

APPENDIX D
Summary of Comments and Responses

LIST OF AGENCIES, GROUPS AND INDIVIDUALS WHO RECEIVED THE DEIS
(*Denotes written comments received on the DEIS)

A. Federal Agencies

Advisory Council on Historic Preservation	Department of Justice
Council on Environmental Quality	Department of State
*Department of Agriculture	Department of Transportation
Agriculture Research Service	*Coast Guard
Agricultural Stabilization and Conservation Service	Federal Aviation Administration
Forest Service	*Federal Highway Administration
Soil Conservation Service	Federal Railroad Administration
Department of Commerce	*Saint Lawrence Seaway Development Corporation
*Maritime Administration	Transport and Pipeline Safety
*National Oceanic and Atmospheric Administration	Department of Treasury
*Environmental Data Service	Assistant Secretary for Administration
*Department of Defense	Energy Research and Development Administration
Air Force	*Environmental Protection Agency
*Army Corps of Engineers	Federal Energy Administration
Navy	*Federal Energy Regulatory Commission
*Department of Energy	Federal Power Commission
Department of Health Education and Welfare	Marine Mammal Commission
*Department of Housing and Urban Development	National Aeronautics and Space Administration
*Department of the Interior	*Nuclear Regulatory Commission
Bureau of Land Management (public lands)	U.S. Water Resources Council
Bureau of Mines	
Heritage Conservation Recreation Service	
Bureau of Reclamation	
Geological Survey	
Keeper of the National Historic Register	
National Park Service	
Office of Oil and Gas	

B. State, Regional, Local Agencies and State Interest Groups and Interested Individuals

Department of Agriculture	*Southeast Michigan Council of Governments
Department of Attorney General	Southwestern Michigan Regional Planning Commission
Department of Civil Rights	East Central Michigan Planning and Development Regional Commission
Department of Civil Service	Region 2 Planning Commission
Department of Corrections	
Department of Education	

Department of Labor
Department of Licensing and
Regulation
Department of Management & Budget
Department of Mental Health
Department of Military Affairs
Department of Public Health
Department of Social Services
Department of State Highways and
Transportation
Department of Treasury

Central Upper Peninsula Planning and
Development Regional Commission
Western Upper Peninsula Regional
Planning Commission
West Michigan Shoreline Regional
Development Commission
Citizens Shorelands Advisory Council
Standing Committee on Shorelands
and Water Coordination

C. National Interest Groups

Environmental Groups

American Littoral Society
American Shore and Beach
Protection Association
Center for Law and Social Policy
Environmental Policy Center
Friends of the Earth
Izaak Walton League
National Audubon Society

Professional

American Fisheries Society
American Institute of Architects
American Institute of Planners

Public Interest

Council of State Planning Agencies
Coastal States Organization
League of Women Voters of the
United States
National Association of Counties

Southcentral Michigan Planning and Development
Council
GLS Region V Planning and Development
Commission
Tri-County Regional Planning Commission
*West Michigan Regional Planning Commission
*Northeast Michigan Council of Governments
Northwest Michigan Regional Planning and
Development Commission
Eastern Upper Peninsula Regional Planning
and Development Commission
*Monroe County Planning Department and
Commission
Selected libraries along the coast
Groups, firms, associations, organizations
and interested individuals

Natural Resources Defense Council
National Wildlife Federation
Nature Conservancy
Sierra Club
The Conservation Foundation
The Wildlife Management Institute
Wilderness Society

American Society of Planning Officials
National Parks and Conservation Association

National Conference of State Legislatures
National Governors Conference
National League of Cities
United States Conference of Mayors

Private Sector

American Association of Port Authorities	National Association of Conservation Districts
American Farm Bureau Federation	National Association of Electric Companies
American Mining Congress	National Association of Engine and Boat Manufacturers
*American Petroleum Institute	National Association of Home Builders
American Right of Way Association	National Association of State Boating Law Administrators
American Waterways Operators	National Boating Federation
Atomic Industrial Forum	National Cannery Association
Boating Industry Association	National Coalition for Marine Conservation, Inc.
Chamber of Commerce of the United States	
Chevron Oil Company	
Edison Electric Institute	
EXXON	
National Environmental Development Association	National Security Industrial Association
National Farmer's Union	National Waterways Conference
National Federation of Fishermen	Mobil Oil Corporation
National Fisheries Institute	Saltwater Sportsmen
National Forests Products Association	Society of Real Estate Appraisers
National Ocean Industries Association	Sport Fishing Institute
National Recreation and Park Association	United Brotherhood of Carpenters and Joiners of America
	Western Oil and Gas Association
	World Dredging Association

D. Individuals and Other Parties

Upon request, copies were sent to all individuals and other interested parties not listed as receiving copies of the DEIS. Responses were received from the following:

- *Consumers Power Company
- *Copper County League of Women Voters
- *Detroit Edison
- *Manistee County League of Women Voters

MAJOR ISSUES RAISED BY REVIEWERS OF THE DEIS

Issue - Boundary Delineation and Mapping (Chapter II)

Several reviewers of the DEIS commented on the fact that the coastal boundary did not appear to be fixed and they also requested that maps of the coastal boundary be included in the document.

The criteria used for delineating the coastal boundary was established at the time of the issuance of the DEIS. However, the actual mapping of the boundary was not complete since the State was in the process of reviewing the coastal boundary maps compiled by the regional planning agencies for consistency with the boundary criteria.

Maps of the coastal boundary are available for public inspection or purchase from the State or appropriate coastal regional planning agencies. Maps are not included in the FEIS for the following reasons:

1. The variability in scale of existing maps of coastal areas;
2. The scale of map necessary to make the boundary line meaningful with respect to land area covered would be very large;
3. The volume of any document depicting 3200 miles at a meaningful scale would be extremely large.

Issue - Program Focus and Policies (Chapter III)

Concerns were raised over the general nature of several of the Michigan Coastal Management Program Policies.

This chapter of the document has been revised to more clearly state the policies of the program which address the major coastal issues of Michigan. In addition the specific legal authority which supports the respective policies is now

cited. However, as indicated at the outset of both the DEIS and FEIS an extensive listing of the statutory and administrative criteria used in implementing these policies is not supplied in this chapter. Reprinting of this material was not possible due to the expense and the voluminous nature of the sources involved. Appendix C of the DEIS does provide a synopsis of the criteria. For additional information, the statutes and administrative code, which are a matter of public record, should be consulted.

Issue - Areas of Particular Concern (Chapter IV)

The major questions raised over the APC's process were: what areas have been designated; who may nominate areas for designation as an APC; and how will the rights of private property owners be protected?

Chapter IV clearly indicates that the legislated areas of particular concern are designated, specific information on each of the areas is provided.

As to the second question, the Michigan Coastal Management Program encourages any individual, group, or agency within the public or private sector, to place in nomination any site for designation as an APC.

With respect to the third issue concerning private property rights, the public nomination process of APC's provides that under no circumstances will private property be designated as an APC without the expressed agreement of the landowner. Where legislatively designated APC's affect private property rights the normal legal requirements of notice, public hearings and judicial review will be followed.

Issue - Coordination and Conflict Resolution (Chapter V)

Of overriding concern to many reviewers of the Michigan DEIS was the capacity of the state to ensure consistency with the MCMP's policies.

The chapter describing the State's organization and authorities was revised to more clearly illustrate how coordination and resolution of conflicts among the various State agencies would occur. The Department of Natural Resources has the critical role of pulling together the various statutory programs in order to implement a coherent and comprehensive MCMP. The significant factor that led to the designation of the Department as the lead agency with this coordinating responsibility was that it administers directly or in conjunction with one or more State agencies all 27 regulatory programs that are incorporated as part of the MCMP. In exercising this authority the DNR will use several forums to ensure consistency with the program objectives, including: the Committee on Shorelands and Water Coordination, the Inter-Departmental Environmental Review Committee, and the Michigan Environmental Review Board. A complete description of each of these entities and the coordinating process is provided in Chapter V.

Issue - National Interest (Chapter VI)

Several reviewers had questioned the adequacy of the process that Michigan would use in ensuring consideration of the national interest.

The discussion on the national interest has been considerably strengthened. While no national interests are excluded from the lands and waters of Michigan's coastal area an outline is now provided of the specific resources and facilities of national interest that the program will focus on. Furthermore, an extensive discussion is provided on the sources and processes that Michigan will rely on to ensure that adequate consideration of the national interest will continue

including: Federal legislation, Presidential Executive Orders, national studies and plans, State and Federal agency consultation, A-95 review process, national and State EIS processes, the directive to all Department of Natural Resources employees (see Director's letter #17, Appendix B supra) and the decision-making processes of the Natural Resources Commission, Michigan Environmental Review Board and the Committee on Shorelands and Water Coordination. See Chapter VI for further elaboration.

Issue - Federal Consistency (Chapter VI)

A number of comments were received on the MCMP's Federal consistency procedures. The major concerns were: the program's description of the agencies responsible for conducting Federal consistency review activities; the consistency criteria which must be satisfied versus that which should be considered in consistency review; and the correction of consistency diagrams in the DEIS which were misleading.

With respect to the first major concern over what agency will be responsible for carrying out Federal consistency, it is important to note that under the Federal consistency regulations the agency designated pursuant to Section 306(c)(5) of the CZMA is responsible for reviewing the consistency of Federal actions. However, the Federal regulations allow the 306(c)(5) state agency to delegate the consistency review responsibility to other state, regional, or local government agencies. The explicit limitation on this delegation alternative is that the MCMP not require a Federal agency, applicant or person to submit a consistency determination or certification to more than one agency. In Michigan, the Division of Land Resources Program, Department of Natural Resources (306(c)(5) agency) will be responsible for the consistency review. The Division's Coastal Unit will be responsible for consistency review co-

ordination and time scheduling. The substantive requirements of the Division administered programs controlling soil erosion and sedimentation natural rivers, inland lakes and streams, natural areas, Great Lakes submerged lands, shore erosion coastal flooding and coastal wetland protection will be used for consistency reviews conducted directly by the Division. Permit reviews conducted by other Department Divisions and by other state agencies will be coordinated by the Coastal Unit. Also, the Coastal Unit will review A-95 notices directly.

In response to the questions raised concerning consistency criteria the document has been revised to distinguish between those criteria which must be satisfied and those criteria which should be considered. The criteria which must be satisfied are based upon the enforceable policies of the MCMP and include the direct and significant impact criteria, designated areas of particular concern and state plans and state-approved local enforcement programs. The criteria which should be considered are based upon the encouragement policies of the MCMP and include the goals objectives and principles.

In order to correct the confusion over the consistency diagrams supplied in the DEIS the diagrams have been revised. Two important changes were made in response to comments on the figure showing consistency of Federal licenses and permits: (1) The Federal agencies option to deny a permit or license after state approval is illustrated; and (2) the concurrent reviews of local, state and Federal agencies is provided for.

RESPONSES TO DETAILED COMMENTS RECEIVED FROM REVIEWERS OF THE DEIS

U.S. Dept. of Agriculture
(R.H. Davis)
1/17/78

Comment	Response
Figures 1 and 2 of Chapter II vividly show ownership and kind of use of Michigan's Great Lakes coast. They are very useful.	No response necessary.
The absence of definitive boundary maps make it difficult to understand the entire program.	Maps are not printed in the FEIS because of their volume, lack of uniform scale, and poor reproductive quality of some of the maps. The maps can be inspected at the offices of the Michigan Coastal Program or in the appropriate coastal regional planning agency. The boundary criteria are spelled out in the FEIS.
Editorial comments on Action Programs.	This section has been revised.
Collecting information regarding the conversion of unique agricultural lands in cooperation with local, State, and national soil conservation programs is management action of a passive nature. The MCMP will be strengthened if it includes an activity designed to protect unique agricultural uses.	The Division of Land Resources Programs will assist farmers in enrolling their lands under the Farmland and Open Space Act which provides income tax relief for those individuals who agree to restrict nonagricultural development on their lands. At this time about 50,000 acres within coastal counties have been enrolled in the program.
The process for receiving nominations of APC's has not yet been formalized (p. IV-16). Before the coastal management program is approved, this process should be carefully examined by the public. The process outlined here raises questions in the reviewers mind. For example, step 2a p. IV-14 includes the statement, "If the APC involves privately owned land, an effort is made to contact the landowners and invite their comments and participation in the review process." This should be strengthened to require that the landowner is officially contacted in the nomination process.	The process for nominating sites for APC designation has been formalized since 1976. Copies of the actual nomination forms and the types of areas which may be nominated (i.e., guide to identifying APC's) are both provided in Chapter IV of the DEIS and FEIS. The public has participated in this process to the extent that the state of Michigan has received well over 1500 nominations. Moreover, the specific steps of the inventory and review process are outlined in the FEIS.
	As to the concern of the reviewer over ratification by the private landowner whose land may be involved in the APC process, the document has been clarified to address this concern. The APC process requires that before a privately owned site may be designated as an action APC, the concurrence of the private landowner is required.
	Where restrictions are placed on the use of property as a result of legislative designation of APC's, as mandated by the state legislature, conformance with normal state public notice procedures is required.

U.S. Dept. of Agriculture (cont)

Comment

Figure 6J indicates that Federal agencies may not approve licenses or permits following state agency objection. Same Figure indicates State makes consistency determinations of Sections 307(c)(3)(A) (Subpart D) and 307(d) (Subpart F). This should be changed.

Two U.S.D.A. permit citations proposed by the state as subject to Federal consistency should be corrected to reflect new permitting authority.

The Department has suggested editorial changes to more accurately reflect activities of the Soil Conservation Service activities in Michigan.

Public comment during the state hearing process questioned the respect for landowner property rights. It is difficult to determine the course of an appeal for private individuals affected by CZM regulation.

The document indicates that two types of USDA Forest Service permits require state certification or approved state and local permits before the Federal permit can be issued. Because these national forests are excluded from the coastal zone, this permit certification is not required.

It is not clear what Forest Service activities will be subject to Federal consistency procedures as stipulated by Section 307(c)(1) of the CZMA. The state should provide reasonable assurance that Federal activities requested for review directly affect the coastal zone.

It is difficult to determine how state and Federal agency responsibilities and activities will be coordinated.

Response

This is true. Under Section 307(c)(3)(A) of the CZMA no license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed. Under Subpart D, Applicants certify consistency and the state agency concurs, fails to act, or disagrees. Under Subpart F, the applicant applies and the state agency determines if the project is consistent with the MOMP.

Corrections made.

Corrections made to the appendices. However, these appendices are not published in the FEIS.

The program in no way undermines the personal property rights and personal liberties of the private landowner. All regulations which are applied by the program are based on existing state law. This program must adhere to due process, public hearings, and adequate administrative and judicial relief guaranteed under the Michigan Constitution and Administrative Procedures Act.

Permitted activities on excluded lands "affecting the coastal zone" are subject to the Federal consistency requirements (see 15 CFR Part 930, Sections 930.33 and 930.32).

The Forest Service activities which will be reviewed for Federal consistency determinations include, but are not limited to, the acquisition or disposition of property as well as the design construction, alteration or maintenance of federal facilities which significantly affect the coastal zone. It is the responsibility of the Forest Service to notify the state of these types of activities and to notify the MOMP of its consistency determinations. For major activities, the environmental impact statement review procedures will be used to determine Federal consistency.

The document has been revised to more clearly illustrate the various processes and mechanisms which will be used to coordinate Federal/state activities, see Chapter VI.

U.S. Department of Commerce
Maritime Administration
(Al Ames 12/22/77)

Comment

We have in the past supplied Michigan DNR with program description which included the MarAd responsibility for Emergency Port Planning. A copy of our comments to previous requests for MarAd program responsibilities are attached and should be included in the Michigan DEIS.

MarAd is also concerned with the final determination of state legislated GAPCs as described in Appendix D to the DEIS. A review of Michigan Harbors indicates that 25 of the 121 designated recreational harbors are considered highly important to the local community economy. Some commercial port facilities are no doubt privately owned and have not been involved in the CZM Programs to date. We would suggest that all harbors in Michigan serving commercial waterborne traffic be nominated or designated as an APC. The Maritime Administration is interested in promoting effective and efficient waterborne commerce which is very dependent upon properly maintained navigation channels and harbors.

The Michigan DEIS recognizes commercial harbors and includes the Port Districts of Detroit and Monroe, Michigan. The plan for the two port districts is not well-defined and does not provide us with a basis for judgment in determining program consistency. We believe we have stated this opinion in past review efforts and feel strongly that it is the proper procedure for developing a realistic planning effort.

It is clear that a balanced land-water use plan is needed at the harbor of Harbor Beach, Michigan. This is especially true because commercial and recreational activities occur here. A similar balancing effort is needed at other Michigan harbors. It would seem feasible to include the 27 Michigan harbors as APCs within a balanced program of recreational and commercial planning needs.

Response

Changes have been made for the record in Appendix A of the DEIS; however, the Appendix is not printed as part of this FEIS.

The Michigan Department of State Highways and Transportation has nominated all commercial ports of Michigan (23 in total) for designation as APC's. In addition, the Maritime Administration is encouraged to nominate any other areas that it feels deserve such recognition.

Program consistency is based on the enforceable policies of the program. Implementation of any plans for the Port Districts of Detroit and Monroe will be subject to consistency review by the state DNR for Federal grants, Federal activities, or Federal licenses and permits which the state has indicated it will review for determination of Federal consistency. While it is not possible to affect all plans involving coastal areas at once, MarAd's recommendations will continually be considered in the MCMP's ongoing efforts to strengthen port planning in Michigan.

For harbors which Michigan designates as GAPCs, this type of planning effort is possible through the use of MCMP funding.

MarAd (cont)

Comment

Commercial ports and the Maritime Administration should be added to the chart which identifies national interest in defense and aerospace facilities and associated Federal agencies. MarAd cites its responsibility under Executive Order 11921 which calls for port and vessel operation in times of national transportation emergency and in times of national defense requirements.

Response

Michigan has revised this chart to reflect its consideration of the national interest. However, MarAd should note that the suggested change was not made. The requirement of 306(c)(8) calls for the adequate consideration of the national interest in the planning for and siting of facilities in the national interest. MarAd's responsibility calls for port and vessel operation in times of national transportation emergency and in times of national defense requirements. (emphasis supplied) Federal licenses, permits and activities are, of course, subject to Federal consistency procedures. The Secretary of Commerce can find that an activity, license, or permit, although inconsistent with a state's management program, is permissible because a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed. More detailed procedures for this determination are outlined in Federal Consistency Regulations Section 930.122, dated March 13, 1978.

National Oceanic and Atmospheric Administration (NOAA)
(David H. Wallace)

Comment

The MCMP and DEIS are very general making it difficult to visualize how the program will operate.

Response

The MCMP will be administered by the Land Resources Division of the DNR. It will utilize existing state authorities and existing state boards and commissions in implementing the program. The document has been revised to more clearly illustrate how the program will operate. See Chapter V.

On what coordinating mechanism will the state depend to assure cooperation among agencies with differing mandates and missions?

The primary mechanisms that the MCMP will depend on in ensuring cooperation and coordination of various agencies are the EIS process which is administered by the Michigan Environmental Review Board, the Standing Committee on Shoreland and Water coordination which will evaluate proposed activities for consistency with the program, and interagency agreements. Moreover, it must be emphasized that the DNR's Land Resources Division as the lead agency will play a critical role in furthering cooperation and coordination among the Departments' various divisions and other state, local, regional and Federal agencies. In response to this comment a more complete description of these coordinating mechanisms is provided in Chapter V.

Comment

In several places in its policy statements the state says that it will not issue a permit for, or engage in, activities where it can be demonstrated that the activity is likely to result in pollution, destruction or impairment of identified natural areas or their attributes to the extent that there are feasible and prudent alternatives consistent with the reasonable requirements of the public health, safety and welfare. This type of statement should be clarified. For instance, how will natural areas be identified, and what are "reasonable requirements of the public health, safety and welfare?"

The discussion of the program's impact on the coastal environment is very general. Adverse impacts of individual projects of the program should be discussed.

Response

Act 241 of the Michigan Public Acts of 1972 authorizes establishment of natural areas. State management authority for these areas is established by state ownership. Other natural areas which are not designated as such by state ownership are managed through state regulation pursuant to such authority as the Shorelands Protection and Management Act and Natural Rivers Act. These areas are established pursuant to procedures established under each act. These procedures are summarized in Appendix C of the DEIS.

With regard to the language in this comment, it is important to note that the words "feasible and prudent alternatives consistent with the reasonable requirements of the public health, safety, and welfare" are taken directly from the Michigan Environmental Protection Act. When the state of Michigan acts to carry out its statutory authority such as the issuance of permits it uses the protection of public health, safety, and welfare as a standard. This is a broad, time-tested legal standard the state has chosen to apply to its coastal regulatory decision-making process. It is used as well at the Federal level as evidenced by the Presidential Executive Orders on Wetlands and Floodplains.

In granting permits where the state must demonstrate that an activity has met this standard, Michigan would examine alternatives to the activity that would minimize any adverse effects. Where no alternative exists, it may deny a permit or condition it to minimize the adverse effects that an activity has on the public health, safety, and welfare.

The discussion of program impacts has been rewritten to identify the environmental effects of the program in greater detail. It is impossible at this stage in the program to identify adverse impacts of individual projects of the program. Where a proposed program activity could have a direct and significant impact, then an EIS could be required under State law and Federal law. However, the program is not a construction program although regulations provide for a limited amount of expendable materials to be applied to areas of preservation and restoration. (Should this program be approved, Michigan will be eligible to receive a program implementation grant with no limitation on the amount of expendable materials used in areas of preservation and restoration. This would be a demonstration grant pursuant to Section 923.95 of program approval regulations.) The program is designed to identify adverse impacts of coastal projects and/or to provide the necessary technical expertise to avoid projects in which there may be adverse impacts.

Comment

The program does not define what uses will be permitted or not permitted in biologically sensitive areas such as wetlands, nursery and spawning grounds, and commercial and recreational fishery grounds.

No method to set priorities or to implement coastal policies is specified; mechanism for defining state agency responsibility under the applicable state laws is not specified. For shoreline developments a priority system based on the following four criteria should be included:

1. Is the project water dependent?
2. Is the project in the best public interest?
3. Does a feasible alternative exist?
4. Will the project impact living resources of concern to state and Federal natural resource agencies?

The program lacks sufficient attention to policies that would encourage wise management and utilization of fisheries stocks and associated living resources. Particular attention should be given to promoting interstate management plans for coastal resources.

Response

The program's regulatory authorities rely on performance standards rather than defining uses which will or will not be permitted. The major state authorities which will apply to wetlands, nursery and spawning grounds and commercial and recreational fishing grounds are the Shorelands Act, Submerged Lands Act, Environmental Protection Act, and the Inland Lakes and Streams Act. The State policies based upon these Acts for protecting these sensitive areas are outlined in Chapter III. The use restrictions resulting from the application of performance standards are summarized in Appendix C of the DEIS.

MCMP policies are based on a number of existing state laws. The DNR either directly administers or plays a major role in the administration of these authorities. Since the MCMP has been adopted by the Natural Resources Commission, the Department of Natural Resources will administer the authorities used by the MCMP in a way that will be consistent with the policies, goals, and objectives of the MCMP. Several key mechanisms will insure adherence by other state agencies to the coastal policies, which are based upon existing state law, including the Governor, the MERS, the SAW Committee, and the availability of judicial review under the Michigan Administrative Procedures Act and MEPA.

