

Final Evaluation Findings

Commonwealth of the Northern Mariana Islands Coastal Management Program

April 2006 to August 2014

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Executive Summary

The Coastal Zone Management Act (CZMA) requires the National Oceanic and Atmospheric Administration (NOAA) Office for Coastal Management to conduct periodic evaluations of the performance of states and territories with federally approved coastal management programs. This evaluation examined the operation and management of the Commonwealth of the Northern Mariana Islands Coastal Management Program (CNMI CMP) by the Division of Coastal Resources Management (DCRM), the designated lead agency, for the period from April 2006 to August 2014. The evaluation focused on three target areas: program administration; permitting, enforcement, and regulations; and managing coastal development.

The findings in this evaluation document will be considered by NOAA in making future financial award decisions concerning the coastal program. The evaluation came to these conclusions:

Accomplishment: DCRM's permitting program and staff were very effective at providing partners with outstanding service when handling permit applications and assisting with permitting questions, and their professionalism was valued by partners during the review period.

Accomplishment: DCRM has successfully led the Climate Change Working Group to assemble staff members from 33 agencies in CNMI to proactively think about the effects that climate change could have on CNMI and lay a strategic foundation for climate change adaptation planning in the CNMI. The 2014 *Climate Change Vulnerability Assessment for the Island of Saipan, CNMI* signifies a big step toward developing and implementing a comprehensive adaptation plan to preserve CNMI's cultural, natural, and economic resources for current and future use.

The evaluation team also identified two necessary actions and three recommendations:

Necessary Action: DCRM must maintain hiring standards and consistently fill vacant positions in a timely manner with qualified applicants and provide a report on hiring actions taken in the annual performance report until the necessary action is deemed completed by OCM or the next evaluation.

Necessary Action: DCRM must work with CNMI Department of Finance to add the CNMI CMP as a major program to be audited under the FY14 A-133 Single State audit in compliance with the letter from NOAA's Acquisition and Grants Office to Larissa Larson dated August 21, 2014. DCRM must share any findings of the audit and its response to those findings with the Office for Coastal Management and NOAA's Grants Management Division, and respond in a timely manner by meeting the deadlines to any final recommendations resulting from the outcomes of the audit.

Recommendation: The Office for Coastal Management recommends that BECQ identify a position to assist the director of DCRM with implementing the day-to-day administrative processes, ensuring deadlines are met, making timely decisions, meeting the needs of partners, and providing timely responses to ongoing federal obligations.

Recommendation: The Office for Coastal Management encourages DCRM to go through a strategic process to look forward and identify goals and concrete objectives for where it would like the coastal program to be in five years and develop strategies for achieving the stated objectives.

Recommendation: The Office for Coastal Management encourages DCRM to take a leadership role and work with the Zoning Office and all appropriate networked agencies to improve coordination and implementation of the CNMI CMP permitting process and provide effective mechanisms for bringing together all relevant agencies on major permit projects from pre-application to finalization of the permit.

Recommendation: CNMI CMP should consider acquiring, developing, or leveraging appropriate planning capabilities to determine areas more or less suitable for various types of likely development to complement its permitting approach to managing coastal development. CNMI should consider articulating planning needs to capitalize on products and services provided by NOAA and other agencies.

This evaluation concludes that BECQ is satisfactorily implementing and enforcing its federally approved coastal program, adhering to the terms of the federal financial assistance awards, and addressing coastal management needs identified in section 303(2)(A) through (K) of the CZMA.

Program Review Procedures

NOAA's Office for Coastal Management evaluated the Commonwealth of the Northern Mariana Islands (CNMI) Coastal Management Program in fiscal year 2014. The evaluation team consisted of Susie Holst, evaluation team lead; Bill O'Beirne, Southeast and Caribbean lead; Dana Okano, site liaison; Jean Tanimoto, Pacific Services Center; and Jeff Willis, deputy director, Rhode Island Coastal Resources Management Council. The support of the coastal program staff was crucial in conducting the evaluation, and this support is most gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to the administrator of the Bureau of Environmental and Coastal Quality, published a notice of "Intent to Evaluate" in the *Federal Register* on June 13, 2014, and notified members of CNMI's congressional delegation. The CNMI coastal program posted a notice of the public meeting and opportunity to comment in the *Saipan Tribune* on June 19, 2014, and again on August 1, 2014.

The evaluation process included a review of relevant financial and programmatic documents, a survey of stakeholders, selection of three target areas, discussions with staff regarding the target areas, a site visit to Saipan, CNMI, and focus group discussions with stakeholders regarding the target areas. In addition, a public meeting was held on Tuesday, August 5, 2014, at 5:00 p.m. at Governor Pedro P. Tenorio Multi-Purpose Center, Beach Road, Susupe, Saipan to provide an opportunity for members of the public to express their opinions about the implementation of the coastal program. NOAA then developed draft evaluation findings, which were provided to the coastal program for review, and the coastal program's comments were considered in drafting the final evaluation findings.

Final evaluation findings for all coastal programs highlight the coastal program's accomplishments in the target areas and include recommendations, which are of two types:

Necessary Actions address programmatic requirements of the implementing regulations of the Coastal Zone Management Act (CZMA) and of the state coastal program approved by NOAA. These must be carried out by the dates specified. Failure to address necessary actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c).

Recommendations are actions that the office believes would improve the program but are not mandatory. The state is expected to have considered the recommendations by the time of the next evaluation or dates specified.

Evaluation Findings

The lead agency for the CNMI Coastal Management Program (CNMI CMP) is the Division of Coastal Resources Management (DCRM), which is housed within the newly established Bureau of Environmental and Coastal Quality (BECQ) under the Office of the Governor. As the lead, DCRM is responsible for coordinating all phases of the coastal permit process, reviewing the permitting actions of other CNMI agencies for compliance with the CNMI CMP, and making findings on proposed activities requiring federal consistency determinations pursuant to Section 307 of the CZMA. Overall, the CNMI CMP is tasked with implementing a management strategy to balance economic development with conservation of the CNMI's natural resources, and the permits issued by DCRM are the principle mechanism that the CNMI CMP uses to implement those strategies.

