

Coordinating CZARA & 319

(Hey, it needs to happen.)

“We are confronted with insurmountable opportunities”
- Walt Kelly's Pogo -

Webinar for Coastal States Organization, May 29, 2013
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Another famous quote from Pogo was “We have met the enemy and he is us.” This is a helpful quote when explaining the root causes of NPS pollution to the uninitiated. I also think that too often it applies to the way federal and state government works—or doesn’t work. Sometimes, we in government are guilty of being our own worst enemies. Many states divide their responsibilities for water quality & watershed improvement across multiple agencies that don’t always coordinate as well as they could.

Coordinating CZARA & 319

“It is not enough to be busy. So are the ants.
The question is: What are we busy about?”

- Henry David Thoreau -

Pop Quiz Time



And you thought coastal nonpoint issues were tough. This photo is from one of those landlocked western mountain states that have their own unique runoff issues...

CZARA is the Coastal Zone Act Reauthorization Amendments of 1990, sometimes known as “Section 6217” of the CZMA. It created Coastal Nonpoint Pollution Control Program for states and territories that choose to participate in the national Coastal zone management program administered by NOAA. For short, we refer to these as state coastal nonpoint programs.

Under CZARA, state coastal nonpoint programs are required to be implemented through:

- a) State nonpoint source management programs partially funded by EPA-administered Clean Water Act section 319, and;
- b) NOAA-administered CZMA section 306 and 309 funds.

So, here’s the question...

Coordinating CZARA & 319

"It is not enough to be busy. So are the ants.
The question is: What are we busy about?"

- Henry David Thoreau -

**Q) What's the difference
between 6217 & 319?**

A) 5898 (= $6217 - 319$)



Other differences are noted on the next slide...

What's the difference between 6217 & 319?

- CZARA requires implementation of 56 management measures (MMs) across all NPS categories (ag, urban, forestry, hydromod) + additional MMs as needed to achieve & maintain WQS.
- CZARA requires enforceable policies & mechanisms
- CZARA requires monitoring & tracking of MM implementation
- CZARA is jointly administered by EPA and NOAA

Example Management Measures

Ag MMs:

- Erosion & Sediment Control Large & Small Unit AFOs
- Nutrient MM
- Pesticide MM
- Grazing MM
- Irrigation Water MM



Example Management Measures

Urban MMs:

- New Development
- Existing & Site Dvpt.
- Watershed Protection
- Onsite/Septics Mgmt., New & Existing
- Construction Site E&S
- Const. Site, Chemical
- Roads, Highways & Bridges (RHB) Siting & Planning
- RHB Runoff Systems
- RHB O&M
- P2



Remaining Management Measures

- ◆ 10 MMs for Forestry
- ◆ 15 MMs for Marinas
- ◆ 6 MMs for Hydromod (including restoration of instream & riparian habitat)
- ◆ 3 MMs for Wetlands

EPA's CZARA Website -
<http://water.epa.gov/polwaste/nps/czara.cfm>

NOAA's 6217 Website -
<http://coastalmanagement.noaa.gov/nonpoint>

EPA refers to the program nationally as CZARA, while NOAA refers to it as 6217. NOAA's site is really the one-stop shopping place; EPA's site relies heavily on its link to NOAA's.

Another difference between 6217 & 319...

- CZARA no longer receives its own program development or implementation funds

Congressional Intent

- CNPs would be developed long before now
- CNP implementation would occur through integration with NOAA-supported state CZMPs and EPA-supported state NPS MPs

Another difference: CZARA no longer has its own program development funds or implementation funds. But this is only part of the story. Since Congress' intent was for implementation of state CNPs to occur through NOAA-supported state CZMPs and EPA-supported state NPS MPs, it is appropriate to look at the funding of those programs. As this is an EPA presentation, I will stick with the EPA-administered side of the funding equation.

CWA Section 319 Funding History

Federal Fiscal Year	Grant Total (in millions)	Federal Fiscal Year	Grant Total (in millions)	Federal Fiscal Year	Grant Total (in millions)
1990	\$38.0	1998	\$105	2006	\$204.3
1991	\$51	1999	\$200	2007	\$199.3
1992	\$52.5	2000	\$200	2008	\$200.9
1993	\$50	2001	\$237.5	2009	\$200.9
1994	\$80	2002	\$237.5	2010	\$200.9
1995	\$100	2003	\$238.5	2011	\$175.5
1996	\$100	2004	\$237	2012	\$164.5
1997	\$100	2005	\$207.3	2013	\$155.9

Here's the CWA section 319 funding picture over time. Note that in CZARA's early years (the 1990s), 319 funding averaged well below half of what it was from 1999 through more recent years. And even though 319 funding has dropped in recent years, it is still significantly higher than it was in the mid-1990s when Congress provided funding specifically to develop and implement CZARA, even after adjusting for inflation. (According to the Consumer Price Index, \$80M in 1994 has the same buying power as \$125.5M in 2013.)