For any policies which may conflict, resolution will be accomplished through the mechanisms identified above. The program does not set priorities for its policies, nor does it preclude any uses of the shoreline as long as the use meets state performance standards. However, it is state policy to protect the air, water and other natural resources and the public trust therein from pollution, impairment or destruction unless there is no reasonable and prudent alternative.

For all shoreline activities and development, the state uses the four criteria identified in the comment in making its permit decisions. For major state actions requiring an EIS, the proposed action is discussed in terms of the four criteria proposed in this comment.

Michigan has added a broad statement of policy regarding the utilization and harvest of fisheries stocks. This is in addition to existing state policy calling for the preservation and maintenance of fish and wildlife.

Comment

It would be helpful if a description of the permitting procedures were presented.

Criteria to determine uses of direct and significant impact on coastal resources do not include criteria for uses having a direct and significant impact on fish species having commercial or recreational importance.

The MOMP is dependent on a number of existing pieces of legislation for its authority. Yet there is little discussion which describes how adequately these programs have functioned in terms of the national policy prescribed by the CZMA. No specific mechanisms for improving coordination between local governments are detailed. Coordination programs of this type are necessary to ensure ... that activities of local government do not preclude larger-than-local benefits.

Concern was expressed that only those areas which are "undeveloped and unplatted" are included under the provisions of the Shorelands Protection and Management Acts since many areas which have been platted or partially developed may be environmentally sensitive and necessary for the preservation and maintenance of fishery habitats.

Response

In response to this comment the State has provided a diagram of the permitting process for a construction permit under the State Submerged Lands Act (see Chapter V). This permit is typical of other State Programs Required Permits.

Criteria for determining uses of direct and significant impact are based on existing state laws designed to protect the coastal resources of the state. While these criteria do not specifically identify fish species having commercial or recreational importance, they do relate to activities and resources which have an impact on commercial and recreational fisheries. These criteria include the basis for protecting state environmental areas, wetlands in floodplains, submerged lands, and water quality. In addition, fisheries will be protected through the Michigan Environmental Protection Act which provides that any activity that would result in the pollution, impairment, or destruction of the air, water, and other natural resources and the public trust therein may be challenged, and if warranted halted.

The document specifically identifies the fact that as a result of a lack of clear focus or coordination on coastal issues, state legislation and programs related to coastal problems have not in the past been effectively implemented (See Chapters III and V.) However, as indicated in these chapters one of the primary goals of the MOMP is to supply this requisite focus and improve upon and accelerate their regulatory programs and institutionalize inter-governmental coordination in order to protect coastal resources and solve coastal problems. In addition, the document addresses the specific issue of coordinating local government efforts and uses of regional benefit in Chapter V.

In areas which are platted or developed, the state or any private citizen can invoke judicial action under the MEPA for actions conducted or planned by any other party if the action may result in pollution, destruction, or impairment of natural resources. This would, of course, apply to fishery habitats.

Michigan is also in the process of amending regulations under its Shorelands Protection and Management Act which will apply to developed and platted areas of its coastal zone.

Comment

The program does not detail how use restrictions will be defined and the conditions under which site plans will be approved.

The non-specific approach leaves many questions unanswered. For example, does the program intend to preserve and protect only those areas that are undeveloped and unplatted? Are management guidelines developed pursuant to state authorities over natural areas in place? What priorities does Michigan assign to fisheries and associated habitats?

The concept of inventorying coastal zone minerals and developing them in harmony with the environment as stated in earlier program drafts has been replaced by a total pre-occupation with energy. NOAA's earlier request to be included in the list of Federal agencies interested in marine minerals was ignored.

Response

Use restrictions are outlined in Appendix C in DEIS for each state regulatory authority that will be a part of the program. These use restrictions are the result of the application of performance standards developed to implement these authorities. Conditions for site plan approval are not detailed in the DEIS or FEIS. However, the sections on use restrictions, implementation and enforcement, and procedures for each state regulatory authority cited in Appendix C of the DEIS summarize steps for state permit approval and the conditions they may impose on this.

See above response to question on preservation of undeveloped and unplatted areas.

Management guidelines and the permitting process for state authorities which control natural areas are in place. These authorities which apply to natural areas are the Submerged Lands Act, Inland Lakes and Streams Act, Natural Rivers Act, Wilderness and Natural Areas Act, Shoreland Protection and Management Act. See the specific policies and discussion on natural areas found in Chapter III.

The state has pointed out in the FEIS that for any development to occur, environmental standards must be met. It is not clear, however, the context in which the question refers to priorities with regard to fisheries and associated habitats. It should be noted that the MCMP will advance the broad objective of ensuring the wise use of the coastal area. This will necessitate preservation and management of critical habitats with a focus on fisheries as well as supporting sound economic development. A specific Action Program under Michigan's first year implementation grant will be to identify Great Lakes fish spawning areas to ensure their protection through existing regulatory authorities.

Mineral Resource Areas remain a significant concern of the MCMP. The statement of problems and issues with regard to mineral development has not been significantly lessened from the discussion paper circulated to NOAA prior to issuance of the DEIS. Development of mineral resources in an environmentally responsible manner remains a major concern of the state. The state, as part of its present grant under Section 305(d) of the CZMA, has begun to identify significant sand deposits in the beds of its Great Lakes waters, primarily for beach nourishment purposes. The section on National Interest has been revised (see Chapter VI). However, the specific interests of Federal agencies are not identified in the

Comment

The provision for exclusion of private lands within excluded Federal lands is questioned. These lands should be subject to the same rules and regulations that bind other private citizens, especially under circumstances where there is potential for adverse environmental impacts on the coastal zone.

Specific reference to impacts that may affect fishery resources and associated habitats is not reflected in the management policies for all developments that may impact natural coastal processes. Fisheries and associated habitats should be in all appropriate sections of the document.

Response

FEIS. NOAA's interest in marine minerals is hereby added to the record. An increase in the emphasis on energy has been made based on the increased recognition that the coastal zone is a significant area of potential energy resources and development. The energy discussion is also enhanced because of the requirement of Section 306(c)(8) of the CZMA which requires the adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. However, it should be noted that present State policy prohibits the exploitation of oil and gas in the Great Lakes unless a national emergency arises. This policy is based upon a strong state concern over potential harm to the environment.

All private inholdings within excluded Federal lands are now considered to be within the coastal zone boundary and are subject to the policies and authorities of the MOMP (see Chapter II of the FEIS).

The purpose of policy statements is to provide affirmative declarations of the state's intention to act in a given way on a certain issue. They are not for the purpose of discussing impacts. It is important to understand that the statutory authority upon which the policies are based are designed to prevent negative impacts to the environment from occurring. The state's intention to execute its laws for the purpose of protecting fisheries and associated habitats are stated in the FEIS under its policies in ecologically sensitive areas, natural areas and recreation areas. These policies are derived from state law designed to protect fishery habitat such as the Shorelands Act, Submerged Land Act, Inland Lakes and Streams Act, Natural Rivers Act, Endangered Species Act, and Michigan Environmental Protection Act. There is, however, no specific act which the program proposes to use which has as its sole purpose the protection of fisheries and fishery habitat.

In addition, the program provides for the continued coordination with the U.S. Fish and Wildlife Service and National Marine Fisheries Service under provisions of the Fish and Wildlife Coordination Act.

NRAA (cont)

Comment

The process by which a proposal is evaluated and the process by which a decision is reached with regard to use restrictions on new construction in designated Shoreland Environmental Areas should be spelled out in the document and not in Appendix C.

A fishery management policy which encourages wise use of commercial and recreational fish stocks in terms of natural economic potential should be added.

The state should broaden its concern from Water Transportation Areas to Transportation Areas in Chapter III.

Michigan should add protection, restoration and enhancement of fisheries in its discussion of management alternatives in Chapter V.

NRAA suggests that the section which describes how direct and significant adverse impacts are identified should also include a discussion of how adverse impacts in coastal areas will be avoided or mitigated.

Response

The permitting process for activities in designated Environmental Areas is given in Chapter V of the FEIS. The policies which guide this decision are stated in Chapter III. However, the more detailed criteria by which this permitting decision is made is not printed in the FEIS. They are found in Appendix C of the DEIS. The Shorelands Protection and Management Act which created the Environmental areas contains many of the criteria in the legislative language. Printing all the permitting criteria for one regulatory program would require that the same be done for all programs. This would create a voluminous document, burdened with legal technicalities. Persons wishing to examine the detailed regulations issued pursuant to state regulatory authority should consult with the Michigan Coastal Management Personnel.

Michigan has added a broad statement of policy regarding the utilization of all fisheries stocks.

The state has chosen to limit its stated program concerns to Water Transportation Areas. Those concerns related to other modes of transportation which have a direct and significant impact on the coastal zone are addressed as a result of policies and statutes designed to manage coastal areas. Michigan has also indicated a concern for highways and transit planning as part of its action program.

This section of the document has been substantially revised. Chapter III has been rewritten to describe broad program goals. Policy statements have been rewritten to be more explicit to reflect resource management concerns. Michigan has articulated policies relating to protection of its fisheries, habitat, and maintenance of a high quality and productive fishery.

The purpose of this section is not to discuss avoidance and mitigation of adverse impacts of projects in coastal areas. Avoidance and mitigation of adverse impacts is the responsibility of the various state permitting authorities. This is achieved through the modification of project design or disallowance of the permit. For major projects which require state permits, the state EIS process will serve as a mechanism for identification of adverse impacts and alternatives to the project which can avoid or mitigate the adverse impacts.

NOAA (cont)

Comment

Response

The National Marine Fisheries Service should be added as a Federal agency which should be coordinated with under provisions of the Fish and Wildlife Coordination Act.

This has been added to the discussion of the Fish and Wildlife Coordination Act in Chapter VI.

Appendix A which summarizes Federal agency responsibilities should cover the responsibilities of the National Marine Fisheries Service.

The suggested additions are made as part of the record in this FEIS by including the responsibilities of the NMFS in Appendix A of the DEIS which is not republished.

Environmental Data Service (NOAA)
(Hughes 12/15/77)

As a coastal management program, the document seems acceptable. However, the DEIS lacks any fundamental discussion of the environment, some sort of discussion of the environment - weather, climate, oceanography, and perhaps geology - should be included in the DEIS.

The discussion of the environment to be affected by the program has been expanded. However, this expansion does not include discussion on the weather, climate, oceanography or geology of the area. A discussion of these factors would be so general for a coastline of 3200 miles that it would not be meaningful.

Department of Defense
Office of the Assistant Secretary of Defense
(Fliakas 1/19/78)

We have reviewed the MCMP and generally concur therein.

No response necessary.

Recommend Appendices be revised to note that all Federally-occupied lands are excluded, whether held in fee, easement, lease etc.

Corrections have been made for the record. However, the Appendices are not reprinted in the FEIS.

We request that the detailed list beginning at page A-8 be amended to include the Army military properties listed in the enclosure to this letter.

The list has been amended to incorporate these installations. However, as noted above, the appendices are not reprinted in the FEIS.

Department of Defense
U.S. Army Corps of Engineers
(C. A. Selleck, Jr. 1/16/78)

It is unclear why boundary refinements are on-going now; boundary delineation should have been completed for inclusion and review in the DEIS.

The coastal zone boundary is final; methods by which the boundary may be changed are discussed in Chapter 2 of this FEIS. The criteria used for setting the boundary as described in the DEIS are the same criteria that are identified in the FEIS. The boundary refinements which were taking place at the time of issuance of the DEIS were being made by the state to assure consistency of boundary lines with the criteria and among the various jurisdictions of regional planning agencies.

U.S. Army Corps of Engineers (cont)

Comment

The focus of the Program is heavily environmental. It does not seem sufficiently broad to respond to the CZMA Section 303(b) policy to give full consideration to needs for economic development. Rather, the discussion of the area of natural economic potential leads to a statement of policy emphasizing avoidance of adverse environmental impacts rather than attainment of positive economic development contributions. This does not appear to be sufficiently responsive to the Act.

Initiation or modification of Federal policies or procedures related to coastal Federal programs and activities will be subject to the consistency review of the MOMP. This provision is not considered appropriate and should be deleted from the MOMP. Federal consistency with an individual state's coastal management program will be determined with the implementation of such rules and regulations.

Response

The Section on natural economic potential has been revised to more clearly illustrate the State's policies with respect to economic development. For example, the document outlines the State's taxing program to encourage the preservation of agricultural lands and open space, the state policy on providing for the establishment of industrial development districts, the state policy in support of winter navigation on the Great Lakes and the authorization for dredge/fill activities and the creation of port districts. Furthermore, the state in this section has outlined action programs for areas of natural economic potential including the development of guidelines to assess site suitability and anticipate and manage impacts for planned energy facilities, development of criteria for new or expanded coastal transit systems, provide financial assistance to explore new programs in fruit and horticultural farming, actively participate on and provide input to regional commercial navigation planning efforts, including the Winter Navigation Board, and provide assistance to port districts and local units of government for design of facilities and capital improvements for ports and commercial/industrial development.

It should be noted that all of the above activities form an integral part of the MOMP. However, as indicated in the beginning of Chapter III of the FEIS, the state feels that in supporting and encouraging these activities that it can and must protect the coastal land, water and air resources. In pursuing these objectives the state is following the overall Congressional intent as expressed in the CZMA (Section 303) of achieving the "wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development."

This provision has been deleted. Michigan will review projects conducted pursuant to Federal rules and regulations.

U.S. Army Corps of Engineers (cont)

Comment

The description of port districts listed on page IV-9 under state legislated APC's needs clarification. The first sentence mentions only specialized recreational boating needs, while the priority of uses refers to comprehensive port plans and management of the port area. It is unclear whether this legislated APC relates just to the specialized recreational boating needs in the entire port.

Additions suggested to more accurately reflect that the Federal consistency process requires state consistency concurrence within a prescribed time period.

Corrections on Corps of Engineers licenses and permits cited by Michigan for consistency review.

Figure 6J regarding Federal consistency for Federal licenses and permits is confusing and misleading. A Federal permit will be granted or denied on the basis of Federal law. The program should clearly show that state approval will in no way guarantee a Federal permit.

The DEIS misstates certain Corps of Engineers regulatory programs in Appendix A to the DEIS.

Numerous editorial and substantive changes were presented to more accurately reflect the Corps Section 9, 10 and 404 permit programs as discussed in Appendix C of the DEIS.

The Corps suggests that the state revise its designations of the Ordinary High Water Marks to be compatible with those established by the Corps.

Response

This legislated APC is not limited to specialized recreational boating needs but includes the whole range of commercial navigation interests. The document has been revised to reflect this more clearly, see Chapter IV.

Suggested wording change was not made. However, Chapter VI is clear in pointing out that if the prescribed time period has elapsed then state consistency concurrence is presumed.

Corrections have been made in Chapter VI.

Figure 6J has been revised for clarity. However, it should be pointed out that no license or permit shall be granted by a Federal agency until the state has concurred with the applicant's certification of consistency, or the prescribed period of time has elapsed and the State's concurrence is presumed.

Changes have been made for the record in Appendix A of the DEIS; however, the Appendix is not printed as part of this FEIS.

Using the information supplied by the Corps with respect to these permit programs, the appropriate changes have been made to the record; however, Appendix C of the DEIS will not be printed as a part of this FEIS.

The Ordinary High Water Marks for the Great Lakes have been legislatively established by the state. These levels were set as a result of field surveys over a period of ten to fifteen years. On this basis the state feels that these elevations are accurate. Any change to adopt the levels established by the Corps would require an amendment to the legislation which established them. The state would appreciate any information that the Corps has which would warrant that a change in the legislatively established standards is necessary.

Department of Energy
(Noel 1/23/78)

Comment

We concur in your proposed administrative action to grant Federal approval to this program. We find that the program commits the coastal planning staff of the Michigan Department of Natural Resources to assist the Michigan Energy Administration, Department of Commerce, in the development of a Statewide energy plan to develop and maintain an energy supply which is adequate, yet environmentally acceptable and socially desirable.

Response

No response necessary.

Department of Housing and Urban Development
(Robert C. Embry 2/8/78)

Comment

HUD has questioned the adequacy of the networking of state laws as proposed for the MCMP. Care should be exercised to make certain that the "networking" arrangement proposed is adequate and carries with it the potential for legal and/or administrative appeal recourse for affected citizens and jurisdictions. Based on past experience with its Comprehensive Planning Program, HUD has found it difficult for state agencies with different legislative responsibilities to reach agreement. HUD recommends that interagency agreements be developed to formalize the networking arrangement.

HUD believes there are major deficiencies in the assessment of environmental impact in the DEIS.

The MCMP does not contain a land use element identifying the coastal strip, the existing and proposed uses with the strip, nor the existing zoning controls to protect the strip.

Response

The networking of the MCMP is adequate for the following reasons: The Natural Resources Commission (NRC) has formally adopted the Program and its policies. The policies of this program are based on existing state law. Therefore, adoption of the MCMP by the NRC as official state policy has strengthened the method of applying these existing authorities and policies in the Michigan coastal zone. More importantly, all authorities which will be used by the program are administered directly by the DNR or by the DNR in conjunction with another state agency. Any conflict between state agencies will be resolved through the DNR's role in exercising its statutory authority, the MERB, the SAW Committee, the office of the Governor, or judicial proceedings under the Michigan Administrative Procedures Act and MEPA. Under the provisions of MEPA any person, partnership, corporation, association, organization, or other legal entity may seek judicial relief for any action that is likely to result in the pollution, impairment, or destruction of the air, water, and other natural resources of the state. Given this networking arrangement and methods of conflict resolution, OCZM has determined that interagency agreements at the state level are not necessary.

The discussion on impacts of the Program on the environment has been revised for the FEIS. See Part III.

The FEIS discusses the explicit boundary criteria the state and regional planning agencies have used to map the coastal zone boundary. There is no requirement that the state identify the existing and proposed uses or require zoning controls for the coastal zone. The program has developed State management

Dept. of Housing and Urban Development (cont)

Comment

Implementation and consistency by local communities is uncertain since half the coastal communities do not have land use plans and the state proposes to develop its land use plan on an "as needed" basis. HUD approval of the Program would be in conflict with the HUD-OCZM interagency agreement of February, 1975, which purports that the OCZM land use plan also satisfies the 701 comprehensive plan land use element.

The DEIS needs to be revised to adequately address the Program's impact upon land use, state regulations, local ordinances, pollution, erosion, shoreline development, natural resources and implementation by public and governmental bodies. Major topical headings are there, but are not adequately addressed. Also, it is virtually impossible to discuss the program's impact upon the environment without a land use plan.

Response

policies for the coastal area based on existing state regulatory authorities and incentive programs. Many of the State regulatory authorities require local ordinance adoption of minimum State standards or, in lieu of that, the State will enforce these standards on a case by case basis. Cf., the discussion on the Shorelands Management and Protection Act in Chapters III and V.

There is no requirement under the CZMA for a state to submit a land use plan for its coastal zone to receive program approval from OCZM. Michigan's program is based on coastal policies, which use existing state regulatory authorities for enforcement, and see comment above. The DNR's Land Resources Division will have the lead responsibility for implementing the Program. The regulatory authorities do not mandate land use plans for areas of the coastal zone. However, they do control activities in certain geographic and coastal resource areas through performance standards. There are priority of use guidelines for GAPC's. Some coastal counties have developed land use plans pursuant to the County Rural Zoning Act. However, the state does not intend, nor are they required to develop a land use plan for its coastal zone. States which complete comprehensive land use plans for their coastal zone and which receive program approval should be considered as having completed the HUD land use element for the coastal zone as stated in the HUD/OCZM Interagency Agreement. The agreement does not require that a state develop a land use plan for its coastal zone.

The discussion of impacts of Program approval has been rewritten. An attempt has been made to relate Program policies more specifically to the areas identified in this comment. As indicated in the previous response, a land use plan for the coastal zone is not a requirement of program approval. While a land use plan which is implemented by state law may make discussion of program impacts more predictable, the policies of the program are designed to provide specificity to the methods of program implementation.

U.S. Department of Interior
(Heather Ross 1/17/78)

Comment

Response

The Department has questions regarding the networking of authorities. The gubernatorial letter dated 10/21/77 in the DEIS appears to be the principal instrument which legally binds each state agency to exercise its authority in conformance with the state's coastal policies. We understand that there are also provisions in some state statutes which have the effect of requiring state agencies to conform to these policies. The MCMP does not document the legal adequacy of the letter and the applicable provisions of state statutes for assuring state agency compliance with state coastal policies. We request a detailed description of the mechanisms which will be used to bind state agencies and their authorities into an effective coastal management framework.

The gubernatorial letter is not the principal instrument which legally binds state agencies to exercise their authorities in conformance with the state's coastal policies. The Natural Resources Commission has formally adopted the MCMP. Adoption of the MCMP does not change existing state policies with respect to existing state authorities, but it does provide specific direction to state agencies on managing coastal resources in accordance with the goals and objectives of the Program. The most important method for assuring state consistency with coastal policies is based on the fact that the DNR administers directly or in conjunction with one or more state agencies all 27 regulatory programs that are incorporated as part of the MCMP. Any conflict between state agencies will be resolved through the DNR's role in exercising its statutory authority and through its representation on the Michigan Environmental Review Board, the Inter-Departmental Review Committee, and the Standing Committee on Shorelands and Water. It is through these mechanisms therefore that state agency compliance with the policies, goals, and objectives of the MCMP will be ensured. See Chapter V.

It appears that more than adequate measures exist for resolving differences through conflict resolution mechanisms. We recommend these be fully elucidated in the final program document.

These mechanisms are stated in detail in Chapter V of the FEIS.

It is difficult to assess specific consistency obligations without knowledge of the actual inland boundary line. The DEIS also indicates that the boundary is not fully delineated and that changes in the boundary will be made by refinement rather than by amendments. We recommend these boundary issues be resolved by OCZM prior to issuance of the final program document.

The final boundary is fully delineated. Maps are available for inspection at the MCMP offices in Lansing. Printing the final boundary maps in the FEIS is not possible due to varying map scales and poor reproductive quality. The criteria by which the boundary may be changed are stated in Chapter II of the FEIS.

The most fundamental concern the Department has related to the Michigan Coastal Management Program (MCMP) is the adequacy of the network of authorities and the consequent mechanism for conflict resolution.

The networking of the MCMP is adequate for the following reasons. The Natural Resources Commission (NRC) has formally adopted the Program and its policies. The policies of this Program are based on existing state law. Therefore, adoption of the MCMP by the NRC as official state policy has strengthened the method of applying these existing authorities and policies in the Michigan coastal zone. More importantly, all authorities which will be used by the program are administered directly by the DNR or by the DNR in conjunction with another state agency. Any conflict between state agencies will be resolved through the DNR's role in exercising its statutory authority, the MERB, the SAW Committee, the office of the Governor, or judicial proceedings under the Michigan Administrative

We request you clarify whether a Governor's letter is the appropriate legal basis for assuring compliance of all State agencies with the policies and program elements of the MCMP, not only at the start of implementation but also throughout the existence of the program. With the potential conflicts that effective coastal management may encounter during the implementation process, we believe it is imperative that an appropriately strong legal mechanism be used to assure that... *networking tie(s) the implementation of...

