds and special anchorage areas for vessels; 33 USC 471, 180, 258 and 332-33.
- Location, construction, maintenance, and demolition of aids to navigation; 14 USC 81.
- Promulgation of rules and regulations regarding the establishment by others of aids to navigation; 14 USC 83.
- Use of facilities and equipment for Coast Guard cooperative marine science program (20.002).
- Pier and shipyard construction, maintenance, expansion, or demolition.
- Dredging of shipping lanes, birthing areas, turning basins, etc.
- Disposition of dredged materials in state coastal zone, or in Federal waters adjacent to the States of Maine, New Hampshire, or Massachusetts north of Cape Cod.
- Discharge of sewage, oily wastes, and other liquid wastes from vessels, pier areas, or other facilities.

Department of Transportation/Federal Aviation Administration

- Construction, maintenance and demolition of Federal visual and electronic aids to air navigation.

Department of Transportation/Federal Highway Administration

- Promulgation of rules and regulations regarding the safe highway transport of dangerous cargoes.

Department of Transportation/Federal Railroad Administration

- Contracts for railroad research and development (20.304).
- Promulgation of rules and regulations regarding railroad safety.

Department of Transportation/Urban Mass Transportation Administration

- Mass transportation capital improvement loans (20.501).
- Urban mass transportation demonstration grants (20.506).
- Project grants and research contracts for mass transportation technology (20.504).

Environmental Protection Agency

- Promulgation of guidelines for solid waste recovery, collection, separation, and disposal systems.

- Promulgation of rules and regulations regarding the use of pesticides.
- Establishment of national air quality standards.
- Establishment of performance standards for new stationary sources of air pollution.
- Establishment of emission standards for hazardous air pollutants.
- Establishment of effluent limitations to meet "best available technology" limits by 1983.
- Establishment of effluent limitations for toxic pollutants.
- Establishment of limitations for thermal discharges.
- Establishment of legally binding guidelines for thermal processing or land disposal of solid wastes by Federally owned or managed facilities, or on Federally managed land.
- Issuance of any license, as listed for EPA in Figure 8-1, to another Federal agency.
- Air
- Air pollution control survey and demonstration grants (66.005).
- Solid waste disposal demonstration grants (66.028).
- Construction grants for wastewater treatment works (66.418).
- Water pollution control loans (66.431).
- Water pollution control - lake restoration demonstration grants (66.435).
- Environmental protection - consolidated research grants (66.500).
- Air pollution control research grants (66.501).
- Pesticides control research grants (66.502).
- Radiation research grants (66.503).
- Solid waste disposal research grants (66.504).
- Water pollution control - research, development and demonstration grants (66.505).
- Safe drinking water research and development grants (66.506).

Federal Maritime Commission

- Promulgation of rules and regulations regarding financial responsibility of common carriers subject to liability costs for oil pollution and cleanup; Sect. 11 (p) (1), Federal Water Quality Act of 1970.

General Services Administration

- Real property acquisition and Federal construction.
- Facility planning, construction, conversion and renovation.
- Disposal of surplus Federal real property (39.002).

Interstate Commerce Commission

- Authorization to abandon railroad lines or discontinue passenger train service.

APPENDIX L

APPENDIX L

ADDITIONAL PROGRAM AREAS

1. BEACH ACCESS
2. ENERGY PLANNING
3. EROSION
4. ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

All of the above listed program areas will be completed during the next fiscal year July 1978 through June 1979.

They will be included in the 306 Program Document. An Environmental Impact Assessment (EIA) is not required as part of this 305½ Document, since no aspect of this program shall be implemented prior to passage of the Coastal Resources Management legislation.

APPENDIX M

APPENDIX M

PUBLIC INVOLVEMENT AND PROGRAM COORDINATION DOCUMENTATION

The basic requirements for public participation have been met during the development of the New Hampshire Coastal Resources Management Program. Since 1975, the State has provided ongoing coordination and opportunities for participation by affected local, regional, state, and federal units of government, interest groups, and the general public in the development of the coastal program. These public information and participation activities have been administered by the New Hampshire OCP and its principal subcontract agency, the Strafford Rockingham Regional Council. The OCP has been primarily responsible for determining program direction and state-federal coordination, while S-RRC has been involved in conducting meetings at the local level.

Public Information and Participation

As described below, public involvement in the New Hampshire CRM Program has occurred through a variety of activities.

Public Meetings. Both OCP and S-RRC have sponsored or attended meetings, lectures, and workshops with interest groups, agencies, and the public in an effort to inform, educate, and solicit public input in the development of the coastal program. Between June of 1975 and February of 1978, OCP has been formally involved in 98 meetings and S-RRC in 68 meetings. (See Appendix N for a list of public meetings).

Legislative Process and Public Hearings. The OCP established contact early in its program development stage with appropriate chairman of the N. H. House and Senate committees, particularly with the House Committee on Agriculture and the Environment. A preliminary bill to secure legislative support for the CRM Program was submitted during the 1975 legislative session but was unsuccessful in passage. Between 1975 and 1977, OCP drafted comprehensive CRM legislation (SB 189) for introduction to the New Hampshire General Court in 1977. During late 1976 and in 1977, OCP staff met with members of the Senate Environmental Committee, the Senate Executive Department of Municipal Governments Committee, and the House Committee on Agriculture and the Environment. Prior to the respective Senate and House votes on SB 189, four (4) public hearings were held. SB 189 was passed by the Senate and House, but vetoed by the Governor. Subsequent to this veto, six (6) public meetings with elected coastal area officials and three (3) general public meetings were held to secure input for the redrafting of the CRM legislation.

Ad Hoc Committee. In order to expand and coordinate public information and educational activities, the OCP formed an ad hoc committee in 1977. This committee consists of OCP and S-RRC staff as well as membership from two organizations disseminating coastal resources information: The University of New Hampshire Marine Advisory Service and the seacoast area chapters of the League of Women Voters. As a result of this committee's work, a variety of public information materials were prepared and released including a League of Women Voters brochure on New Hampshire's CRMP and five (5) radio tape

announcements about N. H.'s CRMP by the Marine Advisory Service. Also, the League of Women Voters sponsored three public meetings during November, 1977, in the coastal area.

Media Releases. Efforts to heighten public awareness about the CRM Program through the use of media techniques, by both OCP and S-RRC, have included: newspaper articles and press releases, CZ film presentations, slide show presentations, display board exhibits, radio and television appearances, newsletters, and informational brochures, resource maps, and proposed legislation handouts.

State CRM Resolution. The OCP made formal CRM program development presentations to the Governor and Council to explain the program and to request public endorsement of the program. In May, 1976, the Governor and Council adopted, as State policy, a resolution recognizing and supporting the State's program. (See Appendix B.)

Background Surveys/Studies. As part of the planning efforts to develop a CRM plan, several background research activities were undertaken by OCP, S-RRC, and other organizations with interests in the coastal areas. These included the identification of interest groups, mailing lists, and monitoring of the activities and media coverage of other groups in the coastal zone. Furthermore, in 1975 an attitudes survey was undertaken by UNH with a Sea Grant (Moore, 1976). This survey assessed the N. H. political climate covering CRM issues by identifying the attitudes of various groups in N. H. towards the establishment of a CRM program and a variety of coastal issues. Data from this survey have been used by OCP in developing its public participation element. A follow-up survey was undertaken in 1976 and preliminary results were received by OCP in September, 1977. This information was also used as part of the public participation element and in redrafting the legislation.

Intergovernmental Coordination

Throughout the development of the CRM Program, OCP has consulted with relevant federal, interstate, state, and local government agencies in an effort to involve them in the planning phase of the program. Intergovernmental coordination has been established through the mechanisms described below.

State Agency Service Agreements. In order to coordinate with and secure data from certain state agencies having programmatic or regulatory responsibilities in the coastal area, OCP executed service agreements with the Air Pollution Control Agency (for meterological data), the Water Resources Board (for water resource management information), and the Department of Fish and Game (for data on coastal water fisheries and wildlife.)

State Agency Work Activities. The work activities of several other agencies in New Hampshire have coincided with and contributed to the development of the program. In an effort to coordinate the development of the coastal program with activities of these agencies, OCP met with such agencies as the N. H. Port Authority and the New Hampshire Oceanographic Foundation. A list of the reports prepared by other agencies and utilized in this program

are contained in the Bibliography. (See Appendix O).

CORD - State Agencies Technical Review Committee. The Council on Resources and Development (CORD) is an interagency council established by State Legislation in 1963 as a means to coordinate natural resources development and use. The Council (CORD) is chaired by the Director of State Planning and is composed of the directors of the State's major resource agencies: Department of Agriculture; Department of Resources and Economic Development and its divisions of Forest and Lands, Economic Development, and Parks and Recreation; Department of Fish and Game; Department of Education; Division of Public Health; Water Supply and Pollution Control Commission; Water Resources Board; and Department of Public Works and Highways.

The Council (CORD), acting as a technical review committee for the coastal program, has served as a sounding board for program development proposals regarding permissible uses, areas of particular concern, organizational structure alternatives, and proposed legislation.

NERBC Coastal Zone Task Force Membership. New Hampshire, along with other New England states and New York, has funded the New England River Basin Commission coastal zone liaison service staff to the NERBC Coastal Zone Task Force. Services provided by the liaison person have been and are most helpful to OCP staff in the areas of coordination and consultation with Federal agencies, and interaction and information exchange with other coastal states and a variety of other agencies. The OCP staff's continued membership on the NERBC Coastal Zone Task Force and its two OCS subcommittees (the Oil Spills and Oil and Gas Pipelines Task Forces) has served as a mechanism for ongoing interstate and regional coordination.

Interagency Demonstration Project. As part of the program development, in order to establish a basis for interagency coordination, a study was conducted which looked at the common and conflicting objectives, methodologies, and requirements of HUD, EPA and CZM programs. The steps necessary to achieve consistency in data collection and development were identified. (HUD/OCZM Interagency Demonstration Grant Program by S-RRC for OCP).

Federal Coordination

The CRM Program has clearly recognized the need for coordination with and input from federally funded state agencies and federal agencies with interest in the coastal zone. In order to insure federal coordination in the program development, OCP has made formal contact with state agencies which are recipients of federal funds and with relevant federal agencies. Federal agency perceptions of the national interest in the New Hampshire coastal zone have also been solicited.

Federally Sponsored State Agency Activities. The CRM Program development has been coordinated with a variety of state agencies which are involved in programs with a direct Federal interest. The dates and nature of these interactions are shown in Figure 7-1. For example, OCP, itself, is involved with several Federally funded or sponsored programs, in addition to its CRM activities; HUD's "701" and flood insurance programs; Commerce's EDA Program,

Transportation's Urban Mass Transportation program; Water Resources Council Planning, and Interiors Heritage, Conservation, and Recreation Service. Coordination by OCP between its CRM Program efforts and its other federal activities has been continuous. Other state agencies have been contacted, as well, particularly through the State Council on Resources and Development (CORD). In addition, the Air Pollution Control agency and the Water Supply and Pollution Control agency, which administer EPA's air and water quality programs respectively, have been separately briefed on the status of the CRM Program and their comments solicited.

Federal Agency Coordination. Beginning in April of 1975 and continuing to the present, OCP has formally contacted fifty-three (53) Federal agencies, of which thirty-four (34) have responded. The specific dates and nature of the communications are presented in Figure 7-1. The OCP has kept Federal agencies informed concerning the program development by providing them with selected portions of the management program as they have become available. Requests were made for comments in these program drafts. Consequently, the Federal agencies have been given an opportunity to preliminarily review and comment to relevant program materials. Individual briefing were conducted with seven (7) Federal agencies.

APPENDIX N

APPENDIX N

PUBLIC MEETINGS
COASTAL MANAGEMENT - PUBLIC INFORMATION PROGRAM

I. N. H. Office of Comprehensive Planning CZ Meetings with Interest Groups, Government Agencies, Local Officials and Planning Boards, the General, Public, Legislative Hearings, and Ad Hoc Committee: 1975 to Feb. 1978

Key

	Interest Groups
*	Government Agencies
**	Local Officials & Boards
***	Legislative Hearings
(a)	Public Meetings [1]
AD	Ad Hoc Committee
M	Other Media Activities

Key	Date	Organization
**	5-15-75	Local planning board, Portsmouth
**	5-16-75	Local planning board, Newington
**	5-19-75	Local planning board, North Hampton
**	5-20-75	Local planning board, Exeter
**	5-21-75	Local planning board, Rye
**	6-04-75	Local planning board, Hampton
*	9-23-75	Soil Conservation Service
*	10-17-75	U. S. Geological Survey
*	10-21-75	NERBC/CZTF - Organizational Meeting
*	10-22-75	EPA Wastewater Treatment Facility Planning and EIS Preparation Workshop
*	10-24-75	State Council of Resources & Development (CORD)
*	10-30-75	State Council of Resources & Development (CORD)
*	11-10-75	State Council of Resources & Development (CORD)
*	11-13-75	U. S. Dept. of Navy, Portsmouth Naval Shipyard
*	12-02-75	OCZM Site Visit
*	12-05-75	State Council of Resources & Development (CORD)
*	12-17-75	U. S. Dept of Interior, Bureau of Land Management

[1] There were 3 public meetings held by S-RRC in this period which OCP co-sponsored. See, II. (a).