Because coordination is good. That's why. And because the law requires it.

This slide shows what you get with on-the-fly improvised coordination, not necessarily built from the ground up program integration, which is of greater value, even if not always quite as colorful.

Mandated State NPS Program Coordination, Hardwired into CZARA Statute

■ CZMA Section 1455b(a)(2)

- ◆ *State CNPCPs "shall be closely coordinated with State & local W.Q. plans & programs developed pursuant to sections 208, 303, 319, & 320... [of the CWA] and with State plans developed pursuant to the Coastal Zone Management Act... State programs shall serve as an update and expansion of the State NPS management program developed under section 319..."*

■ CZMA Section 1455b(c)(2)

- ◆ *"If the program of a State is approved... the State shall implement [it] through (A) changes to the State plan for control of nonpoint source pollution approved under [CWA] section 319; and (B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act..."*

What Does Coordination Look Like?

Least-to-Most Coordination:

- Cooperation, information sharing across government agencies (Do your state agencies all get along? How can you remove obstacles to cooperation?)
- Hit-or-miss cross-agency initiatives (occasional true collaboration around short term projects or initiatives)
- Holistic/integrated long-term programs and strategies that function smoothly across state agencies

True program integration occurs at multiple levels of government and looks for opportunities to build partnerships.



Questions from CSO

- 1) Pertaining to EPA's new 'Work Plan and Grants guidance' for States 319 Programs, please address how it relates to our Coastal NPS Programs: including those CNP Programs working towards full approval and those implementing fully-approved CNP Programs at present?

EPA's new *Nonpoint Source Program and Grant Guidelines for States and Territories* are applicable for FY 2014 and subsequent section 319 grant awards. They replace the guidelines that had been in effect since the FY 2004 grant cycle.

FY14 NPS Program and Grant Guidelines **www.epa.gov/nps/319**

For states working towards full approval:

- “For any state... which has not yet completed development of an approvable CNPCP, the state will set aside, at a minimum, the lesser amount of five percent of its federal allocation or \$100,000 in § 319 funds annually to complete the development of an approvable program.”
- “States must detail the use of this set aside in their annual § 319 grant work plans to describe how it will support advancement towards full program approval under CZARA.”

FY14 NPS Program and Grant Guidelines **www.epa.gov/nps/319**

For states working towards full approval:

- “This requirement may be met on an average annual basis—for example, a § 319 funded project that commits triple the state’s annual minimum set-aside in one grant year will also meet set-aside requirements for the following two grant years... This set-aside requirement shall be in place until EPA and NOAA have fully approved a state’s CNPCP.”
- “This set aside shall not apply to any state that has not been issued a Findings document for a new or re-established CNPCP or for the period prior to the expiration of any federally-placed conditions on a new or re-established CNPCP.”

FY14 NPS Program and Grant Guidelines **www.epa.gov/nps/319**

With regard to states implementing fully-approved
CNP Programs*:

- "EPA encourages states with coastal nonpoint pollution control programs... to use § 319 funds to assist in the implementation of management measures contained in these programs."
- "CZARA requires states to 'implement the program, including the management measures... through changes to the state plan for control of nonpoint source pollution approved under section 319...'"
- "State NPS program staff should therefore work closely with state coastal nonpoint program staff to coordinate the state coastal nonpoint pollution control program with the state NPS management program."

* See next slide for important note.

FY14 NPS Program and Grant Guidelines **www.epa.gov/nps/319**

With regard to states implementing fully-approved CNP Programs*:

- * This also likely applies to implementing approved portions of conditionally approved programs (refer to your state's CNPCP Findings document on NOAA's website) or even elements that are pending full approval "blessed" by NOAA-EPA Interim Decision Documents (transmitted to the state via email &/or snail mail).

Questions from CSO

2a) How will these new 319 5-year plans be evaluated by EPA, specifically as they relate to Coastal NPS programs?

See EPA's updated guidance – *Key Components of an Effective State NPS Management Program* (Nov. 2012) at www.epa.gov/nps/319 [under "Current Guidance"]

Open this PDF and search for "CZARA" and "coastal nonpoint"

Importantly, the new 319 grant guidelines also mandate that states will update their NPS Management Programs once every 5 years.

