

**CONTENT REQUIREMENTS AND
APPROVAL PROCESS FOR
NATIONAL ESTUARY PROGRAM
COMPREHENSIVE
CONSERVATION AND
MANAGEMENT PLANS**

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APPENDIX - CLEAN WATER ACT § 320

I. PURPOSE OF THIS DOCUMENT

The purpose of this document is to describe the content requirements and approval process for Comprehensive Conservation and Management Plans (CCMPs) prepared under the National Estuary Program (NEP)

The information in this document supplements the information previously published in "Saving Bays and Estuaries: A Primer for Establishing and Managing Estuary Projects" (the NEP Primer). Before reading this document, you should be familiar with the information in the NEP Primer; the information in this document expands on the NEP Primer, focusing on the details of what must be included in CCMPs and on the CCMP approval process. Refer to the Primer for additional guidance on the preparation of Action Plans and a Characterization Report, committee membership, and CCMP implementation.

This document is intended to be a practical reference that management conferences, Regional Project Officers, and State Program Directors can consult to ensure that their CCMPs are complete and to guide them through the CCMP approval process. Note that content requirements may differ somewhat from estuary to estuary depending on when they entered the NEP and the contents of their State - EPA Conference Agreements.

Included in this document are:

- ☐ A list of CCMP content requirements, based on the review form that the Environmental Protection Agency (EPA) will use in determining whether to approve individual CCMPs.
- ☐ Explanations of the content requirements that must be met for CCMPs to be approved.
- ☐ A step-by-step explanation of the CCMP approval process.
- ☐ Examples of public notices and transmittal letters.
- ☐ The full text of Clean Water Act § 320.

Chapter II of this document provides explanations of the CCMP content requirements. For more detailed explanations of the content requirements of particular sections (e.g., monitoring plan, base program analysis), refer to the appropriate EPA Guidance. Chapter III contains a step-by-step explanation of the approval process itself.

II. CCMP CONTENT REQUIREMENTS

CWA § 320(f)(1) specifies that

"... the Administrator shall approve such plan if the plan meets the requirements of this section ..."

The basic CCMP content requirements are set forth in Clean Water Act (CWA) § 320, the NEP Primer, and the individual State - EPA Conference Agreements for each estuary program. When a CCMP is submitted to the EPA Administrator, EPA's review will be based on the requirements as defined in this document.

EPA has determined that the seven purposes of a management conference listed in CWA § 320 (see the Appendix of this document for the full text of CWA § 320) define the following content requirements for CCMPs and their supplementary documents::

- | | |
|--|-----------------|
| 1. Conference Membership | § 320(c) |
| 2. Characterization Findings | § 320(b)(1)-(3) |
| 3. Base Program Analysis | § 320(b)(5) |
| 4. Action Plans (including finance plan) | § 320(b)(4) |
| 5. Monitoring Plan | § 320(b)(6) |
| 6. Federal Consistency Review | § 320(b)(7) |
| 7. Public Review | § 320(f) |

In addition to the requirements derived from CWA § 320, EPA has determined that each CCMP must also be submitted to the appropriate State(s) for Coastal Zone Management Program consistency determination.

It is the management conference's responsibility to demonstrate that any other applicable Federal and State requirements have been identified and met.

A list (see next page) has been developed to help ensure that CCMPs meet all content requirements. The CCMP content requirements are explained individually in the following sections, with each explanation detailing:

- ☐ The requirement's origin
- ☐ What the requirement specifies.
- ☐ What must be included in or accompany the CCMP to demonstrate that the requirement has been met.

CCMP CONTENT LIST

- ☐ **Conference Membership List**
- ☐ **Characterization Findings - Summary**
 - ☐ Environmental Quality Objectives
 - ☐ Status and Trends
 - ☐ Linkage to Pollutant Loads
 - ☐ Priority Problems
 - ☐ Probable Causes
- ☐ **Base Program Analysis**
 - ☐ Review Existing Framework
 - ☐ Recommend Action Options
 - ☐ Evaluate Framework
- ☐ **Action Plans**
 - ☐ Problem: Causes and Source
 - ☐ Management Options Considered
 - ☐ Selected Management Options
 - ☐ Lead Agency/Group & Others Involved
 - ☐ Procedure to Perform Activity
 - ☐ Relation to Program Goals
 - ☐ Selection Criteria
 - ☐ Affected Location
 - ☐ Implementation Schedule
- ☐ **Finance Plan - Separate or Part of Action Plans**
- ☐ **Monitoring Plan**
 - ☐ Objectives & Performance Criteria
 - ☐ Testable Hypotheses
 - ☐ Analytical Methods, Sampling Design
 - ☐ Monitoring Program Evaluation
 - ☐ Data Archiving
 - ☐ Schedule
 - ☐ Redirection Strategy
- ☐ **Federal Consistency Report**
 - ☐ Inventory of Federal Programs
 - ☐ Areas of Cooperation/Inconsistency
 - ☐ Federal Consistency Strategy
- ☐ **Public Participation and Public Review**
 - ☐ Public Meetings Held
 - ☐ Media Used for Notification
 - ☐ Issues Discussed
 - ☐ Responsiveness Summary
- ☐ **CZM Consistency Determination**

Management Conference Membership

The CCMP must demonstrate that the membership of the management conference meets the requirements of CWA § 320(c), which specifies that:

"The members of a management conference... shall include, at a minimum, the Administrator and representatives of:

1. each State and foreign nation located in whole or in part in the estuarine zone for which the conference is convened;
2. international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;
3. each interested Federal agency, as determined appropriate by the Administrator;
4. local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and
5. affected industries, public and private educational institutions and the general public, as determined appropriate by the Administrator."