Comment	Response
Individual authorities (of State agencies) into a comprehensive framework that addresses more than the individual responsibilities of each agency that makes these authorities part of an overall, unified strategy for managing coastal land and water resources."	Procedures Act and MEPA. Under the provisions of MEPA any person, partnership, corporation, association, organization, or other legal entity may seek judicial relief for any action that is likely to result in the pollution, impairment, or destruction of the air, water, and other natural resources of the state. Given this networking arrangement and methods of conflict resolution, OCZM has determined that interagency agreements at the state level are not necessary. See Chapter V for further elaboration.
We believe that a strong legal basis for integrating individual agency authorities combined with the existing interagency and interdepartmental memoranda of agreement would thwart most challenges which might undermine the program during the critical early years of implementation. We, therefore, request that the final program document elucidate the legal adequacy of the mechanisms which will be used to bind the State's authorities into an effective network.	
There should be a specific single entity within the Michigan state government responsible for reviewing Federal consistency certifications and Federal agency determinations.	The Coastal Management Unit is responsible for administering the Federal Consistency Procedures (see Chapter VI).
Under what circumstances could the NRC override a DNR decision or a consistency certification?	The NRC could override the DNR if it did not act in accordance with the policies of the MCMP.
Figure 6.H (p. VI-52) needs to be revised. It does not provide for the situation where a Federal agency chooses to proceed with an activity in question.	When a Federal agency proceeds with an activity for which a consistency determination has not yet been made the state may (1) negotiate with the agency to stop the activity until the state has made determination of consistency; (2) seek assistance from OCZM to work out differences informally between the state and the Federal agency; (3) request mediation by the Secretary of Commerce; (4) seek judicial relief.
Figure 6.J (p. VI-60) fails to show potential Federal agency denial or modification of a project after state consistency approval. The logic flow for activities 8 through 15 is not clear.	This figure has been revised to show this possibility and to clarify the process for consistency review.
Recommend that computer storage tracking and retrieval system for licenses and permits computerize all licenses and permits.	Ultimately, the MCMP may seek to computerize all its permit information.
We consider that the grants-in-aid program under the Land and Water Conservation Fund Act would not require any determination of consistency beyond the current A-95 procedures.	The Division of Land Resource Programs Coastal Unit will consult with and coordinate Recreation Services Division and Administrative Services Division of DNR on A-95 certifications and will not require any determination of consistency beyond this for grants-in-aid under the Land and Water Conservation Fund.
Specific uses discussion should indicate how a decision to include a use will actually be made using the 30 criteria questions.	See the discussion on permitting in Chapter V.

MI (cont)

Comment

The Department believes that a revision of the criteria used to identify uses of direct and significant impact is vital. It recommends especially that only water dependent uses be permissible in waterfront locations, and that all uses and activities proposed in the coastal zone be evaluated in regard to the proposed project's coastal or water dependency needs.

The Department requests that specific details be provided as to how the state will by the use of state laws and policy identify each use activity of a larger than local significance. All wetlands are considered to have national significance and any use activity which would degrade or destroy wetlands could be considered to be of larger than local significance.

The final coastal zone boundary has not been determined until the inland boundary is final and available for review, it is difficult to provide comprehensive comments on the program since the effect of Federal consistency provisions will depend on the landward boundary.

Review of specific landward boundary by the Department of Interior is requested prior to issuance of the final program document.

Response

An affirmative response to expanded criteria statements now contained in Chapter V will trigger an individual permit process. Substantive requirements of the statutes that correspond to criteria statements may be reviewed in Appendix C of the DEIS. However, it should be noted that the Michigan Legislature has decided not to preclude any use from the state's coastal areas per se, but the state does look to the impacts upon coastal areas to determine whether they are permissible or not.

The state assures recognition of uses of regional benefit through the following means: (1) no local ordinance is enforceable against state-owned lands; (2) state review of county ordinances to assure compliance with state zoning enabling statutes and court decisions; (3) state permit or other regulation in lieu of local zoning which does not comply with state statutes; (4) state review of certain local facilities and operations; (5) the Michigan Supreme Court ruling that local ordinances may not be arbitrarily, capriciously or unreasonably exclusionary.

The specific criteria which the state uses in its review of county ordinances or issuance of state permits are not detailed in this FEIS. However, Appendix C of the DEIS summarizes use restrictions imposed by state statutes either through direct state permitting or delegation of authority to local governments where local governments meet the state standards.

Criteria used in the issuance or non-issuance of state or local permits in wetlands are those developed pursuant to the Shorelands Protection and Management Act, Submerged Lands Act, the Inland Lakes and Streams Act, the Natural Rivers Act, and the County Rural Zoning Act, and see responses below.

The coastal zone boundary is final. The boundary criteria were final at the time of issuance of the DEIS. However, the state was still in the process of reviewing the boundary mapping done by the coastal regional planning agencies for consistency with the boundary criteria.

The boundary criteria have been clarified in the FEIS; the state has indicated in Chapter 2 that the boundary maps are available for inspection or purchase in Lansing, Michigan or the respective regional agencies.

DOI (cont)

Comment

The Michigan Coastal Program should discuss the relationship of the state-legislated Ordinary High Water Mark (OHWM) and the OHWM established by the U.S. Army Corps of Engineers.

A process of conflict resolution for disputes regarding the OHWM should be established.

The terms "direct" and "significant" must be defined so as to ensure that the landward extent of the coastal zone captures use activities which impact the coastal area. The Department of Interior wants to review the criteria for uses with direct and significant impact prior to issuance of the final program.

Clarification of the meaning of "annual program evaluation process" as a method for boundary revisions is requested.

Response

The Ordinary High Water Marks for the Great Lakes have been legislatively established by the state. These levels were set as a result of field surveys over a period of ten to fifteen years. On this basis the state feels that these elevations are accurate. Any change to adopt the levels established by the Corps would require an amendment to the legislation which established them. The state would appreciate any information that the Corps has which would warrant that a change in the legislatively established standards is necessary.

The state employs a field survey to resolve disputes regarding the location of the OHWM. In addition, the District Office of the Corps and the State of Michigan have a MOU to coordinate their permitting/EIS activities involving the waters of Michigan.

The state has defined the terms "direct" and "significant" with regard to existing state regulatory programs. Chapter V of the MCMP contains a listing of the activities of uses which would have a direct and significant impact on the coast. The legal citation for regulating each activity is provided. Also, Appendix C of the DEIS outlines criteria for each activity more fully. Beyond these sources the major sources available for review are the Statutes themselves or the administrative code. Republishing these public documents as part of the DEIS or FEIS, or otherwise, would create an unreasonably expensive and voluminous document. For actions in or out of the coastal zone which are not covered by a specific piece of state legislation in which there may be an impact on coastal resources, the state or citizens may invoke the Michigan Environmental Protection Act to challenge the action in court.

The FEIS has been revised to indicate under what situations changes in the coastal zone boundary may be made. These changes would be submitted to OCZM by the state in the form of refinements or amendments to the program. These refinements or amendments could be submitted to OCZM at any time and are subject to administrative procedures of the Program Approval regulations, including Federal agency review of program amendments and notification of refinements.

DOI (cont)

Comment

Estuaries and coastal aquifers should be incorporated into coastal zone plans.

Schematic boundary illustrations failed to indicate the inclusion of certain coastal features identified as criteria for boundary delineation.

Status of rule change for including developed and platted lands under the jurisdiction of the Shorelands Protection and Management Act. How will damage to environmental areas in developed and platted lands be prevented?

For action programs with regard to flood-prone areas the task seems to be defining areas subject to 100-year recurrence interval flood rather than analysis of topographic maps to determine floodplain contours and boundaries.

Sections (of Chapter III Program Focus and Policies) on the regulatory decision-making criteria be expanded to indicate the gist of the applicable regulations. Reference to the Appendices should only be used to indicate the location of additional detailed information.

Response

The boundary of the Michigan coastal zone extends up tributaries of the Great Lakes to (1) the point at which a tributary's bed elevation is higher than the nearest Great Lakes 100-year flood level, or (2) the upstream limit to which the U.S. Army Corps of Engineers maintains a deep draft navigation channel, whichever is further inland. Identification of coastal aquifers would require a large amount of data gathering and field survey. It is the judgment of Michigan and OC2M that the effectiveness of the proposed management program would not be substantially enhanced by incorporating coastal aquifers into coastal zone plans. However, for any major state or Federal action that has potential for significant impact on the environment or human life an EIS must be developed.

The illustrations to which this comment refers were confusing. They have been dropped from the FEIS and replaced with a single schematic boundary illustration. Michigan has explicitly stated that islands in the Great Lakes are in the coastal boundary. The extent to which other coastal resources are included in the coastal boundary are spelled out more clearly in the boundary criteria.

The rule change for including platted and developed lands as erosion hazard areas under jurisdiction of the Shorelands Act is now before a joint legislative committee in the state legislature. Damage to environmental areas in developed and platted lands will be prevented by the regulatory authority conferred to the state by the Submerged Lands Act, the Inland Lakes and Streams Act, and the Michigan Environmental Protection Act.

The state uses the contour line which is nearest the elevation of the 100-year recurrence interval flood as a stable measure of identifying coastal flood plains. Michigan proposes to use these lines in conjunction with engineering studies by the Corps of Engineers and Federal Insurance Administration as they identify elevations of the 100-year recurrence interval coastal floods for the purpose of boundary delineation.

In response to this comment, Chapter III of the document has been revised in order to provide further clarification of what is intended by the various statutory enactments upon which the Michigan policies are based.

Comment	Response
<p>State's Proposed Coastal Policies for mineral and energy resource areas, prime industrial areas, and for water transportation areas are particularly general. For example, although the State's policy relating to mineral and energy resources is to significantly reduce the growth in energy consumption in the State, the program fails to state how this might be accomplished.</p>	<p>As indicated above, Chapter III has been revised to provide greater specificity concerning various policies. This is especially true for the mineral and energy resource areas and water transportation. Under the discussion for prime industrial areas it is pointed out that there is a broad state license which encourages local units of government to establish industrial districts. However, as the discussion in this Section indicates industrial development spurred by local initiative is affected by other state policies which are elaborated upon under other areas contained in the Chapter. Moreover, as to each of these specific areas, the state has provided through the APC process (discussed in Chapter IV) that specific areas will receive particular attention and support through the MOMP.</p>
<p>The draft program does not clarify how the goal and objectives to conserve mineral lands and energy resources will meet . . . future demands, promote the reclamation of land subjected to extraction, and promote policies and regulations which would control negative environmental and social effects of mineral and energy development.</p>	<p>With respect to the specific example on reducing consumption of energy resources, the Governor of Michigan has established the State Energy Administration to assist his office in developing energy policy and planning matters and in preparing energy conservation plans and programs. In addition, the state legislature has provided for a coordinated statewide waste management and resources recovery program to encourage conservation of natural resources. (See Chapter III) And it has provided under Act 230 of P.A. of 1972 (Construction Code Act) that energy conservation be a major consideration in the construction of new buildings. Also the Natural Resources Commission has adopted a specific policy directing DNR employees to be energy conscious when making decisions on behalf of the Department.</p>
	<p>The discussion in Chapter III outlines the various mechanisms that the state has available to control the adverse effects of mineral and energy development. For example, all oil and gas drilling requires a permit from the DNR and no drilling is permitted unless it can be shown that waters, air, soils, fish and wildlife, etc. will not be seriously affected. Similarly, all mining of sand, gravel, stone, etc., will also invoke state environmental consideration and protection. Moreover, the state specifically requires the reclamation of lands subjected to the mining of minerals under Act 92 of the Public Acts of 1970, as amended.</p>

DOI (cont)

Comment

Another area of major concern is that although the coastal policy regarding water transportation areas addresses dredged spoil disposal, the program has no goal or objective directly relating to this significant coastal program. We strongly recommend that such an objective be incorporated into the program and that it address the need for the development of comprehensive, long-term (50 year) plans for spoil disposal.

Paragraph three on page III-12 indicates that a coastal resource information center will be established and could provide a computer storage tracking and retrieval system for licenses and permits which have a major impact on coastal areas. We recommend that such a system be established.

It is stated that ". . . the State will not issue permits for, or engage in, uses or activities where it can be determined that the use or activity will likely be damaged by shoreline bluff erosion, as long as there is a feasible and prudent alternative consistent with reasonable requirements of the public health, safety, and welfare." Does this quote mean that a permit will be issued if there is no feasible or prudent alternative regardless of the effects on coastal resources? Also, what criteria have been established to identify feasible and prudent alternatives, and who will make such evaluations?

Response

The Department of Natural Resources coordinates the identification of sites for dredged polluted material through a dredge spoil committee. This committee is composed of state as well as Federal Agency representatives, including representatives of the Fish and Wildlife Service, the Army Corps of Engineers and the Environmental Protection Agency.

The Michigan DNR has been exploring the possibility of establishing such a system. At present the Department has initiated a demonstration project involving the state submerged lands program, it is conducting this project with CZM funds. After completion of the demonstration project the feasibility of bringing in other coastal permit programs will be determined.

Under the hypothetical posed, the State of Michigan is not merely limited to giving a permit if no other alternative exists. It could condition such a permit so as to minimize the adverse effects on other resources. It would do so on the basis of safeguarding the public health and safety, and protecting the navigable waters all of which are mandated by law. As to the second question, it is important to note that the words "feasible and prudent alternative etc." are taken directly from the Michigan Environmental Protection Act (MEPA). In accordance with the Act and Executive Order 1974-4 the DNR would follow the specific state guidelines on developing Environmental Impact Statements including: evaluation of alternatives to the proposed action that might avoid some or all of the adverse effects, including an explanation of why the agency determined to pursue the action in its contemplated form rather than an alternative and the possible modifications to the project which would eliminate or minimize adverse effects, including a discussion of the additional costs involved in such modifications. Furthermore it must be understood that the language in MEPA of considering "feasible and prudent alternatives" carries with it substantive requirements that have been and continue to be tested and interpreted in a judicial setting. This common law development therefore includes judicial scrutiny and interpretation of agency actions in meeting the above cited words, see e.g., Michigan State Highway Comm'n v. Vanderkloot, 392 Mich 159.220 N.W. 2d 416(1974).

Comment

The last paragraph on page III-22 states in part, "It is the policy of the State of Michigan to not finance, engage in, or issue permits for new structural developments within the 100-year coastal or riverine floodplain which are inadequately elevated or flood proofed." We disagree with this statement if its effect would be to encourage filling in the floodplain so that structures would be elevated. Also, the floodplains are necessary to convey flood waters, and any further encroachment will reduce fish and wildlife habitat and increase flood damage potential.

The DFIS states: "It is the policy of the State of Michigan to use available authorities and incentive mechanisms to control new development in natural areas having an identified local, State, or national importance." We consider wetlands preservation of national importance, yet under existing authorities many acres of wetlands have been lost in recent years in the state of Michigan. As written, one could infer from the document that because the coastal program will be administered under existing authorities, we will continue to see a loss of valuable coastal resources. We recommend that appropriate changes be made in the final program document.

The discussion of incentive decision-making criteria states that it is a goal of the coastal program to help coordinate the operations of Federal, State, regional, and local programs and that one of the objectives of this goal is to strengthen, effective working relationships with the various agencies. The techniques, methods, organization, or coordination procedures proposed to achieve this goal and objective should be specifically explained in the final program document.

Response

The State of Michigan discourages development in the floodplain pursuant to the Executive Order 1977-4 by making every effort to educate the public on the hazards of such development. As the statement indicates, however, it cannot prohibit development landward of the floodway as long as it is properly elevated. This policy is consistent with the National Flood Insurance Program and its requirements as well as the President's Executive Order #11988 on floodplain management dated May 24, 1977.

The State of Michigan concurs in the importance of wetlands (see discussion on National Interest in Chapter VI) and the MCMP as one of its major objectives will focus on preventing the loss of wetlands wherever possible. Presently the state is conducting a wetland value study with CZM funding to gather information and documentation in order to prevent additional destruction of wetlands. Moreover, the state is seeking an amendment to Act 245 of P.A. of 1970 to acquire additional management control over platted lands and thereby wetlands. In the interim the state will continue to use the Submerged Lands Act, the Shorelands Act and MEPA in order to protect wetlands wherever possible.

At the local and regional levels the MCMP will rely extensively on existing advisory bodies and commissions to coordinate coastal management activities including the APC nomination/designation process. For specific discussion on these points see Chapter V, program implementation roles, in particular levels II and III, and also see Chapter IV for a discussion on the APC process. At the State level several mechanisms will be used to facilitate coordination between various agencies including the INTERCOM/MERB process, the SAW committee with its inter- and intra-departmental subcommittees, the Governors Cabinet meetings, the citizens Shorelands Advisory Council, etc. The discussion on each of these mechanisms has been redrafted to clarify how they will be used in coordination with federal agencies involved in coastal activities including interagency agreements between Federal agencies and the State, the Great Lakes Basin Commission, adherence to provisions of the Fish and Wildlife Coordination Act and reliance on the the NEPA and A-95 processes, etc. for a more complete discussion on these points, see Chapter VI.

Comment

The DEIS states that the A-95 review process and other instruments will be used in addressing coastal issues for overall policy direction and decision-making criteria. At the January 6, 1977 meeting, the MCMP staff indicated that existing Federal/State agreements, NFPA review, the A-95 process and new Federal/State agreements will be used for involving Federal agencies. The specific means and form of this involvement should be elucidated in the final program document, with specific information on how and at what points Federal agencies will be involved in this policy and decision-making process, especially when national interests are involved.

The discussion of erosion problems should differentiate between man induced and natural erosion. Careful consideration should be given to the issue of whether the public should pay for private property protection or loss due to a lake front owners lack of prudence in locating structures, particularly if the erosion is a natural phenomenon. Similar consideration should be given to the discussion on flood protection and loss.

In the protection of Natural Areas, devices such as tax incentives and leasing were recommended as means of encouraging land or resource protection, short of outright acquisition. Application of these same incentives should be considered as a means of protecting ecologically sensitive areas, and others, before requiring or imposing environmental protection through zoning, regulations, permit requirements, or other land use controls (see discussion on page III-29).

The discussion in the DEIS presents prerequisites in resolving or encouraging local interest and governments to resolve land use conflicts. For completeness, the discussion should be expanded to include effective land use planning and control.

Response

In response to this comment the program document has been revised to provide more detail on the process for Federal/State consultation and the mechanisms to be used, see Chapter VI.

The discussion on the Soil Erosion and Sedimentation Act outlined under this problem area in Chapter III applies to and regulates man induced erosion problems. The Shoreland erosion planning process (Sec. 305(b)(9) CZMA) now being developed by the State will focus on both man induced and natural erosions. It will attempt through an effective planning process to direct development to areas not subject to erosion.

During implementation of the MCMP methods short of outright acquisition will be explored to obtain resource protection including such techniques as lease arrangements, easements or tax incentives. In particular the Michigan Agricultural and Open Space Act (Act No. 116 of the Public Acts of 1974) encourages such actions.

The FEIS cites several state policies which mandate assistance to local and regional government in solving land use conflicts through effective planning and the development and implementation of ordinances. The MCMP will provide financial and technical assistance to local and regional governments to further these state policies and objectives. For example, the program will assist in identifying the sources of land use conflicts e.g., density, access, multiple use of particular sites etc., and working with local governments in developing land use plans and revising ordinances and guidelines which regulate and shape development in order to counteract these problems.

Comment

The APC's established by the legislature provide an opportunity for sound, legally enforceable management of certain critical areas within the state.

The DFIS document states that "there is no assurance that public APC nominations will be implemented; nor will public APCs in themselves constitute a legal restriction to landowners." Discussions with state program personnel indicate that this is not necessarily the state's approach to publicly nominated APC's. The final document should reflect that management programs for some of these nominated APC's may become legally binding under existing state statutes and that others may never be adopted as APC's.

In general, the final document should expand on the criteria used to accept or reject nominated APC's and should specify how priorities will be established. It should also indicate that the specific details of the nominations, the interest in the APC, and the available governmental structure and authorities under which it will operate are vital to the selection and eventual implementation of each publicly nominated APC.

Response

No response necessary.

The quoted statement is correct, however, the document has been revised in Chapter IV to more clearly state that there is no assurance that publicly nominated APC's will in fact be designated as action APC's. Failure to have property owner or local government support, management recommendations inconsistent with program policies, or inadequate funding would act to prevent designation of the publicly nominated areas as action APC's.

Furthermore, all legislatively designated APC's do in part impose some legal requirements as spelled out in the respective statutes upon which they are based. All action APC's receiving monies under the MCMP may also have certain restrictions on uses but these would be provided under the contract provisions, and the party entering into the contract would have to agree to those restrictions prior to entering into the specific contract with the state.

Chapter IV has been revised to reflect more clearly how both legislated and publicly nominated APC processes work. In particular, the priorities of use for legislated APC's are determined by the statutory standards. The priorities of use for publicly nominated areas will be established in large part through the management proposal. This is in recognition of the significant differences in land use patterns and problems at specific sites. However, all sites will be required to meet the criteria outlined in Chapter IV including consistency with the state policies.

Additions and clarification have also been made in the chapter to emphasize the overall state priority given to areas of preservation and restoration, see p. IV-9, and the eighth element on p. IV-15. Also, private landowners and local units of governments will be directly involved in the selection and eventual implementation of each publicly nominated APC since their concurrence in such designation and management proposal is mandatory.

DOI (cont)

Comment	Response
<p>We find no discussion as to how or when Federal agencies will have an opportunity to provide input to the decision-making process which will determine the priority a particular APC will receive. We suggest a formalized procedure be developed to allow interested Federal agencies to review and provide input into evaluating and assigning priorities to nominated APC's.</p>	<p>Federal agencies have been and will continue to be involved in the nomination and review processes. Chapter IV (see p. IV-11) indicates that the special technical assistance that Federal agencies can supply on specially nominated sites will be requested in accordance with the various agencies acknowledged expertise. Furthermore, it should be noted that Federal agencies have already nominated several sites for APC designation and they are encouraged to continue to do so in the future.</p>
<p>It is our understanding from discussion with state program personnel that the legislated APC's have priorities built in by the statutes that created them. In the case of publicly nominated APC's, priorities are established by a combination of regional commission guidelines (which have no legal basis), the use restrictions specified in the nomination, and the criteria established by Chapter IV of Volume I. We believe that clarification of these methods of determining priorities by the MCMP staff in the final program document will considerably enhance the description of the program.</p>	<p>The statement with respect to legislated APC's is correct. In the case of publicly nominated APC's which become designated as action APC's, low priority uses will be assigned as required by the CZMA. The specific uses of lowest priority will be determined by the particular location and will be incorporated into the nomination for that site. In the deliberations of whether the site should be designated, which follows the inventory and review process and public participation outlined in Chapter IV of the FEIS, a determination will be made at the various decision points (local, regional and state) on the merits of the proposed priority of uses. In all cases uses of a particular publicly nominated site and the management of that site will be in conformity with the MCMP policies. This consistency will be imposed through the contractual process involving funding action APC's and the legal regulations encompassed by the MCMP, and it will be monitored by the SAW committee.</p>
<p>A major concern of the Department of Interior is the weakness of the DEIS discussion on the national interest as it relates to wetlands conservation.</p>	<p>The Program has been revised substantially to reflect the state concern and interest in wetlands. The state objectives of the national interest in wetlands include avoidance of long- and short-term adverse impacts associated with the modification of wetlands and preservation and conservation of endangered and threatened species through protection of ecosystems.</p>
<p>DOI recommends that wetland legislation be in place prior to completion of the final program document.</p>	<p>The state is able to control activities in most coastal wetlands through existing state authorities. These include the Shorelands Protection and Management Act, Submerged Lands Act, Inland Lakes and Streams Act, Natural Rivers Act, and Floodway Encroachment Act. Several of these authorities are implemented at the local level subject to state criteria. Others involve a direct state permitting action.</p>

Comment

Presidential Executive Orders 11990 and 11988 on wetlands and floodplains should be reflected in the program's goals, policies, or objectives as well as in the national interest section of the program.