The mandated 5-year updates is important because if you think your state's current NPS MP could be improved upon, you will get another "bite at the apple" every 5 years. This is the Continuing Planning Process at work, which you can also think of it as adaptive management.

From Key Components Guidance

There are 8 Key Components described in this guidance. The most applicable components to CZARA are:

#2 – “The state strengthens its working partnerships and linkages to appropriate state...entities”

#3 – “The state uses a combination of statewide programs and on-the-ground projects to achieve water quality benefits; efforts are well-integrated with other relevant state and federal programs.”

#6b – “...the state incorporates existing baseline requirements established by other applicable federal or state laws to the extent that they are relevant”

A partial description for #2 reads: “The state uses a variety of formal and informal mechanisms to form and sustain these partnerships. Examples include memoranda of agreement, letters of support, cooperative projects, sharing and combining of funds, and meetings to share information and ideas.

The state NPS lead agency works collaboratively with other key state and local NPS entities in the coordinated implementation of NPS control measures in high priority watersheds. Interagency collaborative teams, NPS task forces, and representative advisory groups can be effective mechanisms for accomplishing these linkages, as can more informal but ongoing program coordination and outreach efforts.”

A partial description for #3 reads: “The state NPS management program is well integrated with other relevant programs to restore and protect water quality, aligning priority setting processes and resources to increase efficiency and environmental results. These include the following programs, as applicable:

Total Maximum Daily Loads (TMDLs);

Clean Water State Revolving Fund (CWSRF);

U.S. Department of Agriculture (USDA) farm bill conservation programs;

state agricultural conservation;

state nutrient framework or strategy

source water protection;

point sources (including stormwater, confined animal feeding operations, and enforcement of permitted facilities);

ground water;

drinking water;

clean lakes

wetlands protection;

national estuary program;

coastal nonpoint pollution control program;

pesticide management;

climate change planning;

forestry, both federal (U.S. Forest Service) and state;

U.S. Army Corps of Engineers programs;

and other natural resource and environmental management programs.”

A description for #6b reads: “For example, a coastal state or territory with an approved coastal zone management program incorporates its approved state coastal nonpoint pollution control programs required by section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) of 1990, into its NPS management program since CZARA requires implementation through the state’s NPS management program. In this manner, the state ensures that this program and other relevant baseline programs are integrated into, and consistent with, section 319 programs.”

Questions from CSO

2b) How will EPA evaluate coordination with the State CNP Programs? Are there stated goals?

EPA's Regional Offices have the lead for reviewing draft state NPS MPs. The starting point is likely to be realistic iterative advancement of state NPS MPs, given your state's unique circumstances.

The stated goals are in EPA's *Key Components* guidance—highlighted in previous slide.

Questions from CSO

2c) Will critical coastal areas and issues already identified and targeted by 6217 Programs be cooperatively addressed to ensure coordination of these Programs?

This is a good question for the states to wrestle with. This is the expectation built into CZARA as a state responsibility.

Questions from CSO

2d) Are there existing successful mechanisms or good models of state 'programs coordination' that can be shared?

Louisiana has some good language in its updated NPS MP from 2012. More info about this in response to Question 5.

California has relied on an integrated programs approach all along. Hawaii also relies on an integrated approach. There may be other worthy state examples.

Questions from CSO

- 3) How will the proposed coordination and consistency with CNPs be directed, both within and across EPA Regions and with Headquarters? Specifically, what mechanism exists to ensure that EPA Headquarters and the Region staff reviewing the annual work plans and products will coordinate with those Regions' Coastal NPS Coordinators?

EPA Headquarters has a limited role in working toward greater consistency in reviews across its Regions. We have created a greatly strengthened national framework to work toward consistency.

(continued next slide)

Questions from CSO

- 3) How will the proposed coordination and consistency with CNPs be directed, both within and across EPA Regions and with Headquarters? Specifically, what mechanism exists to ensure that EPA Headquarters and the Region staff reviewing the annual work plans and products will coordinate with those Regions' Coastal NPS Coordinators?

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The new 319 guidelines establish the framework and expectations for national consistency. Other tools are the *Key Components* guidance on NPS MP updates and the first-ever *National Checklist for Progress and Performance Determinations of State NPS MPs*.

This new national checklist has a strong focus on achieving annual milestones that are required to be in the updated NPS MPs. These milestones are key.

EPA Headquarters will articulate the expectation that Regional NPS coordinators, who have the lead in reviewing state NPS MPs, coordinate with their CNP counterparts as they conduct review. We have created a greatly strengthened national framework to work toward consistency. The new 319 guidelines establish the framework and expectations for national consistency. Other tools are the *Key Components* guidance on NPS MP updates and the first-ever *National Checklist for Progress and Performance Determinations of State NPS MPs*. This new national checklist has a strong focus on achieving annual milestones that are required to be in the updated NPS MPs. These milestones are key.