Management conference membership is determined in consultation with EPA in the early stages in order to satisfy the requirements of CWA § 320(c). Nonetheless, the CCMP must demonstrate that management conference membership meets the requirements of CWA § 320(c). Refer to the NEP Primer, pages 11-22, for further guidance on management conference membership

In addition to the members specified in CWA § 320(c), a representative of the State Coastal Zone Management (CZM) program must participate in the management conference's management committee. This requirement derives from a policy developed by EPA and NOAA in 1988 to avoid conflicting NEP and CZM program activities.

The CCMP can demonstrate that this requirement has been met by listing the management conference members, indicating each member's organizational affiliation.

Characterization Report

CWA § 320(b)(1) - (3) and the individual State - EPA Conference Agreements commit each estuary program to characterize the estuary. CWA § 320(b) specifies that:

"The purposes of any management conference convened with respect to an estuary under this subsection shall be to --

- (1) assess trends in water quality, natural resources, and uses of the estuary;
- (2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;
- (3) develop the relationship between the in-place loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;"

In support of this, CWA § 320(d) specifies that:

"... the management conference shall survey and utilize existing reports, data, and studies relating to the estuary..."

Each CCMP should include a summary of the estuary's characterization. The summary should include synopses of:

- ☐ The estuary program's environmental quality goals.
- ☐ The status and trends of the estuary's water quality, natural resources, and uses.
- ☐ The probable causes of environmental problems, including data on toxics, nutrients, and natural resources.
- ☐ The linkages between water quality, potential uses, and natural resources and in-place point and nonpoint pollutant loads.
- ☐ Evidence that existing data were identified and used, where appropriate.
- ☐ The estuary program's priority problems and the selection criteria used to determine priority problems.

Refer to the NEP Primer and EPA Guidance for a discussion of full characterization findings.

Base Program Analysis

CWA § 320(b)(5) specifies that each management conference shall:

"(5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;"

This requirement entails an analysis of existing institutional structures, which should proceed in parallel with the characterization investigation. The aim of this analysis is to ensure that the greatest possible use is made of existing programs and authorities. It is vital to understand what actions are already being taken and to identify gaps in the regulatory and institutional management framework to the extent that it is applicable to the action plans. The results of the characterization study and the base program analysis feed into action plan development.

A base program analysis should include the components discussed below. For a more detailed description of the content requirements of a base program analysis, refer to the NEP Primer and to EPA guidance.

☐ ***Review - Describe the Existing Regulatory and Institutional Framework***

Inventory Federal, State, and local laws, regulations and programs that pertain to each priority problem by: listing and briefly describing the relevant laws; identifying lead and support implementation agencies; and describing implementation programs, including resources available, jurisdiction, extent of responsibility, and deadlines. Other considerations might include: existing criteria, standards, and regulatory control programs; support from management institutions; integration among agencies, institutions, and programs; and levels and allocations of resources. This should define the scope of agencies' responsibilities and the coverage of regulations and programs.

☐ ***Evaluation - Assess the Existing Framework's Effectiveness***

Determine individual program and overall framework effectiveness. This requires defining both environmental and administrative effectiveness measures. This should identify gaps and overlaps in the framework.

☐ ***Recommendations - Identify and Evaluate Action Options***

Assess opportunities for addressing weaknesses and expanding strengths. Questions to be answered include: are new laws needed; is support for redirection required; what timing is appropriate; how can support be generated; does any agency need new or additional authority; and is another entity needed?

Each Tier II and later estuary program CCMP must include a base program analysis, as described above.

Action Plans

CWA § 320(b) specifies that each management conference shall:

- "(4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish, and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;"

Given the results of the characterization study and the base program analysis, action plans must be developed to address each of the priority problems identified by the management conference. An action plan should include discussions of:

- ☐ The problem, identifying probable causes and sources.
- ☐ The specific program objective(s) related to the problem, source, or cause.
- ☐ The various management options considered.
- ☐ The criteria used for selecting management options, including the selected management options and performance vis a vis criteria.

An action plan must also outline the specific abatement, control, or protection plans that will be followed to achieve each objective, including:

- ☐ The procedures that will be used to achieve the objective.
- ☐ Who will execute, pay for, and enforce the various portions of each action plan. This should include commitments from each participating agency, institution, and enterprise.
- ☐ The funding required by the action and the potential sources of that funding, i.e. a finance plan.
- ☐ The location(s) that will be affected by the action.
- ☐ The schedule for achieving the objective, including provisions for evaluating action plan performance and for revising action plans.

