State of New Hampshire

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CRAIG R. BENSON
Governor

February 28, 2003

Mr. John King
Chief, Coastal Programs Division
NOAA, Office of Ocean & Coastal Resource Management
1305 East-West Highway, SSMC4
Silver Springs, MD 20910

Dear Mr. King:

I am pleased to submit this request for a Program Amendment to New Hampshire's Coastal Program for your approval under Section 306 of the Federal Coastal Zone Management Act. The amendment of our inland coastal boundary simplifies several areas of coastal management, especially the grant program and federal consistency determinations.

The New Hampshire Coastal Program continues to draw from existing state authorities and remains organized to meet all requirements of your office's program approval regulations, 15 CFR 923, as amended. Our coastal program remains an enforceable instrument of state policy, albeit in a larger municipal area. This amendment offers no change to the designation of the Office of State Planning as lead agency to receive and administer coastal grants and to continue program implementation.

We look forward to federal approval to enable the wider implementation of the New Hampshire Coastal Program. Please contact Mr. James McLaughlin, Assistant Director of the Office of State Planning or Mr. David Hartman, Coastal Program Manager, if you have any questions or need assistance.

Sincerely,

Craig R. Benson
Governor

Enclosure

PROPOSED AMENDMENT OF THE BOUNDARY OF THE NEW HAMPSHIRE COASTAL PROGRAM

I. Description of Change

Existing Inland Boundary

The existing inland boundary of the New Hampshire Coastal Program (NHCP) is two-tiered: the first tier provides a wider margin back from the Atlantic Ocean, Great Bay and the lower Piscataqua River than the second tier, which includes only wetlands and banks of the estuarine rivers.

The first tier occurs along the Atlantic Ocean and up the Piscataqua River to a location on Dover Point opposite the outlet of Stacey Creek on the Maine Shore, and in most areas of the Great Bay. The coastal zone extends 1,000 feet inland from mean high water or to the limit of the Wetlands Bureau's jurisdiction, 100 feet from the highest observable tide line that borders on tidal waters, whichever one is further inland. The boundary around Great and Little Bays extends inland to identifiable features, roads or railroad tracks, which are in most cases more than 1,000 feet inland and effectively separate the shoreland from inland areas.

The second tier includes the following tidal rivers: the upper Piscataqua (from Dover Point), the Cocheco, Salmon Falls, Bellamy, Oyster, Lamprey, Squamscott, and Winnicutt, to the limit of tidal action and adjacent areas inland to the limit of the Wetlands Bureau jurisdiction, which extends 100 feet from the highest observable tide line that borders on tidal waters.

Proposed Change of Inland Boundary

New Hampshire proposes to move the inland Coastal Program boundary from that described above, to one that is coterminous with the inland boundary of the 17 coastal municipalities. (See attached map included as the last page of this document.) That change would encompass the entire jurisdiction of the municipalities, including Dover, Durham, Exeter, Greenland, Hampton, Hampton Falls, Madbury, New Castle, Newfields, Newington, Newmarket, North Hampton, Portsmouth, Rollinsford, Rye, Seabrook, and Stratham.

The seaward boundary of the NHCP will remain the same.

This boundary change will amend the current definition of the inland boundary that is found on pages 2-1 to 2-3 of the NHCP Program Document and Final Environmental Impact Statement (FEIS). The map on page 2-2 of the FEIS will be replaced with a new one.

II. Purpose, Need, and Appropriateness

To Provide Greater Predictability

One of the objectives of the Coastal Zone Management Act (CZMA), generally, is to bring a greater degree of predictability to the management of coastal resources. Specifically, the CZMA implementation regulations at 15 CFR §923.31(a)(8) encourage states to designate inland boundaries that permit clear and ready determination of whether a person or activity is within or outside of the coastal zone. By making the established jurisdictional boundaries of the 17 coastal municipalities the new inland boundary, the change will eliminate any existing confusion regarding the exact location of NHCP jurisdiction. The current boundaries have been challenged in the past when determining the necessity of federal consistency reviews. Clear definition of the inland boundary, as suggested by the proposed boundary change, will help prevent further debate of this issue, and will help the state, federal agencies and applicants for federal approvals determine if a federal action is in the coastal zone or will affect the coastal zone.

To Enhance NHCPs' Leadership Role in Coastal Management

In the National Oceanic and Atmospheric Administration (NOAA) Office of Ocean and Coastal Resource Management's (OCRM) most recent CZMA Section 312 evaluation of the NHCP, OCRM acknowledged New Hampshire's attempts to address coastal management issues beyond the current coastal boundary, among other accomplishments. OCRM also noted the limitations that the existing boundary imposed on program implementation and NHCP leadership in resource management. Resource issues outside of the existing coastal zone are not managed by the NHCP, nor are they funded with CZMA dollars. Rather, they are addressed by other state agencies that operate on a watershed basis. Expanding the coastal area to include the full jurisdiction of the 17 coastal communities will allow the NHCP to provide leadership and better coordinate with the other state agencies on the full range of coastal issues in the state.