As economic circumstances improve for development in CNMI, it will be important to ensure that DCRM has a defined management strategy in place and is prepared and fully staffed to handle an increase in new permit applications, including those for larger developments, hotels, casinos, and the military build-up. This evaluation is the first since March 2006 and covers a period that includes excellent leadership in the early portion of the review period to a time when adequate leadership was lacking. Now, after the recent merger under BECQ, there is new leadership for the CNMI CMP by the director of DCRM. The evaluation team deliberately took a forward-looking approach by working in partnership with the new DCRM director and DCRM staff during the August 2014 site visit to help set a new course. This new course will aid the CNMI CMP in regaining its prestige as a strong, regional program that provides leadership and high-quality results.

Additionally, many of the observations, recommendations, and necessary actions contained in these findings stem from the same administrative and institutional issues noted in the Capacity Assessment conducted in CNMI in 2013 by the NOAA Coral Reef Conservation Program. The Office for Coastal Management recommends that when addressing these common issues the CNMI CMP and the CNMI Coral Reef Initiative should work collaboratively.

Target Area 1: Program Administration

Leadership

According to the 2006 312 findings, the CNMI CMP was deemed a model for the Pacific region because of its strong leadership and high-quality performance; however, from 2009 to 2013, the administration of the CNMI CMP suffered from poor leadership. As a result, there were problems meeting cooperative agreement submission and reporting deadlines, including submission and revision of CZMA Performance Management System performance measures. Often, corrections to materials were not made even after NOAA provided explicit advice—in writing and verbally—to the director and staff. Staff training was not adequate, and when staff training was provided, the trainings were not focused on critical core CNMI CMP coastal management competencies. Moreover, vacancies for many positions were not filled in a timely

manner—some positions remaining vacant for up to two years—and those positions that were filled were often filled with unqualified staff members. This in turn resulted in delays, extensions to awards, and a significant lack of outcomes from the federal funding. Ultimately, NOAA was forced to raise these issues to the governor. As a result, CNMI was required to develop a staffing plan that detailed actions to be taken to address existing and future staffing vacancies with DCRM, and timelines for fulfilling the plan.

In June 2013, the previous director stepped down. Since that time, the program operated under an acting director until January 2014, when a new director was appointed after the merger of CNMI's Coastal Resources Management Office (CRMO) and Department of Environmental Quality (DEQ) into separate divisions — the Division of Coastal Resource Management (DCRM) and the Division of Environmental Quality (DEQ) — under the larger office of the Bureau of Environmental and Coastal Quality (BECQ). During this period, DCRM staff members have been correcting prior mistakes, and the management and implementation of the program has improved.

Staffing

As indicated above, issues for DCRM under previous leadership were prolonged vacancies, the filling of some positions with unqualified staff, and a lack of staff training. In 2012 the situation was so problematic that NOAA included special award conditions on funding awards. These conditions required the development of position descriptions with clear and accurate job descriptions and relevant qualifications, and required CRMO (now DCRM) to demonstrate that potential candidates for CZMA-funded positions met those qualifications. Included in these award conditions was the required step of receiving verification by appropriate NOAA staff members of the qualifications of candidates before hiring for vacant positions. This has helped, and according to comments from the CNMI Office of Personnel Management, job announcements are being more consistently and widely posted for vacant positions, which has led to better-qualified staff members who are hired in a more timely manner. As evidence, the recent creation of a position for a federal consistency specialist in DCRM and the successful recruitment for that position has been noted by the evaluation team. NOAA is hopeful that in time these special award conditions can be removed as the new administration develops its own record for good hiring practices.

Although there are signs of improvement with recent hires, the high staff turnover, the accompanying need for a pool of entry-level staff members, and the need for staff training continue to be issues for DCRM. Staffing was also identified as the top challenge faced by the CNMI CMP by respondents to the evaluation survey. The Office for Coastal Management encourages DCRM to continue to identify ways to focus on retention of staff members and the recruitment of locals who are more likely to live in CNMI for longer periods of time. A potential option raised in our discussions included working with the CNMI Scholarships Office to identify off-island graduates looking to return home to CNMI after completing school and gaining work experience abroad. Also, a bachelor of science degree in natural resource management will be launching at the community college in the future, which may produce qualified graduates

interested in local coastal management careers. Once the degree has been established, the Office for Coastal Management encourages CNMI CMP to explore partnerships with the Northern Marianas College to provide students with work experience with DCRM (e.g., internships, apprenticeships) which will provide both useful experiences for students and development of a pool of qualified job applicants to recruit from.

DCRM is encouraged to investigate training opportunities that align with DCRM goals and objectives, and the Office for Coastal Management is prepared to work with DCRM to identify trainings that meet existing needs and cover core competencies to help improve program effectiveness. Using input gathered during the site visit, the evaluation team recommends providing an orientation package for new hires that includes guidelines for procurement, travel, and other administrative processes to provide clarity on these day-to-day activities, as well as a Coastal Zone 101 orientation outlining how DCRM implements CNMI's CMP. These orientations will provide a useful foundation for any position within DCRM. Additionally, having clear procedures for all program administration functions within DCRM will further improve the operational aspects of the program. Identifying a structure for success with CNMI's Office of Procurement and the Office of Finance will be important for navigating the existing processes to submit a purchase order or to conduct travel. By providing a consistent set of guidelines to the DCRM staff on these processes, both within the office and at the CNMI offices for procurement and finance, the organization may see improvement in the effectiveness of communications when trying to purchase equipment or conduct official business outside of Saipan.