To avoid duplication of effort, unnecessary expenditures of funds, and development of conflicting regulatory mechanisms, EPA strongly encourages the sponsoring agencies to endorse and include in their CCMP an agreement of responsibilities. An agreement signed by all participating agencies is one way to ensure that all action plan responsibilities are clearly understood and agreed upon

The requirement for a finance plan does not apply specifically to Tier I programs, although Tier I programs are required to address cost as part of the milestones for Purposes 4 and 5 in their State - EPA Agreements. The finance plan requirement does apply to Tier II and later programs and can be met in one of two ways:

- ☐ As described above, individual action plans may include information on costs, financial mechanisms, and commitments.
- ☐ Alternatively, a separate finance plan may be developed, specifying how funds will be raised for all actions to be implemented.

Finance plans should match action plan costs and cash flow needs to a suitable funding source and managing entity. The plan may identify existing or potential new sources of funding, in which case implementation may require new State or local legislation. If the finance strategy is developed as a CCMP companion document, the conference should ensure that the funding recommendations it contains also receive public review and comment.

A CCMP must demonstrate how the action plan(s) address each priority problem. Any action plans initiated prior to CCMP completion (including action plan demonstration projects) should also be described, including the problem the action plan addressed, the roles of different agencies and users, financial commitments, and results to date. After the CCMP has been approved, the management conference may add new action plans or modify existing plans; CCMPs are 'living documents' that can and should be modified as needed.

Refer to the NEP Primer for further information on action plan development.

Monitoring Plan

CWA § 320(b) specifies that each management conference shall:

"(6) monitor the effectiveness of actions taken pursuant to the plan;"

Each CCMP must include a monitoring plan that specifies how the actions defined in the CCMP's action plans will be monitored for effectiveness. This entails monitoring at two overlapping levels: environmental quality monitoring and overall program monitoring. The water quality monitoring plan must be carefully designed to ensure that the results can be used to monitor and evaluate the overall program, which may in turn suggest changes to action plans. The basic monitoring plan requirements are summarized below; for more detailed information, refer to the forthcoming EPA "National Estuary Program: Monitoring Guidance Document."

Each monitoring plan must address the following issues:

☐ *Objectives and Performance Criteria*

The objectives of the monitoring plan must be defined carefully. Objectives might, for example, be to obtain data sufficient to:

- determine the effectiveness of nutrient reduction strategies;
- determine trends in sediment contaminant concentrations; or
- evaluate the persistence of PCBs in the tissue of recreational and commercial fish.

Decision or performance criteria, i.e. specific parameter values that can be used to measure success and thereby guide management decisions, must also be defined.

☐ *Testable Hypotheses*

The study objectives must be translated into testable hypotheses to ensure unambiguous results and that the objectives of the monitoring program can be met. For example, a testable hypothesis for determining the effectiveness of nutrient reduction strategies might include questions such as: are there annual trends in measured dissolved oxygen concentrations? are the trends increasing or decreasing?

☐ *Analytical Methods and Sampling Design*

Detailed specifications for each monitoring parameter of the monitoring program must be developed. Each specification should

include sampling locations and frequency, field sampling procedures, and quality assurance and control procedures. The data management and statistical test methods that will be used to analyze monitoring data must also be specified. The monitoring plan must specify how monitoring data will be stored.

☐ ***Expected Monitoring Program Performance***

To determine the expected performance of the initial sampling design, the minimum difference desired to be detected in samples over time or between locations must be defined for each monitoring parameter. Without this determination, there is a risk of collecting and analyzing either too many samples or too few samples to detect statistically significant temporal or spatial trends.

The results of this determination should be used to identify modifications to the initial monitoring program design that would result in increased effectiveness. Information from this evaluation should also be used to assess the ability -- and cost effectiveness -- of the monitoring program to provide information that can be used to evaluate the action it is designed to monitor.

☐ ***Monitoring Program Performance Evaluation***

The monitoring plan should specify a timetable for analyzing data and assessing the monitoring program's performance. The results of this assessment should be used to refine the monitoring program's objectives and to modify individual study elements to satisfy these objectives.

☐ ***Action Evaluation and Redirection Strategy***

The monitoring plan should specify how the results of the monitoring program will be used to evaluate the effectiveness of the actions that are being monitored. This should include a schedule for performing evaluations and for considering modifications to the actions. Where NEPs have committed -- in their State - EPA conference agreements -- to preparing biennial reports; their CCMPs should demonstrate that these reports will be prepared.

☐ ***Funding***

The monitoring plan should identify the resources needed to perform the monitoring and the sources for these funds.

The management conference must develop an overall monitoring plan to cover all action plans. The monitoring plan must either be included in the CCMP itself or accompany the CCMP when it is submitted for approval.

Federal Consistency Report

CWA § 320(b)(7) specifies that the final purpose of a management conference is to:

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

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section."

Based on this requirement, EPA has determined that each CCMP must include, completely or by reference:

- ☐ an inventory of Federal Assistance programs and development projects that may have an effect on the purposes and objectives of the CCMP;
- ☐ identification of possible areas of inconsistency;
- ☐ identification of possible areas of cooperation;
- ☐ a review strategy that outlines how the management conference will review Federal financial assistance programs and development projects to meet this requirement.

