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ASD(I&IA)

Department of Defense Instruction

SUBJECT DoD Implementation of the Coastal Zone Management Act

References: (a) through (d), see enclosure 1

I. PURPOSE

This Instruction assigns responsibilities and establishes Department of Defense policies and procedures for DoD implementation of Public Law 92-583, Coastal Zone Management Act (16 USC 1451 et seq) (reference (a)).

II. CANCELLATION

Reference (b) is hereby superseded and cancelled.

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III. APPLICABILITY AND SCOPE

The provisions of this Instruction apply to the Office of the Secretary of Defense, the Military Departments, and Defense Agencies (hereafter referred to collectively as "DoD Components"). With respect to civil works projects, coordination will be accomplished separately and directly by the Office of the Chief of Engineers (Civil Works) in conjunction with the National Oceanic and Atmospheric Administration (NOAA) and the coastal States.

IV. DEFINITION

The term "Coastal States" is defined in enclosure 2.

V. POLICY

A. General. Recognizing that Coastal Zone Management (CZM) plans of coastal States prepared under the CZM Act (reference (a)) may significantly affect national defense interests, including military operations, installations, facilities, and real property, DoD Components will carry out coordination and review procedures in accordance with this Instruction and in a manner consistent with security interests of the nation.

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- B. Exclusion of Federal Lands. Section 304(a) of the CZM Act (reference (a)), excludes from coastal zones those lands, the use of which are by law subject solely to the discretion of, or which are held in trust by the Federal Government, its officers or agents. All military installations, facilities, and lands, under direct DoD control and all lands leased for use by DoD Components are excluded from mandatory compliance in a coastal State's CZM plan. DoD Components shall ensure that a coastal State's CZM plan recognizes the existence and impact of all military installations, facilities and lands, and excludes provisions for mandatory application over same.
- C. Consistency. Section 307 of the CZM Act (reference (a)), provides that Federal actions in or affecting a coastal zone must, to the maximum extent practicable, be consistent with that coastal State's approved program. It is the policy of the DoD that DoD Components conducting or supporting operations, activities, projects, or programs in or on coastal lands or waters that affect, or may affect coastal zones, shall ensure that such undertakings, to the maximum extent practicable, comply with the coastal State's approved program and that future undertakings, unless specifically exempted in the national interest, are likewise consistent with that program.
- D. Outgrants of Military Real Property. Non-Federal applicants for licenses, permits or leases of military real property affecting land or water uses in the coastal zone shall provide in their application to the outgranting Military Department a certification that the proposed usage complies with the coastal State's approved program and that such usage will be conducted in a manner consistent with the program.
- E. National Interest Items. Section 306(c) of the CZM Act (reference (a)), requires that coastal States give adequate consideration to the "national interest". Although this is a broad and flexible term, it does include among its essential elements national defense, energy production, recreation, transportation, food and fiber production, historic, cultural, visual and conservation values, and the preservation of life and property. Enclosure 3 contains guidelines to insure that national defense, as an essential element of the "national

interest", is incorporated in a State's CZM plan. To properly consider the "national interest", coastal States will need much information and DoD Components are authorized and encouraged to provide coastal States with unclassified and releasable information on Defense operations, projects, installations, and activities.

- F. Cooperation with Coastal States. It is considered vital to Defense interests that DoD Components develop and maintain close working relationships with the coastal States during all phases of CZM plan formulation and implementation. The policy of the Department of Defense shall be that all DoD Components shall cooperate and coordinate with the coastal States and their CZM agencies in accordance with this Instruction.
- G. Coordination following Program Approval. The close working relationships with the coastal States established during the CZM program development phase will be intensified as States implement their programs. The procedures for Military Department/State cooperation in coastal zone activities established herein shall be utilized to ensure that the Military Departments are knowledgeable about State activities and that the States are kept informed regarding Military Department activities in matters affecting their coastal zone. To the maximum extent practicable, information will be furnished through the A-95 clearinghouses in accordance with the provisions of OMB Circular A-95 (reference (c)).