Key	Date	Organization
*	1-20-76	Environmental Protection Agency
*	2-26-76	BLM Briefing, Georges Bank OCS
*	3-25-76	RI CZM plan briefing
*	4-09-76	NERBC staff, vis-a-vis OCP staff support for RALI Study
*	4-12-76	Symposium, "Coastal Recreation in our Urban Environment"
*	5-27-76	NERBC/CZTF - OCS studies, States program reviews
*	6-02-76	U. S. Dept. of Interior, Bureau of Outdoor Recreation
*	6-03-76	U. S. Dept. of Interior, Bureau of Mines
*	6-06-76	N. H. Oceanographic Foundation
*	6-07-76	OCZM Site Visit
*	7-20-76	NERBC/CZTF - OCZM Regulations, Energy Facility Siting
*	9-28-76	NERBC/CZTF - RALI Presentation, Oil Spill Legislation
*	11-01-76	N. E. Regional Fisheries Management Council (4)
*	11-04-76	NERBC/CZTF - EIS/Georges Bank, OCZM Regulations
*	11-19-76	Federal Highway Administration
*	11-22-76	NERBC/CZTF - EIS, OCZM Regulations
*	1-09-77	U. S. Air Force, Pease AFB
*	1-18-77	NERBC/CZTF - Mass. Program, OCZM Regulations, OCS - Activities
*	1-20-77	U. S. Dept. of Interior; Bureau of Mines, National Parks Service, Fish/Wildlife Services, and U. S. Geological Survey
*	2-17-77	Soil Conservation Service
*	3-01-77	NERBC/CZTF - EIS Process, Interstate Coordination
M	3-25-77	NH Channel 11 (Public T. V.)
*	3-27-77	ASPO Conference on Onshore Planning for Offshore Development
*	3-31-77	Strafford Rockingham Regional Council
*	4-13-77	NERBC/CZTF - N. H. Program, Mass Program
*	4-18-77	Army Corps of Engineers
*	4-18-77	State Council of Resources & Development (CORD)

Key	Date	Organization
***	4-20-77	Senate Legislative Hearing on SB 189 (Concord)
*	4-26-77	NERBC/CZTF Seminar "Aquaculture Development and CZ Planning"
*	4-26-77	NERBC/CZTF - Oil Spills
*	4-26-77	NERBC/CZTF - Pipelines
*	4-29-77	NH Port Authority
*	5-03-77	Demonstration Study Meeting: OCP, SRRC, WSPCC, EPA, HUD, OCZM
	5-06-77	North Atlantic Fisheries Council
*	5-07-77	OCZM, Washington
*	5-16-77	NERBC/CZTF - Pipelines
*	5-20-77	NERBC Site Visit
	5-23-77	N. E. Fisheries Council
*	5-25-77	OCZM, Concord
***	5-25-77	House Legislative Hearing on SB 189, Hampton
***	5-26-77	House Legislative Hearing on SB 189, Dover
***	5-26-77	House Legislative Hearing on SB 189, Concord
*	5-31-77	Demonstration Study Meeting: OCP, SRRC, WSPCC
*	6-02-77	NERBC/CZTF - Maine Plan, N. E. Fishery Management Council
*	6-08-77	NERBC/CZTF - Pipelines with BLM
*	6-09-77	NERBC Meeting
*	6-10-77	American Society of Civil Engineers
*	6-11-77	Energy Conference by ERDA
*	6-15-77	N. H. House Committee on Environment & Agriculture
*	6-16-77	N. H. - Vt. Chapter of the Soil Conservation Society of America
*	6-22-77	U. S. Air Force, Pease AFB
*	6-24-77	N. H. Regional Planning Association Directors Meeting
AD	7-08-77	Ad Hoc Committee on Public Information/Education: OCP, SRRC, Sea Grant, League of Women Voters

Key	Date	Organization
AD	7-21-77	Ad Hoc Committee on Public Information/Education: OCP, SRRC, Sea Grant, League of Women Voters
*	8-03-77	NERBC/CZTF - Pipelines with USGS
*	8-08-77	N. H. House Committee on Environment & Agriculture, Trip to Isle of Shoals
AD	8-10-77	Ad Hoc Committee on Public Information/Education
*	9-14-77	Portsmouth Oil Spill Committee
*	9-21-77	NERBC/CZTF - R. I. Plan
*	11-01-77	NERBC/CZTF - Oil Spills
*	11-09-78	U. S. Dept. of Interior, Fish and Wildlife Services
	11-10-77	League of Women Voters Meetings on CZ
	11-15-77	League of Women Voters Meetings on CZ
	11-17-77	League of Women Voters Meetings on CZ
*	11-21-77	NERBC/CZTF - Pipelines with BLM
*	11-27-77	NERBC/CZTF - OCS, Energy, Ports
*	12-06-77	NERBC/CZTF - Energy and Beach Access Topics
*	12-14-77	NERBC Meeting
*	12-14-77	Mass. Program Coordination Meeting
	1-11-78	N. E. Port Operators
*	2-02-78	NERBC/CZTF - Energy
*	2-22-78	NERBC/CZTF - Oil Spills/EPA Workshop

APPENDIX N (continued)

PUBLIC MEETINGS
COASTAL MANAGEMENT - PUBLIC INFORMATION PROGRAM

II. Strafford Rockingham Regional Council, CZ Meetings with Interest Groups, Government Officials, the public, and other media activities: 1975 to Feb.1978

KEY

	Interest Groups
*	Government Officials
**	Public Meetings on CZ legislation
M	Other Media Activities
(a)	Co-attended with N.H. Office of Comprehensive Planning

Key	Date	Organization
*	8-02-75	N.H. House Committee on Environment & Agriculture
	10-14-75	UNH Sea Grant Related Staff
	11-11-75	UNH Faculty and Students
	11-13-75	UNH Faculty and Students
	11-25-75	UNH Faculty and Students
	1-07-76	Concerned Citizens of Seabrook
	1-30-76	Portsmouth Chamber of Commerce
	2-09-76	Durham Garden Club
	2-16-76	Exeter Republican Womens' Club
	3-08-76	Community Planning Workshop
	4-15-76	Exeter Chamber of Commerce
	4-22-76	UNH Graduate Students
	5-03-76	Exeter Lions Club
	5-06-76	N.H. Council for the Humanities
	5-17-76	Portsmouth Naval Shipyard Civilian Adm. Club
	5-19-76	Lee Civic Association
	5-19-76	Rye Civic League
	5-20-76	N.H. Planners Association

Key	Date	Organization
	6-04-76	Winnicunnet High School Students
	6-18-76	N.H. Council for the Humanities
	7-01-76	Star-Island Environmental Institute
	7-24-76	Conservation Caravan - Society for the Protection of N.H. Forests
*	9-20-76	Durham Selectmen
	9-29-76	UNH Class on CZM
*	9-30-76	Strafford Rockingham Regional Council
*	10-13-76	Selectmen and Planning Board, Newmarket
	10-15-76	Garden Club of Seacoast area
*	10-19-76	Strafford Rockingham Regional Council
	10-19-76	Navy Yard Civilian Adm. Club
	10-20-76	Citizens Coalition for the Seacoast
	10-27-76	UNH Class on CZM
	10-28-76	Seacoast Anti Pollution League
	11-15-76	Stratham 76'ers (Golden Age Club)
	11-18-76	Portsmouth League of Women Voters
M	11-18-76	Your Time WLNH-TV, N.H. Network Panel
*	11-18-76	Portsmouth Planning Board
*	12-02-76	Legislators from the Seacoast
	12-07-76	Golden Gate University - Undergraduate Class
	12-09-76	Exeter Sounding Board
M	12-13-76	Exeter Radio Audience - Radio Interview Show
	12-14-76	Hampton Rotary Club
	12-15-76	UNH Class in Land Use Controls
	1-19-77	Rye Republicans
*	1-26-77	N.H. House Committee on Environment & Agriculture
	2-09-77	Alverne High School - Oceanography Class

Key	Date	Organization	
	2-12-77	Dublin School	
	2-22-77	Hampton Beach Chamber of Commerce	
	2-28-77	Hampton Kiwanis	
	3-10-77	Greenland Grange	
	4-19-77	Somersworth Rotary Club	
(a)	5-19-77	Rye Democratic Town Committee	
*	5-24-77	N.H. House Committee on Environment & Agriculture	
*	5-26-77	N.H. House Committee on Environment & Agriculture	
	6-14-77	Portsmouth Kiwanis	
	6-16-77	Soil Conservation Society Field Trip	
	8-08-77	4-H Marine Awareness Program	
	8-22-77	4-H Marine Awareness Program	
*(a)	9-29-77	Strafford Rockingham Regional Council	
*(a)	10-05-77	Elected Officials, Portsmouth	
*(a)	10-12-77	Elected Officials, Hampton	
*(a)	10-20-77	Elected Officials, Durham	
*(a)	10-26-77	Elected Officials, Exeter	
*(a)	10-27-77	Elected Officials, Dover	
*(a)	11-02-77	Elected Officials, Rye	
**(a)	11-30-77	Public Meetings, Exeter	
**(a)	12-01-77	Public Meetings, Dover	
**(a)	12-07-77	Public Meetings, Portsmouth	
*	12-21-77	Durham Planning Board	

APPENDIX O

APPENDIX O

BIBLIOGRAPHY OF ALL DOCUMENTS PREPARED AND UTILIZED DURING THE DEVELOPMENT OF THE CRMP 7/1974 to 4/1978

I. STRAFFORD-ROCKINGHAM REGIONAL COUNCIL (reports prepared for the Office of Comprehensive Planning)

Areas of Particular Concern (APCs)

1. Acquisition Plan for Areas Designated for Preservation and Restoration
2. Amended Inventory and Designation of Areas of Particular Concern
3. Coastal Flood Hazard Areas
4. Comparision of Recommended Standards for Use of Areas of Particular Concern with Municipal Ordinances in Effect as of March 31, 1976
5. Inventory and Designation of Geographic Areas of Particular Concern
6. Inventory and Designation of Geographic Areas of Particular Concern - Revised
7. Public Actions to Bring Areas of Particular Concern Under Purview of a Management Program
8. Use Constraints for Areas of Particular Concern
9. Use Constraints to be Applied to Areas of Particular Concern

Boundaries

1. Coastal Zone Definition
2. Inventory of State and Federal Property
3. Defining More Precisely Primary Zone Boundaries
4. New Hampshire Coastal Zone: Preliminary Description

Land and Water Use Controls/Permissible Uses

1. Alternative Procedures and Indices for Determining Permissible Land and Water Uses
2. Arbitrary Exclusions by Municipalities of Land and Water Uses of Regional Benefit
3. Coastal Flood Hazard Areas: Status and Model Regulations
4. Coastal Zone Land Use Capability Analysis
5. Coastal Zone Land Use Capability Analysis - Revised
6. Coastal Zone Water Use Capability Analysis - Revised
7. Comparison of Recommended Land and Water Use Standards with Municipal Ordinances and Regulations in Effect as of March 31, 1976
8. Concept of "Carrying Capacity" as Applied to Potential Uses of the New Hampshire Coastal Zone: Conclusions on Feasibility of Such an Application

9. Federal, State and Local Permits Required for Using Land and Water in the Coastal Zone
10. Land and Water Use Constraints to Avoid Adverse Impacts
11. Operational Definition of Direct and Significant Impact
12. Performance Standards Based on Carrying Capacity Limitations for Land and Water Uses
13. Permissible Land and Water Uses - Revised; or an Allocation Procedure for Coastal Land Uses

14. Permissible Uses - Priority of Uses in the Coastal Zone
15. Permits Required--Federal, State and Local--For Land and Water Use in the Coastal Zone
16. Site Suitability Study for Onshore Oil and Gas Related Facilities for the New Hampshire Coastal Zone
17. Water Uses - Capability and Limitations
18. Zoning Summary; Third Edition

Public Participation and Intergovernmental Coordination

1. Biographical Sketches of Individuals Representing Identified Organizations
2. HUD/OCZM Interagency Demonstration Project
3. List of Organizations Appropriate to Membership on a Council of Gubernatorial Appointees to Serve as Policy Advisors on Matters Relating to CZM
4. Monitoring System Procedures for Coastal Zone Activities Reporting
5. Public Participation

6. Regional Public Information and Participation Program
7. Slide Talk - New Hampshire Coastal Resources Planning Program

Resource Inventories/Analyses

1. Air Pollution - Portsmouth Area
2. Aquaculture
3. Current Data on Coastal Zone Planning Area
4. Economic Base Data
5. Economic Impact of Certain Shoreline Users on the N.H. Coastal Zone

6. Economic Impact of Recreation on the New Hampshire Coastal Zone
7. Existing and Potential Conflicts Over Land and Water Uses in New Hampshire and Coastal Zone
8. Existing and Potential Conflicts Over Land and Water Uses in the New Hampshire Coastal Zone - Revised
9. Future Uses (deep water ports)
10. Inventory of Historic Areas and Sites

11. Inventory of Land Uses
12. Inventory of State and Federal Property in the Coastal Zone
13. Ocean Borne Shipping
14. Offshore Sand and Gravel Mining
15. Physical Data - Marine and Estuarine Waters and Climate

16. Public Access to Beaches and Shoreline
17. Recommendations of S.E.N.H. Regional Planning Commission on Port Authority Expansion Proposals
18. Recreational Fishing and Boating
19. Scenic Assessment
20. Site Suitability Study for Onshore Oil and Gas Related Facilities for the N.H. Coastal Zone
21. Socioeconomic Profile of Residents of the Coastal Zone
22. Socioeconomic Profile of User's of Coastal Recreation Facilities
23. Various Coastal ECO systems and their Response to Intrusion by Man
24. Water Uses - Existing and Future

II. GREGOR McGREGOR, LEGAL CONSULTANT TO OCP

Legal Authorities

1. Preliminary Legal Analysis:
   - N.H. Coastal Zone Boundaries
   - Land and Water Use Capabilities and Constraints
   - Permissible Uses and Priority of Uses
   - Areas of Particular Concern
   - CZM Organizational Alternatives
2. Summaries of State Statutory Authorities:
   - Land Resource Management Devices
   - Water Resource Management Devices
   - Acquisition of Land and Water Interests
   - Acquisition of Property By State Agencies

III. OFFICE OF COMPREHENSIVE PLANNING: Coastal Program Staff Papers

Draft Legislation

1. An Act Establishing a Coastal Resources Management Program
2. Alternative Legislation - Summaries
3. Coastal Resources Management Program Legislation - Senate Bill 189, as amended.
4. Summary of Senate Bill 189

Organizational Structure

1. Organizational Alternatives.

Permissible Uses

1. Land Use Capabilities, Adverse Impacts and Use Constraints
2. Use Constraints for Areas of Particular Concern
3. Water Use Capabilities, Adverse Impacts and Use Constraints

Public and Government Involvement

1. A Coastal Resources Management Program for New Hampshire (fold-out)
2. Coastal Resources Management Information Package
3. Map Pamphlet
4. New Hampshire Coastal Resources Management Program: A Summary, 1977
5. New Hampshire Coastal Resources Management Program: Summary of SB 189 as amended, 1977.