Response

For any wetlands which do not fall under the authority of these laws, the state or any individual may seek judicial relief for any action which may pollute, impair, or destroy any coastal wetland through provisions of the Michigan Environmental Protection Act. To alleviate the ad-hoc and time consuming use of MEPA the state is now seeking comprehensive legislation. However, OCZM has determined that in the interim this approach is sufficient.

Michigan has articulated program policies for both ecologically sensitive areas and coastal flood risk areas. In Michigan, wetlands are considered as ecologically sensitive areas. The program policies with regard to ecologically sensitive areas call for (1) the protection and management of undeveloped and unplatted shorelands necessary for preservation and maintenance of fish and wildlife; (2) regulation of filling and soil alteration activities which may contribute to soil erosion and sedimentation, alteration of natural drainage, removal of native vegetation, and the placement of structures in such areas; (3) protection of the public trust and riparian rights in navigable inland lakes and streams by requiring permits for all dredging, fill or spoil deposition or marina operation on bottomland; (4) and protection of the public interest in all unpatented bottomlands and unpatented made lands in the Great Lakes. For wetlands which are not under the jurisdiction of state laws from which the above policies were derived, state policy calls for protection and conservation of the natural resources of the state. Enforcement of this policy would be through the Michigan Environmental Protection Act.

The program policies with regard to flood hazard areas call for protection and management of shorelands affected by flooding. More specifically, state policy prohibits the obstruction of rivers and floodways and assures that channels and floodways are not inhabited and kept clear of interference which will cause a restriction of the capacity of the floodway. There are exceptions by which a permit for structures in floodplains may be granted. However, it is state policy that the state will not finance, engage in, or issue permits for new structural developments within the 100 year flood plain which are inadequately elevated or flood proofed. The state policy on flood hazard areas is also to work with Federal agencies in carrying out the Presidential Executive Order on floodplains. OCZM has determined that these policies seek to reduce the risk

Comment

Response

If OCZM determines the program can be approved before a comprehensive state wetlands law is enacted, the FEIS should discuss:

- (1) the conflict resolution process between local, state and regional interests in the management of shorelands, particularly wetlands and floodplains;
- (2) how the program will conserve valuable wetlands of national interest.

of flood loss, minimize the impact of floods on human safety, health, and welfare, and preserve the natural and beneficial values served by floodplains and therefore are in compliance with the Presidential Executive Order on floodplains.

See above response to similar comment. The principle authorities available to manage wetlands and floodplains are:

- (1) Shorelands Protection and Management Act
- (2) Great Lakes Submerged Lands Act
- (3) Inland Lakes and Streams Act
- (4) Floodway Encroachment Act
- (5) Michigan Environmental Protection Act
- (6) Natural Rivers Act

Implementation of the Shorelands Act and the Natural Rivers Act may occur at the local level. DNR criteria are used for local implementation of both acts. Where local governments choose not to implement the Shorelands Act, permits are issued or denied by the state in designated erosion hazard, flood hazard, or environmental areas. If a local unit of government fails to adopt zoning in the natural river district within one year of designation, or if local zoning fails to meet state guidelines, the state may promulgate a zoning rule for the river. The remainder of the laws are carried out at the state level although the Michigan Environmental Protection Act gives standing to anyone seeking judicial relief for the protection of the air, water, and other natural resources and the public trust therein from pollution, impairment, or destruction. The MCMP will conserve valuable wetlands of national interest by the existing legal means described above and the Federal consistency provisions of the CZMA. The national interest in wetland decisions will be considered through use of mechanisms listed in Chapter VI.

The Department believes that the MCMP should describe the Shorelands Protection and Management Act in more detail by answering the following questions:

What is the status of the proposed rule change which would expand the authority of the Act to include developed and platted shorelands?

When are rules to implement this to be officially adopted?

Proposed rules to expand the authority of the Shorelands Act have been drafted, reviewed by the public through the hearing process and approved by the State Attorney General. They are now before the Joint Legislative Rules Committee of the Michigan Legislature.

By never including more than undeveloped and unplatted lands under the Shorelands Act, the state would place continued reliance on local ordinances and state permit authorities, where applicable, to prevent or restrict location of

Comment	Response
<p>What are the consequences of never including more than undeveloped and unplatted lands under this Act?</p> <p>If developed and platted lands are not included, how will environmental damage resulting from development and habitat destruction be prevented?</p>	<p>structures in erosion hazard areas. The state would be able to directly control activities in wetlands which are located in platted and developed areas through the Submerged Lands Act, Inland Lakes and Streams Act, and Michigan Environmental Protection Act. This will allow the state to prevent environmental damage and habitat destruction by modifications to project design prior to issuance of a permit or by failure of the state to issue a permit. For major projects for which a state environmental impact statement is required, alternatives must be identified to assist in determining the way the project can be accomplished with the least amount of environmental damage and habitat loss.</p>
<p>Many references are made throughout the document regarding cooperation and coordination between local, State, and Federal agencies, yet no processes or methods are proposed to facilitate these arrangements. Many management and policy decisions regarding coastal resources will be made at the local-regional level, but there is no process which will facilitate local-Federal coordination. The Department views this coordination as essential where topics or areas of national interest related to our programs are concerned.</p>	<p>The FEIS specifically outlines the many processes that are in place that the state will rely upon to facilitate cooperation and coordination between the state and the Federal government including the Great Lakes Basin Commission, interagency agreements, Michigan's shared responsibility in administering Federally sponsored programs such as those spawned by the Fish and Wildlife Coordination Act, see Chapter VI for further elaboration. In addition to the foregoing the MCMP will rely upon the directive to all DNR employees in the Director's Letter #17 (Appendix B of the FEIS), the A-95 process (see Chapter VI) and the GAPC process (see Chapter IV) to facilitate and encourage local-Federal coordination. All of these processes and others such as public hearings held on permits or environmental impact statements on proposed actions will be utilized in order that cooperation may occur on topics of national interest, again see Chapter VI.</p>
<p>The document states: "...it is suggested that local programs will likely be consistent with Michigan's coastal programs." We recommend that this be addressed more positively to ensure that local and regional goals and objectives will be consistent. The first sentence of the second paragraph states: "the same philosophy is extended to State and Federal involvement during program development." The "philosophy" referred to should be explained as well as the process for Federal "involvement."</p>	<p>This language has been deleted from Chapter VII. Chapter V outlines the roles of local and regional units in program implementation. Local implementation of the state authorities cited in Chapter V must meet state standards and criteria or the state will assume responsibility for the administration of such statutes. Funding of local and regional agencies to do work in GAPCs will be contingent on management policies in the GAPC being consistent with the policies of the MCMP.</p>
	<p>The language of Chapter VII with regard to state and Federal involvement has been deleted. The roles of the Federal government during program implementation has been detailed in the first section of Chapter VI.</p>

Comment

In the section on Program Implementation Roles Federal agencies appear to be specifically omitted by the text which states: "The role participant at this program level is the Office of Coastal Zone Management in Washington, D.C." (p. VI-34). Since Federal agency involvement is necessary for decisions related to the national interest, this section on the Federal participants should be expanded to include Federal agencies, indicating their specific functions in the implementation of the MCMP.

The exchange of information is encouraged between the state and Indian tribal governments on all matters pertaining to mutual land interests.

In working with various tribal groups all programs that affect or involve Indian trusts require approval from the trustee, the Secretary of the Interior or his designated representative.

Response

This section has been revised (see Chapter V Program Level V) and recognition of the role of Federal agencies is noted. Moreover, a more complete description of how Federal agencies have been involved and will continue to be involved in programmatic decisions particularly with respect to issues of national interest is outlined in Chapter VI.

Although Indian lands are excluded from coastal boundaries, tribes are eligible to receive technical and financial assistance from the MCMP as regional entities see the discussion in Chapter II.

State must exclude from their coastal management zone those lands owned, leased, held in trust, or whose use is otherwise by law subject solely to the discretion of the Federal government, its officers, or agents.

While Indian lands held in trust by the Federal government must be excluded from a State's coastal zone, and while alienated (or nontrust) lands may be excluded from a State's program, it is not intended that such exclusions should deter tribes along coastal shorelines from developing and administering sound coastal management practices. Wise use and management of tribal land and water resources would complement State management efforts and would further the national objectives of the Act. Accordingly, tribal participation in coastal management efforts shall be encouraged provided that such efforts are compatible with a State's coastal management policies and are in furtherance of the national policies of section 303 of the CZMA.

Historic Preservation

The program does not adequately recognize the need for compliance with section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, Executive Order 11593, and the Advisory Council on Historic Preservation's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR 800). These call for identification, evaluation, and consideration in planning of historic properties on Federal land or in the potential impact area of Federal undertakings. While the Program recognizes the need for an inventory of historic and cultural properties and for development of measures to protect them, it is not clear how these activities will be carried out.

The Michigan policies on historic preservation have been revised in the FEIS to emphasize the state's position on preservation of historic sites and structures. Any Federal activity, license or permit on funding assistance occurring in or significantly affecting the coastal zone must be consistent with state policies on historic preservation. Major state actions which may result in the alteration or destruction of historic resources are subject to state environmental impact statements.

The state has done an inventory of currently identified historic and archeologic sites which are presently known. These reports have

Comment

Response

identified management recommendations for the protection of these resources. The MCMP will act to protect and develop historic resources by the following methods:

- (1) Identifying areas for acquisition;
- (2) through the GAPC process;
- (3) through state review of county zoning ordinances developed pursuant to the County Rural Zoning Act;
- (4) through technical assistance to local governments seeking to develop management measures to protect historic resources.

The MCMP does not intend to undertake a state-wide search for historic and archeological sites which are not currently identified. Inventory and data collection were activities done in the early stages of program development. Moreover, in its request for proposals from the Michigan History Division, the Coastal Program received no request for funds to identify additional historic and archaeological sites in the state's coastal zone.

Role of the State Historic Preservation Officer (SHPO) in preservation concerns is not clear in the document; there is no mention of the fact that this office implements the National Register program in the state and that it participates in Federal agency project review to help agencies minimize the adverse effects of their projects on historic properties.

The role of the SHPO in the Michigan Coastal Program is primarily one of coordination and project review. The SHPO is a member of the Standing Committee on Shorelands and Water and as such recommends priority projects for Coastal Management Program consideration. In addition, the SHPO contributes input to the Michigan Environmental Review Board (MERS) by reviewing state and Federal environmental impact statements. Participation in the GAPC process is another mechanism for involvement by the SHPO. Finally, one of the state action programs calls for cooperation with the SHPO to explore and document existing and potential Federal, state, or local funding sources for preservation and restoration of historic and archaeological sites. The SHPO has also provided written concurrence with her role during program development. See Appendix C. Chapter 3 of the FEIS (Areas Fulfilling Recreational or Cultural Needs) discusses the responsibility of the State Historic Preservation Officer in carrying out the National Register Program.

It is not clear whether historic properties which are not associated with recreation or which are not included in State Historic Districts will receive adequate consideration and protection.

The Michigan coastal policies have been revised to establish the state's position that historic sites and structures be preserved. Under existing state law proposed to be used in the MCMP, such protection is ensured when a site is within a designated state historic district. Historic sites need not be associated with recreation areas or facilities to be eligible for designation in a state historic district. The program will comply with the requirements

Comment	Response
<p>A separate policy section on historic and cultural resources should be developed. It should discuss how historic properties will be dealt with in Hazard Areas, Sensitive Areas, Intense or Conflicting Use Areas, and Areas of Natural Economic Potential.</p>	<p>that accompany designation of historic sites for the state and national historic registers through coordination with the SHPO.</p>
<p>A separate "Action Programs" section should be included for historic properties to make treatment of historic properties parallel to treatment of recreation resources and should provide for inventory and mapping of historic resources.</p>	<p>The other ways in which the state will act to carry out its policies on historic sites and structures are:</p>
<p>There should be reference to the need to seek National Register status for historic and archeological resources through action of the State Historic Preservation Officer, and of the availability of matching grants-in-aid for historic preservation from the National Park Service.</p>	<ol style="list-style-type: none"> (1) Review of county zoning ordinances (Note: Development of county zoning ordinances are voluntary; however, the state review of such ordinances will advocate that coastal historic sites and structures be preserved); (2) Use of the GAPC process; (3) Technical and financial assistance to communities wanting to preserve historic sites and properties; (4) Utilize the MERB review process for major state actions which would have potential for impacting historic resources.
	<p>A separate section on historic and archeological resources was included in the DEIS and is included in this FEIS. Coastal program policies apply uniformly throughout the Michigan coastal zone. They will be followed when decisions are made concerning the other four major areas cited by the reviewer.</p>
	<p>The format of the Michigan FEIS combines the action programs of several areas of concern of the Michigan Coastal Program. Combining action programs of recreation and historic areas does not diminish the importance of historic resources in the program. An inventory of known historic sites has been conducted during program development. The state does not intend to conduct an inventory of unidentified historic sites in the state's coastal zone. However, major state actions requiring environmental impact statements must identify the impacts of such actions on the human environment along with alternatives to the proposed action.</p>
	<p>The action program for historic and archeologic sites indicate the state's intention to work with the State Historic Preservation Officer to identify all available sources of funding for the preservation and restoration of those sites.</p>

Comment

Need for ongoing inventories and evaluation of coastal historic resources archeological sites is expressed in many areas of the Department comments in order to prevent destruction or damage to historic resources not yet identified.

The Department emphasizes the importance of articulating in this early stage, the means for meeting OCZM's responsibilities under the Federal historic preservation mandates.

The Department urges that the Michigan DNR work in close cooperation with the State Historic Preservation (SHPO) Officer under this program of coastal resource management.

The program recognizes the need for consistency with statewide comprehensive outdoor recreation planning, but no process is described for assuring such consistency. Actions are recommended for emphasizing technical and financial assistance to local units to provide outdoor recreation opportunities in the coastal urban areas.

Response

Michigan has conducted surveys of known historic and archeologic sites during development of its program. Michigan cannot promise to conduct an ongoing inventory of its coastal historic resources through its coastal program. But, the MCMP has and will continue to draw heavily upon the State History Division for its advice in decisions affecting the coastal areas. Furthermore, the state GAPC process is ongoing and provides for the nomination, designation, and prioritization of coastal historic sites and properties by citizens, interest groups, and public agencies. Individual groups and agencies are encouraged to take part in this process. In addition, the state is required to issue an environmental impact statement for major state actions which may result in the alteration or destruction of a significant element of the historic resources of the state.

OCZM feels it has met its responsibilities under the National Historic Preservation Act and Executive Order 11593 by active coordination with the SHPO during program development, by ensuring that the state articulate historic preservation policies, and by making the DEIS available for review to the SHPO and the Advisory Council on Historic Preservation.

Michigan has worked with the SHPO during program development. (See letter in Appendix C to this FEIS. In addition, the SHPO is a member of the Standing Committee on Shorelands and Water and as such recommends priority projects for consideration by the MCMP. The SHPO also contributes to the review of state and Federal environmental impact statements. Participation in the GAPC process is another mechanism for involvement by the SHPO.

In providing assistance to local units for recreational planning the State has and will continue to use the Michigan Outdoor Recreation Plan as a guide for directing assistance to local units of government on recreational matters, see specific reference to that fact in the discussion of national interest in recreation, Chapter VI. With respect to this recommendation, the MCMP will, as one of its major areas of focus provide technical and financial assistance for recreational opportunities in coastal urban areas. For example, the DNR is presently collaborating with the National Heritage Conservation and Recreation Service to provide increased coastal urban recreation along the Detroit waterfront.

Comment

We suggest that the Youth Conservation Corps program, 10.661 in the Catalog of Federal Domestic Assistance Grant Programs be deleted from the listing on page A-48 regarding Bureau of Outdoor Recreation programs. Also rivers and the National Wild and Scenic Rivers Act should be listed in the tabulation of "Resources in Which There May Be A National Interest", Figure 6F, page VI-40.

We consider that the grants-in-aid program under the Land and Water Conservation Fund Act would not require any determination of consistency beyond the current A-95 procedures.

We commend Michigan's planners for their responsiveness to our earlier suggestions concerning the importance of mineral resources that occur or may occur in that State's coastal areas. We believe that Michigan's program has adequately considered mineral resources and mining; it has also presented guidelines for the possible nomination of mineral resources areas as APC's. As indicated in our comments on the Program Focus, however, we believe more specificity in the criteria should be included in the parts of Chapter VI related to mineral resource areas.

Environmental Impact Assessment

Chapter VII of the DEIS is entitled Environmental Impact Assessment. This should be entitled Environmental Impact Statement.

Since it is proposed that Michigan's coastal program will be implemented with existing state legislative acts and policies, the EIS should explain how implementation of the coastal program will ensure that property damage, environmental degradation, economic loss, and other social costs will be minimized in the future.

A more in-depth treatment of the proposed action, the existing environment, and potential impact should be included. A more in-depth discussion of potential impacts can be written with some degree of predictability, especially since the program is based on existing statutes which have been operationally tested.

Response

The state has chosen not to list rivers and the National Wild and Scenic Rivers Act as a separate national interest resource. However Michigan has indicated that Recreation is a use in the national interest. To the extent national wild and scenic rivers are parts of the state and Federal comprehensive outdoor recreation plans, they will be considered as resources in the national interest.

The A-95 procedures will be the mechanism for consistency determination for grants-in-aid under the Land and Water Conservation Fund Act. There are no procedures in addition to those already in place for review of this type of Federal assistance. See Chapter VI of this FEIS.

As indicated above more specificity has been provided in order to clarify the state policies with respect to mineral resources. It is important to note that the designation of APC's as described in Chapter IV, such as mineral resources and their respective management plans must be in compliance with these state policies and statutory criteria outlined in Chapter III as well as the criteria enumerated in Chapter IV. Consequently, the determining factor in deciding on the merits of a management plan for an APC involving extraction, drilling, and use of minerals in the coastal zone will rely not only on the criteria found in Chapter IV but also to what extent the objectives and criteria of Chapter III will be met and advanced with the designation of a mineral resource area as an APC.

This change has been made.

The Michigan Coastal Program will strengthen the ability of the state to carry out existing state law in the way they were designed to be implemented. The EIS has been rewritten to distinguish the way in which existing state laws have been carried out in the past and how the state proposes to carry them out during program implementation.

The proposed action is Federal approval of the Michigan Coastal Management Program. The Program has been revised in response to comments on the DEIS to provide a greater degree of clarity and specificity.

The description of the environment has been provided in Chapter II of the FEIS.

DOI (cont)

Comment	Response
Chapter I - Introduction Editorial and favorable comments.	Potential impacts have been expanded to provide a more in-depth discussion on the effects of the program. See Chapter VII. Editorial changes made; no further response necessary.
Chapter II - Michigan Coastal Area and its Character. The significance of sand dunes for local catchment of precipitation and ground-water recharge should be considered in the environmental impact statement's assessment of resources and program impacts.	The significance of protecting these areas has been noted in the impact statement. See Chapter VII.
Chapter III - program Focus The State should be aware that many Federal license and permit activities will not be covered under A-95 review or the Michigan Environmental Protection Act process when they occur on excluded Federal lands.	This statement is true. However, Federal license and permit activities as well as development projects "significantly affecting the coastal zone" are subject to the Federal consistency provisions of the Michigan Coastal Program. See Sections 930.21 and 930.33 of Federal Consistency regulations.
The sixth of the Essential Program Concerns indicates that. . . "the national government fully consider State and local concerns". . . while local governments must assure to a lesser degree" that their activities. . . "do not preclude larger-than-local benefits." (emphasis added) This is inappropriate in light of the intention of the CZMA. We recommend that the phrase "to a lesser degree" be eliminated from the final program document.	The recommended change has been made. See Chapter III of this FEIS.
Provisions for historic resource inventories should be made as part of Essential Program Concerns.	The section on Essential Program Concerns has been deleted from the FEIS. The state has emphasized its concern with performing management activities rather than collecting data during program implementation.
The descriptions of Action Programs are vague and unclear. These sections should be rewritten to answer the following questions: 1. Who will be responsible for conducting the activity? 2. Is this a new or ongoing activity? 3. What is the time frame for conducting the activity if it is new?	Action Programs provide an indication of the general types of activities Michigan will want to pursue during program implementation. The complete answer to the questions posed in this comment can only be answered once the state has developed its application for funding for program administration grants. However, it can be assumed that a part of program administration funds will go to regional planning commissions to provide technical assistance to local governments, to local

Comment	Response
Both flooding and erosion may damage or destroy historic properties. This should be indicated in the list of "Specific Concern."	governments to do management work in publicly nominated GAPCs, to the DNR to more effectively carry out existing regulatory responsibilities, and to the DNR to conduct management projects in legislated GAPCs.
Action programs with respect to flood prone areas describe: ". . . analysis of topographic maps as well as engineering surveys to determine floodplain contours and boundaries." This appears to be incomplete as the information required is not so much the topographically defined flood plain as the areas subject to being inundated with a given recurrence interval (such as the 100-year flood). The task of determining such boundaries encompasses more than the activity proposed in the program.	The state concern with shoreline erosion and coastal flooding applies to concern for damage of all land and structures including historic resources.
The consideration of effects of low water levels in the Great Lakes should include related effects on ground-water movement, availability, and quality. Similarly, consideration of effects of periods of high water levels or of cycles of changing water levels should include ground water related effects on factors of slope and foundation stability and structural integrity.	Michigan will use the information on areas subject to flooding in a 100-year recurrence interval flood in conjunction with topographic maps to approximate the flood hazard areas of the coastal zone. The state will use flood level elevations developed by the Corps of Engineers and Federal Insurance Administration in conjunction with U.S. Geological Survey topographic maps to make these determinations.
Editorial corrections on pages III-41 and III-43 were noted.	The program proposes to make shoreline residents aware of the dangers of slope in stability and shoreline erosion as one of its action programs. The state has not discussed the effects of low water levels on ground water movement, availability, and quality because it is unable to control the level of the Great Lakes.
Many historic properties (including properties of local, State, or national significance) have not yet been identified. (Note that at present there are only six historic districts designated in the region covered by the Michigan CZM program). Hence, it is vital that a program for the protection of such resources contain provisions for their identification and evaluation. This concern should be addressed here.	The document has been corrected. The other section where changes were to have been made has been deleted from the FEIS.
	Michigan has conducted surveys of known historic and archeologic sites during development of its program. Michigan cannot promise to conduct an extensive inventory of its coastal historic resources through its coastal program. However, the state GAPC process is ongoing and provides for the nomination, designation, and prioritization of coastal historic sites and properties by citizens, interest groups, and public agencies. Individual groups and agencies are encouraged to take part in this process. The State History Division has not made a similar request from Michigan CZM for ongoing inventories and evaluation of coastal historic and archaeological sites.
	In addition, the State is required to issue an environmental impact statement for major state actions which have the potential for significant impact upon the environment or human life. This includes cultural resources such as historic or archeological sites.