Updates to the CNMI Coastal Resource Management rules and regulations have been in process since 2004 and have yet to be submitted as a program change to NOAA. This delay has been due, in part, to the lack of consistent legal counsel, which has been an ongoing issue. During the site visit, the evaluation team learned that efforts were currently underway to retain consistent legal counsel for DCRM, and NOAA supports this effort to secure dedicated legal counsel that will be able to handle legal issues in the coastal zone.

Discussions about DCRM's permitting process revealed the need for specific expertise to more effectively review permit applications and ensure that approved permits are consistent with the full range of CNMI coastal policies. Interviewees commented that specific types of expertise were critical to or would benefit the permit review process, such as engineering expertise to review and interpret project designs, a wetland biologist to conduct wetlands delineations at proposed projects, a lead planner to coordinate and ensure that proposed development meets with the goals and vision of the CNMI CMP and any master plans in place, a GIS specialist to provide spatially explicit products and maps, and legal expertise to support DCRM in addressing disagreements with permittees. As the local economy improves and larger developments are proposed, these specific areas of expertise will become more important to ensure that effective permitting decisions are made and implemented. DCRM could access this expertise by providing training, hiring staff members with this expertise, or tapping into expertise within the new BECQ umbrella. However, the Office for Coastal Management prefers that DCRM hire its own staff members with these skill sets for the exact reasons stated previously. In addition to

being highly qualified, any additional staff members should also be able to work well with other CNMI agencies.

Consistent leadership on a day-to-day basis is needed to provide the on-site management required to keep DCRM operating efficiently. After the merger, the new DCRM director is managing the Coral Reef Initiative and overseeing the Nonpoint Source/Water Quality Program, in addition to the CNMI CMP. Previously, the Nonpoint Source Pollution Program Manager for DEQ and the director of the CNMI CMP for CRMO were two full-time positions that provided leadership for these programs and managed their day-to-day administration. The evaluation team understands that none of the prior responsibilities were dropped after the merger, including the Coral Reef Initiative point of contact role, and notes that the director now has the additional responsibilities and learning curve associated with understanding the CNMI CMP.

While the Office for Coastal Management acknowledges that the director is doing good work, it is not possible for one person to fulfill the duties of two full-time positions. The commitments and travel required by these responsibilities do not allow the director to provide the day-to-day leadership the office requires, and an additional person with duties and authority to provide program oversight and administration is needed. Due to the very significant workload and commitments of the director, the Office for Coastal Management recommends that BECQ identify a new or revised position to assist the director of DCRM. This position is needed to take care of CZM-related administrative matters, make sure deadlines are met (e.g., progress reports, program changes, etc.), and respond to other tasks related to administering the CNMI CMP. This is especially critical when the program manager is attending to other programs or is off island. The staff member who assumes the assistant leadership role should be highly qualified and focused on the successful implementation of CNMI's CMP.

Recommendation: The Office for Coastal Management recommends that BECQ identify a position to assist the director of DCRM with implementing the day-to-day administrative processes, ensuring deadlines are met, making timely decisions, meeting the needs of partners, and providing timely responses to ongoing federal obligations.

Ongoing staffing issues were highlighted in the April 10, 2013, letter to Governor Inos, and special award conditions (SACs) were subsequently incorporated into all cooperative agreements from NOAA to DCRM. The letter and associated SACs were in response to a pattern of practice and not a one-time problem, thus NOAA will continue to hold DCRM accountable for its hiring practices until that pattern no longer is observed. Since 80-90% of all funding to DCRM is tied up in staff salaries, delays in filling vacancies with qualified staff members would cause issues for carrying out the cooperative agreement outcomes and deliverables as they were intended. There are already signs of improvement under the new leadership as noted by the CNMI Office of Personnel Management. This is a promising step forward. Nevertheless, proper hiring practices need to become standard operating procedure, since poor practices can reflect negatively on the entire National Coastal Zone Program if funds sent to state and territorial partners are not spent.

Necessary Action: DCRM must maintain hiring standards and consistently fill vacant positions in a timely manner with qualified applicants and provide a report on hiring actions taken in the annual performance report until the necessary action is deemed completed by OCM or the next evaluation.

Grants Administration

The administration of federal funding was a particular problem with the previous leadership of the CNMI CMP. Examples of this include a lack of understanding about cooperative agreement management, including schedules, requirements, cost principles, and regulations. Under prior leadership, CRMO repeatedly submitted unacceptable cooperative agreement tasks and included unallowable activities under CZMA regulations and unallowable costs under the Office of Management and Budget circulars. Additionally CRM has submitted after-the-fact reprogrammings, repeated mistakes even after receiving guidance in writing and in person, missed numerous deadlines for cooperative agreement applications and progress and financial reports, and demonstrated careless accounting practices. Lastly, the CNMI CMP (along with other CNMI Offices receiving NOAA funding) was labeled a “high risk” cooperative agreement recipient by NOAA’s Grants Management Division for a period of time in 2013 because of its failure to submit its 2012 A-133 audit on time.

The new CNMI Grants Office provides a great resource for the coastal program. The CNMI Grants Office was created to improve overall management of the federal funds received by CNMI, and increased partnership with the Grants Office would be a step towards improving existing grants administration by DCRM. DCRM should consider making use of the CNMI Grants Office to supplement its management of existing and future cooperative agreements coming from NOAA to DCRM to support management of the coastal zone. Similarly, the Director is encouraged to assist grants management staff members at DCRM in seeking out and participating in training on grants administration to improve overall management practices of cooperative agreements. After the June 2014 visit from NOAA’s Grants Management Division, the evaluation team learned that the CNMI Grants Office point of contact for DCRM took the NOAA Grants Online Training. As the CNMI Grants Office point of contact to DCRM, this staff member can help DCRM meet deadlines for providing progress report updates, program changes, and other administrative tasks related to managing these federal funds. The Office for Coastal Management encourages BECQ to work with the CNMI Grants Office to provide the point of contact with a Grants Online account and access to the CNMI CMP cooperative agreements.