6. Public Information/Participation Methods
7. Publicity Program Outline
8. Resolution relative to the N.H. Coastal Zone (Governor and Council)

State - Federal Interaction and the National Interest

1. Federal Coordination Package No. 1
2. Federal Coordination Package No. 2 - cover letter for summary of SB 189
3. Letter to Federal Agencies requesting expression of their interests in the N.H. coastal area

Other CRMP Documents

1. Coastal Zone Management Program Final Report, First Program Year, 1975
2. Coastal Zone Management Program Final Report, Second Program Year, 1976
3. Coastal Resources Management in New Hampshire: The First 18 months, January, 1976

IV. SUPPORT DOCUMENTS PREPARED BY OTHER SOURCES WHICH WERE UTILIZED IN THE COASTAL PROGRAM

Hoyle, Tanner, and Assoc., Airport Feasibility Study in the Seacoast Area of New Hampshire. (For OCP and N.H Dept. of Public Works), 1977.

League of Women Voters in New Hampshire, "New Hampshire's Seacoast - What Does the Future Hold?" Oct., 1977 (flyer)

Little, Arthur D., Inc., New Hampshire State Airport System Plan: Technical Report (for N.H. Aeronautics Commission), 1973

Macguire, C.E. Inc., Feasibility Study for Expanding the Facilities of the New Hampshire State Port Authority, Nov., 1974.

Moore, David W., Public Attitudes and Coastal Resources in New Hampshire also entitled Assessment of the N.H. Political Climate Concerning CZM Issues. (UNH Sea Grant), June, 1976

N.H. Agriculture Experimental Station, UNH, USDA/SCS, Soil Survey of New Hampshire Tidal Marshes (Oct., 1974)

N.H. Dept. of Fish and Game, Coastal Zone Management Fisheries, Aug., 1975 (for OCP)

N.H. DRED, The Impact of Offshore Oil - New Hampshire and the North Sea Experience, 1975

N.H. Office of Comprehensive Planning, Coastal Management for New Hampshire, 1973

Coastal Zone Management in New Hampshire: (1969-1973) Planning Efforts Prior to OCZM Funding.

"Estimates of Current Housing Supply For the State of New Hampshire by Town and Region," 1977

Guides for Erosion and Sediment Controls in Developing Areas of New Hampshire.

"New Hampshire Population of Counties and Subdivisions: 1970 and 1960"

"New Hampshire Population Projections for Towns and Cities to the Year 2000," Aug., 1977 (Interim Revisions)

"1977 Residential Population Figures," 1977

Planning Enabling Legislation in New Hampshire (revised as of 1977).

N.H. Dept. of Public Health, Air Pollution Control Agency, "Air Pollution and Meterologic Data for Strafford and Rockingham Counties."

N.H. Water Resources Board, Seacoast Area Water Resources Management Study.

N.H. Water Supply and Pollution Control, Piscataqua River and Coastal New Hampshire Basins Water Quality Management Plan, July, 1975 (P.L. 92-500, Sec. 303)

Strafford-Rockingham Regional Council, Land Use Plan A Citizen's Synopsis, Sept., 1977

Land Use Plan - A Citizen's Synopsis (Summary Statement) Jan., 1978

Recommendations of S.E.N.H. Regional Planning Commission on Port Authority Expansion Proposals, 1975

Regional Housing Element, Dec., 1977

Traffic: Piscataqua River - Portsmouth Harbor, June, 1974

Water Quality Management Control and Program

University of New Hampshire, Great Bay Pollution Study, 1974

Nutrient Studies of the Great Bay Estuary System, 1974

Sewage Disposal Design: New Castle, N.H. (Dr. D.P. Carrol)

U.S. Army Corps of Engineers, Southeastern New Hampshire Water Supply Study: Estimated Demands and Resource Availability, 1976

Weston, Richard E., A Coastal Management System for New Hampshire, Dec., 1975

APPENDIX P

APPENDIX P

LIST OF MAPS PREPARED FOR THE CRMP

Map	Number of Sheets	Scale	Date
Coastal Zone Boundaries and Topographic Base Map	7*	1:24,000	1975
Land Use Capability	7*	1:24,000	1975
Areas of Particular Concern (Land)	7*	1:24,000	1975
Areas of Particular Concern (Water)	4	1:24,000/ 1:80,000	1975
Land Use and Vegetative Cover	7*	1:24,000	1975
Marine Uses	1	1:80,000	1975
Surficial Geology	7*	1:24,000	1975
Slopes	7*	1:24,000	1975
Soil Conditions	7*	1:24,000	1975
Groundwater Potential/Favorability	7*	1:24,000	1975
Surface Drainage	7*	1:24,000	1975
Municipal Water Systems	7*	1:24,000	1975
Municipal Sewer Systems	7*	1:24,000	1975
Areas of Particular Concern (Land and Water)	1	1:64,000	1975
Land and Water Use Capability	1	1:64,000	1975
CZ Boundaries (Primary & Secondary Zone)	1	1:64,000	1975
Land/Water Use and Vegetative Cover	1	1:64,000	1975
Existing Municipal Zoning	7*	1:24,000	1977
Precise Delineation of Primary Zone on local tax maps or DRED maps	85	varies	1977
Precise Delineation of Selected Areas of Particular Concern	73	varies	1977
Water use capability	4		
- offshore (overlay)		1:80,000	1975
- Portsmouth Harbor area		1:24,000	1975
- Hampton Harbor area		1:24,000	1975
- Great Bay area		1:24,000	1975
Offshore basemap	1	1:80,000	1975
Clamming and Oystering Areas	3		
- Great Bay area (+ oysters)		1:24,000	1975
- Portsmouth Harbor area		1:24,000	1975
- Hampton Harbor area		1:24,000	1975
Offshore fishing areas (overlays)	3		
- landings data		1:80,000	1975
- commercial fishing areas		1:80,000	1975
- commercial spawning areas		1:80,000	1975
Offshore sand/gravel deposits (overlay)	1	1:80,000	1975
N.H. marine boundaries (overlay)	1	1:80,000	1975
Existing offshore marine uses (overlay)	1	1:80,000	1975

Source: Office of Comprehensive Planning, 1978

* refers to U.S.G.S. Quadrant Maps.

APPENDIX Q
NEW HAMPSHIRE'S COASTAL ZONE BOUNDARY DETERMINATION

The delineation of New Hampshire's coastal management area is based upon the following considerations:

a) the boundaries of this zone extend inland only so far as is necessary to control land whose uses have a direct and significant impact on coastal waters;

b) the boundaries encompass the following required areas: transitional and intertidal areas; islands; salt marshes; wetlands; beaches; and the United States' territorial waters;

c) the inland boundaries are described in a manner which is sufficiently clear and exact to enable property owners to determine whether their property or proposed use of that property is subject to management, and;

d) Federally owned or operated properties have been identified and mapped, but are not included in the coastal zone boundaries.

Basis For Establishing The Two Tier Approach

The definition of the coastal zone was arrived at through a review of other states' boundary determinations; consultation with federal, state, and local agencies; and an analysis of several coastal resource factors in New Hampshire. In formulating this definition, particular emphasis was placed on establishing a boundary which met the Federal requirements.

The two tier boundary approach utilized in delineating New Hampshire's coastal subzone boundaries included the review and consideration of geographical, biophysical and administrative features of the area, and of the statutory and historical authorities of State, county, and municipal governments. Also taken into consideration were existing statewide policies relating to energy, the siting of power plants, surface and subsurface mineral extraction, and overall land/water conservation policies affecting the coastal area. A review was made of areas currently defined as coastal including planning districts, tourist promotion districts, the N.H. Dept. of Fish and Game, the N.H. Port Authority, county boundaries, legislative districts, and districts of the N.H. Dept. of Public Works and Highways. Natural features of the landscape which would tend to define an area as coastal were identified, including river basins, coastal plains, and climatic factors.

Certain assumptions and findings have been made about the nature of the coastal resources management program in New Hampshire. The assumptions are as follows: the closer a use is to coastal waters the greater the state's concern.

The findings relate to existing municipal and state government structures and include the following: municipalities, not counties, or the state, have been the basic land use decision-making bodies in New Hampshire; the state legislature is strongly inclined to defer decisions to the municipal level; all coastal municipalities have a history of using land use control devices (such as zoning and subdivision regulations);

all coastal lands fall within the jurisdiction of a municipal government; offshore waters are not under the jurisdictions of any municipal governments; estuarine waters are under both local and state control; and, the Coastal Zone Management Act calls for state control over matters of state concern, but recommends resolution of land and water use conflicts of local importance at the local level.

These assumptions and findings were of guidance in the formulation of the State's coastal zone boundaries. (S-RRC, 1975, B). They provided a basis for the concept that there should be distinct geographic areas within which differing degrees of control would be exercised by the State. Initially three subzones were identified:

a) a primary zone where almost any land or water use could have a direct and significant impact on coastal waters;

b) a secondary zone where many uses could have a direct and significant impact on coastal water quality;

c) a tertiary zone where only a few large uses or use changes, would have a direct and significant impact on coastal waters. The coastal area watersheds' boundaries were determined to encompass the largest area within which a use change would have a direct and significant impact on coastal waters. As such, these watersheds' boundaries formed the basis for the inland limits of the tertiary zone. In order to facilitate the management of this area, the tertiary zone boundary was further refined by extending its inland limits to conform to adjacent inland municipal boundaries.

Subsequently, the tertiary zone was deleted from program jurisdiction because it was determined that very few land and water uses located in that zone might have an impact on coastal waters. Furthermore, it was decided that these uses would not warrant the additional management of this program to monitor development in this tertiary subzone.

Further detailed analysis was made of those potential areas (including fragile ecosystems and various physical considerations relative to development in these areas) which might have a direct and significant impact upon coastal waters. Based upon this analysis, and relying upon the assumption that "the closer a use is to the coast the greater the impact on coastal waters," it was decided that the area within which most activities would need to be regulated should have an inland boundary which would extend to the first 20-foot elevation contour or a horizontal distance inland of 1000 feet, which ever was further inland. This formed the inland boundary of the primary zone. For management purposes, a secondary zone was established to encompass the non-primary zone portions of those municipalities which have areas designated as part of the primary zone.

In conclusion, the two tier approach was determined to be the most effective way to construct a management program which would permit attention to and control over activities affecting coastal waters based upon both proximity to coastal waters and potential impact of various types of activities.

Alternative Boundaries Considered

Alternative methods to determine more precisely and map the inland limits of the primary zone were examined, in an effort to establish a zone which would be easily recognizable by the CRM council, property owners, and local officials. The four alternative methods studied were as follows: precise delineation on a case-by-case basis as warranted; approximating the boundary with a series of identifiable landmarks; delineation by survey; and approximation to property lines.

The decision to map the zone by means of property lines was based upon the Federal requirement that the inland boundary be described in a manner which is sufficiently clear and exact to enable property owners to determine whether their property or proposed use of that property is subject to management. Property lines in the coastal area are easy to identify since they have already been surveyed and are available on local tax maps, as well as in deed descriptions. Property lines are precise and form a continuous pattern of lines. Furthermore, all municipal tax maps are currently being updated in order to comply with a New Hampshire law (RSA 31:95-a) requiring that all municipalities have property line maps for tax assessment purposes by 1980.

Method for Mapping Primary Zone Boundary

The boundary of the inland extent of the primary zone was first delineated on seven (7) base maps at a scale of 1:24,000, using 7½ minute USGS topographic map series (1973), aerial photographs (1974), and a USDA-SCS tidal marsh survey (1974). These maps identified both the 1000 foot landward line from the edge of saltwater or saltmarshes and the 20 foot contour. This information was transferred onto municipal tax maps, delineating which ever line was further inland. Where this boundary line straddled a property, one of three methods was used to most closely approximate the landward side of the mapped line: a straight line between clearly fixed points such as property line intersections; an identifiable man-made feature; or the landward portion of the property line.

Interstate Consultation

In an effort to establish boundary consistency between New Hampshire and the adjacent states, ongoing consultation has occurred between OCP and the coastal zone programs of the states of Maine and Massachusetts, including meetings at the New England River Basins Commission (NERBC). The OCP transmitted to the New England CZM planning offices, in February of 1975, a description of the tentative boundaries (including the three subzones) along with requests for comments. In November of 1976, through the NERBC, maps of the primary and secondary subzones were distributed to the above. No negative comments were received.