To Enhance Program Management and Better Address All Direct and Indirect Impacts

During program development amid concerns about creating new comprehensive coastal legislation, New Hampshire decided to develop its program in two phases, based on a series of existing state laws and policies that provide for effective state management of New Hampshire's coastal zone. The first phase of the NHCP, the Ocean and Harbor Segment, received federal approval in June of 1982. The original boundary encompassed an area of land along the Atlantic coastline that addressed direct and significant impacts to marine waters. It reflected the conventional wisdom of the day that "the closer a use is to the coast, the greater the impact on coastal waters."

In1988, the second phase of the NHCP incorporated approximately 131 miles of tidal shoreline in and around Great Bay, Little Bay, and the tidal rivers. This addition was also intended to preserve the resources and rural quality of Great Bay, Little Bay, and the tidal rivers, including those potential areas that had direct and significant impacts upon coastal waters. With the incorporation of the second segment, the NHCP boundary encompassed those areas that,

consistent with the CZMA approval criteria for inland boundaries found at 15 CFR §923.31(a) (1-8), were necessary to encompass those important coastal resources and provide for control of direct and significant impacts to coastal waters.

In 1988, the NHCP did not take indirect impacts into account when defining the inland boundary. However, over the past decade it has become clear that multiple activities not immediately adjacent to shorelines can have significant direct and indirect effects on coastal resources. In response, the Environmental Protection Agency (EPA) approved the New Hampshire Estuaries Project in 2000, and NOAA approved the New Hampshire Coastal Non-Point Pollution Control Program in 2001. Both are based on existing state and federal laws controlling direct *and* indirect impacts on tidal and coastal waters throughout the watershed. Impacts existing throughout the 17 coastal municipalities such as stormwater runoff, erosion from construction sites, disposal of solid waste and septage, subsurface disposal systems, and road salting are acknowledged as sources of coastal pollution by NHCP's cooperating state agencies.

Following the boundary change, the NHCP will be able to complement these programs and more broadly address indirect impacts on coastal waters because it will include the entire area of the 17 coastal municipalities. The boundary change will allow use of CZMA funds to support administration, monitoring and enforcement of Coastal Non-Point Pollution Control Program authorities in the expanded area. In addition, funding will be available to support assistance to local governments to enhance local land use planning and to help manage programs and activities that advance NHCP goals/objectives, consistent with CZMA requirements. Finally, NHCP could more easily invoke federal consistency regulations where applicable in this expanded boundary area.

To Build Local Capacity to Manage the Coast

In addition to allowing CZMA funds to be used for technical and financial assistance to local governments for municipal planning and management throughout the municipalities, the boundary change will also allow funds to be used to provide for additional public access, redevelopment of underutilized waterfronts; or acquisition or restoration of sites through low cost construction projects consistent with CZMA requirements.

To Improve Coordination of Existing NHCP Authorities

Federal approval of the boundary change will support better coordination between NHCP and other state agencies for more effective management of the resources in the seacoast area. Currently, other state agencies' programs and authorities, which implement and enforce NHCP's 16 coastal policies, apply across all municipal areas of the state. Political inconsistencies in enforcement and its relation to the coastal program can occur. For example, if a violator is cited by the New Hampshire Fish and Game Department or Wetlands Bureau staff along a small waterway or wetland bordering the current coastal boundary, but within one of the 17 coastal municipalities, there is ample statutory/regulatory basis for the citation. However, were the violator part of a federally permitted activity, the state could have questionable authority through

the CZMA in trying to cite inconsistency because of the limit of the current boundary. Therefore, as the law currently stands, enforcement in areas near the coastal boundary has the potential to be inconsistent due to the lack of clear application of federal consistency outside of the program boundaries. Likewise, in attempting to fund a restoration project on the inner fringe of the current coastal boundary, NHCP may have the full support of state agencies, but federal CZMA funds cannot be used to fund projects outside of the present coastal zone boundaries. Changing NHCP's inland boundary to include the entirety of the 17 coastal municipalities will eliminate the gray, potentially questionable areas of the present boundary, resulting in uniformity and increased efficiency in efforts to protect and plan for New Hampshire's coastal resources.

III. Summary of Effects of the Boundary Change

Effects on Coastal Resources and Land and Water Use Conflicts

The new boundary does not expand or reduce the existing list of land or water uses that are currently subject to the management program. A large amount of shoreline is already devoted to industrial, commercial, or recreational uses that require direct access to coastal waters. These uses include shipping, fishing, tour boating, power generation, refining, and recreational boating. Because there will be no change in the types or quantity of uses within the expanded coastal zone, there will not be any significant effects on coastal resources as a result of the boundary amendment. Positive effects on coastal resources could however result from the application of funds within the expanded coastal area to more effectively address resource protection and to manage indirect impacts.

