

Everything you always wanted to know about 6217*

(*but were afraid to ask)

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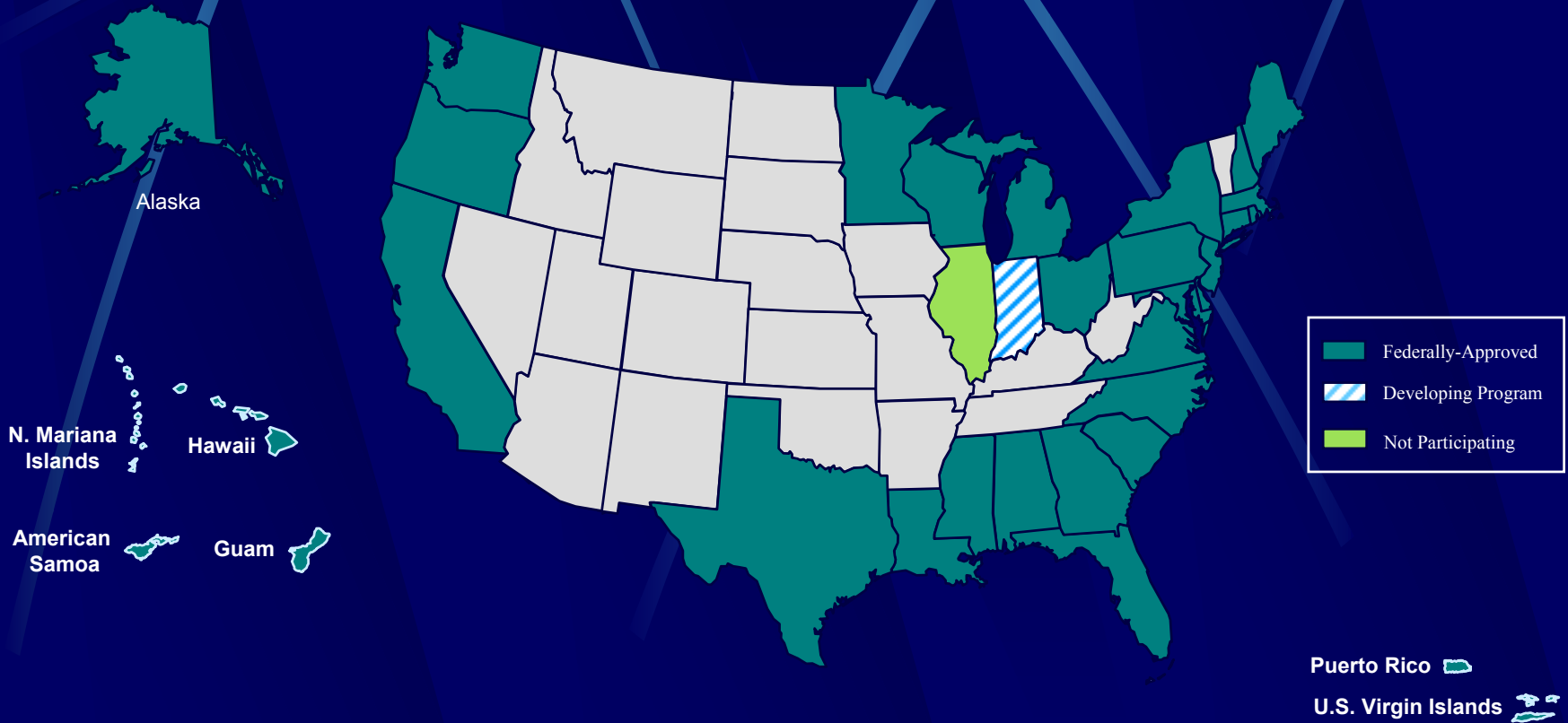
What is the Coastal Nonpoint Program?