Comment	Response
Under "Statement of Policy for Historic Areas" wording should be amended to refer to ". . . authorities and incentive mechanisms to identify (inventory) evaluate, restore, maintain . . . sites as well as structures. . ." (emphasis added)	See response above.
Under "regulatory Decision-Making Criteria," provision should be made for identification and evaluation of as yet undesignated historic properties, as well as for protection of designated ones, in areas subject to impact from proposed activities. Note that such identification and evaluation is required by existing Federal regulations in cases in which there is Federal involvement.	See response above. In addition, Federal licenses and permit activities, development activities and assistance projects with respect to historic resources are subject to Federal consistency provisions and procedures outlined in the MCMP.
Insufficient information is given on the Regulatory Decision-Making Criteria for proposed mineral or energy developments. The essence of the criteria should be cited here with reference to the Appendices only for supporting detailed information.	The format for state enforceable policies has been changed for the FEIS. The state has expanded its discussion on policies for mineral and energy resource areas to clarify what each entails (see Chapter V of the FEIS).
The section on prime industrial areas should refer to the need to identify and evaluate industrial/commercial, or maritime facilities or sites (whether in urban areas or elsewhere in the coastal zone) which have historic or cultural significance. Any proposals for the alteration of significant properties of this kind should take into account the Federal mandates concerning preservation.	As indicated above, the policies developed under the MCMP's section on historic and archaeological areas apply to all sections of the program including those actions taken by the state in areas of economic potential. Thus, the proposed alteration of any significant properties which will trigger the state's EIS process will consider these policies and Federal mandates.
The wording in the "Incentive Decision-Making Criteria" for coastal lakes, river mouths, and bays should be modified as follows: "(1) identify special coastal areas with high cultural, historic, or aesthetic value". (emphasis added)	See responses immediately above.
Chapter IV - Special Coastal Areas of Concern	
Criteria for identifying areas fulfilling cultural needs as GAPCs should include the National Register Criteria for Evaluation (36 CFR 60.6) in full, or refer specifically to those criteria.	Figure IV-B of the FEIS indicates that National Historic Register Site evaluation criteria are used for identifying historic and archaeological sites as GAPCs in combination with state criteria.

Comment	Response
<p>Guidelines for nomination of GAPCs are not as complete or clear as they should be. The Department suggests that the guidelines should be structured to include properties "that have yielded or are likely to yield, information important in prehistory or history." The second entry in the guidelines is one aspect of the first entry and might better serve as one of several examples of the broad patterns of history with which properties may be associated. The last entry, a reference to districts, would be more generally applicable to historic districts if it referred to a significant and distinguishable entity whose components may lack individual distinction.</p>	<p>OCCM disagrees. The state has developed its coastal management program with coordination from the State Historic Preservation Officer. As indicated in a previous response Michigan will rely on the SHPO in evaluating projects likely to impact coastal historic resources in establishing priorities through the Shorelands and Water Standing Committee, and in evaluating GAPC nominations.</p>
<p>Chapter V - Management of Important Uses</p>	
<p>Word change suggested to tighten the method of determining uses with a direct and significant impact.</p>	<p>See the twelfth response to a similar comment.</p>
<p>Section on determining how to include a use with direct and significant impact as subject to control by the program needs further explanation. Without a clear method for Federal agencies to determine which specific activities would have, according to State criteria, direct and significant impact, it will be difficult for Federal agencies to make a consistency determination of use permissibility.</p>	<p>The ultimate determination of consistency is made by the state. Federal agencies are required to make initial determinations of consistency for federally conducted or supported activities. The basis for making this consistency determination are policy statements. In the case of Michigan, the policy statements are taken from existing state law and executive orders. They specify the way in which uses with a direct and significant impact on the coastal zone will be managed.</p>
<p>The section entitled "Cultural Significance" discusses only sites, objects, or structures "located within a designated Historic District." While we realize that the criteria cited here are drawn strictly from existing State legislation, we are concerned that this entry may be misleading. Our concerns are,</p>	<p>In some instances the state has identified specific activities of direct and significant impact which the program will control. These include filling, grading, or alteration of soils, collection, conveyance, transport and treatment of domestic or industrial liquid wastes by municipal treatment facilities, coastal condominium development, exploration, extraction or storage of oil and gas resources. The program controls other specific activities enumerated by other criteria (See Chapter V). All of these specific activities are controlled by existing legislation. The state has chosen not to identify any other activities as permissible or not permissible because the authorities used to control such uses employ performance standards to protect coastal resources. A discussion of use restrictions resulting from performance standards is found in Appendix C of the DEIS.</p> <p>The questions which Michigan is using to establish activities of direct and significant impact on coastal resources are based on what can be done through existing state authorities to regulate those activities. Adding a question such as the one suggested here will not force the state through its legislative mandates to</p>

Comment	Response
<p>as noted in discussion of Chapter III, pp. 53ff, above, many of Michigan's significant historic properties have not as yet been identified, evaluated, or officially designated. We noted that there are only six historic districts listed in the coastal zone at present (see Appendix D, p. 8). We suggest an added query: "Has the activity area been surveyed to determine presence of sites, objects, or structures which might be eligible for designating...?"</p>	<p>survey the site to determine presence of sites, objects, or structures that might be eligible for designation (as historic districts). There is no single authority in the proposed program which requires a survey of historic and archaeological sites, objects, or structures eligible for designation as a state historic site or historic district. However, for any major Federal or state action which may impact historic or archaeological resources, an environmental impact statement is required.</p>
<p>Many sites or structures of historic significance, including some already listed in the National Register of Historic Places--and thus included in the State Historic Preservation Plan--may lie outside of the designated historic districts. This section should take note of their existence, and afford them the same protection it provides for sites within such districts.</p>	<p>Historic sites outside of designated coastal historic districts established pursuant to State Act 169 Historic District Act can be protected if they are part of local historic zoning districts.</p>
<p>The criterion for waste disposal used to identify uses of direct and significant impact should be broadened to include, in item 11, all aspects of waste disposal through wells. For example, consideration should be given to those activities under the Water Resources Commission Act of 1929 and the subsequent amendments as well as those under the Mineral Wells Act. The present wording seems to limit consideration to wells related to mineral development.</p>	<p>The criteria used by the state to identify uses with direct and significant impact in the coastal zone are based on what can be controlled under existing state authority. Therefore, the regulation imposed by the Mineral Wells Act as reflected in the state's criteria on direct and significant cannot be changed by the coastal management program.</p>
<p>The Department of the Interior, Office of Archeology and Historic Preservation, should be included in the lists of Associated Federal Agencies concerned with Historic Sites and Districts in the national interest.</p>	<p>Limitations on control of water quality by the Mineral Wells Act are reduced by the use of the Water Resources Commission Act, which provides a broader mandate for water quality.</p>
<p>Federal legislation should be one of the principal sources of statements by which Michigan will determine the national interest.</p>	<p>This table has been dropped. The state has indicated the sources of consultation for determining archaeological and historic areas in the national interest. Among these sources are federal agency nominations for GAPCs. This would facilitate the Department's participation in the Coastal Program with regard to historic resources.</p>
	<p>The FEIS has been substantially revised to indicate specific pieces of Federal legislation which Michigan uses to determine the national interest in facilities and resources. See Chapter VI.</p>

Comment	Response
Chapter VI - Organization of Michigan's Coastal Program	The chapter dealing with organization of the Michigan Coastal Program has been substantially revised as Chapter V of the FEIS. The chapter focuses chiefly on decision-making and advisory mechanisms that will be used in the program. These include the Natural Resources Commission, Department of Natural Resources (the lead state agency) Citizens' Shoreland Advisory Council, the Standing Committee on Shorelands and Water (SAW) the Inter-Departmental Review Committee (INTERCOM) and the Michigan Environmental Review Board (MERB). With the exception of the Attorney General, all agencies listed in this comment are members of the SAW. Detailed responsibilities of other state agencies with respect to CMP is provided in Appendix C of the DEIS.
Use of the term "Negative Declaration EIS" with regard to the state EIS process may mislead others where Federal environmental impact statements are being considered.	This term has been used as a part of the state EIS review process. Use of a different term would not reflect an accurate description of the EIS process in Michigan. A Negative Declaration EIS in this instance is a short EIS on a major project or program with very little or no negative impact.
Regarding the role of citizens, agencies and groups during program implementation, it is proposed that they assist in the amendment of goals rather than refinement of goals and objectives for coastal management.	The state has revised the roles of these groups to provide for formulating local goals for coastal management. To the extent any new local goals represent a basic change in state program goals these are subject to the procedures for amending approved management programs.
Lands which are not owned by the federal government but which are subject to federal mineral ownership should be included in the discussion on relationships of federal interests to coastal management. The existing statements are inaccurate and should be modified to reflect the CZMA	The state has used the language of Section 923.33 of program approval regulations to indicate excluded lands from the coastal boundary. Lands which are not owned by the federal government but where federal mineral ownership exists are subject to the regulatory policies of the management programs. Moreover, any Federal licenses and permits required for such mineral extraction which the state has indicated will be subject to Federal consistency, will be subject to the regulatory policies of the program.
The Department of Interior, Office of Archaeology and Historic Preservation, should be included in the lists of Associated federal agencies concerned with historic sites and districts in the national interest.	The table to which this comment refers has been dropped. The state has indicated the sources of consultation for determining archaeological and historic areas in the national interest (See Chapter V). Among these sources are Federal agency nominations for GAPCs. This would facilitate the Department's participation in the GAPC process with regard to historic resources.

DOI (cont)

Comment	Response
The reference to existing processes to ensure consideration of national interest during program implementation should include the consultations required under Executive Order 11593 and the National Historic Preservation Act of 1966.	Michigan includes consultation under the National Historic Preservation Act of 1966 as a method for consideration of historic and archaeological sites in the national interest. See Chapter VI.
Editorial comments on the Federal consistency matrix.	Matrix has been dropped. A revised section on Federal consistency has been developed for the FEIS.
How are Federal agencies to know which of the six criteria identified in Chapter VI are applicable in making their consistency determinations.	The Federal agencies must be consistent with the enforceable states policies as described in Chapter III. For policies which are nonenforceable there is no requirement that federal agencies be consistent with them. However, they should be considered by the federal agencies as part of the consistency process.
Federal agencies cannot presume concurrence by the state CZM agency for federally conducted or supported activities in 45 days. The Department requests that the state refrain from using a "no response" action.	For Federally conducted or supported activities, Federal agencies make the initial determination if the activity is consistent with the management program. The state must concur with or object to this determination. One way of concurrence is by allowing 45 days to pass from the point at which the state is notified by the federal agency of its consistency determination. This is a legitimate means for state concurrence with federal agency consistency determinations.
Corrections are necessary on the flow chart for federal consistency.	Necessary corrections have been made. See Chapter VI of this FEIS.
The discussion of consistency review for Federal permits should cover State consistency processing of items where a State or local permit is not required.	In cases where state permits are not required for activities requiring federal licenses or permits the applicant is responsible for certifying in its application to the federal agency that the proposed action is consistent with the Coastal Management Program. See Chapter VI of this FEIS.
Editorial changes suggested.	Revisions to the FEIS have corrected these errors in the document.
If the Federal mineral leasing permits are to be subject to certification by the Michigan Coastal Management Program then the following should be added under the list of those licenses and permits which will be subject to federal consistency determinations under Department of Interior:	Michigan has not indicated it will apply federal consistency to this federal permit.
16 USC 520 Leasing of hardrock minerals (including iron nickel and copper) under Bankhead-Jones Farm Tenant Act lands and Federal Farm Mortgage Corporation lands with National Forest or non-Federal surface ownership.	

DOI (cont)

Comment	Response
The responsible agency within the State Department of Natural Resources for determining state concurrence with a proposed federal action should be identified.	The Division of Land Resource Programs within the State Department of Natural Resources is responsible for determining, affirming, or denying federal consistency decisions.
Appendix A - Federal Contribution	
The legal description of Federal Mineral Ownership for Alpena County appears twice. One should be eliminated.	This correction has been made. However, Appendix A is not being reprinted in the FEIS.
The Department suggests splitting the acreage column in the table which outlines Federal Mineral Ownership in Michigan. The columns would read Acres, Federal Surface and Acres, Federal Mineral.	The state has the information in the format in which the Department suggested it be printed. However, Appendix A is not being reprinted.
Explanation of the National Historic Preservation Act should be expanded. The description should explain that through the Office of Archeology and Historic Preservation, the National Park Service maintains and expands the National Register of Historic Places, administers the grants program for State survey and planning programs as well as for acquisition and restoration of historic sites, and provides technical assistance and information on historic preservation technology.	This correction has been made, however, Appendix A is not being reprinted in the FEIS.
Role of the Advisory Council on Historic Preservation should be described in Appendix A.	See, Supra.
The Geological Survey no longer routinely reviews geologic and hydrologic aspects of license applications to the Nuclear Regulatory Commission nor prepares feasibility studies for potential sites for nuclear power plants as stated in Appendix A. In the past, the Survey has participated in hydrologic and geologic investigations of potential sites, but these studies were not overall evaluations of feasibility.	See, Supra.

U.S. Department of Transportation
U.S. Coast Guard
(R.L. Andrews 1/4/78)

Comment

The CZMA excludes Federal lands from the Michigan coastal zone. The state should indicate that it identifies rather than excludes these lands.

It appears something was omitted from this sentence (p III-11). If so it should be added or the words "identify areas where and" eliminated.

CZMA program approval regulations require that where more stringent requirements are incorporated, they should be explicitly referenced as such in the management program. The mandatory installation of holding tanks should be so referenced.

Changes to either type of APCs should be treated as refinements to the approved management program and require concurrence of affected agencies and the Associate Administrator.

Search and rescue should be added to uses in which there may be a national interest in Figure 5A.

U.S. Coast Guard facilities and the Federal Boating Safety Act are proposed as additions to the table which lists facilities and resources in which there may be a national interest in Figure 5A.

Department of Transportation should be added as a Federal agency associated with National Defense and Aerospace, Recreation, Search and Rescue, Water, and Wetlands in Figure 5A.

Federal activities should be reviewed for consistency rather than evaluated for consistency.

Response

This change has been made in Chapter II.

This section of the document has been revised.

Michigan has made the necessary addition under the water transportation discussion of Chapter III.

Under existing regulations, any changes to an approved coastal management program must undergo the procedures of the amendment/refinement process. OCZM will determine on a case by case basis whether a proposed change is an amendment or a refinement. Under existing procedures, Federal agencies will have an opportunity to review the change in an EIS developed for the amendment in a copy of the proposed amendment distributed by OCZM, or through notification and consultation with appropriate Federal agencies with OCZM where the change represents a refinement.

The uses of regional benefit requirement is distinguished from the national interest requirement. Michigan has determined that these are not uses it considers to be in the national interest within the scope of its coastal management program.

This table has been substantially changed. Coast Guard facilities have been added. The reference to the Act has not. See the response below.

This table has been substantially revised. No identification of Federal agencies associated with uses resources and facilities in the national interest is made. However, the state has indicated Federal laws, executive orders, and Federal agency policies which will be used in the state's consideration of the national interest. See Chapter VI.

This portion of the document (Chapter VI) has been revised to indicate the State's "review" responsibilities.

U.S. Coast Guard (cont)

Comment	Response
The discussion concerning the OMB A-95 review process does not reflect the process used in the Boating Safety Financial Assistance Program. The Coast Guard adheres to Part III of the A-95 process which permits the state governor to decide whether or not a Federal assistance project must be reviewed by an areawide clearinghouse.	As you have indicated the Boating Safety Financial Assistance Program is not subject to areawide clearinghouse review, it is subject only to review at the state level. The discussion in the document is in reference to the more common situation where the A-95 review process utilizes areawide clearinghouses.
Editorial comment suggested for clarification of discussion on Federal consistency.	Changes made.
Add U.S. Coast Guard as a Federal agency consulted with during program development.	This addition has been made.
Editorial correction change G.F. to read 6.F.	Correction made.
Suggested changes for Figure 5.A.	Correction made.
The National Transportation Plan should be added to sources used by the state in consideration of the national interest.	This addition has been made.
Editorial comments with respect to NEPA.	Suggested changes made.
The terms MERB and INTERCOM should be identified.	MERB - Michigan Environmental Review Board INTERCOM - Inter-Departmental Review Committee An explanation of the functions of these entities is found in Chapter V.
Columns 3 and 4 in the Consistency Table are reversed. Editorial changes are also suggested for the Table.	This Table has been dropped from the FEIS.
Recommend that the A-95 or Federal Register be used to notify state of Federal activities and recommend rephrasing of types of activities for consideration.	The MOMP request that Federal agencies use the A-95 mechanism or issue a specific notice to the Division of Land Resource Programs of the DNR to notify the state of Federal activities. The activities for consideration have been revised (see Chapter VI).
Figure 6.H. Process for Review of Federally Conducted or Supported Activities is difficult to follow.	The Figure has been revised to reflect a more accurate accounting of the review process.
Suggested wording changes for determining consistency of Federally supported activities.	This section of the FEIS has been substantially revised. See Chapter VI.
Pagination error.	Error corrected.
P.L. 92-75, Federal Boating Safety Act, should be added to the list of Federal planning assistance grants which have received MOMP attention due to their impacts on coastal resources.	This section of the document has been substantially revised. However, the list of planning assistance grants which received MOMP attention have been deleted. Apparently, grants under the Federal Boating Safety Act were not considered during program development.

U.S. Coast Guard (cont)

Comment	Response
Recommend clarifying that a single reviewing agency is authorized to declare a disagreement with a Federal agency consistency determination or object to a Federal license permit or assistance activity.	Any disagreement with a Federal agency consistency determination will be made by the Michigan DNR, Division of Land Resource Programs. See Chapter VI of this FEIS.
Pagination error.	Error corrected
Changes in the Federal permits which the state will review for consistency can follow only after consultation with the affected Federal agency and approval by the Associate Administrator.	This change has been made in Chapter VI of this FEIS.
Suggest deletion of 33 USC 419 Hazardous Substances and Materials from permits to be reviewed for Federal consistency from under Department of Transportation.	This permit will be reviewed for Federal consistency purpose. However, it is a Corps of Engineers permit and is referenced as such in the FEIS.
Delete the following under permits to be reviewed for Federal consistency:	Deletions made
a) 33 USC 1221(8) (Water Safety Zones) b) 33 USC 180(c) (anchorage grounds) c) 33 USC 471 (anchorage grounds) d) 33 USC 1224 (ports and waterways safety) e) establish fishing grounds	
These references do not apply to permitting activities.	
There are inconsistencies in Figure 6.J. - Process for Assuring the Consistency of Federal Licenses and Permits.	This has been revised in the FEIS.
Editorial comments with respect to Federal consistency.	Document has been revised in line with these comments in Chapter VII.
The list of excluded Federal lands identifies only those reported by Federal agencies.	Regardless of those currently identified, the CZMA requires that all Federal lands are excluded from the coastal zone.
Numerous acreage changes for U.S. Coast Guard lands and facilities are given.	These changes have been made, however, the appendix is not reprinted in the FEIS.
Agency contact is changed.	See, Supra.
A paragraph making it a policy to promote boating safety, education and enforcement resources to keep pace with the increase in recreational boating regulations from this program would be desirable from the Coast Guard's point of view.	In the revision of Chapter III the position with respect to this issue has been clarified. The MCMP will continue to support the overall state effort to educate the public on boating safety under the Marine Safety Act. Moreover the state is fully cognizant of the growing conflict between commercial and recreational use particularly in harbor areas, and is working with Federal agencies and local units of government to regulate these activities in order to reduce these conflicts.

U.S. Department of Transportation
Federal Highway Administration
(W.G. Dmrich 12/22/77)

Comment

Response

Earlier comments forwarded by the Michigan FHWA Division apparently were not received and therefore, not responded to in the preparation of the DEIS. The present comments include most of these earlier concerns.

An effort has been made to respond to these comments in this FEIS. Not all comments, however, were able to be accommodated in the FEIS.

These comments also apply to the development of Federal regulations concerning Federal Consistency with Approved Coastal Management Programs issued as proposed regulations.

Correspondence regarding proposed Federal consistency regulations should be directed to the Policy and Evaluation Section, Office of Coastal Zone Management.

The MOMP is confusing and inconclusive in describing procedures and mechanisms by which Federal agencies are to obtain a review and consistency concurrence on all types of Federal assistance projects (or if all types of projects require such a review).

Chapter VI has been rewritten to clarify the state's consistency procedures for Federal assistance projects.

The reliance on the A-95 review process is unrealistic because it is conducted at such an early stage of project development that detailed location and design information may not be available. Recommend use of existing EIS/Negative Determination process for analyzing consistency of major actions, and, A-95 or "general permit" for non-major actions.

The state will rely on the environmental impact statement process for determining consistency of major state actions directly affecting the coastal zone and A-95 review for non-major actions at all stages of project development unless there is sufficient information available for a consistency determination of the overall project. If this is the case, only one consistency determination is required.

Express concern that projects which undergo multiple consistency reviews will be found consistent with the MOMP in early reviews but inconsistent in late reviews. We are also concerned that multiple A-95 consistency reviews for all project phases would overload various review agencies and cause project delays.

Federal agencies shall consider all development projects within the coastal zone to be activities significantly effecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine if they affect the coastal zone.

Federal consistency regulations 15 CFR 930.37 require that for Federal activities where Federal decisions will be made in phases based upon developing information, a consistency determination will be required for each major decision. However, where a Federal agency has sufficient information to determine the consistency of a proposed development project from planning to completion, only one consistency determination will be required.

Recommend that use of term "major action" be made consistent with NEPA and Circular A-95 use. Request response regarding whether or not MOMP will accept the "major action" determination of the FHWA. What is to be done for the consistency determination and concurrence/objection for non-major actions.

Chapter VI of the FEIS indicates that Michigan's use of the term "major action" corresponds to the use of that term pursuant to the National Environmental Policy Act. Therefore, Michigan will accept the "major action" determination of the FHWA if it adheres to the use of the term as defined by NEPA and Circular A-95.

For non-major actions, consistency determination and concurrence/objection are made through the A-95 process. All Federal development projects in the coastal zone are considered activities significantly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they significantly affect the coastal zone.

FHWA (cont)

Comment

Columns three and four in Figure 6G have been reversed.

Recommend that consistency apply to acquisition and construction phase of highway projects with regard to vetoing funding assistance; DOT does not agree that funding assistance for earlier project development phases (planning and programming preliminary engineering and final design) should be halted by consistency objections.

The consistency criteria are not well-defined in the MCMP. It will be difficult for FHWA to determine if its projects are consistent or not with the MCMP. Chapters V and VI are loose and not definite in proposing standards by which the FHWA state transportation agency could evaluate projects for consistency.

Response

This Figure has been deleted from this FEIS.

In cases where the Federal agency responsible for the project has sufficient information to determine the consistency of a proposed development project from planning to completion only one consistency determination will be required. Depending on that determination the transportation planning, environmental assessment, and preliminary engineering processes may or may not receive funding. Where major Federal decisions related to a proposed development project will be made in phases based upon developing information, each phase will be subject to consistency determinations. This means that the early phases of highway planning will still be subject to review and determination for Federal consistency, see 15 CFR 930.37.

The MCMP policies are the criteria Michigan will use to determine Federal consistency. These are contained in Chapter III of this FEIS. Federal consistency procedures have been clarified in Chapter VI.

U.S. Department of Transportation
St. Lawrence Seaway Development Corporation
(Robb 11/30/77)

We are primarily interested in promoting commercial navigation on the Great Lakes - St. Lawrence Seaway System. We are satisfied that the MCMP contains adequate port and shipping considerations.

No response necessary.