Effects on Property Owners in the New Area

Persons proposing activities within the new boundary area will not be subject to any additional state laws or regulations as a result of the boundary change. The boundary change does not change in any way the jurisdiction of any existing state law, nor will it impose any new state laws in the expanded coastal area. The number of state or local permits that are presently required for the approval of property owners' development and construction projects would remain the same. Changing the inland boundary does mean that applicants for projects within the new boundary requiring a federal license or permits or with federal funding will be subject to NHCP's CZMA federal consistency review procedures. While the geographic extent of the coastal area will be significantly expanded, NHCP anticipates that the quantity of projects requiring a consistency review will not significantly increase, nor will consistency decisions be significantly delayed. Currently, the majority of projects requiring consistency review are those which involve the nearshore fishery and tidal wetlands. Additionally, approximately one or two road construction projects per year require a consistency review by the NHCP staff. With the expansion of the coastal boundary, it is estimated that only a minimal increase in the number of projects requiring a review would be those on US roadways. These few additional projects would not significantly add to the amount of work responsibilities of the NHCP staff, and therefore consistency decisions will not be significantly delayed. There may be a need to outreach to engineering firms doing business in the new boundary area to familiarize them with

the NHCP consistency requirements. As part of normal practices, NHCP staff is fully prepared and adequately staffed to do so.

Effects on Local Agencies Operating in the New Area

Active participation in the NHCP by local government units is voluntary. The boundary change does not increase the present number of state or local permits required for private development activities. As long as the state manages the interests addressed by the NHCP in the sixteen coastal policies, local governments will continue to make most local development decisions that determine community character. Coastal communities can choose to participate in the program by requesting financial and technical assistance. Assistance will be available to local communities to aid in site-specific problem solving, including short-term scientific, environmental, and planning studies. Assistance can be used to address such problems as coastal wetlands management; park, recreation, and dock facility siting; public access; water quality; erosion; historic preservation; natural areas preservation and restoration; and coastal land use planning problems consistent with CZMA funding requirements.

Effects on State Agencies Operating in the New Area

State agency participation in the coastal program is accomplished primarily through implementation of portions of the NHCP, such as: administering program authorities; providing technical assistance, outreach and education; administering restoration or acquisition programs; etc. Expansion of the coastal area will not change the administration of any of the networked agency authority. The consistency of state agencies with coastal policy within the new coastal area will not differ from the manner in which the agencies currently operate. All state agencies operating in the seventeen coastal municipalities function according to current statewide laws, statutes, and rules. These laws, statutes, and rules will not change as a result of the boundary realignment. Any uncertainty in the present inland boundary would be eliminated upon implementation of the new municipal limit boundary.

With regard to obtaining CZMA funding, the Department of Environmental Services (DES) is presently the only state agency that receives funds to support its efforts to enforce the goals and policies of the coastal program. Funding will continue to be provided for DES upon amendment of the boundary . Other state agencies, such as the New Hampshire Fish and Game Department and the New Hampshire Department of Resources and Economic Development are networked with the NHCP, and will continue to apply existing laws and regulations in the expanded coastal area. However, expansion of the coastal boundary does not guarantee additional federal funding for the NHCP, and therefore, does not guarantee additional funding to support the efforts and activities of those state agencies networked with the NHCP.

Effects on Federal Agencies Operating in the New Area

Following the boundary change, the state will maintain its consistency authority over federal actions that affect New Hampshire's coast. Since the amended boundary will encompass a larger geographic coastal area, federal consistency reviews will be required throughout the larger area

for federal license or permit activities under CZMA §307(c)(3)(A). The boundary expansion will not affect the manner in which federal consistency applies to federal agency activities under CZMA §307(c)(1), although some additional federal development projects may become automatically subject to consistency review pursuant to CZMA §307(c)(2). Federal agencies will not be able to issue federal licenses or permits in the new coastal boundary if the state determines that those activities are not consistent with the state's coastal program, unless the state's decision is appealed to the Department of Commerce and overturned by the Secretary. Finally, New Hampshire's coastal area excludes lands owned, leased, and held in trust by the Federal Government. The changed inland boundary will increase the number of federally excluded buildings and properties in the NHCP area (See listing below).

What the Boundary Change Will Not Do

There will not be any changes in the jurisdiction of existing New Hampshire State authorities that constitute the approved NHCP, nor will there be any addition of new authorities as a result of the boundary change. The NHCP's 16 coastal policies, the state agencies that enforce these policies, and the enforcement abilities of the state agencies will not change as a result of the boundary realignment. The manner in which federal consistency applies to federal agency activities under the CZMA will not change. The proposed boundary does not expand or reduce the existing list of local, regional, state, and federal uses that are currently subject to state laws and regulations. All lands on the coast that are devoted to recreation and public access will continue to remain available and accessible. The procedure for siting energy facilities will not change. The boundary change will not result in the elimination of any areas of particular concern (APC), areas of preservation or restoration (APR), or the manner in which these areas are designated. Lastly, to avoid misconception, an expansion in the geographic coastal area does not necessarily foster an increase in the total amount of federal CZMA funding appropriated to NHCP for local grant-funded projects.

IV. Analysis of the Effects of the Boundary Change on Program Approvability

The following detailed analysis describes the effect of the NHCP inland boundary change on the program approval requirements found in the CZMA and implementing regulations, as required for amendments pursuant to program amendment regulations at 15 CFR 923.81(b).