During the development of New Hampshire's CRM program, discussion concerning boundary definitions, as well as other program elements, occurred on an informal basis at the regular meetings of the NERBC Coastal Zone Task Force. The State of Maine maintains the 250 foot line of the Shoreland Zoning Act as the management area and a planning area of one municipality inland from coastal waters. Massachusetts' management area is specified as 100 feet inland of specific major roads, rail, or other visible right-of-way. As a result of these interstate consultations, major problems are not anticipated to develop between the program boundaries of Maine and Massachusetts and those of New Hampshire.

APPENDIX R

APPENDIX R

SUMMARY OF PROPOSED COASTAL RESOURCES MANAGEMENT PROGRAM LEGISLATION FOR NEW HAMPSHIRE

State of New Hampshire
Office of Comprehensive Planning
26 Pleasant Street
Concord, New Hampshire 03301

1978

(Refer to Appendix S for the full text of the Coastal Resources Management Program Legislation.)

SUMMARY OF PROPOSED BILL
COASTAL RESOURCES MANAGEMENT PROGRAM

The general court finds that the coastal area is rich in a variety of natural, economic, recreational, cultural and aesthetic resources; but the full realization of their value can be achieved only by encouraging future development in suitable areas and by protecting those areas unsuited to development.

The bill gives the state planning agency the necessary authority to implement the program. An advisory council is established to provide advice to the state planning agency Refer to Figures 1, 2, 3 at the end of this summary for the organization chart, CRM Program duties of OCP and Advisory Council, and Council membership/selectors. The advisory Council has five members:

- one representative of the statewide general public to serve as chairman;
- one representative of economic development in the coastal zone;
- one representative of the recreation industry in the coastal zone;
- one representative of conservation or environmental protection in the coastal zone; and
- one elected municipal official of a coastal zone municipality to represent municipal government.

The advisory council will normally conduct its meetings at a location in the coastal zone. Each member is appointed by the Governor and Executive Council for a two year term.

The management program is confined to a defined coastal zone which is based on the inland limits for municipalities touching tidal waters and is comprised of 17 municipalities and all tidal waters in state jurisdiction. However, the coastal zone, as well as the authorities and functions of the state planning agency, is separated into 2 sub-zones.

The primary zone, in which most of the program is focused, includes all tidal waters and seabed in state jurisdiction, islands, wetlands, and land extending inland from tidal waters to either the first 20-foot elevation contour, or to a horizontal distance of 1,000 feet, whichever is farthest. The primary zone comprises a portion of 17 municipalities bordering on tidal waters, from Rollinsford to Seabrook. Within the primary zone, the state planning agency will manage only land and water uses which have a potential for causing specific impacts on coastal lands and waters and geographical areas of particular economic and ecological concern.

The secondary zone is comprised of the remainder of the 17 primary zone municipalities. Within this zone, the state planning agency's management authority is restricted to major water users, and to a case-by-case

approval authority over development proposals which, in a finding by the state planning agency, could cause one or more specified impacts on coastal lands or waters.

The program will manage only those land and water uses with a potential for causing specific impacts on coastal lands and waters. This management will occur only in the primary zone, except as noted, and will utilize several management techniques: state planning agency promulgated management standards administered by the primary zone municipalities by means of municipal coastal plans; provision of administrative grants to affected municipalities; state planning agency approval in the primary zone of major development proposals listed in the bill, and of major water use proposals throughout the coastal zone; state planning agency consistency determination of any plan, agreement, or permit for any state or municipal activity to which a federal agency is a party, and which could affect any land or water in the coastal zone; incorporation by reference of all state standards adopted under the federal water quality and clean air acts; prohibition of state planning agency approval of any development proposal that is disapproved by any municipality or state agency as provided by law; utilization of existing state authorities, mechanisms and expertise to the maximum extent possible; and state planning agency research and recommendation of a "one-stop" state permit system for all development proposals subject to this act.

Based upon 10 selection criteria, the bill lists 15 categories of geographical areas located in whole or in part within the primary zone, economic and ecological in nature, and expresses a state interest in the preservation, conservation and orderly development of these areas. High and low use priorities are also listed for each category. Program management of these areas will be accomplished by several mechanisms: state planning

agency promulgation of maps and management standards through the rule-making process; adoption and administration of the management standards by the coastal zone municipalities by means of municipal coastal plans; provision of administrative grants to affected municipalities; and state planning agency approval of proposed land or water uses within the areas of particular concern.

The state planning agency will establish a procedure for the review and comment by any interested person on all development proposals which are subject to the program. All proposals subject to final state planning agency approval shall undergo this review and comment procedure.

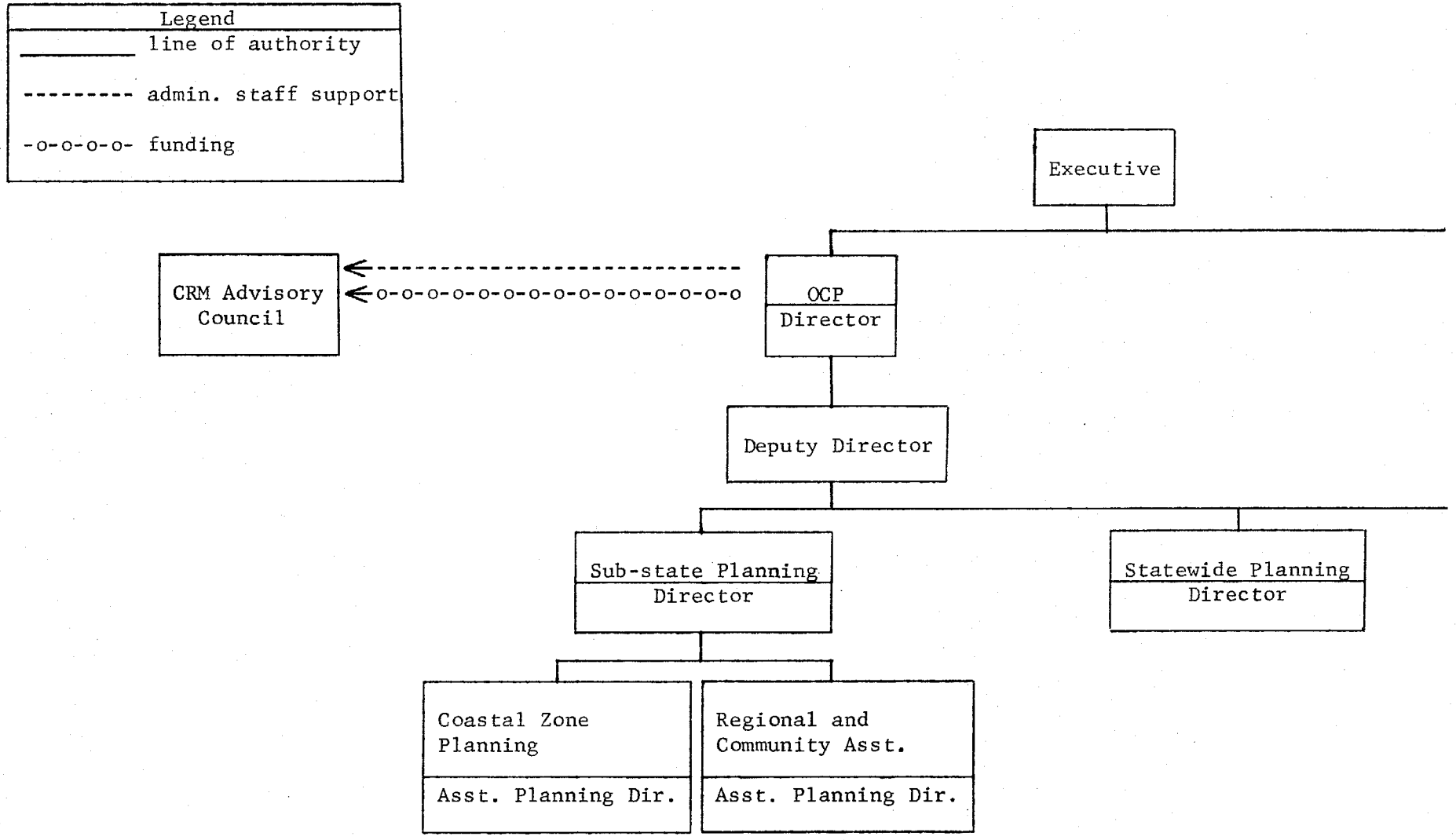
The bill prohibits any land or water use decision which arbitrarily excludes or restricts any land or water use which provide services or other benefits to citizens of more than a single community. Relief is through the existing judicial process, and criteria are listed to assist in the determination of arbitrariness.

The state administrative procedures act is relied upon for rule-making by the state planning agency with additional requirements regarding public notice, location of public hearings, and permit decisions. Re-hearing and appeal procedures will rely on the existing state statutorily provided system, with a modification allowing a motion for rehearing by any person directly affected by specific decisions of the state planning agency, any coastal zone municipal government, or upon petition by 25 or more voters.

Criminal penalties are provided which are consistent with the state's criminal code. A civil penalty of $5,000 is also provided. The state planning agency is given the authority to issue a written cease and desist order against any action in violation of the act.

ORGANIZATIONAL CHART

PROPOSED COASTAL RESOURCES MANAGEMENT ADVISORY COUNCIL
and
OFFICE OF COMPREHENSIVE PLANNING



Source: New Hampshire Office of Comprehensive Planning, 1978

Figure 1

Figure 2

PROPOSED COASTAL RESOURCES MANAGEMENT LEGISLATION
PROGRAM DUTIES AND RESPONSIBILITY

Program Duties	Levels of Responsibility* Advisory Council	OCP
. Promulgate land & water use management standards	2	1
. Promulgate APC maps	2	1
. Promulgate APC management standards	2	1
. Permits for major, APC and public developments		1
. Federal consistency determinations		1
. Intra-state system for review of proposed major and APC developments	2	1
. Consistency determinations for plans	2	1
. Municipal coastal plans	2	1
. Municipal grants	2	1
. Develop "areas for preservation or restoration" plan	2	1
. Primary zone boundary maps		1
. Acquisition of land authority	2	1
. Cease and desist authority		1
. Administer FCZMA funds		1
. Annual report	2	1
. Conduct studies		1

* 1 = Primary responsibility, supervision, final approval, etc.

2 = Provide Advice

Source: New Hampshire Office of Comprehensive Planning, 1978

COASTAL RESOURCES MANAGEMENT ADVISORY COUNCIL
MEMBERSHIP, APPOINTMENT, INITIAL TERM, AND REGULAR TERM

Membership	Appointment by Governor & Executive Council	Initial Term	Regular Term
Chairman, Statewide General Public	Yes	2 years	2 years
Economic Development in Coastal Zone	Yes	1 year	2 years
Recreation Industry in Coastal Zone	Yes	2 years	2 years
Conservation or Environmental Protection in Coastal Zone	Yes	2 years	2 years
Elected Municipal Official in Coastal Zone	Yes	1 year	2 years

Source: New Hampshire Office of Comprehensive Planning, 1978

APPENDIX S

APPENDIX S

PROPOSED COASTAL RESOURCES MANAGEMENT PROGRAM
LEGISLATION FOR NEW HAMPSHIRE

This draft legislation has not been approved by the Governor or the Office of the Attorney General and has not been submitted to the General Court. It is similar to Senate Bill 189 passed by the General Court in its 1977 Regular Session and vetoed by the Governor. It is expected that draft legislation as approved by the Governor will be submitted to the 1979 Regular Session of the General Court.

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PROPOSED COASTAL RESOURCES MANAGEMENT PROGRAM
LEGISLATION FOR NEW HAMPSHIRE

1 New Chapter. Amend RSA by inserting after chapter 271-A the following new chapter:

CHAPTER 271-B
Coastal Resources Management Program

271-B:1 Declaration of Purpose. The general court finds and declares that:

I. The coastal area represents an asset of great present and potential value to the economic well-being of the state, and there is a state interest in the effective management, beneficial use, protection and development of the coastal area.

II. The coastal area is rich in a variety of natural, economic, recreational, cultural and aesthetic resources, but the full realization of their value can be achieved only by encouraging further development in suitable areas and by protecting those areas unsuited to development.

III. Unplanned population growth and economic development in the coastal area have caused the loss of living marine resources, wildlife and nutrient rich areas, and have endangered other vital ecological systems and scarce resources. Additional demands which may be placed upon coastal resources by outer-continental shelf oil and gas exploration, development and production emphasize the urgency for planning of and management for development of greater than local concern.

IV. Cooperative state, substate regional, and local planning and management, in conjunction with the federal government and private interests, should be adequate to resolve conflicting demands for land and water uses, evaluate uses of greater than local impact, and ensure consistency

of federal programs with state, substate regional and local goals, objectives and programs for the coastal area.

V. To achieve maximum responsiveness by a management program to local conditions, accountability, and public accessibility, it is necessary and proper to utilize local government and local land and water use planning, controls, procedures and enforcement as a major means of implementation.

VI. It shall be the continuing responsibility of state, substate regional and local governments and agencies:

(a) To preserve, protect, develop, and where possible, restore or enhance the resources of the New Hampshire coastal area for this and succeeding generations;

(b) To achieve a wise and balanced use of land and water resources of the coastal area, giving full consideration to ecological, cultural, historic and aesthetic values, and to needs for social and economic development, and to the national interest and national defense;

(c) To integrate public policy relative to the coastal area into a coordinated and managed program for its preservation and development, and to ensure that the public sector and local, substate regional, state and federal agencies are full participants in coastal area planning and management on a continuing basis;

(d) To discourage land and water use decisions which effectively exclude any category of land or water use from the entire coastal area; and

(e) To conduct, sponsor or assist research in coastal matters to improve the data base on which coastal land and water use decisions are made.