VI. RESPONSIBILITIES

A. Within the Office of the Secretary of Defense, the Deputy Assistant Secretary of Defense (Installations and Housing) (DASD(I&H), (OASD(I&L))), shall be the single point of contact with other Federal agencies for matters pertaining to coastal State CZM plans and programs, and shall be responsible for:

- 1. Providing guidance on CZM policies and matters affecting installations, facilities, activities and projects of DoD Components.
- 2. Providing coordination with other Federal agencies as required.

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3. Developing in concert with DoD Components a DoD position on each coastal State CZM plan and forwarding to the National Oceanic and Atmospheric Administration (NOAA) a coordinated DoD position on each such plan.
 4. Assisting the Assistant Secretary of Defense (Health and Environment) in processing environmental impact statements in accordance with DoD Directive 6050.1 (reference (d)).
- B. The Secretaries of the Military Departments shall be responsible for:
1. Designating a CZM central focal point at headquarters or Departmental level. This central office will:
 - a. Issue departmental implementing instructions as necessary.
 - b. Assist departmental State representatives (subparagraph VI B 2) in resolving substantive issues.
 - c. Keep the DASD (I&H) informed of the progress of CZM plans in each coastal State.
 - d. Refer unresolvable issues or those of a national policy nature to the DASD (I&H).
 - e. Determine the departmental position vis-a-vis each State CZM plan and forward the plan and position to the DASD (I&H). This submission should be made within 30 days of the date of receipt of the State's CZM plan, or within 14 days of a request for comment from the DASD (I&H), whichever comes first.
 2. Designating a representative of his Department for each coastal State. This designated departmental State representative, knowledgeable about all of his Department's interests and concerns at the State level will:
 - a. Act as the overall Departmental coordinator at the State level in the development and review of the CZM plan to include attendance at public hearings.

- b. Coordinate actions among the designated individuals at affected installations, other Military Department State representatives within a coastal State, his central office and coastal State agencies.
 - c. Furnish to the State necessary unclassified and releasable information such as inventory and mission data, master plans, etc., on present and future military operations and activities within the State's coastal zone.
 - d. Keep his central office informed of the progress of the State CZM plan.
 - e. Obtain a copy of the State's final CZM plan and forward it along with comments to his central office.
- 3. Designating individuals at affected installations who will be responsible for effecting the day-to-day coordination process for CZM plan development and review with local and State CZM agencies.
 - 4. Providing to the DASD (I&H) current names and addresses of the departmental State representatives and the lead person at the central office.
 - 5. Identifying CZM problems, taking necessary corrective measures, and implementing the policy guidance set forth in section V.
- C. Defense Agencies with Properties in Coastal States shall be responsible for:
- 1. Determining the impact of applicable State CZM plans on agency installations, facilities, activities and projects.
 - 2. Developing an Agency position vis-a-vis applicable State CZM plans and submitting same to the DASD (I&H) and the Military Department holding accountability for the real property in accordance with the procedures in section VI, B.1, c. through e.

VII. EFFECTIVE DATE AND IMPLEMENTATION

This Instruction is effective immediately. Two copies of implementing instructions shall be forwarded to the ASD (I&L)
Attn: DASD (I&H) within 60 days.



Acting Assistant Secretary of Defense
Installations and Logistics

Enclosures 3 ;

1. References
2. Coastal States Affected by Coastal Zone Management Act
3. Guidelines for Development and Review of State Coastal Zone Management Plans

REFERENCES

- (a) Public Law 92-583, Coastal Zone Management Act, October 27, 1972 (16 USC 1451 et seq)
- (b) Assistant Secretary of Defense (Installations and Logistics) Memorandum, "DoD Implementation of the Coastal Zone Management Act," September 12, 1975, (hereby cancelled)
- (c) Office of Management and Budget Circular No. A-95, "Federal and Federally Assisted Programs and Projects," November 3, 1973
- (d) DoD Directive 6050.1, "Environmental Considerations in DoD Actions," March 19, 1974

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COASTAL STATES AFFECTED BY
COASTAL ZONE MANAGEMENT (CZM) ACT

Atlantic States

Maine
New Hampshire
Massachusetts
Rhode Island
Connecticut
New York
New Jersey
Delaware
Maryland
Virginia
North Carolina
South Carolina
Georgia
Florida

Gulf Coast States

Alabama
Mississippi
Louisiana
Texas

Pacific States

Alaska
California
Oregon
Washington
Hawaii

Great Lakes States

Minnesota
Wisconsin
Michigan
Ohio
Pennsylvania
Indiana
Illinois
(New York also borders
Great Lakes)

Commonwealths/Territories

Guam
Puerto Rico
Virgin Islands
Am. Samoa

1/ In accordance with Section 304(c) of the Coastal Zone Management Act and for the purposes of this Instruction, the term "Coastal States" includes certain States, Commonwealths, and Territories of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island South, or one or more of the Great Lakes.