A. Boundary and Excluded Lands

The change in the boundary continues to allow the NHCP to meet the inland boundary requirements in 15 CFR 923.31(a)(1-8). The existing inland boundary encompasses all required resources and land and water areas per 15 CFR 923.31(a)(1-8). Moving that boundary further inland could not negatively impact the previous findings. The amended NHCP boundary will include areas in which it is necessary to manage uses that have both direct and indirect impacts on coastal waters, areas that are likely to be affected by or vulnerable to sea level rise, APCs, waters under saline influence, sandy beaches, rocky shorelines, transitional and intertidal areas subject to coastal storm surge, areas containing

salt tolerant vegetation, and islands. Inclusion of the full geographical jurisdiction of the 17 coastal municipalities will add freshwater segments of tidal rivers, and surrounding non-tidal wetlands to the area within the new coastal boundary. Moreover, as a result of the amendment, the inland boundary will be delineated in a clear and exact manner because it will be defined in terms of the coastal municipalities' boundary lines.

Excluded lands include land owned or controlled by the federal government within the coastal boundary. However, activities on excluded land that have reasonably foreseeable spillover effects on uses or resources outside of the excluded land, but within the coastal boundary are subject to Federal Consistency Review. Presently excluded lands within the current boundary are:

- Pease International Tradeport Air National Guard Station, Newington
- Portsmouth Post Office, Portsmouth
- Coast Guard Station, New Castle
- Great Bay National Wildlife Refuge (US Fish and Wildlife Service), Newington

Following the approval of the boundary change, NHCP area will exclude additional land owned, leased, and held in trust by the Federal Government; and listed as follows:

FEDERALLY EXCLUDED LAND

Municipality	Property
Dover	US Post Office US Air Force Recruiting Station US Army: New Hampshire National Guard US Army Recruiting Office US Marine Corps Recruiting Station
Durham	US Department of Agriculture: Natural Resources Conservation Office US Post Office US Department of Agriculture: Forest Service - Northeastern Research Station US Marine Corps Recruitment Center US Marine Corps Officer Selection Office
Exeter	US Post Office
Greenland	US Post Office, 609 Portsmouth Ave US Postal Service, 370 Portsmouth Ave
Hampton Falls	US Post Office
Hampton	US Post Office
New Castle	Coast Guard Station Coast Guard Station Safety and Security Zone US Post Office
Newfields	US Post Office

Newington	Pease International Tradeport Air National Guard Station US Fish and Wildlife Service - Great Bay National Wildlife Refuge US Fish and Wildlife Service - Refuges and Wildlife
Newmarket	US Post Office
North Hampton	US Post Office
Portsmouth	US Air Force Recruiting Station, 215 Commerce Way US Air Force Recruiting Station, 170 Commerce Way Pease Air National Guard Main Store General Services Administration US Army: New Hampshire National Guard US Post Office US Post Office - Portsmouth P+DC T.J. McIntyre Federal Building US Fish and Wildlife Service - Law Enforcement US Army: New Hampshire National Guard US Army Recruiting Service US Federal Bureau of Investigation US Marine Corps Recruiting Station US National Passport Center US National Visa Center US Navy Recruiting Station US Small Business Administration US Social Security Administration US Treasury Department
Rollinsford	US Post Office
Rye	US Post Office US Post Office - Rye Beach
Seabrook	Seabrook Station Power Plant Safety and Security Zone US Nuclear Regulatory Commission: Resident Inspector Office
Stratham	US Post Office US Army: New Hampshire National Guard

B. Uses Subject to the NHCP

The boundary change does not alter the definition of uses with direct and significant impacts on New Hampshire's coastal resources, and the boundary continues to allow the state to manage all uses with direct and significant impact on coastal waters.

The new boundary does not expand or reduce the existing types of land or water uses or activities that are currently subject to the management program. The NHCP will continue to address recreation and public access, historic and cultural resources, ports and harbors, water

dependency, energy facility siting, dredging and dredged material disposal, and certain residential, industrial and commercial developments that are likely to affect coastal waters.

The geographic scope and number of uses subject to the management program will increase as a result of the change, mainly due to uses that may be subject to federal consistency review in the new coastal area, but the scope of the program authorities are adequate to cover these uses (see section on program authorities). NHCP does not foresee any unmanageable impacts resulting in an increase in the volume of existing uses. The largest use increase would most likely be in the volume of recreational activities throughout the expanded boundary area. These uses and their impacts on the coastal resources are all currently in existence, and are being managed throughout New Hampshire on a watershed basis according to existing state statutes and authorities. The geographic area where the additional volume of uses takes place is merely being incorporated into the coastal area as a result of the boundary change.

C. Policies Governing Uses Subject to the Management Program

The boundary change will not change the nature of the policies governing identified land and water uses in the coastal zone. The 16 coastal policies governing uses subject to the NHCP were drawn entirely from existing state laws that constitute the legal basis for state agency decisions in the coastal area. Together, these policies reflect state priorities aimed at balancing development needs with resource protection, and provide consistent guidelines for coordinated state agency action in the coast. State and federal agency actions must still be consistent with these policies.