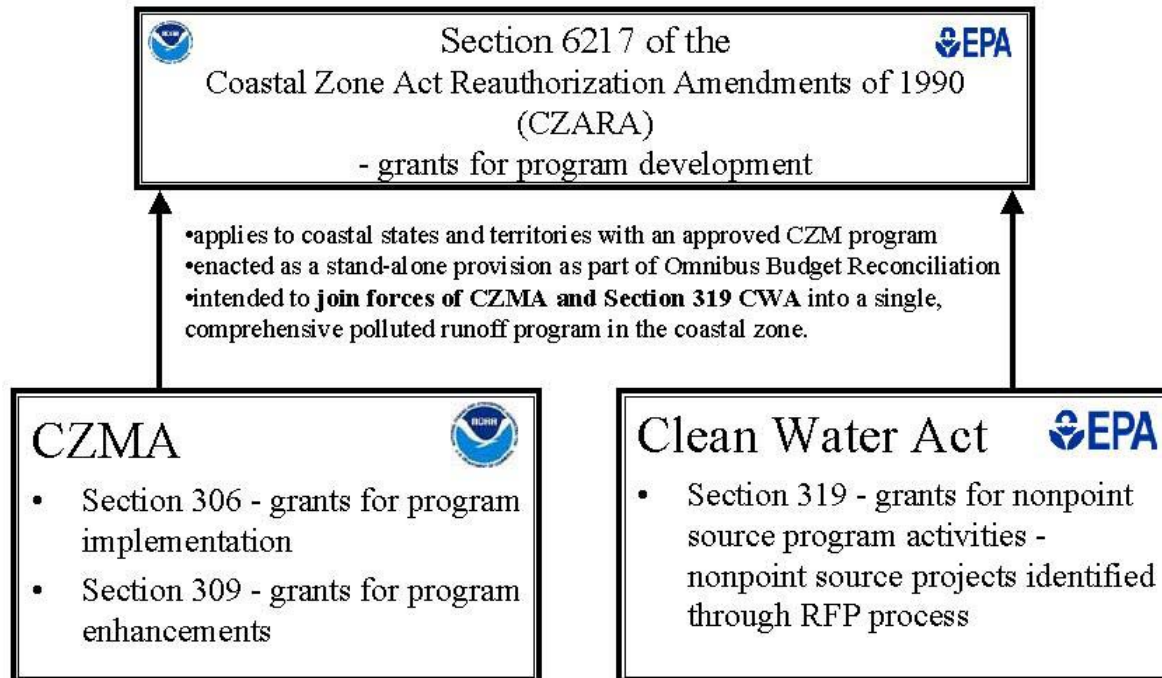
- Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990
- AKA 6217, Coastal Nonpoint Program, CZARA and *CZMA* [NOT!]
- “Technology-based” - reflected in management measures
- Management measures developed for:
Forestry, Agriculture, Urban, Marinas, Hydromodification and Wetlands
- Coastal nonpoint programs need to include enforceable policies and mechanisms to ensure implementation.

Which states were/are required to develop a Coastal Nonpoint Program?

States with approved Coastal Zone Management (CZM) Programs: 33



What's the difference between 6217 and 319?



Difference between Section 319 CWA and Section 6217 CZARA:

- 6217 requires that states implement **MANAGEMENT MEASURES** - a consistent set of tools for controlling polluted runoff.
- 6217 requires **ENFORCEABLE POLICIES AND MECHANISMS** - state authorities that will ensure implementation of the program.

What is the purpose of the 6217 Program?

- Statute entitled “Protecting Coastal Waters”
- Strengthen the links between Federal and state coastal zone management and water quality programs.
- Enhance state and local efforts to manage land use activities that degrade coastal waters and coastal habitat.



What was the history of 6217 Program Development?

- 1990 (November) - Coastal Zone Act Reauthorization Amendments
- 1991-1992 – Multidisciplinary workgroups convened to develop management measures for each source category
- 1993 (January) - NOAA and EPA publish *Program Development and Approval Guidance* EPA publishes *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*
- 1993 (March) NOAA provides boundary recommendations to states
- 1993 (November) -1995 (June) - Threshold Reviews
- 1995 (March) - NOAA and EPA Issue Flexibility Guidance
- 1995 (July) – State programs submitted to NOAA and EPA

What were initial State concerns?

- **Boundary** - geographic scope of the program
- **Geographic Targeting** – need for targeting of Coastal Nonpoint Programs
- **Enforceable policies and mechanisms** - proposal to define “enforceable policy” more broadly
- **Timeframe** - more time to implement

Oh yeah – and where’s the money?



How did NOAA and EPA respond?