The Office for Coastal Management understands that many of the issues originated before the current Director came into that position; however, the new Director now has an opportunity to show that the issues have either been resolved or are under control, since most of fiscal year (FY14) has been under the new leadership. Due to the high-risk status, and known cooperative agreement-related issues, NOAA feels that DCRM must submit to the requested audit for FY14 expenditures and respond to the forthcoming recommendations in order to demonstrate that the new leadership has shed the poor grants administration practices of previous leadership.

Necessary Action: DCRM must work with CNMI Department of Finance to add the CNMI CMP as a major program to be audited under the FY14 A-133 Single State audit in compliance with the letter from NOAA's Acquisition and Grants Office to Larissa Larson dated August 21, 2014. DCRM must share any findings of the audit and its response to those findings with the Office for Coastal Management and NOAA's Grants Management Division, and respond in a timely manner by meeting the deadlines to any final recommendations resulting from the outcomes of the audit.

Merger

The recent merger of CNMI's Coastal Resources Management Office (CRMO) and Division of Environmental Quality (DEQ) into separate divisions — the Division of Coastal Resource Management (DCRM) and the Division of Environmental Quality (DEQ) — under the larger office of the Bureau of Environmental and Coastal Quality (BECQ) has resulted in some changes to the CNMI CMP, including the appointment of a new director, some shifts in staff supervision away from DCRM to BECQ, and the inclusion of the Nonpoint Source/Water Quality Program under DCRM. It is too early to know whether the envisioned efficiencies that the merger would facilitate are happening, and NOAA will continue to look for the benefits of the merger in DCRM program administration. This will be a point of interest during the next evaluation.

BECQ staff members are still adjusting to the merger, and many former CRMO staff members have been affected in various ways: some have been separated organizationally and some have been moved physically. These changes have created a few new obstacles to effective communications within the office. In interviews with staff members, potential solutions for improving communication were identified, including holding regular staff meetings to bring the whole program together in the same space to foster information sharing and provide staff members with the opportunity to learn about what others are working on. In particular, the physical separation of the planning staff from the permitting and enforcement staff has resulted in permits that get approved without a thorough review; therefore, efforts should be made to facilitate communication between these interconnected parts of the program. A simple fix may be to add a step to the process to finalize new permits by having the planning staff review new permits before they are finalized to ensure that they align with CMP implementation goals.

Organizationally, the GIS and grants management positions that were previously under CRMO are now located in BECQ—not in DCRM. To meet the needs of the coastal management program, these positions must continue to be tasked with supporting DCRM and CNMI CMP priorities and be part of DCRM staff meetings so they are aware of the division's needs in these areas.

While it is preferable to have an in-house engineer, one advantage of the merger is having engineering expertise available to the DCRM permitting staff to review CZM permits, a need voiced in some of the previous comments. It is important that the permitting staff obtain

engineering assistance to review site, stormwater, watershed, and other plans.

The timing of the 312 evaluation, the BECQ merger, and the 2015 development of CNMI's 309 Strategy and Assessment Report for 2016-2020 provides DCRM with an opportunity to define its role and niche within BECQ and identify clear strategic objectives for the coastal program. Having an articulated program direction and known goals, objectives, and strategies will not only allow the staff, partners, stakeholders, and CNMI legislature to better understand DCRM's purpose and role in the management of CNMI's coastal zone, but will also allow others including the Office for Coastal Management to better align trainings and resources to advance DCRM's efforts to achieve them. The Office for Coastal Management encourages DCRM to take the time to go through a strategic process to look forward and identify goals and concrete objectives and strategies for where it would like the coastal program to be in five years—a process that could be a formal or informal. NOAA has recently released an online training that could assist DCRM with this effort: www.csc.noaa.gov/digitalcoast/howto/how-write-strategic-plan. The most important aspect of this effort is to go through the process to identify and prioritize real goals and objectives for the program, *not* to produce a glossy strategic plan. A simple goal statement and a list of prioritized objectives with implementation strategies are sufficient. During the strategic planning process and after its completion, DCRM is encouraged to hold regular briefings with the CNMI legislature to keep it aware of the latest from DCRM.

Recommendation: The Office for Coastal Management encourages DCRM to go through a strategic process to look forward and identify goals and concrete objectives for where it would like the coastal program to be in five years and develop strategies for achieving the stated objectives.

Federal Consistency

Federal consistency is a valuable provision of the Coastal Zone Management Act that requires that federal activities that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone to be consistent to the maximum extent practicable with the enforceable policies of a coastal state's federally approved coastal management program. In addition, federal license or permit activities and federal financial assistance activities that have reasonably foreseeable coastal effects must be fully consistent with the enforceable policies of federally approved coastal management programs. Coastal programs may only apply enforceable policies that have been approved by NOAA and incorporated into their federally approved programs.

The CNMI CMP last incorporated changes to its enforceable coastal policies in 2004, and since that time, a number of changes have occurred. CNMI has submitted draft program change requests to NOAA for the coastal resource management regulations but has not submitted a final request covering these changes. To ensure that all CNMI's enforceable policies can be applied to federal activities and federal license and permit activities, the program is encouraged to complete and submit a formal program change request to NOAA for approval that covers all changes and additions to its enforceable policies as quickly as possible. The incorporation of

changes and new enforceable policies into the approved program will be particularly important going forward as the Department of Defense is expanding military facilities and activities in Tinian and Pagan, CNMI.

The Office for Coastal Management commends DCRM for the steps taken to hire a Federal Consistency Specialist. With the imminent update to DCRM's regulations and enforceable policies and hiring the Federal Consistency specialist, DCRM is positioned well to engage in upcoming Federal Consistency issues. With a dedicated staff member now working on Federal Consistency for DCRM, the Office for Coastal Management suggests that DCRM consider updating the document published in 1987 titled, "Procedures Guide for Achieving Federal Consistency with the CNMI Coastal Resources Management Program." Having an updated document that specifically lays out these procedures will help facilitate engagement with future Federal Consistency work within the CNMI.