CWA Section 319(h)(8) requires EPA to annually review the progress each state is making on its annual milestones and to determine if the state has achieved satisfactory progress. If EPA cannot determine that a state has achieved satisfactory progress, it cannot make an award of 319 funds. Section 319(h)(8) does not make allowance for a partial award; it would be all-or-nothing. EPA does have latitude, however, to withhold some portion of a state's 319 allocation if there are general performance issues short of not achieving satisfactory progress on its annual milestones. For the first time ever last year, we instituted a national checklist to provide greater consistency in these reviews of state programs. This checklist was found to be quite helpful by the Regions, and we are closely monitoring its effectiveness as an instrument that adds value to the national NPS program, as well as to state NPS programs. As a result, we have adjusted it, especially now that our new guidelines are out, so the version 2.0 of our national checklist will be used this time next year. As the checklist may continue to evolve over the years, a future checklist question focusing on how coastal states are complying with CZARA's mandate to coordinate and implement across programs is not entirely out of the question.

With regard to reviewing annual 319 grant work plans, regions often consult with EPA HQ and with other regions to assist in national consistency. We consult our lawyers when we have certain questions, too.

Questions from CSO

- 4) What are EPA's expectations for the state-level coordination process? Are these guidelines developed to promote a joint Programs review process, so that there is more consistency for the States/Territories nationwide? If not, how could this Workgroup assist at a national level, given there is broad representation of both coastal nonpoint source and 319 coordinators?

Again, the expectations come from the CZARA statute. They are reinforced by the new grant guidelines and the *Key Components* guidance. However, a joint programs review process is not envisioned. EPA Regions will review and comment on draft state NPS MP updates every 5 years. Regions undergo an approval process for these NPS MPs.

(continued next slide)

Questions from CSO

- 4) ...how could this Workgroup assist at a national level, given there is broad representation of both coastal nonpoint source and 319 coordinators?

...continued from previous slide...

This is worth exploring. Some ideas:

Share and promote good state examples and best practices, especially best practices for breaking down stove-piping among state agencies.

Questions from CSO

- 5) The development and use of the 5-year plans seems like an opportunity to promote the mutual strategic goals of both programs, as well as monitoring and tracking progress for the effectiveness of Statewide NPS Programs and of those approved Coastal NPS Programs. Additionally, for states working toward approval, could the 319's five-year plan and annual workplans be utilized to assist those states working toward full CNP approval? What additional guidance or state examples can EPA offer to realize this potential? Or enhance this dialogue?

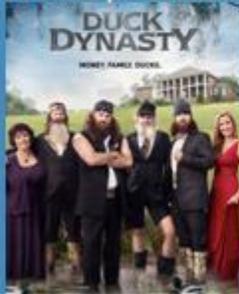
Questions from CSO

5a) (continued) ...for states working toward approval, could the 319's five-year plan and annual workplans be utilized to assist those states working toward full CNP approval?

Yes.

5b) ...What additional guidance or state examples can EPA offer to realize this potential? Or enhance this dialogue?

Louisiana



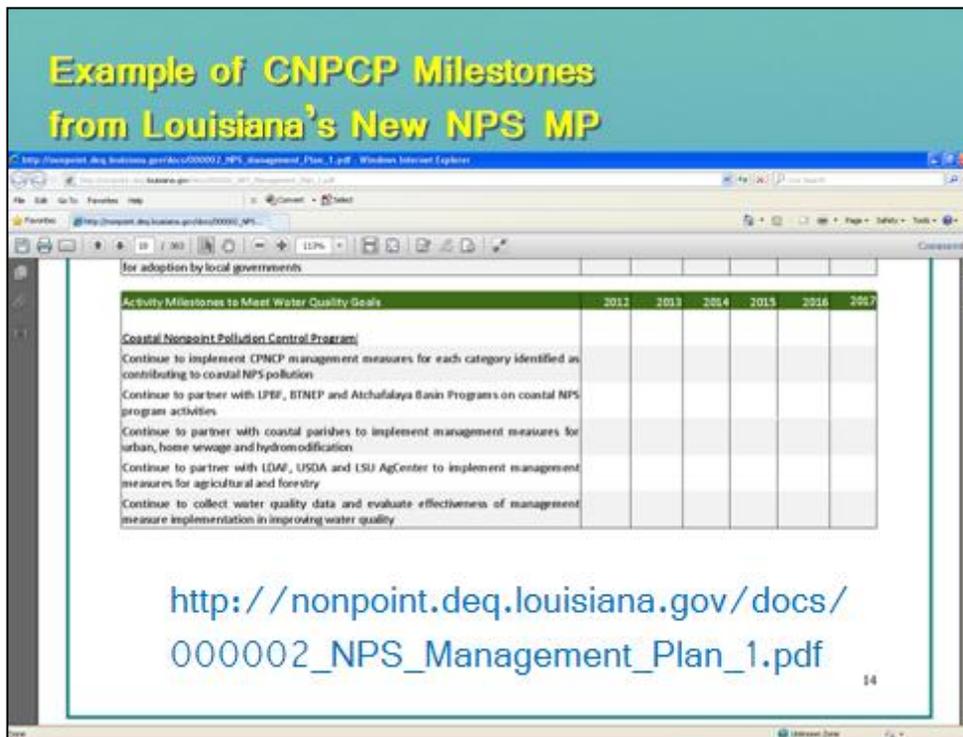
Questions from CSO – State Example: Louisiana