271-B:2 General Definitions. In this chapter:

I. "Advisory council" means the coastal resources management advisory council.

II. "Agency" means, with the exception of the state planning agency, any unit of municipal, substate regional, state, interstate or federal government.

III. "Chairman" means the chairman of the coastal resources management advisory council.

IV. "Coastal waters" means all tidal, estuarine, and oceanic waters, and the freshwater lakes, streams, rivers, and groundwaters which are located in the coastal zone.

V. "Coastal zone" means the New Hampshire coastal zone as further delineated in RSA 271-B:8.

VI. "Comprehensive plan" means a master plan, comprehensive plan, or comprehensive master plan for the development of a municipality made pursuant to RSA 36:13-15 inclusive.

VII. "Director" means the director of the state planning agency.

VIII. "Guideline" means a suggested, instructive and directional course of action which is not limited to a single course of action when some other course would achieve equivalent results.

IX. "Intertidal zone" means that area between the mean high water mark and the mean low water mark.

X. "Land and water use controls" means any municipal by-laws, ordinances, regulations, or management standards, and associated maps, which place a qualitative or quantitative limitation upon the use of land or water within the jurisdiction of any municipality.

XI. "Land use" means a category of activity conducted on or under

land above the mean low water mark.

XII. "Land use capability" means a classification derived from analysis of natural factors as reflected on land use capability maps adopted under RSA 271-B:9.

XIII. "Management standard" means a rule, regulation, or similarly expressed limitation placed upon development and expressed either quantitatively or qualitatively.

XIV. "Mean high water mark" means the location on the shoreland of the average height of all the high waters at that location as determined from the mean high water bench mark data for New Hampshire coastal waters as maintained by the National Ocean Survey, National Oceanic and Atmospheric Administration, United States Department of Commerce, and as may be adjusted to the locality.

XV. "Mean low water mark" means the location on the shoreland of the average height of all the low waters at that location as determined from the mean low water bench mark data for New Hampshire coastal waters as maintained by the National Ocean Survey, National Oceanic and Atmospheric Administration, United States Department of Commerce, and as may be adjusted to the locality.

XVI. "Municipal coastal plan" means the land and water use plans, regulations, and controls, together with maps, diagrams or other descriptive material and text, for a described area within a municipality, and which meets the requirements of and implements the provisions of this chapter.

XVII. "Person" means an individual, partnership, corporation, association, organization, public or municipal corporation, or any other legal entity, municipal, substate regional, state, interstate or federal governmental agency, however designated.

XVIII. "Program" means the New Hampshire coastal resources management program as set forth in this chapter to include such rules, regulations, management standards, guidelines, maps, and other items to be promulgated under the authority herein.

XIX. "State planning agency" means the state agency presently known as the office of comprehensive planning.

XX. "Water use" means a category of activity conducted below the mean low water mark on, in or under water, or on or under the ocean floor.

XXI. "Water use capability" means those classifications derived from analysis of natural factors as reflected on the water use capability maps adopted under RSA 271-B:9.

271-B:3 Definitions of Areas of Particular Concern. In this chapter, "areas of particular concern" means geographic areas which are of concern to the state because of their special economic value or ecological sensitivities to intrusions by man. Such areas shall be those delineated on maps adopted under RSA 271-B:11, III, as follows:

I. "Access points," means areas which provide public access to a coastal water.

II. "Aquifer recharge areas," means land surface areas through which water from precipitation or streams enters a groundwater system.

III. "Areas of cultural and historical significance," means districts, areas, buildings, structures, or objects which are archeologically, culturally, architecturally, historically, or educationally significant to the citizens of New Hampshire or the nation, including, but not limited to, properties which are listed in the national register of historic places or on the state historic inventory, or both, as well as any properties which are included in a locally adopted historic district.

IV. "Areas of scenic importance," means land or water areas having significant aesthetic value.

V. "Areas where development is dependent upon utilization of, and access to, coastal waters," means areas which provide direct access to and utilization of a coastal water for one or more land or water development uses and do not conflict with areas of cultural and historical significance, areas of scenic importance, beaches and sand dunes, other unusual natural areas, and tidal wetlands as defined herein.

VI. "Beaches and sand dunes," of which "beaches" means the zone of unconsolidated material extending landward from the mean low water mark to the place where there is a change in material or physiographic form as,

for example, and without limitation, the line of permanent vegetation, a sand dune, or a sea cliff, and "sand dunes" means one or more unconsolidated hills or ridges of sand situated landward of the mean high water mark, and which are shaped and affected by wind or storm water activities or both.

VII. "Fish spawning or concentration areas," means areas in coastal waters in which one or more species of fish regularly aggregate or school to spawn or feed, or through which one or more species of fish regularly migrate to include species of anadromous fish throughout their migration within the coastal zone.

VIII. "Floodplains," means land areas adjoining any tidal, estuarine or oceanic body of water, and which have a one percent chance of being inundated by water, as determined from the best available data from the National Flood Insurance Administration, United States Department of Housing and Urban Development; Army Corps of Engineers, United States Department of Defense; Geological Survey, United States Department of the Interior; or Soil Conservation Service, United States Department of Agriculture.

IX. "Lobster concentration areas," means areas in coastal waters in which one or more species of lobster aggregate.

X. "On or offshore sand and gravel deposits," means areas on or under land or the ocean floor where a sand and gravel deposit occurs.

XI. "Other unusual natural areas," means areas, the uniqueness or character of which set them apart from the existing categories set forth in RSA 271-B:11, II, including, but not limited to, waterfowl migratory or nesting areas, or areas where conditions are particularly suited for the growth of certain species of trees or other vegetation.

XII. "Prime agricultural land," means a land area used, or with the

potential for use, for the production of food or fiber, and which has certain characteristics of soil quality and moisture supply as determined by the Soil Conservation Service, United States Department of Agriculture.

XIII. "Rocky shores," means shore formations of a rock substrate which are sprayed, washed, or submerged by tidal waters, extending seaward to a depth of 60 feet, including but not limited to a headland, rocky ledge, an outcropping, or a glacial eratic.

XIV. "Shellfish concentration areas," means areas in coastal waters in which one or more species of shellfish, except lobster, aggregate.

XV. "Tidal wetlands," means areas which border on tidal waters, such as, but not limited to banks, bogs, saltmarshes, swamps, meadows, mudflats or other lowlands, and which are subject to tidal action (including areas now or formerly connected to tidal water), the surface of each of which is at an elevation not exceeding 3-½ feet above the local mean high water mark and upon which grows or is capable of growing one or more of the plant species or families of saltmeadow grass (Spartina patens), spike grass (Distichlis spicata), black grass (Juncus gerardi), saltmarsh grass also known as cord-grass (Spartina alterniflora) slatworts (Salicornia spp.), sea lavendar (Limonium carolinianum), saltmarsh bulrushes (Scirpus maritimus, var. fernaldii and Scirpus paludosus var. atlanticus), sand spurrey (Spergularia marina and Spergularia canadensis), high-tide bush (Iva frutescens), spike rush (Eleocharis parvula and Eleocharis halophila), chairmaker's rush (Scirpus americana), bent grass (Argostis palustris), coastblite (Suaeda spp.), orach (Atriplex patula), arrow-grass (Triglochin maritima), and seaside goldenrod (Solidago sempervirens). The presence of wetland substrate shall be determinative of the geographical extent of a tidal wetland.

XVI. "Water supply sources," means surface water areas, to include adjacent watershed, and groundwater areas presently used as a public source of potable water and those areas identified in existing comprehensive plans and any existing water resources plans adopted by a municipality or appropriate state agency as a future source of potable water for public use.

271-B:4 Definition of Development. In this chapter:

I. "Development" means public or private activities, including but not limited to, recreation, transportation, residential, industrial, commercial, water supply, waste disposal, and solid waste disposal, which may involve:

(a) Any construction, mining, dredging, filling, grading, removing, altering, escavating, or drilling of, in, or on the land or water; or

(b) An increase in the intensity of current use of land, water, or a structure; or

(c) The modification of the shore, beach, seacoast, river, stream, lake, pond, or canal; or

(d) The demolition of any structure; or

(e) A substantial increase in the size of a structure.

II. "Development" does not mean:

(a) Work involved with the taking of land or water samples for management, research or monitoring purposes; or

(b) The maintenance, renewal or internal improvement, but not including a substantial increase in the size of any existing structure; or

(c) The change in ownership of land; or

(d) The construction, erection, or demolition of or addition to any structure accessory to an existing residential structure, including but not limited to, a barn, garage, tool shed, fence, antenna and their supports, and flagpoles, but not including a substantial increase in the size of any existing structure; or

(e) The construction or demolition of fences, non-residential structures and roads exclusively for animal husbandry or agriculture on land actively devoted thereto.

271-B:5 Program Authorities and Duties of the State Planning Agency.

I. The state planning agency shall exercise direct management controls over activities in the coastal zone as necessary to perform its duties and exercise its responsibilities as provided in: RSA 271-B:8, IV; RSA 271-B:9, V; RSA 271-B:10, II through IV inclusive; RSA 271-B:11, III through VIII inclusive; RSA 271-B:12, II through V inclusive; RSA 271-B:13, I; RSA 271-B:14, I through III inclusive; and RSA 271-B:18, IV. Activities regulated, managed or supervised by other state agencies as of the effective date of this chapter shall not be within the jurisdiction of the state planning agency except as otherwise provided in this chapter.

II. In addition to any other authorities and duties set forth in this chapter, or as otherwise provided by statute, the state planning agency shall:

(a) Consult with the advisory council pursuant to RSA 271-B:7, II and III. The state planning agency shall respond in writing to any formal recommendation of the advisory council pursuant to said sections.

(b) Provide staff support to the advisory council as it shall require.

(c) Request, receive and administer federal funds available under and in accordance with the Federal Coastal Zone Management Act of 1972, as amended, and such other funds as the general court may appropriate or which the governor and executive council may designate for program purposes.

(d) Advise the governor and executive council and the general court on the consistency with the program of all requests for appropriations and expenditures for capital improvements related to the New Hampshire coastal zone.

(e) Issue rules and regulations in interpretation and implementation of this chapter, pursuant to the provisions of RSA 271-B:16.

(f) Not be authorized by anything in this chapter to approve any development proposal disapproved by any municipality or state agency as specifically authorized by law.

(g) Upon request, advise and assist, to the extent of program jurisdiction and budgetary constraints, any governmental agency or private development interest in the siting, construction or operation of any development within the purview of the program; provided that said advice and assistance shall be consistent with the requirements of RSA 271-B:1, VI.

(h) Advise the governor and executive council concerning the acquisition of land in the coastal zone for purposes of implementing the program.

(i) As otherwise provided by law, have the authority to acquire fee simple and less than fee simple interests in lands, waters and other properties in the name of the state by purchase, lease, or gift for purposes of implementing the program.

(j) Conduct and encourage studies relating to the management, beneficial use, prohibition and development of coastal resources, and collect and disseminate the results of such studies.

(k) Submit annually to the governor and executive council and the general court, beginning in the third month of fiscal year 1981, a written report of the activities of the state planning agency and the advisory council covering the previous fiscal year. The report shall be a public document and shall address the following subjects:

(1) Program accomplishments and actions in achieving the requirements of RSA 271-B:1, VI;

(2) Any recommended changes in existing statutes, regulations, policies, or state governmental practices that the state planning agency feels necessary to better achieve the purposes of the chapter;

(3) New programs or plans to be considered for action by the governor and executive council or by the general court;

(4) Any aspect of the program or the chapter which is proving difficult to accomplish, with proposals for courses of action to alleviate the situation; and

(5) Such program recommendations as submitted by the advisory council pursuant to RSA 271-B:7.

III. The director of the state planning agency may delegate to one or more subordinates any non-decision making duty assigned by this chapter to himself or the state planning agency with the exception of his duty as chairman of the advisory council; provided that said subordinates shall be classified employees.

271-B:6 Coastal Resources Management Advisory Council.

I. There is hereby established a coastal resources management advisory council, the purpose of which is to bring together a variety of coastal and statewide viewpoints to provide advice to the state planning agency in the implementation of the program.

II. The advisory council shall be composed of the following five voting members:

(a) An elected municipal official of a coastal zone municipality to represent municipal government, to be appointed by the governor and executive council for a two year term; provided that the initial appointment ahdll be for a one year term.

(b) An individual qualified, experienced and representing economic development in the coastal zone, to be appointed by the governor and executive council for a two year term; provided that the initial appointment shall be for a one year term.

(c) An individual qualified, experienced and representing the recreation industry in the coastal zone, to be appointed by the governor and executive council for a two year term.

(d) An individual qualified, experienced and representing conservation or environmental protection in the coastal zone, to be appointed by the governor and executive council for a two year term.

(e) A representative of the statewide general public who shall serve as chairman of the advisory council, to be appointed by the governor and executive council for a two year term.

III. Terms of appointment pursuant to RSA 271-B:6, II shall commence on April 15 of the appropriate year. For the purpose of all initial appointments hereinabove, the interim period from the effective date of this chapter to the respective commencement dates shall be added to each first such term of appointment.

IV. Individuals appointed to the advisory council pursuant to RSA 271-B:6, II may be reappointed to successive terms.

V. Each appointee to the advisory council shall serve for the appropriate term or unexpired portion thereof and until his successor is appointed and qualified.