The boundary amendment does not change the jurisdiction of existing laws or regulations constituting the program. Nor does it add any new authorities and associated policies into the program. The state laws incorporated into the NHCP are currently enforced by state agencies on a statewide or watershed basis; therefore uses in the new coastal area are already subject to the policies in these authorities.

The boundary change potentially extends the scope of the application of the sixteen coastal policies to uses in the expanded coastal area through the application of federal consistency provisions. Within the expanded area, activities requiring federal licensing or receiving funding will have to be consistent with New Hampshire's enforceable coastal policies. However, for most of these activities, there is likely a concurrent state permit already part of the program that subjects the activity to relevant coastal policies.

D. Uses of Regional Benefit

The boundary change will not affect how the state will prevent the arbitrary exclusion of designated uses of regional benefit and that process will apply to uses of regional benefit in the expanded coastal area. The boundary change does not change the authorities to prevent arbitrary exclusion of designated uses of regional benefit. Authority to prevent the arbitrary exclusion of uses of regional benefit will continue to include the following:

- Exemption of state and federal activities from local zoning;

- Eminent domain (RSA 4:29) empowers the Governor and Executive Council to acquire, on behalf of the state, either by purchase or other means (including eminent domain), any real estate within the state which is necessary for any military purpose, public parks, public buildings, or any other public improvement purposes in the name of the state. The procedures for taking land will be in accordance with RSA 498-A (Eminent Domain Procedure Act); and

- Public Utilities Procedures (Planning Enabling Legislation RSA 674:17) provides for the exemption from adherence to local zoning of structures used or to be used by public utilities, after a public hearing, if the Public Utilities Commission decides that the situation of the structure is necessary for the convenience or welfare of the public. Hearings will be in accordance with RSA 365. Public utilities can also acquire land through condemnation procedures established under RSA 371.

These authorities will continue to apply in the exiting coastal zone area, and because these authorities are statewide in jurisdiction they will apply in the expanded coastal area as well.

The boundary change will not affect the activities considered to be uses of regional benefit that cannot be arbitrarily excluded under NH State laws, including:

- Electrical generating facilities of more than 50 megawatts (RSA 371 and RSA 674:17).
- Electrical high voltage transmission lines in excess of 100 kilovolts (RSA 371 and RSA 674:17).
- Public utility pipelines (oil and gas) (RSA 371 and RSA 674:17).
- Regional waste treatment plants (RSA 486:2, State Activity).
- State beaches and parks (RSA 4:30, State Activity).
- Highways (RSA 232, State Activity).
- Public port facilities (RSA 12-G, State Activity).
- Land for propagation of fish and game (State Activity)
- Defense and Coast Guard Installations (Federal Activity).

E. *Energy Facility Siting Within the Coastal Zone*

For similar reasons the boundary change will not affect the current procedure for siting energy facilities within the coastal boundary. RSA 162-H will remain the authority for siting of energy plants in NH. However, it is unlikely that new power plants will be sited in the new boundary area because the inherent freshwater rivers do not have adequate (water) cooling capacity.

F. Special Management Areas

The federal Coastal Zone Management Act recognizes that there are certain areas in the coast that provide unique coastal–related values and require special management attention. Section 303 (3) of the CZMA encourages that each coastal state include in its management program, plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to affected by land subsidence and sea level rise, and improved predictability in governmental decision-making. While no specific management techniques are required for these areas, they help the state to manage the coastal resources because sufficient authority will continue to exist along with other techniques to protect these valuable resources and encourage uses for which they are best suited.

Areas of Particular Concern

New Hampshire's approach to the designation and management of Areas of Particular Concern (APC) and Areas of Preservation or Restoration (APR) takes into account both the physical nature of the coast, and the state's approach to coastal management. NHCP's primary goal in designating APCs and APRs is to focus public attention on certain significant areas that are distinguished by their unique coastal-related values, including their economic and ecological importance.

The boundary change will not result in elimination of any existing areas designated as APCs or APRs. The following generic areas will continue to be designated as APCs: Coastal and estuarine waters, tidal and freshwater wetlands; floodplains; beaches and sand dunes; rocky shores; unique natural areas, the Shoreline of Great and Little Bays, and the Port of Portsmouth. The extent of the generic APCs will increase, as they will now apply in the extended coastal zone. Changing the boundary will automatically designate lands that can be classified within the resource categories of freshwater wetlands, floodplains, and unique natural areas as APCs.

The process by which APCs and APRs are designated will not change as a result of the boundary change. The decision to identify and designate new APCs and APRs will continue to be made on a case-by-case basis after consultation with the seventeen individual municipalities. It is possible that the NHCP will need to consult with local officials to determine whether there are any areas of concern or in need of restoration that are not covered by the generic designations and proceed to designate them.

Following the boundary change, CZMA Section 306A grant funding will become available for the acquisition, management, and restoration of the APCs and APRs in the broadened coastal area. In the future, if APCs or APRs are identified in the expanded coastal zone that are not covered by the existing APC or APR definitions, the NHCP will need to formally identify and designate other generic or specific APCs or APRs in the expanded NHCP to take advantage of these funds.