U.S. Environmental Protection Agency
(Walker 1/17/78)

Comment	Response
<p>Areas of Natural Hazard to Development - Shoreland Erosion Areas (III-15) In the section "Statement of Policy", the EIS indicates that the State will not issue permits for activities where it can be determined that the use or activity will likely be damaged by shoreline bluff erosion. It should be added that permits would be denied for activities which may compound erosion problems in the immediate or adjacent areas.</p>	<p>This change has been made.</p>
<p>Consideration should be given to encouraging rezoning of high risk areas as developments or residences may be vacated. Mitigation in the form of relocating structures which continually experience property damage due to erosion should be assessed.</p>	<p>The MOMP will provide technical and financial assistance to illustrate the merits of rezoning high risk erosion areas, see the action program which specifically provides for this in addition to the mandatory setback requirements. Moreover another one of the action programs of the MOMP will explore the purchase of specific coastal areas with erosion histories in order to eliminate the cycle of rebuilding in hazardous areas.</p>
<p>It was indicated (page III-26) that counties, townships, cities or villages may adopt and enforce State-approved building setback restrictions. It should be explained if localities may adopt more restrictive standards than those promulgated by the State.</p>	<p>Localities may adopt more restrictive standards if there is a reasonable basis for doing so.</p>
<p>In the section, "Statement of Policy", it appears that for issuance of permits for Shoreland Environmental Areas, the burden of proof that environmental harm may occur is on opponents to the permit rather than on the applicant. We believe permit issuance should be contingent upon the applicant's ability to demonstrate that no significant environmental harm will occur. Unless guidelines for permit issuance exclude harmful activities, the approach to the permit program described in the DEIS may not be restrictive enough to prevent environmental harm. Also, it should be explained if such permits will be subject to the State EIS process.</p>	<p>The applicant must demonstrate that the proposed activity will not cause environmental damage. See for example, the discussion of the Shorelands Protection and Management Act, p. C-6 of the DEIS (this appendix is not published in the FEIS).</p>
<p>In the second paragraph under "Specific Concerns" (p. III-30), it should be included that there has been a failure to recognize the value of coastal ecosystems for water storage and flood control.</p>	<p>This concern has been added to this particular section of the document.</p>
<p>The type of use restrictions on new construction in designated shoreland Environmental Areas that would be used in implementing regulatory decision making criteria should be explained.</p>	<p>Appendix C of the DEIS (p. C-6) provides an indication of some types of uses regulated or restricted under the Shorelands Protection and Management Act such as: filling and grading or similar soil alterations, activities which contribute to soil erosion and sedimentation; drainage alteration; vegetative removal; placement of structures, etc.</p>

Comment	Response
<p>Our same "burden of proof" comment on issuance of permits for Shoreland Environmental Areas applies to issuance of permits for activities on Great Lakes Islands. Under "Specific Concerns" the adequacy of sewage treatment should be included along with the quantity and quality of drinking water supply. It should be included in the section. "Statement of Policy", that developments must satisfy existing Federal standards and criteria with respect to controlling air and water pollution etc., as well as State standards and criteria.</p>	<p>As to the first point see the response above. The suggested addition to the specific concerns has been made.</p> <p>A statement has been added to the document reflecting this point in the policy section under mineral and energy resource areas.</p>
<p>In the section on "Regulatory Decision - Making Criteria", it is indicated that it will be State policy that proposed mineral or energy development activities must be explored... according to guidelines as specified in program instruments such as plans, permits and other agreements between the State and private industry. The types of other agreements between the State and private industry should be clarified.</p>	<p>This portion of the document has been revised, the reference to "other agreements between the state and private industry" was alluding to conditions or modifications placed upon certain proposed activities with respect to the issuance of a permit or an approval of a plan.</p>
<p>Under "Specific Concerns", it should be noted that there is a lack of guidance for conflicts which may arise in assessing various development alternatives which involve trade-offs between prime agricultural and wetland impacts.</p>	<p>Conflicts which may arise between this category and sensitive areas will usually be resolved with the application of the various statutory mandates that underlie the entire program, in this case it would be statutes designed to protect sensitive areas. For example, a proposed development or certain agricultural practices within the coastal zone could, if permitted, adversely affect a sensitive area such as a wetland or water quality. However, such development would normally require a permit under a variety of State Statutes, e.g., The Shorelands Act or the Soil Erosion and Sedimentation Control Act, and as a result of these Acts the proposed activity could be denied or conditioned to minimize the adverse effects. Consequently, the administration and implementation of the Statutes themselves would act as a major source at providing specific guidance in resolving potential conflicts.</p>
<p>Include under "Specific Concerns" To ensure that new industrial growth is restricted or modified in areas where severe pollutional problems have already been identified or may impact adjacent land uses that are environmentally sensitive or not compatible with industrial development.</p>	<p>Under the revised policy statement of this section this concern is addressed.</p>
<p>"Specific Concerns" section should mention that the need for enlarging canals and channels for deep vessels has to be evaluated on a case by case basis for Michigan harbors and should take into consideration other alternative transportation modes.</p>	<p>In the permit process required under Michigan and Federal Law for such action the development of an EIS would be necessary where both State and Federal law requires that other alternatives to the proposed action be considered.</p>

EPA (cont)

Comment

Under the APC category of ecologically sensitive areas a new subcategory should be added: a marsh area that has been identified as important for filtration of water pollutants and sediment.

It should be explained if local authorities can enact and enforce local ordinances or laws that are more restrictive than State guidelines for minimum performance standards in regulating land and water uses within the coastal area.

Does Michigan regulate underground well injection.

Page V-13, Figure 5.A. Add the U.S. Environmental Protection Agency to the list for Associated Federal Agencies for Energy Production and Transmission, Transportation, and Recreation uses. Also, Regional Waste Disposal Facilities should be added to the "Associated Facilities" column.

Item 2. U.S. EPA programs for 201 and 208 planning for grants for construction of treatment works and areawide waste treatment management (P.L. 92-500) respectively, should be discussed in more depth.

It should be explained if NEPA will apply to any aspects of the Coastal Program once it is implemented.

Statements made in the first and second paragraph that "Implementation of the Program will influence positive trends..." and "Implementation of this coastal management program will insure that... mistakes are not repeated..." are vague and can not be substantiated and, therefore, should be deleted.

Response

Marsh areas that have been so identified may be nominated under the ecologically sensitive category. Since the category is defined to include marshes, the state has made a decision that adding the specific subheading is not necessary.

Local units of governments may usually adopt more stringent requirements if there is a reasonable basis for doing so and after State review.

Yes, under Act 294 of P.A. of 1965, as amended, and Act 61 of P.A. of 1939, as amended.

The listing of Associated Federal agencies has been deleted however, in Chapter VI under examples of related facilities regional Waste Treatment plants are cited.

Pursuant to Section 307(f) of the CZMA the State Program will fully incorporate into the program all existing State laws which address the mandate of the Federal Clean Air Act and Water Act. See discussion at end of Section on direct and significant impacts in Chapter V. Furthermore, the program will incorporate any changes modifications or amendments to these programs or plans (such as SIPs or 208 plans) developed pursuant to the Federal Act. The MCMP recognizes the national interest in air and water quality in Chapter VI and in the Director's Letter Appendix B and that the State air and water quality program and future modifications to them are a fundamental component of the MCMP. In addition, all activities within the coastal area will be consistent with these Federal/State standards.

Whether an EIS will be required in the future will depend on the circumstances and magnitude of the proposed changes to the MCMP.

This Section of the document has been revised, it is felt however, that the overall effects of implementing the program will be positive.

EPA (cont)

Comment

In the impact statement itself some recognition should be given to the economic value of wetlands in their function for water purification and flood control.

It should be recognized that the Coastal Program could give impetus to development that will result in some adverse impacts associated with growth.

Federal Energy Regulatory Commission
(Curtis 1/13/78)

The DEIS document does not describe how the Program will function.

The DEIS document provides no indication that State laws or regulations will be tailored to the MOMP, or that State agencies administering the various programs will adhere to the MOMP. It appears that approval of the MOMP will result in no significant change in present State practices concerning coastal zone matters. Federal agencies have been given only an outline of a coastal management program from which to determine all the possible effects that could result from implementation of that program.

The planning and siting procedures in the MOMP for new electrical energy facilities are restrictive and lack the broad considerations required to meet national interests in the siting of facilities which are other than local in nature. Essentially, the planning and siting State statutes should be modified to include consideration of interstate dependency of existing and new electrical energy facilities in Michigan with similar facilities in adjacent states. We strongly urge that, for the purposes of regional and national interest in power plant siting, the discussion on Page VI-46 of the Main Document include an effort by the State to consider the planning and forecasting activities of the East Central Area Reliability Coordination Agreement Organization. This organization consists of a membership of 23 major electric utilities covering eight states, including Michigan. It provides an overview of the planning and operating activities in the region with respect to the reliability of electric generating and transmission facilities.

Response

This portion of the EIS has been revised and such recognition is now provided.

This section of the document has been revised, and it is noted that there will be some negative impacts in the short run that will occur from implementing the program.

The DEIS document has been revised to more clearly state how the MOMP will function. See Chapters V and VI in particular.

The Michigan legislature has enacted a number of different laws which address all significant concerns in the Michigan coastal zone, including the Shoreland Management and Protection Act, the Floodway Encroachment Act, the Great Lakes Submerged Lands Act, the Soil Erosion and Sedimentation Act, the Sand Dunes Protection and Management Act, and others. What is needed in Michigan is the establishment of a greater emphasis on effective implementation of these programs in the Great Lakes Area. All 27 different regulatory programs that are incorporated as part of the MOMP are administered directly by DNR or by DNR in conjunction with one or more other State agencies. Several key mechanisms will insure adherence by other state agencies to the coastal policies, which are based upon existing State Law, including the Governor, the MERB, the SAW Committee, and the availability of judicial review under the Michigan Administrative Procedures Act and MEPA. Approval of the MOMP will provide funds which will enable Michigan to provide this Great Lakes coastal focus to the implementation of these regulatory programs.

This comment refers to two separate requirements of the CZMA. One is the need for a state to provide for adequate consideration of the national interest; the other is the need for a state to assure that uses of regional benefits or facilities which are other than local in nature are not excluded from the coastal zone. The laws and regulations upon which the MOMP is based are not restrictive to any specific use. Any use or activity is permissible in the Michigan coast so long as it meets the standards under the law of the state. (See comments below). Planning and siting procedures are those established pursuant to state regulatory authority for the protection of air, water, and other resources. In addition, all major state actions affecting the environment requiring state permits are reviewed by the Michigan Environmental Review Board (MERB). The Board makes recommendations to the Governor on the merits of these proposed actions. These recommendations are made on the basis of alternatives discussed in the environmental impact statements developed for the proposed action. As

FERC (cont)

Comment	Response
Concern that state conform to six months time period in complying with 307(c)(3)(A).	indicated in the FEIS, the MERB is directed by Executive Order to consider all interests in decisions relative to resources protection and management. This encompasses interstate dependency of existing and new electrical energy facilities in Michigan with similar facilities in adjacent states.
Concern that Figure 6.J implies that internal processing by a Federal agency for a license or permit is not to be done while a state is reviewing same.	The FEIS has included the FERC recommendation that the program include a discussion by the state to consider the planning and forecasting activities of the East Central Area Reliability Coordination Agreement (ECAR) Organization. This is indicated in Chapter III in the state's energy needs. It is also referenced in Chapter VI in which Michigan indicates it will use ECAR data in consideration of the national interest in energy facilities and needs.
The concept of designating certain coastal areas as APC's if properly implemented, should aid in balancing of development and preservation interests that are advocated by OCEM. However there is some concern about the mechanism for APC nominations as described in the MCMP. It is not clear how this process will accept nominations or concerns from the energy companies. How will proposed sites for electric power plants and interstate gas pipelines be handled by the APC process?	The State intends to fully comply with the requirements of the CZMA see discussion on Federal consistency in Chapter VI.
Within the "Private Sector" only the Edison Electric Institute received copies of the MCMP and DEIS documents for review and comment. Copies of these documents should be sent to Consumers Power Company and Detroit Edison Company for review and comment.	For clarification on this point see the discussion in Chapter VI.
Guidelines should be developed and presented for the designation of energy resource areas as areas of natural economic potential.	The process for public nominations for APC designations is outlined in the inventory and review description of Chapter IV. Copies of the specific forms for such nomination are supplied in this chapter as are descriptions of the types of areas which may be nominated. All energy companies are encouraged to place in nomination as early as possible sites that may be used for energy production or transmission.
Change "Federal Power Commission" to "Federal Energy Regulatory Commission." Also the reference to General Services Administration should be a separate agency listing.	This is incorrect. Both Consumers Power and Detroit Edison have received the DEIS and they have commented upon it.
Changes in energy responsibilities.	The FEIS document has been revised to include such areas under the natural economic potential category.
Change Appendices of DEIS pp. A-63 and 64 to reflect current responsibilities of the Commission.	Changes have been made in Chapter VI.
The following information should be provided:	Changes have been made in Chapter VI.
- specific legal or physical descriptions of the proposed boundaries of the coastal zone;	The appendices have been changed, although they will not be reproduced as part of the FEIS.
- A description of the coastal boundary is provided in Chapter II.	

FERC (cont.)

Comment	Response
- a description of the permissible uses proposed for each APC and for the rest of the coastal zone;	- The MCMP does not prohibit any uses per se from the coastal zone. It may condition and in some instances prohibit certain uses in certain locations because they have a direct and significant adverse impact on the coast. These direct and significant uses are discussed in Chapter V and the policies that address them in Chapter III. The APC process which is discussed in Chapter IV provides an additional avenue to focus on the use of certain specific coastal areas. All APC's and the uses permitted within them will be managed in accordance with the MCMP policies.
- a detailed discussion of how Michigan has addressed the concept of national interest. OCZM has indicated that each state has particular areas of national interest concern and, therefore, the generalized list such as that shown in Figure 6.F of the MCMP is inappropriate.	- A detailed discussion on consideration of the national interest has been provided in the revised Chapter VI.
- The Coastal Zone Management Act specifically mentions energy facilities in Section 305(b) (8). Any discussion of the national interest should include a section directly addressing the siting of energy facilities within Michigan's coastal zone area.	- The siting of energy facilities is specifically discussed in Chapter VI along with other areas identified as being in the national interest. Moreover, the planning process for energy facility siting (305(b)(8)) will link the consideration of national interest with the planning element.
- Request that the document discuss the proposed mechanism for the determination of the consistency of Federal license and permit applications describe the equivalent state permit procedure; identify the standard to be used when equivalent state permit procedure will not be used.	- See Chapter VI on Federal consistency where these points are addressed.

U.S. Nuclear Regulatory Commission
(Ryan 1/12/78)

Comment

This Program is addressing only the 1972 CZMA, and does not address the 1976 amendments to the Act. Michigan has no present agency with statutory authority for energy generation facility siting. Provision for this authority would considerably strengthen the Program.

One category of Michigan Coastal Areas is Areas of Natural Economic Potential which embraces mineral and energy resource uses. Then in the discussion on APC's there is a category Areas of Natural Economic Potential, that mentions mineral and energy resources but speaks only to mineral extraction. This omits areas for energy facility siting; this omission should be corrected.

Need to base consistency determination on something other than the NEPA-EIS because NRC does not issue its DEIS within 6 months of receipt of an application.

Generally, the Federal consistency discussion would benefit from a clarification of when (1) Federal actions, (2) Federal permits, and (3) Federal grants and aid are referenced.

The NRC mission and official agency contact as presented in the appendix should be changed.

The environmental impact statement follows the content of the program, and therefore contains very little that is relevant to NRC. However, according to current usage the phrase "positive impact" means that there is an impact, whether good or bad. Positive impact is used in this EIS to mean good or beneficial impacts (see Page VII-3 and elsewhere). To be consistent with current EIS usage, it should say something like "positive impacts that are beneficial to the coastal area."

Response

The Department of Natural Resources has major responsibility for determining the appropriateness of a proposed energy site for energy generation. It exercises this authority as a result of several different statutory mandates, see for example the discussion in Chapter III under energy and mineral resource areas, also Chapter V where the management of direct and significant uses is discussed. In addition note the DNR's role in ensuring the consideration of national interest in energy development as outlined in Chapter VI. Other state agencies which work closely with the DNR in this area are the PSC and the State Energy Administration. Moreover, each of these agencies is working closely with the DNR in developing the energy facility planning process pursuant to the requirements of Section 305(b)(8) of the CZMA.

Changes have been made in the document (see Chapter IV, figure IVb) to add the category under Areas of Natural Economic Potential in accordance with the reviewers comments.

The NEPA/EIS reference applies to the MCMP's proposed method for continuing to consider the national interest during program implementation. The MCMP will use the Federal consistency mechanisms described in Chapter VI to implement the consistency requirements with NRC.

In line with this comment this portion of the document has been revised to provide added clarification (see Chapter VI).

Corrections to the appendix concerning NRC's mission and contact have been made, however, the appendix is not reprinted in this FEIS.

OCZM has checked with the Council on Environmental Quality that agency informed OCZM that the phrase as used in the document is correct.

Monroe County Planning Department and Commission
(Richard G. Micka/Max M. McCray 1/11/78)

Comment

The state should spell out the communication and coordination process that is to be implemented in the MCMP.

Staff feels that communities and counties affected by state or Federal plans should be involved at the beginning of the program or planning process and not at a time when their comments would have little or no bearing on what has already been determined.

Staff is concerned about state and Federal coordination and communication among its own agencies, especially now, in areas nominated as having particular concern where conflicts arise over economic vs. ecological consensus such as in the Port of Monroe.

Staff feels that Monroe's percentages of ownership and land use are not adequately shown when grouped with Wayne, Macomb and St. Clair Counties and the City of Detroit. Also, Lake Erie's coastline and land use figures should have the same individual status as the other three Great Lakes which touch Michigan.

Response

Chapter V clarifies the local role during program implementation. Chapter IV also spells out the critical role that local participation will play in the APC process in determining consistency of nominated sites for APC designation.

OCZM, the Natural Resources Commission, and DNR officials agree. Starting with the development of the MCMP in 1975, the state has made every effort to involve the local and regional governments. Since that time, local governments were relied upon to accumulate data and inventory information on coastal issues and problems. In a more formalized setting local involvement has been and will be represented through the Citizens Shoreland Advisory Council and the nomination of APC's. In addition, Michigan has held 20 public meetings and 13 public hearings on the program throughout the state. Documentation in this regard can be found in Appendix E of the Draft Document published 11/77.

The state has developed numerous lines of communication both formal and informal to minimize conflicts between the state and Federal agencies. (See for example the discussion in Chapter VI, and note that the state has developed memoranda of understanding with several Federal agencies including the U.S. Army Corps of Engineers.) Within the state several mechanisms such as the SAW Committee are available to improve coordination and communication. For elaboration on these mechanisms, see Chapter V.

As to the specific concerns over the Port of Monroe it should be noted that it has been nominated for APC designation. In considering the most appropriate plan for the Port the state will work closely with local governments and Federal agencies such as the Corps of Engineers and the U.S. Maritime Administration.

Revisions have been made to the document to include this information. See p. 2 Chapter II of the FEIS.

Monroe County Planning Department and Commission (cont)

Comment

Commission staff wants to comment on lack of current local nomination data on areas of particular concern. They were present in the previous draft of the MCMP, except they were not the latest nominations but rather those of 1976. Staff feels these are extremely important in the Federal review process, especially in areas where Federal grants may be used. Areas nominations of priority interest to this region are

- i. Port of Monroe
- ii. North Shore of Sterling State Park
- iii. Woodtick Peninsula

Staff feels that the intent of the MCMP is geared to local participation and input... It is hoped that this is still the intent of the program.

Endorse the MCMP with the comments above for the economic and ecological well-being of the county, this state and the United States.

Response

The state staff is presently updating all information on currently nominated APC's and is sending that information to all RPC's in order to double check on the accuracy of APC information (nominators, management recommendations, etc.).

Chapter IV explains how Federal agencies will be notified of APC nominations and designations so that applicants for Federal licenses and permits are aware of APC use priorities and so that Federal agencies are advised of assistance that would be welcome in the area. The MCMP has not designated any nominated APC's at this time. When nominated APC's are designated, notification will be given to affected parties.

It is.

No response necessary.

Northeast Michigan Council of Governments (NEMCOG)
(Lew Steinbrecher 12/20/77)

(Forwarded comments from the public hearing in Traverse City on December 14, 1977.)

Encourage the Michigan Department of Natural Resources to provide technical and financial assistance to coastal communities to foster coastal management.

NEMCOG policy statement "The Northeast Michigan Council of Governments believes that just compensation in tax relief and/or purchase of development rights be given to any property owner whose use of land is unduly restricted through the development and implementation of the Federal Coastal Zone Management Act of 1972 (P.L. 92-583) and the Michigan Shorelands Protection and Management Act of 1970 (P.A. 245). If the Department of Natural Resources, as mandated by the Michigan Legislature designates certain land for preservation, provisions should be made for the fee simple acquisition of all designated property by these agencies and bodies representing the public."

The APC process is achieving positive results in implementing the MCMP.

The approval and implementation of the program will do much to preserve, protect and manage this state's valuable coastal resources.

The action programs in Chapter III and the role of local government described in Chapter V show the program's provisions for assistance to local governments.

The enforceable policies of the MCMP are based upon State law. They do not call for arbitrary or unreasonable restrictions being placed upon the use of property. Private property rights are protected under the Federal and State Constitutions and the MCMP will not erode or eliminate these protections.

OCZM agrees.

OCZM agrees.

Southeast Michigan Council of Governments
(Michael Glusac 12/30/77)

Comment

Endorse intent of MCMP but cannot fully evaluate effects on state policies and programs.

Endorse coordination elements of programs will observe impact of same as potential effectiveness cannot be ascertained using available information.

Environmental impact statements or negative declarations compiled by state agencies proposing projects affecting coastal areas should be submitted to areawide and local interests in the affected area.

The state also should submit to local and regional officials for review the area descriptions and management plan for State legislated GAPC's.

Response

Chapters III V and VI have been expanded to clarify these effects. Also, the environmental impact statement, Part III. addresses this concern.

Chapter VI has been added to clarify coordination responsibilities for purposes of consultation, consistency, and consideration of national interest. OCZM will monitor the effectiveness of these mechanisms during program implementation.

The Michigan EIS process in following the Michigan Environmental Review Board (MERB) guidelines makes every possible effort in obtaining the widest review and comment on proposed actions requiring an EIS. Part of that process involves distribution of an EIS to areawide and local interests in the affected area along with public hearings. Furthermore, MERB maintains a list of interested individuals, groups, or representatives of governmental units to which a monthly EIS status list and Board agenda is distributed. In order to be placed on the mailing list contact: MERB, P.O. Box 30028, Lansing, Michigan 48909.

On the request for legislated APC's, changes in the areas and the management plans will be the subject of public hearings. In the case of nominated APC's, affected property owners and local jurisdictions will have the opportunity to endorse nominations or veto designations. Also, regional agencies will continue to inventory and review APC's during the program implementation.

West Michigan Regional Planning Commission
(Daniel E. Strobridge 12/30/77)

Policy statements are very good.

The need for local participation should be emphasized in the document.

No response necessary.

Chapter V clarifies the local role during program implementation Chapter IV also spells out the critical role that local participation will play in the APC process and in determining consistency of nominated sites for APC designation.

American Petroleum Institute
(Sawyer 1/17/78)

Comment

The cover letter of the Governor of Michigan transmitting the Coastal Management Program and DEIS to NOAA indicates that the Michigan DNR has been gubernatorially designated as the lead agency. However, there is no reference to an executive order, executive directive or any other type of formal document by which the Governor accomplished the designation of the DNR as the lead agency. Article 5, Section 2 of the Michigan Constitution and MCLA 16.101 et seq. govern the manner in which the Governor must deal with the Department of the Executive Branch of Government. Since no formal document accomplishing the designation of the DNR as lead agency has been furnished, it is impossible to determine whether the requirements of state law were satisfied in this regard.