Flexibility for State Coastal Nonpoint Programs – 3/95

- **Boundary** – generally deferred to states
- **Geographic Targeting** –exclusions, boundary and phasing
- **Enforceable policies and mechanisms** - conditional approval of “bad actor laws,” enforceable WQS, existing authorities
- **Timeframe** - extended the timeframe for program implementation to eight years



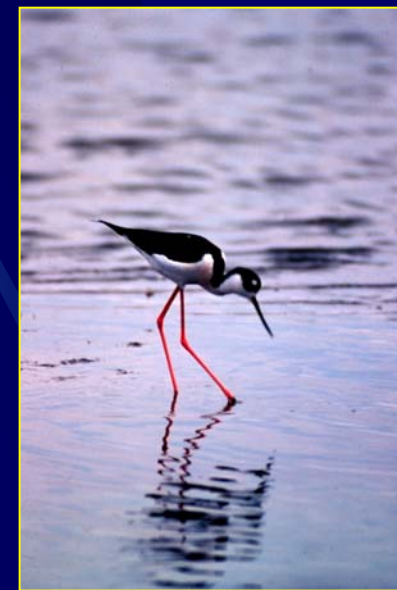
What happened after program submittal?



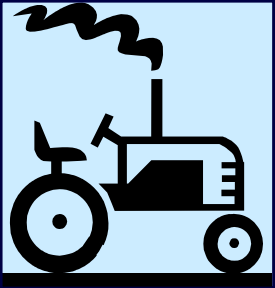
- 29 state and territory programs submitted to NOAA and EPA
- Draft Findings and Environmental assessments (EAs) provided to each state
- Final findings (approval decisions) to all states by June 1998
- Apparent that no program would be fully approvable - each would include some conditions

What did NOAA and EPA do next?

- Agreed to propose a second round of changes
- Final administrative changes in October 1998
- Significant changes in 4 key areas:
 - Targeting – geographical or categorical
 - EP&M – legal opinion to remove conditions
 - Timeframe – 15 years for full implementation
 - Implementation – 15 year strategy/5 year plans



What are the bottom lines for program approval?



Agriculture

Q: What are NOAA and EPA requiring as EP&M for non-restricted use pesticides and Integrated Pest Management (IPM)?

A: NOAA/EPA have agreed that we will not require state-level EP&M for non-restricted pesticides or for integrated pest management (IPM).

What are the bottom lines for program approval?

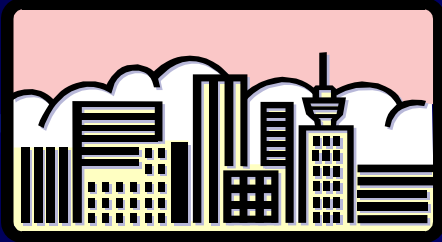


Urban

Q: Construction Site Erosion and Sediment Control: How are NOAA and EPA dealing with NPDES Phase II (which addresses construction down to one acre)?

A: Deferring to NPDES Phase II for construction site erosion and sediment control, since these activities are addressed by Phase II individual or general permits.

What are the bottom lines for program approval?



Urban

Q: Watershed Protection: What will suffice to meet the 3 elements of the measure?

A: For elements #1 and #2 - a resource protection program (e.g. wetlands, floodplain management). For element #3, a planning process that considers water quality in siting development, tools that will facilitate achieving the measure, or whole-basin planning/comprehensive watershed management.

What are the bottom lines for program approval?

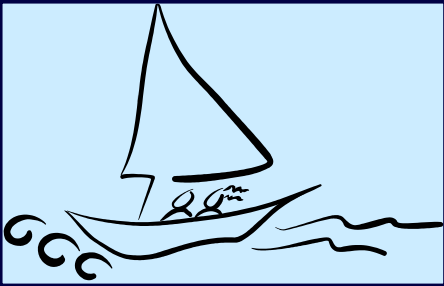


Urban

Q: Inspections (for existing OSDS) - what's the minimum requirement for inspections?

A: Inspection at least at the time of sale of the property/home or a program that focuses inspection on identified problem areas (e.g., lots with older OSDS, known high failure rates, or known OSDS-induced water quality problems)

What are the bottom lines for program approval?



Marinas

Q: What's the simplest way to address conditions on Marinas?