For more information, refer to "Program Guidance: Federal Consistency Review Required by Clean Water Act Section 320(b)(7)," available from EPA.

Public Participation

EPA has determined that CCMP development falls under the public participation requirements of CWA § 101(e), which specifies that:

"Public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this Act shall be provided for, encouraged, and assisted by the Administrator and the States."

40 CFR 25.2(a)(5), "Public Participation in Programs under... the Clean Water Act," specifies that public participation is required when:

"Development and implementation of plans, programs, standards, construction, and other activities [are] supported with EPA financial assistance (grants and cooperative agreements) to State, interstate, regional and local agencies."

Because the NEP is mandated by the CWA and because individual programs receive EPA financial assistance, each management conference is required to conduct a public participation program in the development and implementation of its CCMP. 40 CFR 25 sets forth minimum requirements and suggested approaches for public participation. Guidelines for NEP public participation programs can be found in Appendix B of the NEP Primer.

An estuary program's public participation program must be summarized and submitted as part of its CCMP. The summary should include:

- ❑ Identification of target groups. Knowing who constitutes the public for an estuary program is essential to conducting an effective public participation program. Identifying target audiences and creating a representative mailing list will lay the groundwork for participation activities.
- ❑ Public participation activities conducted: where, when, attendance, and matters presented. Public participation, as defined in 40 CFR Part 25.4, includes public hearings or meetings, advisory groups, workshops, seminars, and informal personal communications with individuals and groups.
- ❑ Public notifications: what, how, and when. Adequate time must be given between public notification and any public hearings or meetings. 40 CFR 25.5(b) specifies that a notice of public meeting or workshop must be publicized at least 45 days prior to the date of the meeting. Reports, documents and data relevant to the discussion at the public meeting should be available to the public at least 30 days prior to the meeting.

Public Review

CWA § 320(f)(1) specifies that a CCMP can be approved only

"after providing for public review and comment"

The mechanics of providing for public review and comment are presented in Chapter III. In brief, the public must be given the opportunity to review and comment on the draft CCMP; any comments received as the result of this public review must be addressed by the management conference, either by making changes to the CCMP or by explaining why no change was made.

As described in Chapter III, the public review period(s) should also serve to allow EPA to review and comment on the draft CCMP.

To demonstrate that public -- including EPA -- comments on the draft CCMP have been addressed, the management conference must prepare a responsiveness summary, which summarizes the public review process and its results, for inclusion in the final CCMP. A responsiveness summary should specify:

- ☐ Dates, locations, and lengths of public comment periods;
- ☐ Media used for disseminating public meeting notices and notices of availability; and
- ☐ Significant comments received and the management conference's responses.

Each CCMP submission to the EPA Administrator for approval must include a responsiveness summary.

CZM Consistency Review

The Coastal Zone Management Program (CZMP) and the National Estuary Program coordination paper (1988) specify that:

"CCMPs developed under the NEP will voluntarily, as a matter of policy, be submitted for review under the Federal consistency provisions of Section 307(c) of the Coastal Zone Management Act of 1972, as amended."

CZMA § 307(c)(1)(A), as amended in the Coastal Zone Act Reauthorization Amendments of 1990, specifies that:

"Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs."

The term "affecting" includes direct effects caused by the activity and occurring at the same time and place and indirect effects which may be caused by the activity, which are reasonably foreseeable, although later in time or farther removed in distance .

The management conference should become familiar with the State(s)' CZM process(es) for determining consistency. Most States have formal consistency determination processes, but the process may differ from State to State.

If the State has a CZM program, the EPA Administrator and State Governor share responsibility for ensuring that the CCMP is consistent with the State CZM plan. As the final voice of State interests, the Governor's concurrence that the CCMP should be approved implies that the CCMP is consistent with other State requirements, including the State CZM consistency review.

Certification of CZM consistency need not be included in the CCMP itself, but should at least be included in the materials accompanying the CCMP. The Governor's letter of concurrence (see Chapter III) should include a statement that the CCMP is consistent with the affected State(s)' CZM plan(s).

III. CCMP APPROVAL

Chapter II contains definitions of what must be included in a final CCMP for it to receive the EPA Administrator's approval; this chapter focuses on the approval process itself. The two chapters mirror each other; for example, Chapter II indicates that a final CCMP must include a public review summary and this chapter discusses how public reviews should be conducted.

The basic requirements for CCMP approval are defined in CWA § 320(f)(1), which specifies that:

"Not later than 120 days after completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur."