Target Area 2: Permitting, Enforcement, and Regulations

Permitting

Results from the survey used to gather partner and stakeholder input for this evaluation clearly indicate that permitting work done by DCRM is highly valued. Accordingly, the permit staff received repeated praise from various partners and stakeholder groups for its professionalism and institutional knowledge. Many partners and stakeholders also mentioned the One-Start earth-moving permit process as an improvement over the prior major permitting process, since it allows permittees to submit their application once and have it received by all pertinent CNMI government agencies.

Accomplishment: DCRM's permitting program and staff were very effective at providing partners with outstanding service when handling permit applications and assisting with permitting questions, and their professionalism was valued by partners during the review period.

The CNMI CMP is pursuing the development of an online e-permitting system to further improve permitting in CNMI. While this is a very good step to centralize information and streamline the permitting process, it is important that BECQ have the staff in place that will be required for the long-term commitment to maintain such a system. If not already completed, the Office for Coastal Management encourages BECQ to consider undertaking a scoping exercise to determine the feasibility of designing a system to meet CNMI CMP's permitting needs and whose ongoing maintenance requirements could be accommodated by current resources. The Office for Coastal Management also encourages BECQ to have dedicated staff members in place with the appropriate qualifications to maintain the system, as well as the requisite funding, before developing a system. The Office for Coastal Management suggests that DCRM review the e-permitting systems that are currently being used by other coastal management programs (e.g., American Samoa) to see what works well and what features are most useful that might be easily adapted for use by CNMI for major and minor permits, One-

Start earth moving permits, and other permit types within BECQ. Additionally, the Office for Coastal Management encourages BECQ to complete the database of historical permit documents that have already been scanned, but still need to be filed, so that all of CNMI's coastal permits are available electronically to better understand cumulative impacts.

During the site visit, the evaluation team received feedback that the current permit application for major permits could use some clarifications, especially the language regarding specific information requirements for the environmental assessment (EA). For example, on the questions about the socioeconomic impacts of the proposed project, the type and level of detail of the information requested is vague. Several persons indicated that they didn't know what level of information to provide for this question and some had their completed applications returned asking for more information on that question. Similar comments arose about other information needed in the EA. A possible solution to providing more clarity to applicants when addressing the questions of the EA could be to simply replace the word "describe" with the word "demonstrate," since this would require better data and information from the applicant that would also satisfy certain statutory requirements of an EA. Where one is generally a simple descriptive statement, the other is informative and gives proof or evidence to address the issue in the EA. Such "demonstration statements," if supported, could also then provide a level of confidence that the project is being reviewed and ultimately managed consistently with the program's goals and objectives. Given the recent changes in DCRM's regulations and enforceable policies, it would be prudent to review the language within the current application and update it so that the information desired by DCRM and the CRM Board is clearly stated for each question. This would prevent or minimize any back and forth that could slow down the permit processing time. Along these lines, DCRM should consider updating its website and provide up-to-date guidance for permit applicants, current regulations, and appropriate points of contact.

Additionally, partners and stakeholders made comments that indicate the roles and responsibilities of the CRM Board need to be clarified. Some partners felt that the board was overstepping its authority, when in fact it was not. DCRM should consider adding to the permit application form the following: 1) a list of each agency's role and responsibilities in the permit process and 2) an explanation that the CRM Board acts as a collective and that any board member is able to comment on the responsibilities of any of the agencies represented. By taking the steps described above before the development of an e-permitting system, great strides could be made toward ensuring that the system is user friendly and the permittees understand the information needed and how their application will be vetted.

During the site visit, the evaluation team also met with representatives from the zoning board and heard from partners and stakeholders who work with both the zoning board and DCRM on permit applications. Comments from stakeholders at those meetings echoed comments in the survey, stating that staff members from the zoning board need to be included at the pre-application stage for permits because applicants perceive a lack of information exchange and felt that there were duplicate hearings for the CRM Board and zoning board for major permits. The Office for Coastal Management encourages DCRM to work with the zoning board to

improve and streamline any parallel processes between the two permitting boards, determine whether it's feasible for the zoning board to become a part of the CRM Board (for input on projects on Saipan), and work collaboratively from the pre-application stage for all potential projects requesting major permits. Also, representatives from the zoning board expressed interest in having a zoning representative participate on the CRM Board to increase communication and collaboration, and the Office for Coastal Management encourages DCRM to consider facilitating this addition to the CRM Board.

Because of the problems with CNMI CMP leadership noted above, the program lost its prior strong coordination, communication, and overall leadership role, including in the permitting process. While the new leadership has made improvements, DCRM needs to renew its leadership role in coordinating the implementation of the CNMI CMP permitting program and make a concerted effort to foster needed communication, collaboration, and coordination within and among the various CNMI agencies that work within the coastal zone. Although there is precedent for pre-application meetings for prospective permits, the evaluation team heard from a number of stakeholders that these do not always happen, and when they do occur, not all agencies are represented, making for the increased likelihood of miscommunication with the permittee regarding requirements for the proposed project. The re-establishment of a coordinated and comprehensive pre-application meeting process presents a timely opportunity for DCRM to demonstrate its leadership capacity in the environmental management of CNMI.

The Office for Coastal Management recommends that DCRM re-establish a mechanism to ensure that all CNMI agencies are aware of and participate in all pre-application meetings. This could be done by refining an existing, or creating a new, coordination body. Whichever path the program takes, it is critical to include the appropriate permitting staff members from the networked CNMI agencies that conduct permitting activities with DCRM as the lead agency. Such a group could meet regularly to share information on any upcoming projects that they are aware of and could plan for pre-application meetings for those projects. Developing a memorandum of understanding or memorandum of agreement across the agencies involved for this purpose could also help institutionalize ongoing collaboration and streamline the permitting process.