A: Develop a Clean Marinas Program (including BMPs consistent with the 6217(g) guidance), backed by siting and design permitting requirements and an authority/process to address operation and maintenance.

What are the bottom lines for program approval?



Hydromodification

Q: What do NOAA and EPA generally expect for existing hydromodification activities?

A: A good **process** that identifies opportunities to make improvements will suffice.

What are the bottom lines for program approval?



“Adoption” of a Management Measures

Q: Must the State formally “adopt” the measure (i.e., codify in regulation or adopt through a formal policy)?

A: A clear statement that “this is the MM [or the set of MMs] that we intend to implement” is sufficient.

What are the bottom lines for program approval?



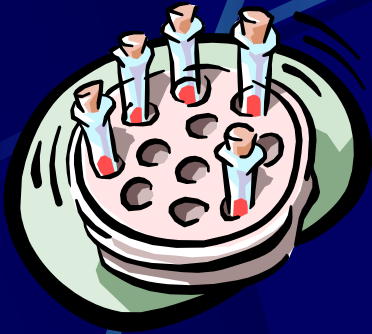
Enforceable Policies And Mechanisms (EP&Ms)

Q: How detailed must the legal opinion be?

A: The Legal Opinion should include:

1. Language that the State has authority that can be used to prevent nonpoint pollution and require management measure implementation, as necessary.
2. Citations to relevant authority.
3. A brief explanation of how the authority applies to the MMs.

What are the bottom lines for program approval?



Monitoring

Q: How detailed must a monitoring plan be?

A: Keep it simple - where the state will monitor, for what types of data/parameters, and methods used to assess success. Focus on “assess the success of the management measures in reducing pollution loads and improving water quality”

What is the Funding History of 6217?

Fiscal Year	Pres. Request	Appropriation	Authorization
FY 92	0	2.0 M	6.0 M
FY 93	2.0 M	1.92 M	12.0 M
FY 94	1.92 M	4.0 M	12.0 M
FY 95	4.0 M	5.0 M	12.0 M
FY 96	8.0 M	0	Expired
FY 97	2.552 M	0	Expired
FY 98	1.0 M	1.0 M + 1.0 M*	Expired
FY 99	12 M	8.0 M**	Expired
FY 00	12 M	6.5 M***	Expired
FY 01	4.5 M	10 M****	Not appropriated under 6217