CWA § 320(f)(1) stipulates that a final CCMP will be approved if:

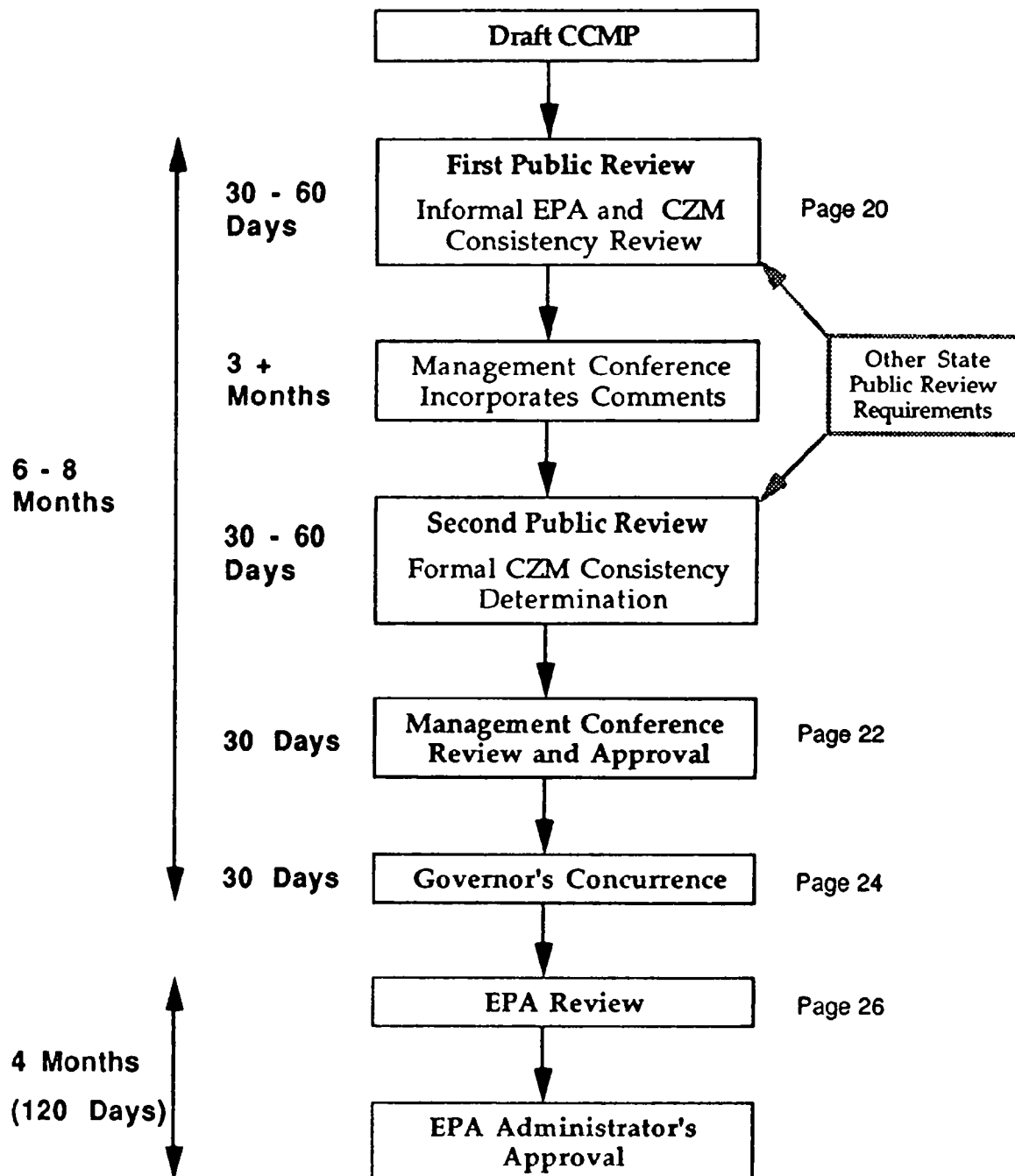
- ☐ It has been reviewed by the public.
- ☐ It meets the requirements of CWA § 320.
- ☐ The affected State Governor(s) concur that it should be approved.

The management conference is responsible for meeting these requirements; the EPA Administrator is responsible for ensuring that the requirements have been met and for approving a final CCMP within 120 days of completion, given that the three other requirements have been met. CCMP "completion" is the date when a final CCMP is submitted to the EPA Administrator for approval.

In addition to the requirements defined in 320(f)(1), EPA has determined that each final CCMP must be adopted formally by its management conference and must be submitted for CZM consistency determination by the affected State(s). Any CCMP approval process must therefore include:

- ☐ Public Review
- ☐ Management Conference Review and Adoption
- ☐ Governor's Concurrence
- ☐ State CZM Consistency Determination
- ☐ EPA Administrator Review and Approval

The following sections contain step-by-step explanations of these requirements; the flow chart on the next page depicts the approval process.

APPROVAL PROCESS FLOW CHART

Public Review

CWA § 320(f)(1): " after providing for public review and comment ..."

Although public participation ensures that substantial review is built into the CCMP development process, the draft CCMP must be made available to the general public for review and comment. This includes:

- ☐ Notice of the CCMP's availability for review.
- ☐ Public access to all parts of the CCMP.
- ☐ Opportunity to participate in workshops and public meetings.
- ☐ Opportunity to submit comments.
- ☐ Consideration of public comments and revisions as appropriate.
- ☐ Preparation of a Responsiveness Summary for inclusion in the CCMP.

The entire CCMP, including any appendices and other requirements as defined in this guidance, must be available to the public for review in at least one central location. Programs may also elect to provide summaries of the CCMP to the public for review.

The management conference must hold at least one public meeting to discuss the entire CCMP, including a discussion of the management options available to implement the plan.

In addition to the requirements of § 320, the management conference also must meet any State imposed public commenting period requirements.