It is questionable whether the Governor of Michigan has the legal authority under State law to designate a single agency to manage the State's coastal program and to give it the power to resolve conflicts between other state and local agencies in the coastal area without legislative approval.

The Circuit Court of Ingham County has recently held that the provisions of the Executive Order creating MERB and MERB's own rules could not serve as the basis for a cause of action by private citizens to enjoin an activity licensed by the State. At least in the opinion of one Michigan Court, MERB does not have the legal status to accomplish what the Michigan Coastal Program expects it to do.

Response

The letter of transmittal to NOAA is sufficient for designating a State agency. The Governor's authority under Article 5, Section 2 of the Michigan constitution is quite extensive and his exercise of authority in this manner was pursuant to the Constitution and statutes and normal State practice.

Under Article V, Section 2, Michigan Constitution, certain powers were granted to the Governor concerning the reorganization of State government. Pursuant to this charter the Governor issued Executive Order 1976-8 which allocated and assigned broad functions to the Department of Natural Resources (DNR). That Executive Order was not overturned by the legislature as specified in the Constitution and therefore the DNR does have the capacity under these broad functions and powers to resolve conflicts as outlined in Chapter V. The Governor's designation of the DNR as the lead agency therefore was done in recognition of the DNR's broad authority and powers.

Even assuming that this statement reflects the intent of the lower court's partial summary judgement it is not controlling cf., Highway Comm. v. Vanderkloot, 392 Mich. 159 (1974).

API (cont)

Comment

When evaluating the MCMP in regard to the CZMA requirements (Sections 306(c)(5) and 305(b)(6) on organization) it is difficult to ascertain how these requirements will be satisfied. Chapter VI (of the DEIS) makes these administrative processes and authorities appear complete, but they are lacking severely in specificity.

The MCMP does not describe which agency or department will receive and process permit applications for coastal activities and what permit information will be required.

The MCMP does not discuss what administrative process will be used by the lead agency to certify consistency with local, regional and state regulations.

MCMP does not describe how permit conflicts will be resolved on the local and state level.

A permit applicant should be able to determine how his application will be processed in the "networking" system and by whom.

A timeframe for processing permits should be designated. Because six months are allowed for the state to act on an applicant's consistency determination, the states should be expected to set the same or shorter deadlines for themselves and their localities on applications only requiring state permits.

The proposed MCMP does not contain the required degree of specificity or predictability for an applicant to properly evaluate whether an application is certifiable.

Response

The MCMP has been revised to more clearly state the organizational structure that will be used to implement the management program. However, it should be understood that the Department of Natural Resources, Division of Land Resource Programs, is the lead coastal management program agency, and it either directly administers or plays a major role in the administration of all significant state coastal programs and authorities. See Chapter V for further elaboration.

A description of the permit process is provided in Chapter V and see Figure V-E which is a typical example of how a permit is processed.

The administrative procedures for certifying consistency is outlined in Chapter VI.

See discussion of conflict resolution and inter-governmental coordination in Chapter V on organization.

See response to similar comment above.

A primary objective of the program's implementation is to improve the coordination and reduce the time involved in permit reviews. The Program's progress in this regard will be evaluated specifically after the first full year of implementation. Permit review deadlines will be considered as part of this evaluation.

The criteria for Federal consistency determinations have been revised. See Chapter VII. Also, as a practical matter, any applicant for a Federal license or permit selected for review by Michigan should obtain the views and assistance of the Division of Land Resources Programs' Coastal Management Program Unit.

API (cont)

Comment

The agency which acts on consistency certifications must have authority to administer land and water use regulations, control development in accordance with the management program, and to resolve conflicts.

The petroleum industry is vitally concerned with providing for the proper location of coastal dependent energy facilities.

No program is approvable without satisfying the requirement of Section 306(c)(8) of the CZMA. This means that the national interest in energy facility planning and siting must be dealt with adequately in the original program submission. The Michigan DNR has not yet addressed this requirement and promises only to develop a planning process for the siting of energy facilities.

Response

The "state agency" designated pursuant to Section 306(c)(5) of the CZMA or an agency which has been delegated consistency review authority may act on consistency certifications (see 15 CFR Part 930, Section 930.18).

OCZM and the State of Michigan share similar concerns.

The MCMP meets the requirements of 306(c)(8) with regard to energy facilities in particular see Chapter VI where:

- . The state has identified energy as a category of national interest in its program;
- . The State has established a process for continued consideration of the national interest in energy facility by consulting with Federal agencies and reviewing Federal legislation, by consulting with groups from the private sector, by working with the Energy Administration and PSC, through formal policy statements of the Michigan Natural Resources Commission, review of environmental impact statements by the Michigan Environmental Review Board, and by the actions of the Department of Natural Resources in the administration of its regulatory and resource management responsibilities. It should be noted that the Director of the DNR has directed the agencies within the DNR to consider the national interest in the discharge of their responsibilities. See Director's Letter #17, Appendix B.

The state has indicated concerns over energy facilities and supplies and has articulated state coastal policies and action programs with regard to energy, see Chapter III. The State will use existing conflict resolution mechanisms detailed in Chapter V of this FEIS to resolve disputes on matters concerning the national interest in Michigan.

With respect to the planning process required under 305(b)(8) a state must describe the process for continued consideration of energy facilities during program implementation; indicate where energy facilities are reflected in the substance of the management program; indicate when and where energy facilities may conflict with national interests in resource conservation and how the program resolves or proposes to resolve such conflicts; and describe the status of the energy facility planning process required to be developed pursuant to the Act. The State is presently collecting

Comment

API believes the program should indicate the criteria by which energy facilities which are greater than local in nature are to receive adequate consideration for siting in the coastal zone. API contends the criteria must be based on a specific policy and backed by legal enforcement procedure.

The DEIS does not establish a method to assure protection of national interests in connection with the location of coastal-dependent energy facilities.

API believes Michigan has attempted to use its method for assuring the uses of regional benefit not be arbitrarily excluded from the coastal zone as a method for consideration of the national interest. This method is considered inadequate for the purpose of protecting the national interest and uses of larger than local impact.

Michigan's proposed method for adequate consideration of the national interest is questioned. Use of the Michigan Environmental Protection Act is not sufficient under OCZM program approval requirements with regard to protecting the national interests. The Michigan Environmental Review Board and the A-95 review process have no statutory authority and cannot be used for legal enforcement of the protection of the national interest.

Response

data on the expected supply and demand for energy in the development of the planning element. API's assistance and any information it may have pertaining to energy resources that would support the Michigan effort to develop a viable planning element would be greatly appreciated. Michigan intends to complete the planning element by October 1, 1978, as required by the CZMA.

Criteria for energy facility siting in the coastal zone are based on the substantive requirements of state authorities. The policy statements on energy resources and resource protection are also based on existing state authorities. Criteria issued pursuant to state authorities are summarized in Appendix C of the DEIS and policy statements on energy have been clarified in the FEIS. The FEIS does not include this appendix.

Program approval regulations do not require a method to assure protection of national interests in coastal-dependent energy facilities. They do require that planning for and siting of such facilities be given adequate consideration. The process for such consideration is discussed in Chapter VI.

The program approval requirements for uses of regional benefit and consideration of the national interest are different. Michigan has attempted to illustrate this distinction in the FEIS more clearly than was done in the DEIS. See Chapters V and VI of the FEIS for explanation of these methods.

Program approval requirements say that a state must adequately consider the national interest in planning for and siting of facilities. The FEIS has been substantially revised to demonstrate more clearly this process for considering the national interest. To begin with API should note that the FEIS outlines other important mechanisms to be used for considering the national interest beyond those cited. These are the Natural Resource Commission and the Department of Natural Resources. The Natural Resources Commission is clearly mandated to consider all interests in its decision on DNR program policy. It provides that any citizen, interest group, private firm, etc. may appear before the Commission to present views on matters pertaining to Department policies, actions or contested case hearings. It has also gone on record in its decision-making as acting in the national interest in permitting energy development within state forest lands.

API (cont)

Comment

Response

The DNR has been directed through a "Director's Letter" to consider the national interests in carrying out all its administrative responsibilities. The Standing Committee on Shoreland and Water was organized by the DNR and is comprised of nine state agencies including the DNR. Its recommendations on priority projects and activities for the program will be influenced by the DNR consideration of the national interest.

The Michigan Environmental Review Board (MERB) considers all interests in making decisions as to state actions subject to environmental impact statements. The Inter-Departmental Environmental Review Committee (INTERCOM) performs the initial review of these impact statements and as such is required to consider all interests in its recommendation to the MERB.

The Michigan Environmental Protection Act through its broad mandate to consider all impacts on the environment allows standing for any person to seek judicial relief for damage to the environment, including the human environment.

A-95 review will be a method used in determining consistency of Federal actions with state coastal policy and not as a method of considering the national interest.

API should also note that the DNR is a member of INTERCOM, and MERB and will provide where necessary national interest considerations in the decision making of the committee and board.

DEIS states that delineation of the coastal zone boundary is not complete and therefore it is premature to ask for Federal program approval by NOAA.

The coastal zone boundary is final; at the time of the issuance of the DEIS, the boundary criteria were final; the actual mapping of the boundary was not complete since the State was in the process of reviewing the boundary maps compiled by the coastal regions planning agencies for consistency with the boundary criteria.

The MCMP should include maps identifying the coastal zone boundary for the entire state. Specific boundaries must be defined in the DEIS to allow citizens and special user groups to determine how they are affected by the program.

OCZM agrees that the coastal zone boundary must be defined to allow citizens, special user groups, and public agencies to determine how they are affected by the Program. However, it is impossible to include boundary maps in the DEIS or FEIS for the following reasons: (1) the variability in scale of existing maps of coastal areas; (2) the scale of map necessary to make the boundary line meaningful with respect to land area covered would be very large; (3) the volume of any document depicting 3200 miles at a meaningful scale would be extremely large. Therefore, the state has tried to indicate the boundary criteria as specifically as possible and indicate the time required for the state to make a

Comment	Response
<p>The MCMP has designated a few legislated APC's (which incidentally are not shown on programs maps), but DNR is still in the process of approving nominated APC's. As a consequence, public or private groups cannot determine from the Michigan DEIS whether or not they will be affected by inclusion of additional (nominated or as yet un-nominated) APC's in the MCMP.</p>	<p>determination of whether a piece of land is within or outside the coastal boundary. The boundary maps are also available for public inspection or purchase from the state or appropriate coastal regional planning agencies.</p> <p>Under the legislated APC's well over 160 sites have in fact been designated, in addition about 50,000 acres under the Farmland/Open Space Act and 197 miles of high risk erosion and 100 miles of environmental areas have been designated (see Chapter IV where these figures have been added). The general location of these APC's have been provided on maps in Appendix D of the DEIS.</p>
<p>The CZMA (section 305(b)(3)) states: "the management program for each coastal state shall include ... (a) an inventory and designation of areas of particular concern within the coastal zone." This section of the Act implies that APC's must be designated after inventory has been conducted and before submittal to NOAA for approval. Before NOAA approves this program finalized maps depicting legislated and nominated APC's should be submitted in the DEIS for public evaluation and comment. Until this is done, this aspect of the program violates the intent of the CZM Act.</p>	<p>APC nominations and designations will be ongoing in Michigan. However, there are as indicated in Chapter IV two sources of APC designation. Legislated APC's that are designated as a result of specific legislative enactments. Each site under these categories will be identified by the DNR. The criteria imposed for permissible uses of these APC's is provided by the statutes, appropriate notice, hearings and if necessary, judicial review are available. Publicly nominated and designated action APC's, i.e., those that involve funding by the state must, in order to be so designated, have the endorsement of the landowner before a management contract will be effectuated.</p> <p>As noted above, the legislated APC's are in fact designated which satisfy the CZMA requirements. At present the other source of APC's (publicly nominated) and its process are being implemented. Maps for GAPC's are not a requirement of the Act, however, as indicated above the general location of the legislated APC's is provided in Appendix D of the DEIS. Public notice has been given when any site has been designated under the legislative process, pursuant to Act 306 of 1969 Michigan Law. The opportunity for review, evaluation and endorsement is also provided for all publicly nominated APC's see above response.</p>
<p>The draft statement issued by OC2M has two essential deficiencies. First it fails to provide a balanced and thorough discussion of both the costs and benefits of the proposed action. Second, the DEIS commits itself to one particular course of action-full approval under subsection 306 and fails to meaningfully discuss possible alternatives, including continued program development funding under subsection 305.</p>	<p>The alternatives have been rewritten to clarify the considerations of the Assistant Administrator. The impacts of giving Federal approval to the Michigan Coastal Management Program have been re-evaluated to identify short- and long-term impacts which are positive, negative, and neutral.</p>

Consumers Power Company
(Rittle 1/16/78)

Comment

The "program consistency" requirement of section 307 implies that more than vague statements are required of a coastal zone program. For this statutory requirement to be meaningful and workable, a state program must clearly identify the requirements the program will impose on persons who propose to conduct activities within the coastal zone. Until these requirements are identified, the Michigan program should not be approved.

Although it is aware that the States have been given additional time to develop the energy facility planning programs, the Company is concerned that proper assessments of both the regulatory effects and environmental impacts of the Michigan Program cannot be made until the State has developed its energy facility planning program.

Several times in Chapter VII, the advantages of Michigan developing its coastal zone management program through "administrative procedures" are alluded to. The use by the state of its administrative procedures to develop a coastal zone management program would have the additional advantage of complying with the Michigan Administrative Procedures Act. The numerous policy statements that are made in Michigan's coastal zone management program appear to fall within the definition of a "rule" under this Act:

"Rule" means an agency regulation, statement, standard, policy, ruling or instruction of general applicability, which implements or applies law enforced or administered by the agency, or which prescribes the organization, procedure or practice of the agency..." (Michigan Administrative Procedures Act, section 7 MCLA subsection 24.207 (supp. 1977)).

According to this Act a rule "hereafter promulgated" is not valid unless processed in substantial compliance" with the procedural requirements of the Act.

Response

In line with this comment the program document has been revised to more clearly illustrate what authorities will be exercised in advancing the overall MCMP goals. In particular see the revised Chapters III and V where the policies, statutory criteria, and action elements of the program are discussed, also note the revisions to Chapter VI where consistency is addressed and the fact that Federal consistency applies only to the extent of the coastal policies. Thus if an issue is not directly addressed Federal consistency cannot be used to reach it.

The Congressional intent allowing the States until October 1, 1978, to develop an energy facility planning process was to permit those States which were approved prior to that date the added time to develop an effective planning process. However, it should be noted that in following the requirements of Section 305(b)(8) and Section 923.14 of the regulations the State of Michigan which is developing its planning process at this time will coordinate this element with the overall MCMP. The planning element is designed to complement the MCMP, the effects that it may have on the coastline and the program are now being considered. Public input to this entire process is encouraged, and public hearings on the planning element will be held in the summer.

The MCMP relies upon existing statutory law and regulations adopted pursuant to that law for its enforceability. The program policies are based on this existing legal foundation. The reference to administrative procedure was not intended to convey that it was a rule making function. The MCMP will provide a concentrated focus on coastal issues and an improvement in the State administrative and management processes which will facilitate a more effective use of the existing laws and regulations. If at some time in the future it becomes apparent that existing regulations need to be changed or amended then Michigan of course would follow the prescribed legal procedures for making these changes.

Consumers Power Company (cont)

Comment

Section 306(e)(2) requires that an approved State coastal management program provide a method of assessing that local coastal zone regulations do not unreasonably restrict or exclude land and water uses of regional benefit." Similarly, section 306(c)(8) requires that a state program provide for "adequate consideration of the national interest" in the siting of facilities which are "other than local in nature." The Company does not believe that Michigan's plan provides these assurances.

Need to allow concurrent processing of applications at different government levels.

Although it recognizes that states are obligated to develop planning processes for energy facilities as part of their coastal management programs, Consumers Power Company believes that one aspect of energy facility planning, the assessment of energy supplies and expected demand should be left to the Michigan Public Service Commission. The "need for power" is an issue which the MPSC is best suited to resolve. Wasteful and time-consuming duplication of state regulatory efforts under the Coastal Zone Management Act can be minimized if the energy facility planning process developed by the state under this Act is focused primarily on anticipating and managing the environmental impacts that energy facilities may have on the coastal zone.

The policy on mineral and energy resource areas overlooks the significant contribution that nuclear power makes to the energy needs of Michigan's deficient energy resources focus of the state's energy policy must be related to those facilities which import energy sources or convert energy sources into forms that are usable by the citizens of the State.

Response

It should be noted that the two cited requirements of the CZMA are separate and distinct from one another. The MCMP outlines in Chapter V several mechanisms that will be used to ensure that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude uses of regional benefit. The CZMA does not require that local units of government must provide for uses of regional benefit. It does require that the State ensure that arbitrary or unreasonable exclusions are not made by local governments. Michigan meets this requirement.

As to the second part of this comment (adequate consideration of the national interest) the MCMP in Chapter VI provides an extensive discussion of how the national interest was considered in the development of the program and it also outlines the formal processes by which the State will continue to consider the national interest in the future, including the directive to all DNR employees to ensure the ongoing consideration of national interest, see Appendix B.

In response to this comment see the general summary on consistency and the discussion on Federal Consistency (Chapter VI) which has been clarified on this point.

In the development of the energy facility siting planning process the MCMP is making every effort to eliminate time consuming duplication, which is one of the major objectives of the program. In making the assessment of energy supplies and expected demand the MCMP staff members are working closely with the PSC, the State Energy Administration, Federal agencies and the private sector in developing the planning element. Regulatory authority used to implement objectives of the planning process will continue to be exercised by the agency vested with such authority.

The MCMP specifically recognizes its dependency on outside sources for energy by citing in Chapter III the fact that the state is energy poor. Moreover, within that Chapter the state has extensively discussed the state laws and policies which support the use of its own limited energy resources and the use of its coastline for the location of facilities which convert energy sources into useable forms. It is imperative in understanding the state's position with respect to mineral and energy

Comment

Response

Although designations of areas as "areas of particular concern" would not have any legal significance under this Act it is possible that such designations will assume much practical importance. Therefore it should be clearly stated that APC designations are (1) legally of no significance, (2) are intended solely to facilitate the identification of the environmental characteristics of coastal areas, and (3) in the absence of conflict of the proposed use with existing statutes or regulations, may not be used to justify withholding any action on a proposed use. In addition, a procedure should be established to inform owners of property when their property has been proposed for such a designation. Finally, the Department of Natural Resources should establish a procedure by which regional and national interests are required to be taken into account in the process of designating APC's.

development, that none of the policies and laws of the state prohibit the location of facilities for energy generation, including nuclear power facilities in the state's coastal zone. In fact, as indicated in Chapter VI the state has taken a strong and affirmative stance to consider the national interest in energy facilities. The state's policies with respect to such facilities is to ensure that the location of such facilities will not cause the destruction or impairment of important national resources as mandated under various state authorities discussed in the DEIS and FEIS. This position is in full accord with the Congressional intent as expressed in Section 303 of the CZMA of ensuring the wise use and protection of the Nation's coasts.

APC's may in fact have legal significance. Depending on the type of APC's designated and the management scheme designed for each site there may well be specific legal requirements that attach to a particular site, see the response to Detroit Edison's comment.

All APC's are not designed solely to identify environmental characteristics of coastal areas, see those categories of sites which may be designated under Natural Economic Potential or Areas of Intensive or Conflicting Use.

Conflicts between legislated APC's and existing statutes or regulations would not be possible since legislated APC's are as their name indicates, designated by the Michigan Legislature. Certain proposed uses for publicly nominated sites may be restricted beyond that required by existing law through a contractual arrangement. In those instances the landowner's agreement to such restrictions is mandatory.

As to the last point, the DNR has and will continue to consider regional and national interests in all aspects of implementing the program for the designated categories listed in Chapter VI. For a more thorough discussion on that point refer to that chapter's section on national interest. Moreover, Consumers Power is encouraged to provide comments on regional and national interests whenever it deems necessary.

Consumers Power Company (cont)

Comment

The quoted statement (from MEPA) "will not result in pollution ... to the extent" there are feasible and prudent alternatives is not clear, and it provides little guidance to either state agencies or those seeking state agency approvals. The language on which this statement is based is taken from a statutory provision designed to be applied by a court in assessing the reasonableness of a proposed use of the resources of the state. By their nature courts tend to take a broader view in assessing the merits of a controversy. Therefore, the general language of the Michigan Environmental Protection Act may be suited for use by a court. Agencies, however, are likely to view controversies largely in terms of their statutory areas of concern, and may disregard important concerns outside these areas.

A statement should be added to the policies that recognized the importance of assuring the continued availability of reliable and economical sources of energy for the state.

Although the Company recognizes that environmental considerations play a large role in the development of energy facilities it is concerned that additional involvement of state agencies in energy planning could if not coordinated to avoid duplicate efforts, prove counter-productive to the interest of the state in providing "adequate, ... environmentally acceptable, and socially desirable" supplies of energy for the state.

Copper County League of Women Voters
(1/17/78)

The Michigan Coastal Management Program insures citizen involvement, protects the rights of individuals, groups and local units of government in land use decisions, and will help to insure that coastal lands are used wisely.

Response

An agency does not have the liberty of disregarding important concerns outside of its other statutory mandates. The Michigan EPA is designed to eliminate such a narrow focus. In addition the DNR in accordance with the Act and Executive Order 1974-4 would follow the specific state guidelines on developing environmental impact statements including: evaluation of alternatives to the proposed action that might avoid some or all of the adverse effects, including an explanation of why the agency determined to pursue the action in its contemplated form rather than an alternative and the possible modifications to the project which would eliminate or minimize adverse effects including a discussion of the additional costs involved in such modifications. Furthermore it must be understood that the language in MEPA considering "feasible and prudent alternatives" carries with it substantive requirements that have been and continue to be tested and interpreted in a judicial setting. This common law development therefore includes judicial scrutiny of agency actions in meeting the above cited words, see e.g., Michigan State Highway Comm. v. Vanderkloot, 392 Mich. 159, 220 N.W. 2d 416 (1974).

The document has been revised to more clearly reflect this concern, see Chapter III under the section on mineral and energy resource areas and Chapter VI where the program document discusses the national interest in energy.

OCZM and the State agree. Consequently one of the major objectives of the MCMP is to supply such coordination and reduce duplicative efforts. One example, with respect to energy facilities is the state DNR development of an energy facility planning process (as required under 305(b)(8) of the CZMA) in close cooperation with the PSC and the State Energy Administration.

No response necessary.

Comment

Response

A principal purpose of the State program should be to provide for the economic and social well-being of the people. Thus the program should provide for the orderly growth and development of the State as well as the environment.

OC2M agrees.

The initial purpose of the Program is to provide for the protection and development of Michigan's coastal areas. It cannot be used as a springboard for potentially oppressive and unjustified regulation of inland activities. The result could be that overzealous application of the program would result in economic and environmental hardships being imposed on the residents of Michigan. Moreover such a broad approach to regulation can result in abuses of personal rights, including abuse of due process rights and governmental confiscation of private property.

The MCMP policies focus on coastal issues and problems with the overall intent of insuring the wise use of the coastline. The Program policies and objectives are based upon statutory authorities duly enacted by the State legislature. This Program cannot, and makes no attempt to, undermine the constitutional safeguards which surround the rights of private property owners.