VI. Vacancies on the advisory council shall be filled for the unexpired term in the same manner as the original appointment.

VII. The advisory council shall select a vice chairman from among its members who shall, in addition to any other duties assigned to him by the council, assume all duties and authorities of the chairman in his absence.

VIII. All members of the advisory council shall receive reimbursement from the state planning agency for authorized necessary travel and other expenses while engaged in fulfilling the responsibilities of the advisory council.

271-B:7 Duties of the Coastal Resources Management Advisory Council.

In addition to any other authorities and duties set forth in this chapter, or as otherwise provided by statute, the advisory council shall:

I. Make every reasonable effort to meet at a location in the coastal zone. Any meeting may be held at any time and place as agreed upon by the advisory council, or upon the call of the chairman, any three members or the director of the state planning agency. Three members shall constitute a quorum. A majority vote of those present shall be required for any action by the advisory council.

II. Consult with and advise the director of the state planning agency with respect to any action by the state planning agency pursuant to: RSA 271-B:5, II (c), (e) and (i); RSA 271-B:10, IV and VI; RSA 271-B:11, III, VIII and IX; RSA 271-B:12, III, V and VI; and RSA 271-B:13, III.

III. Consult with and advise the director of the state planning agency with respect to the promulgation of any procedures, requirements, criteria, guidelines or management standards pursuant to: RSA 271-B:10 II and III; RSA 271-B:11, VII; RSA 271-B:12, II; RSA 271-B:13, I; and RSA 271-B:14, I (b), (c).

IV. Submit annually to the state planning agency a written report of recommendations relative to the implementation and operation of the program, which will be included in the annual program report of the state planning agency pursuant to RSA 271-B:5, II, (k).

271-B:8 Delineation of the New Hampshire Coastal Zone.

I. The New Hampshire coastal zone shall include all of that land and water within the area delineated by the following: the northerly, easterly and southerly limits of the state jurisdiction in the Atlantic ocean; the Massachusetts boundary beginning at the easterly boundary of Seabrook and ending at the westerly boundary of Seabrook; the westerly boundaries of Seabrook and Hampton Falls; the southerly boundary of Exeter; the westerly boundaries of Exeter, Newfields, and Newmarket; the northerly boundary of Newmarket; the westerly boundary of Durham; the southerly boundary of Madbury; the westerly boundaries of Madbury and Dover; the northerly boundaries of Dover and Rollinsford; and the Maine boundary beginning at the northerly boundary of Rollinsford and ending at the easterly boundary of New Castle.

II. Within the coastal zone there shall be 2 sub-zones designated and described as follows:

(a) A primary zone which shall include the following:

(1) All tidal, estuarine and oceanic waters to the outer limits of the United States territorial sea;

(2) All submerged lands under such waters;

(3) All intertidal zones;

(4) All tidal and freshwater wetlands, bodies of saltwater and directly adjacent freshwater, and beaches and sand dunes adjacent to tidal waters;

(5) All islands surrounded by tidal waters; and

(6) All land extending inland from the mean high water mark, or from the landward edge of the tidal wetland where present, to either the first 20-foot elevation contour which is non-cyclical within the state of New Hampshire, or a horizontal distance of 1,000 feet, whichever

is the farthest.

(b) A secondary zone which shall include the non-primary zone portions of the following New Hampshire municipalities which have areas designated as part of the primary zone: Rollinsford, Dover, Madbury, Durham, Newmarket, Newfields, Exeter, Hampton Falls, Seabrook, Hampton, North Hampton, Rye, New Castle, Portsmouth, Newington, Greenland, and Stratham.

III. Excluded from any of the above zones shall be land and water, the use of which is by law subject solely to the discretion of, or held in trust by, the United States government, its officers and agents.

IV. Within six months following the effective date of this chapter, and pursuant to the provisions of RSA 271-B:16, the state planning agency shall promulgate maps which delineate the boundary between the primary zone and secondary zone as defined in RSA 271-B:8, II (a) and (b). Such delineation shall be sufficient to reasonably demonstrate whether the holdings of a property owner, or portions thereof, lie within the primary zone. In making such delineation, the state planning agency may utilize any man-made structure, natural feature, property line, or combination thereof which most closely approximates such boundary on the landward side. To carry out the requirements of this paragraph, the state planning agency may utilize city or town property tax maps, or similar maps of property delineation, as they are available. The state planning agency shall furnish each municipality which contains any primary zone area a copy of the relevant portion of such boundary map in accordance with the provisions of RSA 271-B:9, I (k). Upon promulgation of said maps, the boundary as so delineated shall govern in any matter regarding said boundary.

271-B:9 Incorporation of Resources Maps.

I. The maps listed hereinbelow, produced by and under the direction of the state planning agency as part of the development of the program, and as from time to time may be amended in accordance with RSA 271-B:9, V, are hereby incorporated in the comprehensive plans of each coastal zone municipality and shall have the same legal status as any other portion thereof:

(a) "Land use capability," Dover east quadrangel, 1975, for Rollinsford, Dover, Madbury and Newington;

(b) "Land use capability," Dover west quadrangle, 1975, for Rollinsford, Dover, Madbury and Durham;

(c) "Land use capability," Newmarket quadrangle, 1975, for Durham, Newmarket, Newfields, Exeter, Stratham and Greenland;

(d) "Land use capability," Portsmouth quadrangle, 1975, for Portsmouth, Newington, Rye, North Hampton, Greenland and Stratham;

(e) "Land use capability," Exeter quadrangle, 1975, for Exeter, Stratham, North Hampton, Hampton Falls and Seabrook;

(f) "Land use capability," Hampton-Newburyport quadrangle, 1975, for Rye, North Hampton, Hampton, Hampton Falls and Seabrook;

(g) "Land use capability," Kittery quadrangle, 1975, for New Castle, Portsmouth and Rye;

(h) "Water use capability," and "Clams," Portsmouth Harbor Area, 1975, for New Castle, Portsmouth and Rye;

(i) "Water use capability" and "Clams," Hampton Harbor Area, 1975, for Hampton, Hampton Falls and Seabrook;

(j) "Water use capability" and "Clams and Oysters," Great Bay Area, 1975, for Dover, Madbury, Durham, Newmarket, Newfields, Stratham,

Greenland and Newington;

(k) The primary zone boundary maps promulgated by the state planning agency pursuant to RSA 271-B:8, IV, for each municipality which contains any primary zone area.

II. The maps listed hereinbelow, produced by and under the direction of the state planning agency during the development of the program, and as, from time to time may be amended or supplemented in accordance with RSA 271-B:9, V shall be utilized as guidelines by the state planning agency in the performance of its duties as prescribed in RSA 271-B:10, II through V inclusive, RSA 271-B:11, VII, RSA 271-B:12, II, and RSA 271-B:14, III through V inclusive;

(a) All maps listed in RSA 271-B:9 I;

(b) "Spawning Areas of Major Commercial Species," 1975;

(c) "Offshore Fishing Areas of Importance to New Hampshire Commercial Fishermen," 1975;

(d) "Potential Offshore Sand and Gravel Deposits," 1975;

(e) "Statewide Land Use Study, Land Capability for Development, Lower New Hampshire," 1976;

(f) "Statewide Land Use Study, Critical Resource Areas, Lower New Hampshire," 1976.

III. The land use capability classifications shown on the land use capability maps listed hereinabove shall denote the combined natural capabilities of slope, soils, and surface water drainage to support certain intensities of development. The character of development activity generally associated with each capability classification shall be:

(a) Area I (excellent): capable of supporting most land uses at intense levels;

(b) Area 2 (good): capable of supporting most land uses with proper attention to spatial distribution and technological solutions to potentially limiting conditions of soils, slopes and surface waters;

(c) Area 3 (fair): capable of supporting only a limited range of land uses even with proper attention to spatial distribution and technological solutions to the limitations of soils, slopes and surface waters;

(d) Area 4 (poor): capable of supporting only one or a few land uses which leave the areas in a near-natural state.

IV. The water use capability classifications shown on the water use capability maps listed hereinabove shall denote the combined natural capabilities of water based upon proximity to shoreline or tidal wetlands, bathymetry, valuable living resources, natural and man-made obstructions, existing water uses, existing land uses adjacent to water areas and existing water quality. Such classifications shall indicate the capabilities of the water column to support certain intensities of development. The character of development activity generally associated with each capability classification shall be:

(a) Area 1 (excellent): capable of supporting nearly all water uses which may be technologically feasible;

(b) Area 2 (good): capable of supporting nearly all water uses which may be technologically feasible, but unsuited to ocean dumping, sand and gravel mining, and deepwater ports;

(c) Area 3 (fair): capable of supporting small boat anchorage, commercial fishing and lobstering, underwater cables, aquaculture, recreational fishing and boating, pipelines in conjunction with a deepwater port, research and education, swimming and aesthetic enjoyment;

(d) Area 4 (poor): capable of supporting aquaculture, commercial

fishing and lobstering, recreational fishing and boating, research and education, swimming, and aesthetic enjoyment.

V. The state planning agency, pursuant to the provisions of RSA 271-B:16, shall correct and periodically update as necessary any map listed hereinabove to eliminate any conflict;

(a) Between any delineation on said map and the corresponding written description of said delineation in this chapter, in which case the written description shall govern; and

(b) Due to map scale, or sampling, cartographic or other errors, whereby any area depicted on a land or water use capability map as having a given development capability classification actually contains an area of less or more intensive development capability than depicted.

Any person may submit evidence to the state planning agency that such conflict exists. Said correction or updating may be recorded on a larger scale map specially prepared for that purpose and referenced to the smaller scale map. The state planning agency shall provide a copy of such corrected or updated map to any municipality which is identified in RSA 271-B:9, I as having the corresponding uncorrected or outdated map incorporated in its comprehensive plan, for the purpose of replacing said map therein.

VI. The state planning agency shall maintain at its office the master file of the maps identified in this section, and shall make copies available, and may charge the cost of reproduction, to any person so requesting.

VII. At such time when areas of particular concern maps are promulgated according to the provisions of RSA 271-B:11, III, said maps shall, upon the effective date of promulgation of such maps, be incorporated in the comprehensive plans of each coastal zone municipality as provided by RSA 271-B:11, IV.

VIII. Any map prepared for a coastal zone municipality which is determined by the state planning agency to be comparable to a resource map

listed in RSA 27-B:9 I, may be substituted when incorporating said map in the comprehensive plan of that coastal zone municipality.

271-B:10 Management of Land and Water Uses.

I. The general court recognizes that any use of land and water in the coastal zone may result in a beneficial or an adverse impact on such land or water. The program shall manage or cause to be managed only those uses of land or water located in whole or in part within the primary zone, except as otherwise provided in this chapter, which may have the potential for affecting the citizens of more than one municipality by:

(a) Degrading water quality through the introduction into coastal waters of sediments, nutrients, toxic heavy metals, petroleum hydrocarbons, oxygen-demanding chemicals, or pathogenic bacteria;

(b) Depleting groundwater or surface water supplies;

(c) Resulting in saltwater intrusion into groundwater supplies;

(d) Impeding groundwater recharge;

(e) Degrading land or water wildlife, or essential wildlife habitat or fish or shellfish concentration areas;

(f) Altering the composition, migration patterns, distribution, or other population characteristic of the natural species;

(g) Overexploiting or despoiling living or non-living marine resources;

(h) Eroding beaches, sand dunes, rocky shores, or other areas of the shoreline;

(i) Encroaching upon or displacing tidal wetlands, beaches, sand dunes, or rocky shores;

(j) Resulting in erosion into or sedimentation in coastal waters;

(k) Impeding navigation;

(l) Impeding the ebb and flood of tidal waters;

(m) Degrading air quality;

(n) Resulting in aesthetic degradation; or

(o) Preempting or impeding a higher priority use in geographic areas of particular concern pursuant to RSA 271-B:11, II.

II. Within six months following the effective date of this chapter, the state planning agency shall adopt, and from time to time may amend, by regulation such procedures, requirements and criteria for review and approval, disapproval, or modification and approval by the state planning agency of any development proposal listed hereinbelow which has received municipal or state approval if needed, including municipal approval as a variance, as may be necessary to minimize or eliminate any impacts listed in RSA 271-B:10, I:

(a) Single family residential development of 12 or more units, or the use of 12 or more acres of land or water area or both, or the use of 300 feet or more of the shoreline of coastal waters, and located in whole or in part within the primary zone.

(b) Multi-family residential development of 12 or more units, or the use of 300 feet or more of the shoreline of coastal waters, and located in whole or in part within the primary zone.

(c) Non-residential development proposing the use of 300 feet or more of the shoreline of coastal waters, or 50,000 or more square feet of land area or enclosed floor space, and located in whole or in part within the primary zone.

(d) Development proposing parking spaces for 100 or more motor vehicles, and located in whole or in part within the primary zone.

(e) Fixed facility or open range area proposed for aquaculture, and to be located in whole or in part within the primary zone.

(f) Deepwater port or marine terminal facility proposed to be located in whole or in part within the primary zone.

(g) Development proposing to draw more than 100,000 gallons of fresh water per day from a source in whole or in part in the primary or secondary zone or more than one percent of the known available daily water supply in the coastal zone, whichever is less, from any surface water or groundwater source.

These regulations shall apply to any addition or alteration to existing development which in the determination of the state planning agency, taken together with existing development, may result or has resulted in meeting or exceeding the numerical thresholds above and shall be adopted in accordance with the provisions of RSA 271-B:16.