Areas of Preservation Restoration

Areas of Preservation Restoration are special management areas that have special features, such as rare flora and fauna, unusual geological formation, significant value to wildlife, or may require preservation and restoration. The change in boundary will not affect the currently designated APRs, which include Adams Point/Crommet Creek in Durham; Lubberland Creek in Newmarket; and Squamscott River Wetlands in Newmarket, Newfields, and Stratham.

G. Effect on Shorefront Access and Protection Planning

The NHCP uses existing state laws to develop a procedure for assessing public areas for access to public beaches and other coastal waters for recreation and protection planning. These authorities include public ownership of all tidelands, submerged lands, and navigable waters; the doctrine of prescription to enforce the public right to use private land that has been continuously used by the public; and land ordinances and the enforcement of flood insurance regulations can be used to provide additional access. The amended boundary will not change these authorities in any way. Existing state legal authority will continue to ensure that the quality of public access is maintained. The boundary change will not change any existing public access areas, although it may add to the quantity of the areas available for public access. There are numerous public access locations, such as boat access points and recreation areas that currently exist within the complete area of the seventeen coastal municipalities. These areas would automatically be included within the proposed coastal boundary, and would therefore increase the number of sites in the coastal area that are available for public access. Funding provided for the preservation of public access protection will become available throughout the entire jurisdiction of the coastal municipalities as a result of the boundary change.

H. Effect on Shoreline Erosion and Mitigation Planning

The NHCP used existing state laws to develop a procedure for addressing the prevention of shoreline erosion and mitigation planning. Following the boundary amendment, potential shoreline erosion impacts and associated mitigation efforts will continue to be addressed and provided for in the Coastal Wetlands Regulations of the Wetlands Bureau in the Department of Environmental Services (DES). Currently these issues are already addressed and enforced by DES throughout the extent of the coastal watershed, and therefore will not be changed as a result of the boundary change. Activities that would significantly alter the shorelines and terrain, affect runoff, or cause erosion or sedimentation along the surface waters of New Hampshire will continue to be subject to the present permitting requirements.

I. *Effect on Program Authorities*

Effect on the Adequacy of the Scope of Authorities:

Following the boundary change, New Hampshire will continue to have the authority to manage land and water uses that have a direct and significant impact on coastal waters within the expanded coastal area. Even though the boundary change does change the jurisdiction of any program authorities, the NHCP will continue to have adequate authority to: administer and enforce statutes and regulations, manage development that has a direct and significant impact on coastal waters, resolve use conflicts, and acquire properties throughout the expanded coastal zone. Following the boundary change, the NHCP will continue to be based on the same existing state laws and regulations, and will be administered through existing state policies and authorities (including statutes, regulations, case law, executive orders, and memoranda of agreement). The state laws and regulations relevant to uses in the expanded coastal zone are administered statewide or implemented throughout coastal watersheds and are therefore adequate in scope. Furthermore, as a back up to the state authorities, federal consistency will now apply within the expanded area for activities requiring federal authorizations or that receive federal funding. Therefore, no additional authorities are needed to manage the expanded coastal area.

Effects of the Change on NHCP Management Techniques

The boundary change does not modify the management techniques New Hampshire will rely upon to manage the uses within the expanded coastal area. The State of New Hampshire will still apply Management Technique B – Direct State Control of land and water uses, to manage uses. (See 15 CFR 923.40-44). The state will still provide technical and other assistance to local governments to build capacity at the local level to complement the state level management of coastal resources. Decisions of statewide significance will continue to be made by state agencies. New Hampshire will continue to enforce core program authorities, which are enforced statewide.

J. *Organization*

Effects on the Roles and Responsibilities of Networked Entities

The boundary change will not affect the organization of the NHCP. The NH Office of State Planning (OSP) will remain New Hampshire's lead Coastal Zone Management Agency. The boundary change will not add, delete, nor change the state, regional, or local entities implementing the NHCP. All permitting, monitoring, enforcement, acquisition, policy development and coordination, and public education and outreach procedures will continue to operate in the expanded coastal zone in the same manner as previously done in the existing coastal zone.

Effects of the Change on the Ability to Implement the Program

The proposed boundary amendment will not have any effects on the administration of the NHCP that would necessitate additional staff or resources. Following the boundary amendment, an additional handful of federal consistency packages are anticipated each year. This however will not create a significant impact and the NHCP is fully capable of attending to the additional consistency determinations. Restoration in the coastal area primarily focuses on tidal wetlands, all of which are encompassed within the current coastal zone. Therefore, an increase in the number of restoration projects is not anticipated, and would not present a problem in the administration of the NHCP. The NHCP Public Outreach and Education Coordinator currently works on a regular basis with contacts throughout the seventeen coastal municipalities. The expansion of the coastal boundary would not require any additional staffing in the area of Public Outreach and Education. By virtue of added APCs/APRs, parks, recreation areas, and historic properties, NHCP anticipates a potential increase of approximately six to eight annual additional grant submissions relating to historic preservation and park management. Using the Administrative Rule Plan 900 Series, NHCP staff is currently fully capable of screening an increased number of project proposals. As another positive effect of the boundary amendment, this change would generate a higher quality selection of recipients for NOAA grant funding. In sum, NHCP needs no additional staff when the coastal boundary extends to (the 17) municipal limits.