To ensure that the public's comments have been addressed, the management conference must prepare a Responsiveness Summary (see Chapter II) to transmit with the final CCMP to the EPA Administrator for approval.

Number of Reviews

Although only one public review of the draft CCMP is required, EPA recommends two public review periods. The first review period should provide the opportunity for:

- ☐ The public to react to different management options.
- ☐ An informal State CZM consistency review.
- ☐ The Governor's office to review the CCMP.

- ☐ EPA offices to complete informal reviews.

The second public review period would provide an opportunity for the reviewers to ensure that their comments have been addressed. This second review period would also provide a good opportunity for the formal State CZM office consistency determination and any other State review requirements.

Notification of Availability

Although the management conference should include representatives of all affected interests (see Chapter II), notification of CCMP availability for review must extend far beyond the management conference itself.

The public must be notified of the availability of the CCMP and of any public workshops or hearings being held by the management conference about the CCMP. These notifications should be placed in major newspapers around the watershed and should contain:

- ☐ Location where relevant documents may be reviewed or obtained;
- ☐ Information on location, dates, and times of public workshops, meetings, or hearings;
- ☐ Timetable of the review and approval;
- ☐ Major issues under consideration; and
- ☐ Contacts for more information.

An example notice is shown on the next page. The management conference should mail copies of the public notice to staff in selected Federal and State agencies and other interested persons or groups in the applicable State(s).

The management conference may also elect to publish the public notice in the Federal Register and/ or in applicable State Register(s), though doing so is not required and is not a substitute for the above requirements.

The CCMP is a lengthy document and the public should be given at least 45 days for review before a public meeting; 60 days is recommended for a complete review period.

EXAMPLE PUBLIC NOTICE

NOTICE

**Availability for Review and Comment
of the
Comprehensive Conservation and Management Plan
for Example Bay
--/--/--**

The Example Bay Project, a program of the U.S. Environmental Protection Agency and the Example State Department of Environmental Resources, is concluding its five year effort to develop a management plan to guide the Example Bay communities and State and Federal Agencies in protecting the Bay.

As required by Section 320 of the Clean Water Act, the Example Bay Program management conference has prepared a Comprehensive Conservation and Management Plan (CCMP) that details the condition of the Bay and lays out an agenda for cleaning up and protecting the Bay.

The draft CCMP is available for public review and comment.

Location The CCMP may be reviewed at or obtained from the Example Bay Program office. See below for address.

Hearing A public hearing has been scheduled for __/__/__ at the Example Bay Program office. The hearing will begin at 19:00.

Timetable Any comments on the draft CCMP must be received within 60 days of this notice. After comments have been incorporated, the final CCMP will also be available for review. Another Notice will be posted at that time.

Issues	<p>The major issues for the Example Bay Program are:</p> <ul style="list-style-type: none"> • • •
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Contact	Example Person Example Bay Program Office 1 Main Street Anytown, Mystate	(000) 000-0000
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PLEASE HELP TO PROTECT THE BAY

**READ THE CCMP!
WRITE DOWN YOUR COMMENTS!
COME TO THE PUBLIC HEARING!**

Management Conference Review and Approval

Once the public's comments have been incorporated in the CCMP, the management conference should formally review and approve the CCMP before submission to the affected Governor(s) for approval concurrence and to the EPA Administrator for approval. All Chairs of all committees participating in the management conference must sign the transmittal letters to indicate that they have reviewed the final CCMP and approve of its submission to the Administrator and the Governor(s).

The management conference should transmit a copy of the CCMP to the Governor's office and the EPA Administrator at the same time. To ensure timely review, the EPA Headquarter's Office of Wetlands, Oceans and Watersheds should also receive a copy of the transmittal letter to the EPA Administrator.

The transmittal letter to the Governor should request the Governor to review the CCMP and to advise the EPA Administrator of whether the Governor believes that the CCMP should be approved.

The transmittal letter to the EPA Administrator should request the Administrator to approve the CCMP and, if necessary, to extend the management conference. The transmittal letter to the EPA Administrator should also indicate that a copy of the CCMP has been sent to the appropriate Governor(s).

An example transmittal letter to the EPA Administrator is shown on the following page.

**EXAMPLE MANAGEMENT CONFERENCE
TRANSMITTAL LETTER**

February 22, 1991

Administrator _____
United States Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Administrator _____:

We are pleased to transmit to you the _____ management plan. We ask that you approve it as the Comprehensive Conservation and Management Plan (CCMP) for _____ under the National Estuary Program, Section 320 of the Clean Water Act. This plan has been developed through a five year process that included extensive public review and comment.

We have transmitted a copy of the CCMP to Governor _____ for approval concurrence. We hope that your approval of this Comprehensive Conservation and Management Plan and extension of the management conference will be quickly forthcoming so that we can move ahead with implementation.

Sincerely,

Enclosure

Governor's Concurrence

CWA § 320(f)(1): "... and the affected Governor or Governors
 concur ..."