Use activities of direct and significant coastal impact which are proposed to be controlled by the Michigan coastal program are so all-inclusive that there are some which have no possible bearing on the coastal zone. Examples of such uses include the collection of sewage or the construction of a two-acre parking lot in Lansing. Edison maintains that the program must identify the coastal zone and control only uses in the coastal zone so as to be consistent with the legislative intent of the CMA's Federal consistency certification. This legislative intent is reflected in the Senate Rep No. 753, 92nd Congress, Second Session.

The uses which the program proposes to control are subject to statewide regulation. Several of the authorities that will be used in the program are, however, specific to certain geographic areas or specific resource types. The state has provided specific criteria for the coastal zone boundary many of which are derived from the jurisdictional extent of state legislation. The program will serve to improve the implementation and enforcement of these laws in the coastal area.

Determinations of Federal consistency will be made for Federal licenses, permits, and activities significantly affecting the coastal zone, as well as for Federal licenses, permits, and activities within the coastal zone which the state proposes to review for consistency. The procedure for this consistency review is found in Chapter VI of this FEIS.

Although APC's themselves will not constitute a legal restriction to private landowners, there is not assurance under the present program that the APC process will protect private property rights.

The MCMP will in no way undermine the constitutional safeguards of notice and due process with respect to private property rights. It should be understood, however, that legislated APC's will in certain instances impose restrictions on various uses of property. Prior to such action, appropriate legal notice and hearings will be given. Publicly nominated APC's that might involve agreed upon uses for the site through a contractual process would require the concurrence of the landowner. This latter point is now more clearly stated in the FEIS.

Detroit Edison (cont)

Comment	Response
Limit consistency implementation to new uses.	See general revisions of that section of the document dealing with consistency found in Chapter VI.
Need to define new use.	
There is a failure to develop a procedure consistent with Section 307(c)(3)(A) of the CZMA. The discussion does not inform potential applicants of their duties under the program.	See response above.
Concern has been addressed over use of State permit issuance as state consistency review.	See response above.
There is concern over logic and correctness of Figure 6.J on Page VI-60 specifically, concerned that reviews should occur simultaneously, and that only the issuance of a permit is contingent upon state concurrence.	See response above.

Manistee County League of Women Voters
(Wanda Joseph 1/6/78)

Coastal Zone Management plans must maintain shoreline environmental integrity and protect special habitats and fragile shoreline.	The MCMP incorporates these considerations in its policies. See for example those policies which are designed to protect ecologically sensitive areas in Chapter III.
Provisions for more recreation facilities should be made in a coastal zone plan. Careful thought is important to achieve more public access and protect a recreational site from overuse.	The MCMP recognizes the importance of adequate recreational facilities both in Chapter III where specific policies are developed under Areas Fulfilling Recreation or Cultural Needs. Also, see the discussion in Chapter VI on the state's recognition of the national interest in recreation. In addition, the League should take note that Michigan is now developing its planning element for public access pursuant to Section 305(b)(7) (CZMA) which is designed to help eliminate many of the state's coastal access problems. Public hearings will be held on this element this summer.
Increased emphasis is needed for water pollution control measures.	The MCMP has adopted the state's strong water quality control standards; it will, through implementation of the program, ensure greater vigilance and enforceability of these standards.

SUMMARY OF PUBLIC HEARINGS

Responses were received from the following individuals at the public hearings held on the DEIS. (* denotes written statement delivered at public hearings.)

Public Hearing held at Marquette Michigan on December 13 1977:

Marla Buckmaster
James Dooley representing the Central Upper Peninsula Planning and Development Region
Arne Heikkila representing Northland Builders Inc.
Emil Groth, representing the Upper Peninsula Federation of Landowners
Viola Brown
*Lynn M. Emerick, representing Citizens to Save the Superior Shoreline

Public Hearing held at Traverse City Michigan on December 14 1977:

*Law Steinbrecher, representing the Northeast Michigan Council of Governments
Mike Adams, representing the Northwest Michigan Regional Planning and Development Agency

Public Hearing held at Lansing, Michigan on December 15, 1977:

David J. Brower representing the Southeast Michigan Council of Governments
*Patrick Doyle, representing Outboard Marine Corporation, the Boating Industry Associations, and the Outboard Motor Manufacturers Association
*Richard B. Micka, representing the Lake Erie Advisory Committee
*Wayne Schmidt representing the Michigan United Conservation Clubs

Below is a summary of the comments received at the public hearings held on the Draft Environmental Impact Statement for the Michigan Coastal Management Program and the responses to those comments.

OCZ^M PUBLIC HEARINGS

Marquette, Michigan Dec 13, 1977

Comment	Response
<p>Marla Buckmaster Society of American Archaeology</p> <p>Noted that a report prepared by the Michigan Coastal Program entitled "The Distribution and Abundance of Archaeological Sites in the Coastal Zone of Michigan" is part of the DEIS. She emphasized that this report is based on existing archived data and did not involve field research. On site archaeological inspection should be a part of all projects in the coastal zone.</p>	<p>It is unlikely that on site archaeological inspection can be performed for all projects in the coastal zone for the following reasons: (1) Not all projects will require a state or local permit; (2) projects which do require permits require them for reasons other than archaeological site preservation. For major state actions involving a state permit, an environmental impact statement must be prepared in order to identify the impacts of such actions on the natural and human environment. Preparation of these impact statements may involve field inspection of archaeological sites. In addition the State Historic Preservation Officer is a member of the Michigan Environmental Review Board which reviews environmental impact statements for major actions which have the potential to significantly affect human life or the environment. This process helps to insure the consideration of archaeological sites for projects in the coastal zone.</p>

OCZM Public Hearings (cont)

Comment

Jim Dooley Manager of Development and Planning for the Central Upper Peninsula Planning and Development Commission (CUPPAD)

Archaeological surveys for projects in the coastal zone should be conducted; the Federal government should share the costs of this work as it would be too costly for local governments.

Mr. Dooley presented the seven recommendations adopted by the full CUPPAD Commission at their September 1977 meeting. CUPPAD:

1. appreciates the direct involvement of regional planning commissions and local units of government in the development of the program and hopes it continues into the implementation phase of the program,
2. thinks the primary focus and emphasis of the implementation effort should be action oriented. It should solve problems and help realize opportunities in Michigan's coastal zone. The previous draft of Michigan's coastal zone program overly emphasized continued planning, inventory, and study. The revised draft tends to redress the tendency to recommend continuing studies and CUPPAD supports that effort.
3. thinks a major portion of the implementation funds should be made available to local units of government for projects which will improve the useful management of the coastal zone,
4. thinks future land acquisition in the CUPPAD region should be discouraged unless there is local support for such action,
5. thinks the DNR should consider funding the priorities for action which have been established through the efforts of CUPPAD,
6. feels a major objective of the program should be to streamline permit processes, and that,
7. tax relief and compensation should be provided in the event the coastal management program infringes on the rights of private property owners.

Response

See previous answer; also, the coastal program is designed to manage coastal resources. Research will not be encouraged.

In response to these comments (1) Implementation of the Michigan program will continue to provide for direct involvement of the regional planning commissions and local units of government. Roles of local governments will include: (a) formulating and periodically evaluating local goals and objectives for coastal management; (b) identifying, screening and prioritizing area of particular concern nominations for management consideration; (c) establishing citizens and agency coastal advisory bodies; (d) developing annual work programs to address identified coastal problems and opportunities; (e) submitting project proposals to the Michigan Coastal Management Program for funding consideration; and (f) administer certain state-delegated authorities at the local level, such as provisions of the Shorelands Protection and Management Act.

Major roles of regional planning commissions will include:

- (a) providing technical assistance related to zoning and planning matters to local governments;
 - (b) identification of priority areas of particular concern for management assistance;
 - (c) participating with coastal management training and information sessions.
 - (d) Assisting in the development of and coordination of the Coastal Management Program and the state's "208" program. See Chapter 5 of the FEIS for more detail on the roles of these governmental units.
- (2) The primary focus of the program is action oriented. CUPPAD should note the action programs stated in Chapter 3 of the FEIS. These programs focus on attempts to provide for implementation of existing state laws which have not been operating at peak efficiency, develop tax incentives for protection of coastal resources, establishment of a native lake trout breeding population, and many others.

Comment

Response

(3) Given the previously stated role the local units of government can expect to receive a substantial portion of program implementation funds.

(4) Michigan program policies call for (a) state environmental areas designated under the Shorelands Acts to be eligible for a development rights easement with the state in return for income or property tax benefits, (b) state creation and regulation of wilderness areas, wild areas, and natural areas. Such an action does not necessarily mean that such land must be purchased from the private property owner.

It is also state policy to provide for the acquisition of harbors and channels land and structures for historic purposes, and the creation of a state recreational land acquisition trust.

Certain action programs propose to study the feasibility and best method of state acquisition of such areas as hazard areas and sensitive areas and to provide assistance in planning recreational demand. However, any actions to pursue such action programs and acquire such lands will be subject to the review and recommendations of local units of government, the Citizens Shoreland Advisory Council, the state Shorelands and Water Standing Committee, the Natural Resource Commission, and the Michigan Environmental Review Board.

(5) Funding priorities established by CUPPAD will be carefully considered in the grant application preparation process described in Chapter V.

(6) The Michigan program is actively involved in developing and implementing joint permit processing between the state DNR and the Corps of Engineers through a memo of understanding. This agreement provides for joint application forms, public notices, public hearings, and environmental summaries and is reducing duplication which results from processing permit applications independently. Submerged Lands Management Section is completing a computerized permit information system for Act 247, Act 346 and Act 245 permits. This system is scheduled to be operational in September, 1978, and will improve the efficiency of application review procedures and reduce the application processing backlog. The Department is preparing a permitting process manual as technical assistance for persons needing state coastal management permits. This manual will be completed by September, 1978. (7) Michigan efforts to

Comment

Response

Mr Arne Heikkila, Northland Builders Inc.

Local initiative in planning efforts is supported. However, Federal and state governments tend to satisfy themselves and overlook the needs of private landowners. Landowners are not adequately compensated for the diminishing land values that result from rezoning.

Emil Groth Upper Peninsula Federation of Landowners

The Michigan Coastal Program must respect the rights of property owners. Landowners must be informed of potential GACP designation of their land. Property tax procedures are in disarray.

regulate coastal resources are done to assure that public benefits or resource utilization are not destroyed and to protect private property owners from the bodily harm and loss of property. There is no tax relief or compensation for state implementation of these regulations. However, for environmental areas designated under the Shorelands Protection and Management Act, a landowner is entitled to certain income tax or property tax benefits if he/she enters into a development rights easement with the state for the purpose of maintaining the land as open space.

Local governments will continue to establish local goals and objectives for their coastal areas, develop local work programs, and participate in the GACP process (see Chapter IV and Chapter V). The Michigan Coastal Program is not a zoning program for the Michigan Coastal area. Regulatory controls are based on performance standards. Counties may develop zoning ordinances which will be reviewed by the state Department of Natural Resources. The DNR will provide technical assistance to the counties and any other local government to reflect sound resources management and conformity with state laws and judicial rulings.

Zoning and rezoning is not a requirement of Michigan law. Counties, townships, or municipalities which choose to zone do so in order to protect property owners from incompatible development which may decrease property values.

Michigan has been outspoken in its concern to respect the rights of property owners. Regulatory programs which affect property owners are designed to protect the public health, safety, and welfare.

The GACP process in Chapter 4 provides for contact of property owners whose land has been nominated as a GACP. They are invited to participate in the APC review process, and must concur with APC nominations in order for their property to be designated as such.

The state provides for tax benefits to those individuals who have entered into a development rights easements with the state for maintaining their property as environmental, wilderness, wild or natural areas.

NCCM Public Hearings (cont)

<u>Comment</u>	<u>Response</u>
<p>Viola Brown Copper Country League of Women Voters</p> <p>The Western Upper Peninsula Planning and Development Regional Agency was criticized for its automatic disapproval of all GAPC nominations which property owners object to.</p>	<p>The state procedure for GAPC designation involves a criterion calling for property owner support prior to GAPC designation. This procedure is supported by the Western Upper Peninsula Planning and Development Regional Agency.</p>
<p>Lynn M Emerick Citizens to Save the Superior Shoreline</p> <p>Ms. Emerick spoke in favor of the program.</p>	<p>No response necessary.</p>
<p>Traverse City Michigan Dec 14 1977</p> <p>Lew Steinbrecher, Northeast Michigan Council of Governments (NEMCOG)</p> <p>NEMCOG supports Michigan's Coastal Management Program. However, the following points should be emphasized:</p> <ol style="list-style-type: none">(1) Successful implementation of the program must occur at the local level. DNR technical and financial support will assist in this effort.(2) The issue of private property rights must be respected by the program. Just compensation in tax relief and/or purchase of development rights should be given any property owner whose use of the land is unduly restricted by implementation of the Federal Coastal Zone Management Program in Michigan. Provisions should be made for the fee-simple acquisition of all designated properties for preservation as mandated by the Michigan legislature.	<p>Several state laws which are part of the Michigan program provide for local implementation subject to state criteria. These include the Shorelands Protection and Management Act, County Rural Zoning Act, Soil Erosion and Sedimentation Control Act, Natural Rivers Act, and the Historic Districts Act. In addition, the state will provide funds for local units of government to implement management recommendations of nominated GAPCs.</p> <p>As indicated previously, state policy calls for income or property tax benefits for landowners who enter into a development rights easement for land designated as an environmental area under the Shorelands Act. Fee simple acquisition of these areas is not a mandate of the state legislation.</p>
<p>Mike Adams Northwest Michigan Regional Planning and Development Agency</p> <p>Planning and Development Agencies should be provided the opportunity to review projects proposed for implementation by local units of government.</p>	<p>The Michigan Coastal Program has several mechanisms whereby regional planning and development agencies receive the opportunity to comment and recommend on programs in the coastal area which will affect them. These include the review of environmental impact statements through procedures established by the Michigan Environmental Review Board, A-95 review process, the Citizens Shoreline Advisory Committee, direct participation in the GAPC process, and establishment of citizens and local agency coastal advisory bodies.</p>

OCZM Public Hearings (cont)

Comment

Response

Lansing Michigan 12/15/78

David J. Brouwer Southeast Michigan
Council of Governments (SEMCOG)

SEMCOG supports state efforts to protect and manage its coastlines but is uncertain about the effectiveness of the program because it does not appear the state will provide for major input at the local level during implementation.

Prior to initiation of the GAPC process the state should attempt to formally communicate with regional and local officials. These officials should be provided with opportunities to advise the state of local attitudes. Specifically, Environmental Impact Statements should be submitted to local and regional officials in the affected areas.

Chapter V of the FEIS indicates the roles of local governments during program implementation. These include:

- 1) formulating and evaluating local goals and objectives for coastal management;
- 2) identifying, screening and prioritizing GAPC nominations;
- 3) establishing citizens and agency coastal advisory bodies;
- 4) developing annual work programs to address identified coastal problems and opportunities;
- 5) submitting project proposals to the MCP for funding consideration;
- 6) administering certain state-delegated authorities at the local level such as provisions of the Shorelands Protection and Management Acts.

A detailed description of the GAPC process is given in Chapter 4. As part of the state level inventory and review process of nominated GAPCs the Coastal Management Program will insure that affected land owners and governmental units support the proposed action. There is also a local and regional agency inventory and review process for GAPCs. This process is heavily dependent on the participation and involvement of the property owners and local units of government. Based upon the reviews of local agencies, property owners, and citizens groups, a local or regional agency will recommend to the state whether or not a nomination should be formally endorsed. Michigan will evaluate the process for local/regional request and review of environmental impact statements in an attempt to improve this process.

With respect to local review of environmental impact statements, the MERB attempts to make the widest possible distribution for public review and comment on these statements. Any local or regional unit of government may be placed on the MERB mailing list to receive a monthly EIS status report. From this report, local and regional units may request those EIS' they wish to review.

OCZM Public Hearings (cont)

Comment

Response

Richard B. Micka Lake Erie Advisory Committee

The Committee supports the Michigan Program. The nomination of Monroe Harbor as a Marine Sanctuary should be incorporated in the FEIS to satisfy the federal consistency requirements.

There is no requirement that the nomination of Monroe Harbor as a Marine Sanctuary be included in the FEIS to satisfy the federal consistency requirements. The nomination is not included in the FEIS because it is uncertain whether the site will be designated as a marine sanctuary, and Federal consistency procedures are not enforceable through the program until an area is actually designated.

An attempt should be made to separate the description and data for Lake Erie from that of the connecting rivers.

This change has been made in Chapter II of the FEIS.

Significant work at the local level using MCMP funds has not filtered through to the state.

The MCMP will insure that annual work programs and project proposals which address the unique attributes and development problems along Lake Erie will be fully considered during implementation. As a result of the work of the Monroe County Advisory Committee the MCMP is now reviewing a proposal for a harbor management and development plan for the Port of Monroe for 1978-79 funding consideration.

Wayne Schmidt, Michigan United Conservation Clubs

This organization supports the program. However, it is concerned about a lack of statutory authority as a basis for the program. Failure of the state to implement the Sand Dune Protection and Management Act as of July 1, 1977, is cited as an example of this failure to provide sufficient authority.

OCZM has determined that the state has sufficient authority to implement a coastal management program. Federal approval of its program will allow Michigan to fully implement existing state authorities which it has been unable to implement such as the Sand Dune Mining Act. See Chapters III and VI of this FEIS. Under a Section 305(d) grant from OCZM, the MCMP has provided funds to the Michigan Geological Survey to implement provisions of the Sand Dune Protection and Management Act.

The authority and role of the Michigan Environmental Review Board (MERB) is overemphasized since it has no veto power over coastal activities incompatible with the Michigan Coastal Management Program

The MERB is empowered to recommend to the Governor those actions of state agencies that should be suspended or modified because the quality of the state's environmental or human life may be in jeopardy. MERB also makes policy recommendations on specific issues for the Governor's consideration. In making its recommendations the MERB will abide by the state coastal policies articulated in Chapter III of the FEIS. In the judgment of OCZM, the degree of reliance on MERB as part of the MCMP organizational structure and means of conflict resolution is adequate.

OCZM Public Hearings (cont)

Comment

It is not clear how Michigan will consider the national interest.

The program has not yet succeeded in systematically identifying APCs. Virtually no APCs have been identified in the Eastern Upper Peninsula.

OCZM should give immediate consideration to the area near U.S. Route 2 as a marine sanctuary.

Response

Chapter 6 of the FEIS has been substantially revised to reflect the way Michigan will consider the national interest as well as the resources and facilities it considers to be in the national interest. The decision making mechanisms the state will use to consider the national interest are the Natural Resources Commission, the Michigan Environmental Review Board (mandated to consider all interests by a Governor's executive order) and the administrative decision-making of the DNR. (Note, the DNR has been mandated by its Director to consider the national interest in its decision-making).

Under the legislative APC's well over 160 sites have in fact been designated, in addition about 50 000 acres under the Farmland/Open Space Act and 197 miles of high risk erosion and 100 miles of environmental areas have been designated (see Chapter IV where these figures have been added). The general location of these APC's have been provided on maps in Appendix D of the DEIS; these include APCs in the eastern Upper Peninsula.

APC nominations and designations will be ongoing in Michigan. However there are as indicated in Chapter IV two sources of APC designation. Legislative APC's that are designated are a result of specific legislative enactments. Each site under these categories will be identified by the DNR. The criteria imposed for permissible uses of these APC's is provided by the statutes by which they have been established. Publicly nominated and designated action APC's, i.e. those that involve funding by the state must, in order to be so designated, have the endorsement of the landowner before a management contract will be effectuated. Thus, any restriction on use of that property will be sanctioned by the respective owner prior to designation.

Marine Sanctuary nominations are the responsibility of the Office of Ocean Management, National Oceanic and Atmospheric Administration. This office has been advised of this request by OCZM.

OCZM Public Hearings (cont)

Comment

The state needs to resolve the issue of competing demands for Monroe Harbor; it has not been adequately addressed under the category coastal lakes, river mouths and bays in Chapter IV.

There is a lawsuit pending which has resulted in suspension of environmental area designations under the Shorelands Protection and Management Act.

The Kammer Recreation Land Trust Fund Act is a useful mechanism for preserving valuable coastal areas of land

Dennis Leonard, Detroit Edison

Several points regarding the Michigan Coastal Program were raised. They are:

- 1) program scope is too broad;
- 2) the definition of "new use" as applied to Federal Consistency needs to be defined;
- 3) designation of legislated APCs should be made site specific;
- 4) property rights should be protected and recognized.

Response

The state proposes to use its existing authorities relating to air and water quality, resource recovery flood plain management, regulation of bottomlands, and others to protect resources in places such as Monroe Harbor. The coastal program will focus planning and regulatory efforts on these types of areas to identify and reduce conflicts related to overcrowding water pollution, and vessel movements.

The lawsuit has resulted in no injunction against the state of Michigan to cease in its designation of environmental areas under the Shorelands Act. The state, however, chose to stop such designations due to a number of reasons. Among these were rule changes in regulation for activities in designated environmental areas, appeals of affected property owners, and the outcome of the state wetlands values studies.

If the coastal program determines certain areas of the coastal zone are worthy of acquisition to carry out state policies of preservation or recreation action, the state may turn to this program as a source of funds. Michigan has submitted several areas nominated as GACPs to the Kammer Board for acquisition funding under this fund.

(1) Program scope is defined by the policies which the state has articulated. OCZM has determined that they are sufficient because they address the concerns of section 302 and 303 of the CZMA. Moreover, the state has the option of going beyond the requirements of Federal regulations to broaden its scope of the program.

(2) The state does not apply a criterion of "new use" to make a determination of Federal consistency. Federal licenses and permits and applications for Federal grants and other assistance will be subject to Federal consistency if they are initiated after Program approval. Ongoing Federal activities, as defined in the Federal consistency regulations, should be shown to be consistent 120 days after approval or sooner.

(3) Under the legislative APC's well over 160 sites have in fact been designated, in addition about 50,000 acres under the Farmland/Open Space Act and 197 miles of high risk erosion areas and 100 miles of environmental areas have been designated (see Chapter IV where these figures have been added). The general location of these APC's have been provided on maps in Appendix D of the DEIS.

OCZM Public Hearings (cont)

Comment

Dennis Leonard Detroit Edison (cont)

Patrick Doyle Outboard Marine Corporation
Boating Industry Association, and Outboard
Motor Manufacturers Association

Issued a written statement in support of the
program.

Response

APC nominations and designations will be ongoing in Michigan. However, there are as indicated in Chapter IV two sources of APC designation. Legislative APC's that are designated are a result of specific legislative enactments. Each site under these categories will be identified by the DNR. The criteria imposed for permissible uses of these APC's is provided by the statutes. Appropriate notice, hearing and if necessary judicial review are available on any restriction on uses of GAPCs. Publicly nominated and designated action APC's, i.e., those that involve funding by the state must, in order to be so designated, have the endorsement of the landowner before a management contract will be effectuated. Thus, any restriction on use of that property will be sanctioned by the respective owner prior to designation.

(4) Private property rights are guaranteed by the state constitution and state law. The Michigan Coastal Program will not undermine these rights since it is based on state law. The program also respects property rights through the GAPC process. Designation of privately owned property as a GAPC through public nomination does not constitute a legal restriction of the property unless it is also subject to state control as a result of legislative enactments. Publicly nominated GAPCs must have the support of the landowner prior to state designation of the site as a GAPC.

No response necessary.