Recommendation: The Office for Coastal Management encourages DCRM to take a leadership role and work with the Zoning Office and all appropriate networked agencies to improve coordination and implementation of the CNMI CMP permitting process and provide effective mechanisms for bringing together all relevant agencies on major permit projects from pre-application to finalization of the permit.

Enforcement

The Office for Coastal Management understands that enforcement has been a hot topic in CNMI recently and has been an area of focus in a recent capacity assessment. Although this did not rise to the top for the 312 evaluation, the evaluation team commends DCRM for recognizing this as an issue and developing an evaluation metric for this subject geared toward

improving enforcement effectiveness. Enforcement related to permitted activities within the coastal zone continues to be important to ensure that permitted activities are in compliance with CNMI coastal policies. While effort has already been made to coordinate with other agencies' enforcement teams, the Office for Coastal Management encourages DCRM enforcement to also look into the feasibility of resurrecting the multiagency enforcement team, including staff from Marianas Visitors Authority (MVA), Department of Public Lands, and DCRM to conduct enforcement operations within the coastal zone. Based on information learned from MVA during the site visit, this was an effective enforcement approach to cover enforcement of permits on both public and private land, but it hasn't been in operation since the late 1990s. This past experience may bolster efforts underway to further coordinate with enforcement officials from other agencies that work in the coastal zone.

As noted above, one of the CNMI CMP's evaluation metrics is focused on improving enforcement presence, collaboration, and follow-through by sharing enforcement information with the complainant, other enforcement agencies, and the public. Unfortunately, the CNMI CMP has not provided any data or documentation on whether it is achieving its target of "Eighty percent (80%) of violation incidents are followed through from report of occurrence, investigation and response, work performed, to closure and reporting, and notification of complainant and other enforcement programs are made through the online system within ninety (90) days".

Regulations

CNMI CMP is encouraged to continue working on completing and submitting its routine program change to NOAA outlining changes made to its coastal resource management rules and regulations. It was clear during the 312 site visit that this task was receiving attention and will be an important milestone for the CNMI CMP to finalize. Revisions will provide an update since the last routine program change in 2004, will harmonize with zoning rules and regulations, and will clear up prior ambiguity in regulations regarding areas of particular concern. These updates are especially important for using Federal Consistency as a tool to negotiate with the Department of Defense on the impending military build-up activities in Tinian and Pagan, CNMI.

Target Area 3: Managing Coastal Development

Multiple demonstration projects have been carried out in CNMI, including the installation of a rain garden at the CNMI Museum to reduce standing water and stormwater run-off after rain events, and projects intended to curb driving on CNMI's beaches through the use of bollards at Jeffrey's Beach and a permeable parking lot at Laolao Bay. NOAA hopes to see continued demonstration projects to protect valuable coastal areas in CNMI.

CNMI went through a competitive process and became the recipient of a Coastal Management fellow for two years beginning in August 2012. The fellow has been working with the Climate Change Working Group to develop the first-ever vulnerability assessment for Saipan, and the

Office for Coastal Management encourages the completion of the vulnerability assessments for Tinian and Rota. The evaluation team commends DCRM on the leadership it's taken. This assessment is a forward-looking exercise that provides the information CNMI requires to begin to consider critical infrastructure and development decisions in light of predictions for climate-related changes in sea level rise. Any future developments should align with the recommendations of the vulnerability assessments for these developments to be viable (and profitable) for CNMI.

Accomplishment: DCRM has successfully led the Climate Change Working Group to assemble staff members from 33 agencies in CNMI to proactively think about the effects that climate change could have on CNMI and lay a strategic foundation for climate change adaptation planning in the CNMI. The 2014 *Climate Change Vulnerability Assessment for the Island of Saipan, CNMI* signifies a big step toward developing and implementing a comprehensive adaptation plan to preserve CNMI's cultural, natural, and economic resources for current and future use.

The Office for Coastal Management also recognizes that the CNMI CMP has been successfully leveraging resources to get important work done for the coastal zone. Funding from the U.S. Environmental Protection Agency, NOAA's Coral Reef Conservation Program, NOAA's Restoration Center, U.S. Army Corps of Engineers, and others has been used to make progress toward managing competing uses within the Saipan Lagoon, manage stormwater in the jurisdiction, curb driving on CNMI's beaches to protect endangered sea turtle nesting habitat, and restore vegetation and improve roadways in Laolao Bay.

Since 2008, the volume of permits has been relatively low because of the economic downturn; however, all signs point to a recovering economy in CNMI. In addition, the U.S. military buildup will likely result in significant development in CNMI. Thus, one of the biggest challenges facing CNMI CMP will be increases in development activity. Currently, development is addressed through the DCRM permitting process, which is for the most part a reactive approach. Given the potential significant development associated with a recovering economy and the military buildup, CNMI CMP should seriously consider complementing its permitting approach with a planning approach. The planning approach would ideally identify areas more or less suitable to certain types of development and could offer a pathway to more "sustainable" development by identifying up-front best practices and options for mitigation.

Any proposed development project will need to undergo the permit process under DCRM, so the time is ripe for some forward-looking discussions about how future development will impact the coastal zone. As stated previously, DCRM is encouraged to identify some high-priority strategic objectives in which they intend to invest time and resources to improve management of coastal development. Considerations could include the following:

- (1) **Planning for critical areas** (e.g., Special Area Management Planning as set forth in the CZMA 16 USC §§1452(3), 1453(14) and 1456b(6); ask OCM staff for more information about Special Area Management Planning, and see examples provided by the State of Rhode Island at www.crmc.ri.gov/regulations.html) to preserve areas of great value to

CNMI citizens and to ensure that those areas aren't negatively impacted by cumulative or secondary impacts of permitted activities.;

- (2) **Providing incentives for redeveloping areas** that have existing infrastructure but have been left vacant (i.e., Rhode Island's Urban Core District receives reduced fees and quicker permitting; current CNMI incentives are for developing pristine lands which runs counter to conservation principles within the CZMA);
- (3) **Considering phased permitting or permit conditions** that stipulate stormwater management and other infrastructure upgrades be completed before the project is built in its entirety, or require the developer to pay into a performance bond that will cover the needed upgrades if they aren't completed properly; and
- (4) **Ensuring that public access provisions are embedded within any plans** for development along the coastline and work with private landowners to gain their buy-in about the importance of public access.