The management conference should work early with the Governor's(s') office(s) to enlist full support for the CCMP's objectives and to ensure concurrence with the Administrator's approval. The management conference should transmit a copy of the final CCMP to the Governor at the same time it is transmitted to the EPA Administrator. The transmittal letter should ask the Governor to review the final CCMP and to advise the EPA Administrator of whether the Governor believes that the final CCMP should be approved.

The Governor may delegate concurrence authority to a State agency, but EPA strongly recommends that the Governor retain concurrence authority. The Governor's personal support of the final CCMP will be extremely important when the CCMP is implemented; delegating concurrence authority to another agency reduces the importance of the CCMP.

In concurring with the Administrator's decision to approve a final CCMP, it is also the Governor's responsibility to ensure that the CCMP is consistent with other State requirements, including the State CZM Program. The Governor's letter of concurrence should include assurances that the final CCMP is consistent with the State CZM Plan (if the State has a CZM Program) and that any other state review requirements have been fulfilled. An example Governor's concurrence letter is shown on the next page.

A copy of the Governor's letter of concurrence to the EPA Administrator should be forwarded to the management conference.

EXAMPLE GOVERNOR'S CONCURRENCE LETTER

February 22, 1991

Administrator _____
United States Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Administrator _____:

I am pleased to transmit to you the _____ management plan. I ask that you approve it as the Comprehensive Conservation and Management Plan for _____ under the National Estuary Program, Section 320 of the Clean Water Act. This plan has been developed through a five year process that included extensive public review and comment. The plan, as adopted by the management conference, is consistent with the federally approved coastal zone management plan for _____ State. This letter signifies my concurrence with the plan.

The plan lays out an ambitious agenda for addressing existing and future threats to _____. I have shown my support for the plan by proposing significant increases in state funding for implementation of the plan and hope to work with you and the Congress to obtain necessary federal support.

We hope that your approval of this Comprehensive Conservation and Management Plan will be quickly forthcoming so that we can move ahead with implementation. We believe that our plan provides a model for other estuary plans currently being developed, because the problems and solutions are often similar and because the open process we have followed and philosophy of stewardship that underlies the plan can be applied to other problems and other places.

Thank you for your attention to this matter.

Sincerely,

Governor, State of _____

Enclosure

cc: Office of Marine and Estuarine Protection
Management Conference

EPA Administrator's Approval

CWA § 320(f)(1) specifies that the EPA Administrator shall approve a CCMP within 120 days of submission if:

1. The CCMP was reviewed by the public.
2. The CCMP meets the requirements of CWA § 320.
3. The affected State Governor(s) concur that the CCMP should be approved.

Upon receipt of the CCMP package, EPA will review the CCMP and accompanying materials, using a longer version of the check list duplicated in Chapter II of this document as the basis for the review. If, based on this review, the CCMP is found to meet the requirements defined in this document, the EPA Administrator will approve the CCMP.

The initial five years of the management conference allowed by § 320(e) may expire before the Administrator approves the CCMP. The Administrator's approval of the CCMP will include, as necessary, extension of the management conference to meet the requirements of § 320. If the initial five year period of the management conference expires without extension, the Administrator may reconvene the management conference to complete its responsibilities under § 320(b).

The Administrator will not approve the CCMP if it fails to meet any of the requirements outlined in Chapter II of this document. The CCMP may be resubmitted for approval -- as per the process described in this Chapter -- at any time.

APPENDIX - CLEAN WATER ACT § 320**(a) Management Conference. –**

- (1) **Nomination of Estuaries. –** The Governor of any State may nominate to the Administrator an estuary lying in whole or in part within the State as an estuary of national significance and request a management conference to develop a comprehensive management plan for the estuary. The nomination shall document the need for the conference, the likelihood of success, and information relating to the factors in paragraph (2).
- (2) **Convening of Conference. –**
 - (A) **In General. –** In any case where the Administrator determines, on his own initiative or upon nomination of a State under paragraph (1), that the attainment or maintenance of that water quality in an estuary which assure protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife, and allows recreational activities, in and on water, requires that control of point and nonpoint sources of pollution in more than one State, the Administrator shall select such estuary and convene a management conference.
 - (B) **Priority Consideration. –** The Administrator shall give priority consideration under this section to Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; New York - New Jersey Harbor, New York and New Jersey; Delaware Inland Bays, Delaware; Albemarle Sound, North Carolina; Sarasota Bay, Florida; San Francisco Bay, California; Santa Monica Bay, California; and Galveston Bay, Texas.
- (3) **Boundary dispute exception. –** In any case in which a boundary between two States passes through an estuary and such boundary is disputed and is the subject of an action in any court, the Administrator shall not convene a management conference with respect to such estuary before a final adjudication has been made of such dispute.

(b) Purposes of Conference. – The purposes of any management conference convened with respect to an estuary under this subsection shall be to –

- (1) assess trends in water quality, natural resources, and uses of the estuary;
- (2) collect, characterize, and assess data on toxics, nutrients, and natural resources within the estuarine zone to identify the causes of environmental problems;
- (3) develop the relationship between the in-place loads and point and nonpoint loadings of pollutants to the estuarine zone and the potential uses of the zone, water quality, and natural resources;
- (4) develop a comprehensive conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the estuary, including restoration and maintenance of water quality, a balanced indigenous population of shellfish, fish, and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected;
- (5) develop plans for the coordinated implementation of the plan by the States as well as Federal and local agencies participating in the conference;

- (6) monitor the effectiveness of actions taken pursuant to the plan, and
- (7) review all Federal financial assistance program and Federal development project in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes or objectives of the plan prepared under this section.