GUIDELINES FOR DEVELOPMENT AND REVIEW OF
STATE COASTAL ZONE MANAGEMENT PLANS

I. General

- A. Prior to final approval of a State's CZM plan, each relevant Federal Agency is given an opportunity to review the plan. Prior to forwarding a State's plan, the Office of Coastal Zone Management (OCZM), in the National Oceanic and Atmospheric Administration (NOAA), evaluates the following basic elements:
1. Boundaries
 2. Permissible and priority uses
 3. Areas of critical interaction
 4. State-Federal interaction
 5. Intrastate/local government and public involvement
 6. The organizational structure to implement the plan
 7. The legal authority to carry out the plan.
- B. DoD interests and concerns are primarily with the first four elements and State CZM programs must incorporate rather than omit and potentially jeopardize national defense interests. Guidelines in this enclosure provide general criteria for reviewers to examine the development of State plans in the light of both current needs and operational requirements and with a view towards future mission requirements.

Guidelines

Sections noted herein correspond to those in the NOAA Approval Regulations of January 9, 1975 (15 CFR 923); however, States need not develop plans in a corresponding format.

A. Subpart A - General

1. Section 923.4 - Evaluation of Coastal Zone Management Plans - General. Review general plan statements on problems, issues, objectives and policies with specific reference to Military Department interests.
2. Section 923.5 - Environmental Impact Assessment. Review any environmental impact data submitted by

the State with specific reference to Military Department interest.

B. Subpart B - Land and Water Uses

1. Section 923.11 - Boundary of the Coastal Zone

a. All DoD land within the coastal zone should be identified by the State for exclusion. Inventory's of Military Real Property should be used as a basis for determining whether all Military Department property owned, leased, licensed or otherwise held or administered by DoD has been so identified. Herein, vital offshore operating areas and weapons training ranges should also be listed and their requirement recognized.

b. At present the seaward boundary of the coastal zone is defined by the limits of the territorial sea. The following effect on offshore training areas and support requirements should be considered:

"In the event of a statutory change in the boundary of the territorial sea, the question of whether a corresponding change in coastal zone boundaries must be made, or will be made by operation of law, will depend on the specific terms of the statutory change and cannot be resolved in advance."

2. Section 923.12 - Permissible Land and Water Uses

a. This section should be divided into two distinct elements:

(1) A determination of those land and water uses having a direct and significant impact upon coastal waters.

(2) An identification of such uses which the State deems permissible.

b. State plans must present a method for determining land and water uses which have a "direct and significant impact upon the coastal waters" and through this determination, identify land and water uses which the State deems permissible. Herein, the State should analyze

existing, projected and potential uses of the coastal zone with respect to the level and extent of impact. Permissible uses, as listed, should be examined to ascertain if use restrictive of such actions as pier construction and maintenance, and dredging. If any military uses are specifically prohibited within the coastal zone, the reasons for the prohibition should be identified with evidence cited.

3. Section 923.13 - Areas of Particular Concern. State plans are required to designate areas of particular concern and/or intended for preservation or restoration because of their conservation, recreation, ecological or aesthetic values. If any military properties, operating areas or weapons training ranges are so designated, these areas should be examined to determine whether or not they have an acceptable impact on military operations.
4. Section 923.14 - Guidelines on Priority of Uses
 - a. National Defense should be identified as one of the important priority uses of the coastal zone.
 - b. This priority provides the basis for regulating future land and water uses, provides a common *reference point* for resolving potential conflicts and is important for future acquisition of areas not presently controlled by Military Departments.
5. Section 923.15 - National Interest on the Siting of Facilities
 - a. The State plan must recognize:
 - (1) The Military Departments role in national defense as an essential element of the national interest.
 - (2) The potential requirement for new or expanded defense siting requirements on land, in the air, on and under the water in the coastal zone.
 - (3) That many military and most naval activities are coastal dependent.
6. Section 923.16 - Area Designation for Preservation and Restoration. Any vital military properties or water areas designated for preservation and restoration should be examined to determine whether or not it has an acceptable impact on military operations.