K. Coordination and Public Involvement

Effects of the Change on the Consideration of the National Interest

Following the boundary change, New Hampshire will continue to recognize the national interest in planning for and managing the coastal zone. The Office of State Planning, as designated by the Governor, will remain the state agency responsible for ensuring adequate consideration of the national interest in relevant state decisions. Facilities, activities and uses in the national interest will continue to include: national defense, energy, recreational, and transportation facilities, whether they occur in the existing or expanded coastal boundary. Similarly, "resources of national significance" in the expanded coastal area will continue to include: water and air, wetlands, fish and wildlife resources, and the relevant portions of the estuarine system of Great and Little Bays. OSP will continue to ensure that the national interest in planning for and managing the coastal zone, as set out in the "statements of the national interest" in the NHCP program document, are considered throughout the expanded coastal zone. OSP will continue to provide information during public interest proceedings, through the Intergovernmental Review Process, and in other permit, plan review, and coordination proceedings for relevant activities in the expanded area. New Hampshire will continue to seek to assure that there is a balance between resource protection and development by giving full consideration to the need to siting national interest facilities and uses in the entire coastal area and the need to provide protection of resources of national interest.

Effect of the Change on Federal Consistency

The boundary change will not have any adverse effects on the state's procedures to implement the federal consistency provisions of the CZMA. The OSP will remain the lead agency for reviewing all federal consistency determinations in New Hampshire. As stated above, the boundary changes will not affect the sixteen enforceable coastal policies of the NHCP that remain the basis for all consistency reviews. Through outreach to Federal permitting agencies (EPA, Army Corps of Engineers, etc.) and to networked state agencies such as the Department of Transportation, NHCP will monitor activities in the new boundary area as well as federally funded activities

The boundary change will potentially affect activities undertaken by federal agencies, given that following the boundary change most federal agency activities within the expanded coastal zone will now automatically need to submit a federal consistency determination to the NHCP for that activity. This is not a significant change, however, because in the past any federal activity in what will be the expanded coastal zone which could have a reasonably foreseeable effect on coastal resources or land or water uses in the coastal zone would have had to submit a consistency determination to the NHCP. In the future, federal activities outside the *expanded* coastal boundary that could have a reasonably foreseeable effect on coastal resources or land or water uses in the coastal zone will need to submit a consistency determination to the NHCP. Due to the boundary change, the NHCP may need to identify updates to the list of geographic areas outside of the coastal zone where appropriate activities may need to submit a consistency certification.

With regard to activities requiring a federal license or permit, most of these activities occurring within the expanded coastal zone will automatically be required to submit a consistency determination and be consistent with the state's coastal policies. However, in practice this will not represent much of a change. Federal consistency review for these activities will occur at the same time as the state permit review, and there will be few if any additional requirements.

OSP will also continue to ensure that state agencies and local governments have the opportunity to participate in federal consistency review by including them on the reviewer's list for projects affecting their interests. If New Hampshire determines that an activity will be inconsistent with the management program, OSP will work with the federal agency and other interested parties to determine how the activity, project, or plan can be made consistent with the approved management program.

Effects of the Change on Coordination with Local and Regional Entities

The proposed boundary change will positively affect coordination efforts between NHCP and the local and regional plans. Changing the boundary will provide both direct and indirect funding assistance to the local communities and regional planning commissions for developing master plans which both incorporate and reflect the goals, policies, and