For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

- (c) **Members of Conference.** – The members of a management conference convened under this section shall include, at a minimum, the Administrator and representatives of –
 - (1) Each State and foreign nation located in whole or in part in the estuarine zone of the estuary for which the conference is convened,
 - (2) international, interstate, or regional agencies or entities having jurisdiction over all or a significant part of the estuary;
 - (3) each interest Federal agency, as determined appropriate by the Administrator;
 - (4) local governments having jurisdiction over any land or water within the estuarine zone, as determined appropriate by the Administrator; and
 - (5) affected industries, public and private educational institutions, and the general public, as determined appropriate by the Administrator.
- (d) **Utilization of Existing Data.** – In developing a conservation and management plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the estuary that have been developed by or made available to Federal, interstate, State, and local agencies.
- (e) **Period of Conference.** – A management conference convened under this section shall be convened for a period not to exceed 5 years. Such conference may be extended by the Administrator, and if terminated after the initial period, may be reconvened by the Administrator at any time thereafter, as may be necessary to meet the requirements of this section.
- (f) **Approval and Implementation Plans.** –
 - (1) **Approval.** – Not later than 120 days after the completion of a conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the affected Governor or Governors concur.
 - (2) **Implementation.** – Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under title II and VI and section 319 of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.
- (g) **Grants.** –
 - (1) **Recipients.** – The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State coastal zone management agencies, interstate agencies, and other public or nonprofit private agencies, institutions, organizations, and individuals.

- (2) Purposes – Grants under this subsection shall be made to pay for assisting research, surveys, studies, and modeling and other technical work necessary for the development of a conservation and management plan under this section.
- (3) Federal Share. – The amount of grants to any person (including a State, interstate, or regional agency or entity) under this subsection for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies, and work and shall be made on condition the the non-Federal share of such costs are provided from non-Federal sources.
- (h) Grant Reporting. – Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.
- (i) Authorization of Appropriations. – There are authorized to be appropriated to the Administrator not to exceed \$12,000,000 per fiscal year for each of fiscal years 1987, 1988, 1989, 1990, and 1991 for –
 - (1) expenses related to the administration of management conferences under this section, not to exceed 10 percent of the amount appropriated under this subsection;
 - (2) making grants under subsection (g), and
 - (3) monitoring the implementation of a conservation and management plan by the management conference or by the Administrator, in any case in which the conference has been terminated.

The Administrator shall provide up to \$5,000,000 per fiscal year of the sums authorized to be appropriated under this subsection to the Administrator of the National Oceanic and Atmospheric Administration to carry out subsection (j).

- (j) Research. –
 - (1) Programs. – In order to determine the need to convene a management conference under this section or at the request of such a management conference, the Administrator shall coordinate and implement, through the National Marine Pollution Program Office and the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration, as appropriate, for one or more estuarine zones –
 - (A) a long-term program of trend assessment monitoring measuring variations in pollutant concentrations, marine ecology, and other physical or biological environmental parameters which may affect estuarine zones, to provide the Administrator the capacity to determine the potential and actual effects of alternative management strategies and measures;
 - (B) a program of ecosystem assessment assisting in the development of (i) baseline studies which determine the state of estuarine zones and the effects of natural and anthropogenic changes, and (ii) predictive models capable of translating information on specific dischargers or general pollutant loadings within estuarine zones into a set of probable effects on such zones;
 - (C) a comprehensive water quality sampling program for the continuous monitoring off nutrients, chlorine, acid precipitation dissolved oxygen, and potentially toxic pollutants (including organic chemicals and metals) in estuarine zones, after consultation with interested State, local, interstate, or international agencies and review and analysis of all environmental sampling data presently collected from estuarine zones, and

- (D) a program of research to identify the movements of nutrients, sediments and pollutants through estuarine zones and the impact of nutrients, sediments, and pollutants on water quality, the ecosystem, and designated or potential uses of the estuarine zones.
- (2) Reports. – The administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress no less often than biennially a comprehensive report on the activities authorized under this subsection including –
 - (A) a listing of priority monitoring and research needs;
 - (B) an assessment of the state and health of the Nation's estuarine zones, to the extent evaluated under this subsection;
 - (C) a discussion of pollution problems and trends in pollutant concentrations with a direct or indirect effect on water quality, the ecosystem, and designated or potential uses of each estuarine zone, to the extent evaluated under this subsection, and
 - (D) an evaluation of pollution abatement activities and management measures so far implemented to determine the degree of improvement toward the objectives expressed in subsection (b)(4) of this section
- (k) Definitions. – For purposes of this section, the terms "estuary" and "estuarine zone" have the meanings such terms have in section 104(n)(4) of this Act, except that the term "estuarine zone" shall also include associated aquatic ecosystems and those portions of tributaries draining into the estuary up to the historic height of migration of anadromous fish or the historic head of tidal influence, whichever is higher.