7. Section 923.17 - Local Regulations and Uses of Regional Benefits. A method must be outlined to assure that local land and water use controls do not unreasonably exclude or arbitrarily restrict uses of regional benefit.

C. Subpart C - Authorities and Organization

1. Section 923.21 - Means of Exerting State Control over Land and Water Uses. The plan should not list any specific land or water use over which authority, jurisdiction or control will be exercised concurrently by both State and Military Departments.
2. Section 923.24. Authorities to Administer Land and Water Uses, Control Development and Resolve Conflict.
3. Section 923.25. Authorities for Property Acquisition.
4. Section 923.26. Techniques for Control of Land and Water Uses. Military Departments should not be referenced.

D. Subpart D - Coordination

1. Section 923.31 - Full Participation by Relevant Bodies in the Adoption of Management Plans. Throughout plan development, each Military Department must take the opportunity for full participation. To adequately consider national defense interests, States require certain unclassified information concerning Master Plans, general development maps, offshore operating area requirements and other planning documents. The furnishing of or permitting state review of such information should be documented. This section should also include the opportunities afforded Military Departments to participate in the management plan development.
2. Section 923.32 - Consultation and Coordination with Other Planning
 - a. If any Military Department planning documents have been forwarded to any state agency, the Military Department should be listed as any agency with plans in effect on January 1 of the year submitted. Any unresolved conflicts with department plans should be identified.

- b. The specific contacts with Military Departments in plan coordination should be listed.
- c. An effective mechanism for continuing consultation and coordination between the designated State CZM offices and the Military Departments must be identified.

E. Subpart E - Miscellaneous

1. Section 923.14 - Public Hearings. Although normal Military Department CZM input will not be through public hearings, Military Departments should be represented at appropriate public hearings.
2. Section 923.43 - Segmentation. In review of a State's first segment, the boundaries for the entire State must be defined and adequate consideration provided for the national interest in the siting of facilities for the State's entire coastal zone. It should be assumed that a State's program will be as restrictive for the last segment as for the first. Such programs should be examined to determine how military department interests would be affected if the segmented program were effective state-wide.

- F. General. Section 923.10, 923.20, 923.30, and 923.40.
These general sections should be reviewed for any provisions that unduly restrict military operations and activities.

DEPARTMENT OF DEFENSE

ASD(I&L)
620-3355

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4165.59, Ch 1	January 12, 1983	4000 series

ATTACHMENTS
None

INSTRUCTIONS FOR RECIPIENTS

The following pen changes to DoD Instruction 4165.59, "DoD Implementation of the Coastal Zone Management Act," December 29, 1975, have been authorized:

PEN CHANGES

Page 1, change office identification symbol from ASD(I&L) to ASD(MRA&L)

Pages 3 and 4, delete subsection VI.A.

Page 4, re-letter subsection VI.B. to read "VI.A." and change new subparagraph VI.A.1.b., second line, to read "paragraph VI.A.2.) in resolving substantive issues."

Page 5, re-letter subsection VI.C. to read "VI.B." and change new subparagraph VI.B.2., last line, to read "section VI.A.1.c. through e."

Page 6, section VII., second and third lines, change "ASD(I&L)" to read "ASD(MRA&L)" and "DASD(I&II)" to read "DASD(I)."

Enclosure 1, REFERENCES.

Line 9, reference (d), change to read "DoD Directive 6050.1, "Environmental Effects in the United States of DoD Actions," July 30, 1979"

Changed portions are underscored.

EFFECTIVE DATE

The above changes are effective immediately.

O. J. Williford
O. J. WILLIFORD, Director

Correspondence and Directives

WHEN PRESCRIBED ACTION HAS BEEN TAKEN, THIS TRANSMITTAL SHOULD BE FILED WITH THE BASIC DOCUMENT