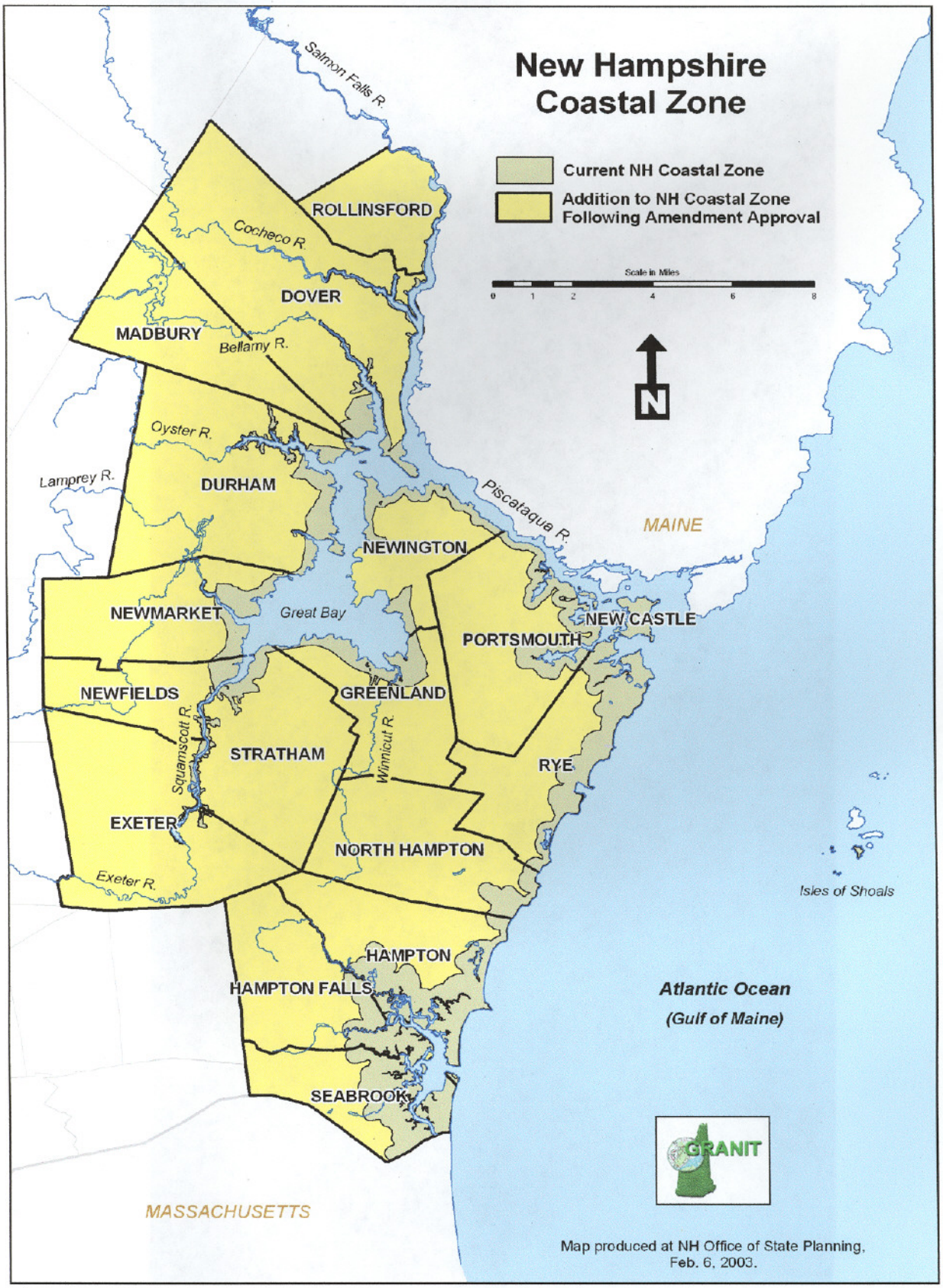
issues of NHCP. The NHCP has coordinated with any/all existing regional planning entities in the expanded area and will continue to do so.

Effects on Opportunities for Public Involvement in the NHCP and Consideration of Comments from Local, State and Federal Agencies and the Public

Notification of the proposed boundary change has been sent to both Strafford and Rockingham Regional Planning Commissions, each of the seventeen coastal municipalities, and all of the affected state and federal government agencies. The notification included a description of the boundary change, how the boundary change would affect the communities and state and federal agencies, a map showing the change, and a listing of NHCP's sixteen coastal policies. A brief informational flyer was sent to approximately 240 local non-governmental organizations, university contacts, and citizens as additional notification of the proposed boundary change and the date of the public hearing.

All recipients of the notification were welcomed to comment on the proposed boundary change. Individual meetings between NHCP and several of the municipalities were held to explain the proposed boundary change in more detail. Notification to the State and Federal agencies also included an endorsement to be completed and returned to NHCP to insure the agencies' receipt and comprehension of the proposed change. A public hearing was held on December 11, 2002, followed by sixty-day window for comment. Public notice of the proposed boundary change and public hearing, as well as informational articles, were published in local seacoast newspapers. Additionally, NHCP ran an informational article in its newsletter, *Tidelines* (Winter 2002), and in the OSP bimonthly newsletter, *State Planning News* (Dec 02/Jan 03).

The expanded boundary will not change the manner in which NHCP provides public notice to municipalities and regional planning commissions. Such notice is a regular facet of NHCP activity. The NHCP Public Outreach and Education Coordinator will advise contacts of the expanded boundary. NHCP will consider the possibility of holding informational workshops for the public and interested parties on the subject. Potential workshops and informational sessions would focus on the federal consistency process, as well as what the boundary change means to residents of the coastal zone within the expanded coastal area.


New Hampshire
Coastal Zone
Current NH Coastal Zone
Addition to NH Coastal Zone
Following Amendment Approval
Scale in Miles
0
1
2
4
6
8
N
Salmon Falls R.
ROLLINSFORD
Cocheco R.
DOVER
MADBURY
Bellamy R.
Oyster R.
Lamprey R.
DURHAM
Piscataqua R.
MAINE
NEWINGTON
NEWMARKET
Great Bay
NEW CASTLE
PORTSMOUTH
NEWFIELDS
GREENLAND
Squamscott R.
STRATHAM
Winnicut R.
RYE
EXETER
NORTH HAMPTON
Exeter R.
Isles of Shoals
HAMPTON
HAMPTON FALLS
Atlantic Ocean
(Gulf of Maine)
SEABROOK
GRANIT
MASSACHUSETTS
Map produced at NH Office of State Planning,
Feb. 6, 2003.