All the areas listed above represent leadership opportunities for DCRM to collaborate and coordinate with associated agencies in CNMI for proactive management of CNMI's natural resources. The Office for Coastal Management will work together with DCRM to explore partnerships in training to enhance staff learning on topics relevant to managing coastal development.

Partners noted that baselines were needed before increased development occurred so that impacts would be quantifiable. This may relate mostly to sedimentation, since that appears to be the biggest stressor to the environment from development-related earth-moving activities. Monitoring will be an important consideration for any new project. With DCRM and DEQ housed together under BECQ, the sedimentation issues identified through the permit process and their impacts on water quality may represent a great collaboration opportunity for DEQ's monitoring teams to collect baseline data before these projects take place to determine the effects of these developments.

As stated earlier, the Office for Coastal Management is pleased to see that DCRM is gearing up on Federal Consistency. The impending military buildup certainly has ramifications for managing coastal development in CNMI and provides an opportunity for DCRM to hold the Department of Defense responsible for meeting the Federal Consistency requirements set forth by DCRM's regulations and enforceable policies.

Development in CNMI is forecast to increase as the economy improves, particularly larger developments, including military build-up activities, casinos, large hotels, and resorts. Current expertise and capacity at DCRM needs to be enhanced to handle the review for permits of such large developments. Likewise, DCRM does not have the planning staff needed to proactively position the CNMI CMP so that it can manage CNMI's coastal resources effectively in the face of increased development pressure. Ideally, the planning efforts done by DCRM and partner agencies can be leveraged through the centralization of data, and CNMI can achieve resilient and sustainable growth through the creation of decision support tools. However, none of this is achievable without increased planning capacity that is integrated into the other parts of the CNMI CMP.

The Office for Coastal Management recommends that DCRM assess its staffing needs and address identified gaps. Under current circumstances, the evaluation team found that the program could potentially benefit from the suggestions laid out in the “Staffing” section under the “Program Administration” target area. Future scenarios may call for additional staff members or development of additional expertise to deal with the issues faced under conditions with increased development pressure, and potentially climate adaptation requirements.

Recommendation: CNMI CMP should consider acquiring, developing, or leveraging appropriate planning capabilities to determine areas more or less suitable for various types of likely development to complement its permitting approach to managing coastal development. CNMI should consider articulating planning needs to capitalize on products and services provided by NOAA and other agencies.

Additionally, while the volume of permits coming in for review is relatively low, CNMI CMP can focus on making the permit processes as clear, streamlined, and user-friendly as possible so that, once the volume increases, there will be fewer roadblocks to slow down the process. Creating a feedback loop among the planning, permitting, and enforcement staffs from the pre-application phase to the final permit will ensure that all conditions placed on a permit are in alignment with CNMI CMP objectives and are fully understood and enforceable.

Evaluation Metrics

METRIC 1: COASTAL HAZARDS

Goal: Raise awareness and develop strategies for adaptation to climate change and its impacts.

Objective: By 2017, CRM will produce educational videos and games dealing with adaptation strategies to climate change and its impacts, especially sea level rise (SLR), and will present them to the schools and communities in the CNMI.

Strategy: CRM’s responsibility under the CZMA is to proactively plan for climate change adaptation and mitigation. The 14 low-lying islands in the CNMI archipelago are much more vulnerable to the impacts of climate change, particularly SLR and increased coastal erosion, among other impacts, because of low elevation and limited land size.

CRM will produce educational videos and games while it develops strategies for adapting to climate change, especially SLR. Once the videos become available, an ambitious outreach component is planned as the videos are presented and viewed in all the schools in the three most populated islands of the CNMI (Rota, Tinian, and Saipan) to ensure all the students from all levels become familiar with climate change. A video will be produced for each of the primary, elementary, secondary, and college levels. For purposes of this evaluation metric, a school will have viewed a video when all classes in the school showed the video and it was

made available to all the students. An outcome evaluation component will be added to gauge the public perception at the end of the program period.

Performance Measure: Percentage of all the schools in the three most populated islands of the CNMI that have received and viewed a climate change educational video developed by the CRM office.

Target: Over the five-year period, 80 percent of all the schools in the three most populated islands of the CNMI have received, and the students viewed, a climate change educational video developed by the CRM Office.

First Year Results: The CNMI CMP has not made any progress over the past two years toward achieving the five-year target for this measure and likely will not meet its target.

METRIC 2: GOVERNMENT COORDINATION (STATE)

Goal: Improve enforcement presence, collaboration, and follow-through by sharing enforcement information with complainant, other enforcement agencies, and the general public.

Objective: By 2017, CRM will improve enforcement presence, collaboration, and follow-through by sharing enforcement information with complainant, other enforcement agencies, and the general public.

Strategy: Presently, each of the five main regulatory agencies (CRM, Dept. of Environmental Quality (DEQ), Division of Fish & Wildlife (F&W), Saipan Zoning, and the Historic Preservation Office (HPO)) enforces the areas within its jurisdiction and not as a joint effort. CRM is responsible for managing coastal resources, balancing economic development with environmental conservation. DEQ is responsible for protecting human health and the environment. F&W is responsible for enforcing the Magnuson Fishery Conservation and Management Act by balancing use, conservation, and management of fish and wildlife resources. Saipan Zoning Office is responsible for implementing zoning laws and regulations in the wise use of the land. HPO is responsible for ensuring the protection, preservation, and regulation of historic and cultural sites by controlling land-use development.