III. Within one year following the effective date of this chapter and in accordance with the provisions of RSA 271-B:16, the state planning agency shall adopt, and from time to time thereafter may amend, by regulation such management standards, including procedures for variances, as may be necessary to minimize or eliminate the impacts in the primary zone listed in RSA 271-B:10, I. Such management standards shall be:

(a) Applicable only to design or locational characteristics, construction practices, operational characteristics, or maintenance practices of uses of land or water;

(b) Incorporated in municipal coastal plans pursuant to RSA 271-B:12; and

(c) Utilized by the state planning agency in the performance of its duties as provided in this chapter.

IV. The state planning agency shall review and approve, disapprove, or modify and approve any development proposal which is to be located in

part or in whole within the primary zone or secondary zone, which has received municipal approval or state approval if needed, which is not reviewable under RSA 271-B:10, II, and which the state planning agency finds in writing has a potential to cause any impact listed in RSA 271-B:10, I. This provision shall apply to separate development proposals which taken together may result in an unacceptable cumulative set of said impacts. Said finding by the state planning agency shall:

(a) Include a complete explanation of the reasons for the decision; and

(b) Be subject to public notice and private communication adequate to inform the coastal zone public, the affected municipality, and the person proposing the development.

V. The program shall incorporate by reference, as minimums, those state standards adopted under the Federal Water Pollution Control Act, as amended, and the Federal Clean Air Act, as amended.

VI. Within 2 years following the effective date of this chapter, the state planning agency shall develop and present to the governor and executive council and to the general court a report and recommendations concerning the need, if any, to amend this chapter to extend throughout the coastal zone those portions of the program restricted by this section to any subzone thereof. In preparing its report and recommendations, the state planning agency shall recognize that, generally, the greater the distance a land use occurs from coastal waters the less is its potential for causing an impact thereon.

271-B:11 Geographic Areas of Particular Concern.

I. The general court hereby finds and declares that there is an important state interest in the preservation, conservation and orderly development of particular geographic areas, natural and man-made, located in whole or in part within the primary zone, because they are areas possessing one or more of the following characteristics:

(a) Unique, scarce, fragile, or vulnerable natural habitat or physical feature; or

(b) Historical or cultural importance; or

(c) High natural productivity, or essential habitat for living resources; or

(d) Scenic importance; or

(e) Recreational value and opportunity of greater than local concern; or

(f) Development and facilities therein dependent upon the utilization of or access to coastal waters; or

(g) Unique geological or topographical significance to industrial or commercial development; or

(h) Urban concentration where shoreline utilization and water uses are highly competitive; or

(i) Significant hazard, if developed, due to storms, mud slides, floods, erosion, or settlement; or

(j) Needed to protect, maintain, or replenish coastal lands or resources, including coastal floodplains, aquifer recharge areas, sand dunes, rocky shores, beaches, and offshore sand and gravel deposits.

II. The following categories of geographic areas of particular concern and use priorities shall be the subject of mapping and management

standards promulgated by the state planning agency in accordance with RSA 271-B:11, III and VII respectively;

(a) Prime agricultural land. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (c) and (j). Uses of highest priority shall be agriculture, wildlife and forest management, communications and utilities transmission, and research and education. Uses of lowest priority shall be waste disposal, industrial, commercial, mineral extraction, public water supply, institution, and all water uses.

(b) Tidal wetlands. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a),(c),(i) and (j). Uses of highest priority shall be recreation and sport fishing, wildlife and forest management, aquaculture, research and education, and agriculture (saltmarsh haying only). Uses of lowest priority shall be residential, solid waste disposal, industrial, commercial, mineral extraction, agriculture (except saltmarsh haying), shipping, deepwater ports, public water supply, institution, and offshore energy facility siting (except pipelines).

(c) Rocky shores. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a),(c),(d),(i) and (j). Uses of highest priority shall be wildlife and forest management, recreation, and research and education. Uses of lowest priority shall be residential, waste disposal, industrial, commercial, mineral extraction, transportation, offshore energy facility siting, shipping, agriculture, deepwater ports, institution, and public water supply.

(d) Access points. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (e) and (f). Uses of highest priority shall be recreation, communications and utilities transmission, and research and education. Uses of lowest priority shall be residential,

industrial, waste disposal, institutional, and mineral extraction.

(e) Beaches and Sand Dunes. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I, (a),(d),(e),(i) and (j). Uses of highest priority shall be recreation, wildlife and forest management, and research and education. Uses of lowest priority shall be residential, waste disposal, industrial, mineral extraction, transportation, agriculture, offshore energy facility siting (except pipelines), shipping, deepwater ports, institution, and public water supply.

(f) Fish spawning or concentration areas. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a),(c), (e) and (j). Uses of highest priority shall be recreation, commercial fishing, aquaculture, wildlife and forest management, and research and education. Uses of lowest priority shall be waste disposal (except liquid), institution, residential, industrial, commercial, transportation, shipping, mineral extraction, and institution. This subparagraph shall not apply to those portions of fish spawning or concentration areas which coincide with primary potential sand and gravel deposits located at greater than the 60 foot depth contour, as delineated on the maps adopted under RSA 271-B:9.

(g) Shellfish (including lobster) concentration areas. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a),(c),(e) and (j). Uses of highest priority shall be recreation, commercial fishing, aquaculture, wildlife and forest management and research and education. Uses of lowest priority shall be waste disposal (except liquid), institution, residential, industrial, commercial, transportation, shipping, and mineral extraction. This subparagraph shall not apply to those portions of shellfish concentration areas which coin-

cide with primary potential sand and gravel deposit areas located at greater than the 60 foot depth contour, as delineated on the maps adopted under RSA 271-B:9.

(h) Areas of cultural and historic significance. Uses shall be consistent with the specific cultural and historic character of the area.

(i) Areas of scenic importance. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11 I (d) and (e). Uses of highest priority shall be recreation, wildlife and forest management, commercial fishing, and research and education. Uses of lowest priority shall be residential, waste disposal, industrial, mineral extraction, offshore energy facility siting, shipping, institution, and deepwater ports.

(j) Areas where development is dependent upon utilization of, or access to coastal waters. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (f) and (h). Uses of highest priority shall be industrial, recreation, shipping, onshore support facility for offshore mineral extraction, commercial fishing, research and education, and institution. Uses of lowest priority shall be waste disposal (except liquid), mineral extraction (onshore), agriculture, and residential.

(k) Floodplains. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, (i) and (j). Uses of highest priority shall be recreation, wildlife and forest management, transportation, shipping, communication and utilities transmission, agriculture, research and education, commercial fishing and offshore energy facility siting (pipelines). Uses of lowest priority shall be residential, waste disposal, industrial, commercial, public water supply, institution, and mineral extraction. This subparagraph shall not apply to those portions of floodplains which coincide with tidal wetlands, rocky shores, beaches and sand

dunes, areas of scenic importance, or areas of cultural or historic significance as delineated on the maps adopted under RSA 271-B:9.

(l) Water supply source. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a) and (j). Uses of highest priority shall be public water supply, wildlife and forest management, communications and utilities transmission, and research and education. Uses of lowest priority shall be waste disposal, mineral extraction, and all water uses (except as a public water supply).

(m) Aquifer Recharge Areas. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (a) and (j). Uses of highest priority shall be recreation, wildlife and forest management, communications and utilities transmission, public water supply, and research and education. Uses of lowest priority shall be solid waste disposal and all water uses.

(n) On or offshore sand and gravel deposits. Uses shall be consistent with the characteristics enumerated in RSA 271-B:11, I (g) and (j). Uses of highest priority shall be mineral extraction (onshore; offshore, greater than 60-foot depth contour), industrial (onshore), commercial, offshore energy facility siting, deepwater ports, and public water supply (onshore). Uses of lowest priority shall be mineral extraction (offshore within the 60-foot depth contour) and solid waste disposal. This subparagraph shall not apply to those portions of sand and gravel deposits which coincide with aquifer recharge areas or with fish and shellfish spawning and concentration areas located at or less than the 60-foot depth contour, or to those portions of offshore secondary potential sand and gravel deposits which coincide with fish and shellfish spawning and concentration areas, as depicted on the maps adopted under RSA 271-B:9.

(o) Other unusual natural areas. Uses shall be consistent with the specific unusual or unique natural character of the area.

III. Within six months from the effective date of this chapter and in accordance with the provisions of RSA 271-B:16 the state planning agency shall adopt and from time to time may amend, by regulation maps upon which are delineated such geographic areas which satisfy the categorical selections of RSA 271-B:11, II. The state planning agency shall establish a procedure that shall provide for substantial participation by any interested person relative to area nomination, review, and comment during the development of said maps. Said map delineations shall:

(a) Apply only to such areas of particular concern which are located in whole or in part within the primary zone;

(b) Be accomplished at a map scale sufficient to reasonably demonstrate whether the holdings of a property owner, or portions thereof, lie within an area of particular concern; and

(c) Utilize as necessary all maps and data of a similar nature produced by the state planning agency during the development of the program.

IV. Upon completion of the requirements of RSA 271-B:11, III, the state planning agency shall forward relevant copies of such maps to each municipality which contains any primary zone area, and such maps shall upon the effective date be incorporated in the comprehensive plans of said municipalities and shall have the same legal status as any other portion thereof.

V. The state planning agency, pursuant to the provisions of RSA 271-B:16, shall correct and periodically update as necessary any map promulgated pursuant to RSA 271-B:11, III to eliminate any conflict between

any delineation on said map and the corresponding written description of said delineation in this chapter in which case the written description shall govern. Any person may submit evidence to the state planning agency that such conflict exists. Said correction or updating may be recorded on a larger scale map specially prepared for that purpose and referenced to the smaller scale map. The state planning agency shall provide a copy of such corrected or updated map to any municipality which possesses the corresponding uncorrected or outdated map incorporated in its comprehensive plan, for the purpose of replacing said map therein. Annually, the state planning agency may designate and map and update as necessary any area of particular concern promulgated pursuant to RSA 271-B:11,III, especially areas of cultural and historic significance to include new or expanded municipal historic districts or properties on the national register of historic places.

VI. The state planning agency shall maintain at its office the master file of the maps identified in this section, and shall make copies available, and may charge the cost of reproduction, to any person so requesting.

VII. Within six months following the effective date of this chapter and pursuant to the provisions of RSA 271-B:16, the state planning agency shall adopt for the geographic areas of particular concern listed in RSA 271-B:11, II, and from time to time may amend, by regulation management standards which shall:

(a) Apply only and be referenced to such areas which have been delineated on maps pursuant to RSA 271-B:11, III;

(b) Be incorporated in municipal coastal plans pursuant to RSA 271-B:12;

(c) Be designed to ensure that the characteristics of each area, as stated in RSA 271-B:11, II, remain substantially unchanged;

(d) Encourage uses of highest priority as specified in RSA 271-B:11, II; provided that proposed aquacultural uses shall be subject to the provisions of RSA 271-B:10, II (e);

(e) Not permit any use of lowest priority as specified in RSA 271-B:11, II; provided that any use of lowest priority specified in RSA 271-B:11, II (k) may be permitted if it complies with the minimum requirements of the regular program of the National Flood Insurance Program; and provided that an exception may be granted only upon a compelling and affirmative demonstration by the applicant that the proposed activity will not degrade, diminish or adversely affect any characteristic of the area in question as stated in RSA 271-B:11, II;

(f) Make subject to review and approval, disapproval, or modification and approval by the state planning agency of any decision made by a state, substate regional, or municipal unit of government or agency to permit a development proposal or activity which is located in whole or in part within an area of particular concern under the jurisdiction of the program, as specified in RSA 271-B:11, II; and

(g) Be utlized by the state planning agency in the performance of its duties as provided in this chapter.

VIII. Within two years following the effective date of this chapter, the state planning agency shall adopt and from time to time may amend by regulation, procedures, requirements, and criteria whereby specific geographic areas located in whole or in part within the primary zone may be

designated for the purpose of preserving or restoring them for their conservational, recreational, ecological, or aesthetic values.

IX. Within 2 years following the effective date of this chapter, the state planning agency shall develop and present to the governor and executive council and to the general court a report and recommenations concerning the need, if any, to amend this chapter to extend throughout the coastal zone those portions of the program restricted by this section to any subzone thereof. In making its report and recommendations, the state planning agency also shall consider new categories of geographic areas of particular concern to be recommended for action by the general court.

271-B:12 Municipal Coastal Plans.

I. The general court finds and declares that the successful management of coastal resources requires a significant involvement of municipal government and municipal land and water use planning, controls, procedures and enforcement. Said involvement shall, in addition to any other mechanism provided by this chapter, be accomplished by the preparation and administration by certain municipal governments of municipal coastal plans as provided hereinbelow.

II. Within one year from the effective date of this chapter, in accordance with the provisions of RSA 271-B:16, the state planning agency shall promulgate such guidelines, to include resources maps incorporated under RSA 271-B:9, II, for the preparation, submission, approval and amendment of municipal coastal plans. Said plans shall include but not be limited to:

(a) Existing or proposed municipal land and water use controls which will achieve results equivalent to or more restrictive than those of such management standards and development approval procedures promulgated pursuant to RSA 271-B:10, II and III and RSA 271-B:11, VII; and

(b) Such procedures and criteria for the amendment to or variance from the application of any of said land and water use controls as to use or intensity of use; provided that no such amendment or variance may be so authorized except upon the affirmative demonstration that the natural capability of the area involved can support a more intensive use relative to said amendment or variance, or that the existence of man-made facilities has enhanced the natural capability of the area to support a more intensive use relative to said amendment or variance.