*FY 98 - \$1 million appropriated for §6217, \$1 million contributed by EPA

**FY 99 - \$4M for §6217, \$4M for Sections 309/310 CZMA

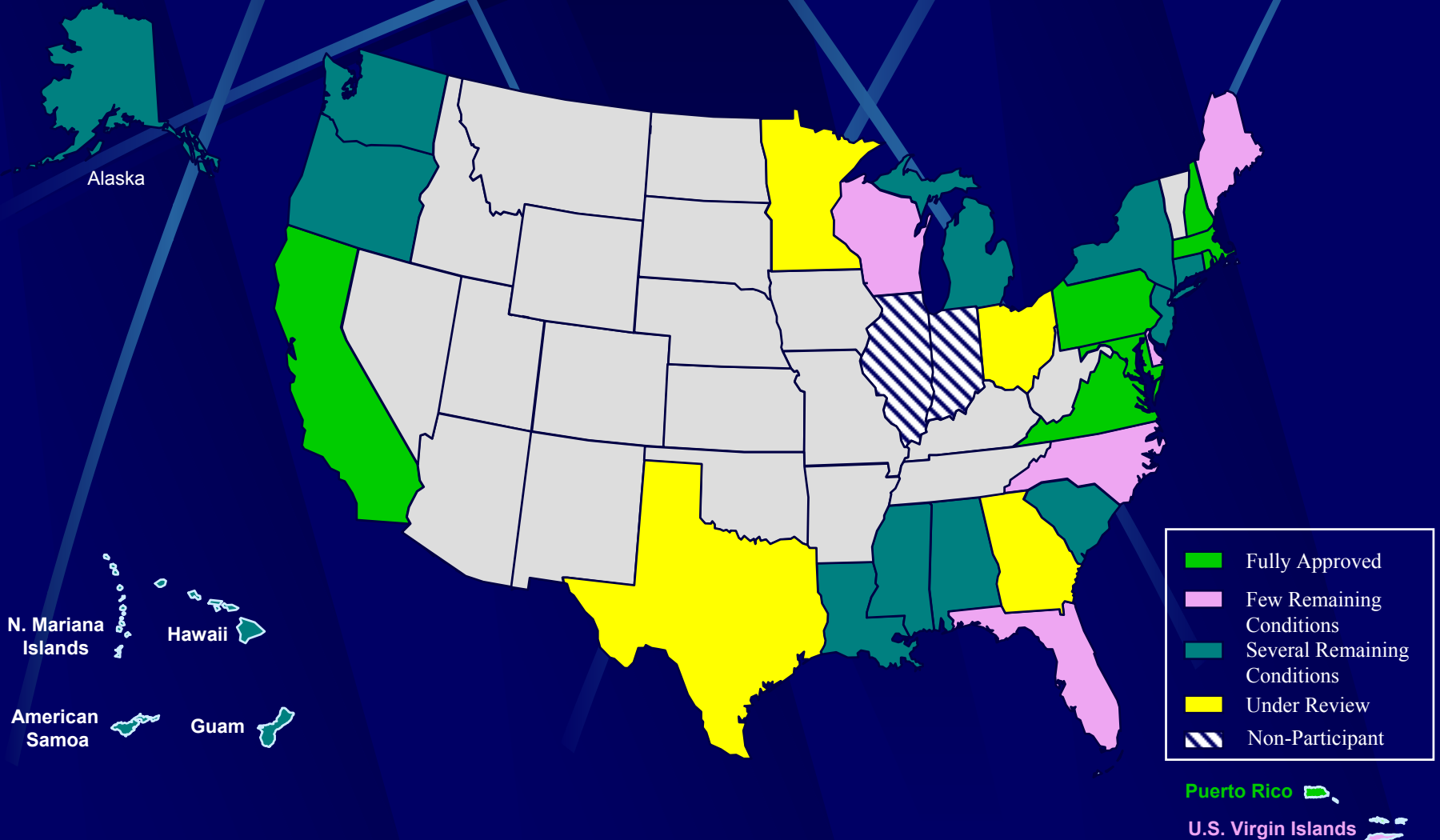
***FY 00 - \$2.5M for §6217, \$4M for Sections 306/309 CZMA

**** FY 01 - \$10 M appropriated for program implementation



What is the status of “full approvals”?

(Jan. '02)



How did the first EIGHT make the finish line?

Maryland

- Strong program initially - only a few gaps
- Clean Marinas Program
- Agriculture - E&S, new nutrient law
- OSDS - new efforts, strengthening



How did the first EIGHT make the finish line?

California

- Porter-Cologne (2 legal opinions)
- Comprehensive approach (319+CZM)
- Coastal Commission/Water Board stepped up

How did the first EIGHT make the finish line?

Rhode Island

- Small state, extensive coverage of programs
- OSDS - package deal - SAMPs, pilots, etc.
- Hydromod addressed through 319 upgrade



How did the first EIGHT make the finish line?

Puerto Rico

- Stroke of pen - Governor's Executive Order
- New laws/improvements for E&S, etc.
- Continued Nonpoint Source working groups



How did the first EIGHT make the finish line?

Virginia

- Agricultural Stewardship Act
- New Clean Marinas Program
- Revision of OSDS guidelines – 6” to 18”
- Construction Site Chemical Control BMPs



How did the first EIGHT make the finish line?

Pennsylvania

- Adopted watershed boundaries
- BMP Handbook for developing areas
- Stream ReLeaf Program - Hydromod



How did the first EIGHT make the finish line?

Massachusetts

- Innovative Stormwater Program
- New E&S Control Guidelines
- Strong OSDS Program – 1995 changes



How did the first EIGHT make the finish line?

New Hampshire

- Roads, Highways and Bridges – DOT
- Legal Opinion
- Construction Site Chem Control pamphlet

Where do we go from here?



- Make good use of time here – ID remaining issues, collaborate, plan
- Commit to “extra effort” this year
- Improve information sharing:
<http://www.ocrm.nos.noaa.gov/czm/6217/>
- Make good use of FY’02 funding
- Tell the story