The purpose is to ensure a more sustainable use of coastal resources by enhancing enforcement presence, collaboration, and follow-through. In order to meet the objective, the CRM will convene a meeting of the five agency heads at least quarterly to form a tighter alliance and discuss enforcement matters collaboratively, as well as come up with ways to improve enforcement presence, collaboration, and follow-through among these regulatory agencies by sharing enforcement information. One way is to set up an online system with a simple spreadsheet attachment in which CRM can update its enforcement information on a monthly basis simply and inexpensively. Apprising the complainant of the progress is another way of improving the process. Lastly, CRM anticipates closing each complaint violation within

90 days.

Currently, when there is a report of a violation, enforcement is called, the enforcement officers respond, and a report is written. The caller is not part of the dynamic and neither are any of the other four agencies. With this tighter alliance in place, the complainant will be made aware of the process, progress, and outcome of the violation. The online information will be updated at least monthly for the other enforcement agencies' and the public's use. In addition, CRM will come up with a format for a field log sheet in order for its enforcement officers to fill out. The form will be used to update the online system.

Performance Measure: Percentage of violation incidents are followed through from report of occurrence, investigation and response, work performed, to closure and reporting, and notification of complainant and other enforcement programs are made through the online system within 90 days.

Target: Over the five-year period, 80 percent of violation incidents are followed through from report of occurrence, investigation and response, work performed, to closure and reporting, and notification of complainant and other enforcement programs are made through the online system within 90 days.

First Year Results: The CNMI CMP has not provided any data on whether violation incidences are followed through from report of occurrence to closure and reporting. The Office for Coastal Management is unable to determine if this target is being met.

METRIC 3: GOVERNMENT COORDINATION (FEDERAL)

Goal: Develop strategies to implement recommendations to fill identified gaps as a result of the capacity assessment of CNMI resource agencies (i.e., CRM, DEQ, and Dept. of Lands and Natural Resources (DLNR) conducted by NOAA's Coral Reef Initiative (CRI) program.

Objective: By 2017, 100 percent of the recommendations in the CRI-hosted capacity assessment have been addressed and implemented.

Strategy: In continuing NOAA's CRI program capacity assessments in the coral reef jurisdictions, the Coral Reef Conservation Program (CRCP) is scheduled to conduct a capacity assessment of CNMI's resource agencies (CRM, DEQ, and Dept. of Lands and Natural Resources) in the spring of 2013, which is scheduled to be completed by June 2013.

The purpose of the capacity assessments is to identify capacity gaps in the coral reef jurisdictions and ways to assist the CRCP and the individual coral reef jurisdictions to improve the overall management of their coral reefs, with a focus on implementation of their coral reef management priorities.

The assessments will examine current capacity and identify gaps that need attention.

“Capacity” includes institutional and governance frameworks (e.g., legal frameworks/mandates and enforcement, political will, etc.); local strategic planning (i.e. marine, coastal and watershed spatial planning), management, enforcement, and evaluation capabilities; staff recruitment and retention mechanisms including the adequacy of local salaries; staff, leadership training, and development needs; technical assistance, information and data needs, equipment, and related concerns; and coordination among agencies and partners/high quality collaboration (e.g., data sharing, turf issues, conflict resolution).

By carrying out an independent, objective capacity assessment, the CRCP can gain a better understanding of how best to support and enhance local partners. Local agencies themselves can gain valuable insights that will assist them in their own planning. Perhaps most importantly, CRCP and local jurisdictions will be able to work together to address and overcome persistent barriers that have limited capacity building to date.

The outcomes from the assessments will allow the CRCP to better understand the roles, responsibilities, missions, capabilities, and needs of selected management agencies.

Once the assessment is completed, the CRM administrator will lead the effort to implement all recommendations to fill the identified gaps, working on at least one recommendation per year until all the recommendations have been addressed and implemented.

Performance Measure: Percentage of recommendations implemented from the CRI capacity assessment of CNMI’s resource agencies.

Target: Over the five-year period, 100 percent of recommendations implemented from the CRI capacity assessment of CNMI’s resource agencies.

First Year Results: The CNMI CMP has not made any progress over the past two years toward implementing the recommendations of the Coral Reef Initiative capacity assessment and likely will not meet its target.

The lack of progress made by the CNMI CMP in achieving any of its three identified priority goals and objectives and reaching its targets is concerning. The Office for Coastal Management will continue to monitor progress toward achieving the program’s identified goals and meeting the program’s evaluation targets. If the new administration of the CNMI CMP would like to change any of the metrics selected and developed by the previous administration, a request can be submitted to change them. Please work with the NOAA Site Liaison, Dana Okano, and lead 312 Evaluator, Carrie Hall, if such a request is needed.

Conclusion

For the reasons stated herein, I find that the Commonwealth of the Northern Mariana Islands is adhering to the programmatic requirements of the Coastal Zone Management Act and its implementing regulations in the operation of its approved Commonwealth of the Northern Mariana Islands Coastal Management Program.

The two necessary actions described in these findings must be addressed by the dates indicated. Failure to successfully address the necessary actions may result in a future finding of non-adherence and the invoking of interim sanctions, as specified in CZMA §312(c). OCM will consider the findings in this evaluation document when making future financial award decisions concerning the CNMI CMP. These evaluation findings also contain three recommendations that must be considered before the next regularly scheduled program evaluation, but which are not mandatory at this time. Recommendations that must be repeated in subsequent evaluations may be elevated to necessary actions.

This is a programmatic evaluation of the Commonwealth of the Northern Mariana Islands Coastal Management Program, which may have implications for the Commonwealth's financial assistance awards. However, it does not make any judgment about or replace any financial audits.



Jeff Payne, Acting Director
Office for Coastal Management

1/19/15

Date

Appendix A: Office for Coastal Management's Response to Written Comments

None Received