III. Within two years from the date of promulgation by the state planning agency of guidelines pursuant to RSA 271-B:12, II, each coastal zone municipality shall submit to the state planning agency for review and approval a municipal coastal plan. Within 60 days following such submission, the state planning agency shall approve or disapprove said plan and shall communicate its decision in writing to said municipality. In the event of disapproval the state planning agency shall provide a detailed written explanation of any deficiencies in and suggest modifications to the proposed plan to bring it into conformity with said guidelines promulgated by the state planning agency. Said municipality shall have 30 days following receipt of the notice of disapproval from the state planning agency to notify the state planning agency as to whether or not it intends to modify and resubmit its proposed municipal coastal plan for approval. If said municipality's decision is not to modify and resubmit its municipal coastal plan for approval, the management standards promulgated by the state planning agency pursuant to RSA 271-B:10, II and RSA 271-B:11, VII thereupon shall have full force and effect within said municipality which shall administer and enforce such management standards as if they were duly promulgated municipal land and water use controls. If said municipality's decision is to modify and resubmit its proposed municipal plan for approval, it shall have 90 days following receipt of the notice of disapproval to do so. Thereafter and within 30 days, the state planning agency shall approve or disapprove the proposed plan as revised, and shall communicate its decision in writing to said municipality. If the decision is of disapproval, the management standards promulgated by the state planning agency pursuant to RSA 271-B:10, II and III and RSA 271-B:11, VII thereupon shall have full force and effect within said

municipality which shall administer and enforce such management standards as if they were duly promulgated municipal land and water use controls. No time extension shall be allowed in the performace of this paragraph.

IV. Within two years from the date of promulgation by the state planning agency of guidelines pursuant to RSA 271-B:12, II, if any coastal zone municipality fails to submit a proposed municipal coastal plan to the state planning agency pursuant to RSA 271-B:12, III, the state planning agency in writing shall so inform the municipality, and the management standards promulgated by the state planning agency pursuant to RSA 271-B:10, III and RSA 271-B:11, VII thereupon shall have full force and effect within the primary zone areas of such municipality, and the municipality shall administer and enforce said management standards as if they were duly promulgated municipal land and water use controls. No time extension shall be allowed in the performance of this paragraph.

V. In the event any coastal zone municipality becomes subject to the management standards as provided by RSA 271-B:12, III or IV, it may thereafter upon written notice to the state planning agency elect to submit a proposed municipal coastal plan pursuant to the review and approval procedures of RSA 271-B:12, III. Such proposed plan, if approved by the state planning agency, shall supersede said management standards.

VI. No amendments or changes to any portion of a municipal coastal plan, including municipal management standards and regulations, may be authorized without the prior written approval by OCP. Within 60 days following the submission of a proposed amendment by a municipality, the state planning office shall approve or disapprove said amendment and shall communicate its decision in writing to said municipality.

VII. Nothing in this chapter shall be deemed to prevent any municipality from exercising any powers otherwise authorized by law and not in conflict with this chapter.

271-B:13 Financial Assistance to Municipalities.

I. Within one year following the effective date of this chapter and in accordance with the provisions of RSA 271-B:16, the state planning agency shall promulgate procedures for the issuance of and may distribute grants annually to any coastal zone municipality. Said grants shall be for the purpose of defraying the costs of planning and regulatory activities generated at the municipal level by the adoption and implementation of the program. Said grants shall be based upon the needs of coastal communities for financial assistance in order to meet the basic requirements of the program and to conduct projects of priority to the adoption and implementation of the program; provided that no such eligible municipality shall receive less than $3,000 annually, if funds are available. Municipalities must apply for these grants. The monies designated to municipalities that do not apply may be redistributed to other eligible municipalities by the state planning office.

II. Such grants which include any portion of federal funds shall be authorized only for such purposes as permitted by Public Law 92-583, the Federal Coastal Zone Management Act of 1972, as amended.

III. Within 2 years following the effective date of this chapter, the state planning agency shall develop and present to the governor and executive council and to the general court a report and recommendations concerning the funding of municipalities to be affected by any proposed extension of the program pursuant to RSA 271-B:10, VI and RSA 271-B:11, IX.

271-B:14 Intergovernmental Consistency and Coordination.

I. Within six months following the effective date of this chapter, the state planning agency shall develop and implement procedures to coordinate program activities with those of municipal, substate regional agencies, and state agencies, and of relevant interstate and federal agencies, to assure their full participation in implementing the program. In carrying out the provisions of this paragraph the state planning agency shall:

(a) Review, inventory, classify and analyze all functional planning programs carried out by state agencies and the state planning agency in the coastal zone in order to determine levels of planning achievement and accomplishment and to determine that the plans provide a rational nonduplicative approach to implementing the program.

(b) Establish, in accordance with the provisions of RSA 271-B:16, a procedure for consistency determination by OCP of all development proposals, capital improvement, and comprehensive and functional plans subject to the provisions of RSA 271-B:10, I through III inclusive, RSA 271-B:11, VII, RSA 271-B:12, III and V, and RSA 271-B:14, III.

(c) Establish, in accordance with the provisions of RSA 271-B:16, a procedure for the review and comment by any interested persons on all development proposals, subject to the provisions of RSA 271-B:10, I through IV inclusive, RSA 271-B:11, VII, RSA 271-B:12, III and V, and RSA 271-B:14, III. The period of review and comment on any proposal shall not exceed 30 days from the date of receipt of the proposal by the state planning agency.

II. Within one year following the effective date of this chapter, and in accordance with the provisions of RSA 271-B:16, the state planning

agency shall develop and present to the governor and executive council and to the general court a report and recommendations concerning the establishment of a centralized development approval procedure for all decisions subject to RSA 271-B:10, II through IV inclusive, RSA 271-B:11, VII and RSA 271-B:14, III and IV, and as further provided herein-below:

(a) In carrying out the provisions of this paragraph, the state planning agency shall identify all instruments of approval issued by any state agency relative to any development activity subject to said statutes. Subsequently, it shall consider methods for consolidating all such instruments of approval into a single instrument of approval issued by the state planning agency pursuant to said statutes.

(b) The state planning agency shall be the lead agency and shall develop recommendations for establishing a single state agency contact for any applicant seeking state level approval for any development subject to said statutes.

(c) The state planning agency shall develop recommendations for establishing a single agency for informing the applicant as to the identity of all state agencies involved in said approval; providing all necessary forms and instruction; forwarding said application to the appropriate state agencies for action; monitoring the progress of said application; and coordinating any joint public hearings as may be necessary.

(d) Nothing in this chapter shall authorize the state planning agency to alter, supercede, eliminate or duplicate any coastal resource management authority otherwise vested by law in any other state agency.

(e) Nothing in this chapter shall be so construed as to alter or eliminate any responsibility relative to any coastal resource as charged by law to any state agency.

III. The state planning agency shall perform all duties of review, comment and approval as provided by the federal consistency provisions of Section 307 (c) and (d) of Public Law 92-583, the Coastal Zone Management Act of 1972, as amended. In performing said duties, the state planning agency shall establish guidelines to assist the identification of all activities subject to said provisions.

IV. The state planning agency is hereby authorized to call upon any state agency for whatever information or assistance it deems necessary to perform its duties and responsibilities as required by this chapter. All said state agencies are hereby authorized and directed to cooperate with and to furnish such information to the state planning agency as it shall require.

271-B:15 Uses of Greater Than Local Concern.

I. Any decisions of state, substate regional and local government or agencies or the state planning agency shall not arbitrarily exclude or restrict any land or water use in the coastal zone which is of greater than local concern. Any person directly affected by such decision may seek a rehearing or appeal in accordance with applicable law and on the grounds that said decision did so arbitrarily exclude or restrict.

II. For purposes of this chapter, a use of greater than local concern is one which provides services or other benefits to citizens of more than a single municipality. An exclusion or restriction is arbitrary if:

(a) The potential exists for the use to be of greater than local concern;

(b) An action has taken place, or is taking place, which prevents or restricts the potential benefits of the use from extending beyond the boundaries of the municipality or municipalities in which the use is proposed to be located; and

(c) There is no alternative location within the state for the use which is reasonably similar in terms of physical size, land and water capabilities, availability, and costs of development and operation.

Any such exclusion or restriction shall not be considered arbitrary if said exclusion or restriction is based upon reasonable considerations, including basic findings of fact, of the suitability of the area for the use, or of the natural capability of the area for the use, or upon a binding municipal referendum vote specifically provided for by law.

271-B:16 Administrative Procedures.

I. Any rule-making accomplished pursuant to this chapter shall be in accordance with the provisions of RSA 541-A, relative to administrative procedures, and with the provisions set forth hereinbelow.

(a) Any public notice required by RSA 541-A:3, I (a) shall be published for a minimum of 5 days in one or more newspapers which alone or taken together are of general circulation throughout the coastal zone. The first of said notices shall be published not less than 20 days before the date of the intended action. The last of said notices shall be published not less than 7 days before the intended action.

(b) Any public hearing required by RSA 541-A:3 shall be conducted within the coastal zone, unless the state planning agency decides otherwise.

II. Any decision of approval or disapproval made by the state planning agency pursuant to RSA 271-B:9, V, RSA 271-B:10, II through IV inclusive, RSA 271-B:11, V and VII, RSA 271-B:12, III and RSA 271-B:14, IV shall be so stated in writing and shall be a public document. Said written decision shall include a concise and complete statement of the reasons for said decision, incorporating therein the reasons for overruling any significant considerations urged against said decision.

III. Any action or decision by the state planning agency that requires consultation with the advisory council pursuant to RSA 271-B:7, II, III, and IV shall be in writing, be a public document, and include the recommendation of the advisory council and a response to the recommendation by the state planning agency incorporating therein the reasons for overruling any recommendation, if appropriate.

271-B:17 Rehearing and Appeal.

I. Any decision by the state planning agency pursuant to RSA 271-B:8, IV, RSA 271-B:9, V, RSA 271-B:10, II throughIV inclusive, RSA 271-B:11, III, V and VII, RSA 271-B:12, III through V inclusive, RSA 271-B:13, I and RSA 271-B:14, III shall be subject to rehearing and appeal as provided in RSA 541 and as set forth hereinbelow.

II. A motion for rehearing as provided in RSA 541:3 may be made by:

(a) Any person directly affected by any of said decisions by the state planning agency;

(b) Any coastal zone municipal government; or

(c) Petition of 25 or more voters.

III. Any decision by the state planning agency regarding a rehearing or motion for a rehearing, as set forth in RSA 541:5, shall be in writing and shall be a public document.

IV. Notwithstanding RSA 271-B:17, I, any person having an interest in land affected by any management standard adopted pursuant to this chapter, may within 90 days after promulgation thereof petition the superior court for the county in which the said land is located to determine whether such standard exceeds the limit of the police power, and constitutes taking without compensation. The burden of proof shall be upon the petitioner. If the court finds that with respect to the land of the petitioner the management standard adopted constitutes an artibrary or unreasonable exercise of the authority granted under the Chapter, the court shall enter a finding that such standard shall not apply to the land of the petitioner; provided, however, that such findings shall not affect any land other than that of the petitioner.

271-B:18 Penalties and Other Relief.

I. Any person who willfully or negligently violates any provision of this chapter, or any lawful regulation or order of the state planning agency issued pursuant to this chapter, or any condition or limitation in a permit issued under this chapter or who knowingly makes any material false statement, representation or certification in any application, record, report, plan or other document required to be filed or maintained pursuant to this chapter or lawful regulation of the state planning agency made pursuant to it, or who knowingly renders inaccurate, falsifies or tampers with any device or method required under this chapter or lawful regulation of the state planning agency made under it or who knowingly fails, neglects or refuses to obey any lawful order of the state planning agency, shall be guilty of a misdemeanor if a natural person and guilty of a felony if any other person, each day of violation constituting a separate offense.

II. Any person who violates any provision of this chapter, or any lawful regulation of the state planning agency issued pursuant to this chapter, or any condition or limitation in a permit issued pursuant to this chapter or who shall fail to obey any order lawfully issued pursuant to this chapter shall be subject to a civil penalty of not more than $5,000, each day of violation constituting a separate violation.

III. Any violation described hereinabove may be enjoined by the superior court, whether in term or in vacation, upon application of the state planning agency, attorney general or municipal government.

IV. The state planning agency may issue a written cease and desist order against any action determined by said agency to be in violation of this chapter or lawful regulation of the state planning agency made under it or any condition of any permit issued by the state planning agency.

271-B:19 Separability. If any provision or clause of this chapter, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are declared to be separable. Each section of this chapter shall be separable from all other sections hereof and the nullification of any section of this chapter shall have no effect upon the remaining sections of this chapter.

2 Appropriation.

3 Referendum. This act shall not take effect unless it is adopted by the procedure set forth hereinbelow. The voters present and voting in each coastal zone municipality may vote at special city elections held in March, 1979, or at the regular town meeting held in March, 1979. The town or city clerk in office shall print a special ballot to be used at said election or meeting containing the following question: "Shall the coastal resources management program, as established by the general court in the regular session 1979, be enacted in the coastal area of New Hampshire?" Said question shall be printed in the form prescribed by RSA 59:12-a. If a simple majority of those voting on this question in each of 13 or more of said municipalities vote in the affirmative, and at least 60 percent of the total of all votes cast in all of said municipalities vote in the affirmative, this act shall be declared to have been adopted. Within 10 days after each election or meeting, each town or city clerk shall certify to the secretary of state the results of said vote within his municipality.

4 Effective Date.

I. Section 1 and 2 of this act shall take effect as prescribed in

section 3.

II. Section 3 of this act shall take effect immediately upon passage.