From LA's 2012 NPS MP Update, Executive Summary

The Governor's Office of Coastal Activities (GOCA) coordinates coastal restoration activities. Through the NPS Management Plan, LDEQ maintains a strong partnership with GOCA and Louisiana Department of Natural Resources Office of Coastal Management (LDNR-OCM) to ensure program consistency in coastal watersheds. The state's Coastal Nonpoint Pollution Control Program (CNPCP) is one example of where coordination of programs has taken place. Through this program, LDEQ and LDNR have partnered on educational materials and programs, adapted permit programs to address coastal management measures and assisted in development and implementation of master farmer and logger programs.

Source -

http://nonpoint.deq.louisiana.gov/docs/000002_NPS_Management_Plan_1.pdf



There's a lot to like about this example of annual milestones for the state's CNPCP. Louisiana is tracking all these annually on the NPS agency side, which compels regular coordination between the 2 programs and state agencies. However, on the "room for improvement" side, these milestones are pretty non-specific. It would have been better to get into a greater level of specificity for a couple of key management measures. For example:

"Expand participation in Louisiana's Master Farmer program across the coastal nonpoint management area by 20% for Phases II and III each year" since Louisiana relies on this program to help meet its agricultural management measures.

Or even:

"Reduce the number of conditions on the state's CNPCP by at least 3 management measures each year, as documented by updated interim decision documents, until the state achieves full NOAA/EPA approval."

Also, having CNPCP milestones in the state's NPS MP ensures that the state will report on their progress in the state's annual report, and maintains the focus. Section 319(h)(11) of the statute requires the state to report annually on the progress of its annual milestones. Louisiana now has an entire section in its annual reports that's dedicated not only to status updates on its milestones, but to implementation of the CZARA management measures. If done right, this also ensures that CZARA's Monitoring and Tracking management measure is met.

Questions from CSO

- 6) Since this Coastal Nonpoint Source Program is a jointly administered program by both NOAA and EPA, is there consideration for EPA to coordinate with NOAA in their mutual review processes? Is there an established forum/format to do so? Is it required by an Executive directive, or MOU, or is this assumed to be an anticipated action on behalf of EPA-HQ? or NOAA-OCRM? Could this *Workgroup* assist with such a process?

EPA and NOAA routinely coordinate on development of state CNPs and on national level issues. For example, NOAA reviewed and commented on EPA's draft 319 program guidelines and other draft program documents and many of their suggestions were incorporated by EPA. In addition, States are expected to coordinate and implement their CNPCPs not just with state NPS MPs, but also with NOAA-administered state CZMPs. It is important that coordination occur at each of these levels. (...continued next slide...)

Questions from CSO

- 6) Since this Coastal Nonpoint Source Program is a jointly administered program by both NOAA and EPA, is there consideration for EPA to coordinate with NOAA in their mutual review processes? Is there an established forum/format to do so? Is it required by an Executive directive, or MOU, or is this assumed to be an anticipated action on behalf of EPA-HQ? or NOAA-OCRM? Could this *Workgroup* assist with such a process?

(...continued...) EPA Regions bear primary responsibility for review of the required 5-year updates of state NPS Management Programs, and they are strongly encouraged to consult with their CNP counterparts in this review. EPA's 319 guidelines encourage states to offer public comment periods for these updates to ensure all stakeholders have an opportunity to comment. EPA HQ is open to suggestions on ways to enhance coordination in the development and implementation of state CNPCPs.

**Additional
Questions?**

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