



N/ORM:PS

AUG 6 1985

Mr. E. James Tabor, Chief  
Division of Coastal Zone Management  
Bureau of Water Resources Management  
Department of Environmental Resources  
P. O. Box 1467  
Harrisburg, Pennsylvania 17120

Dear Mr. Tabor:

The Office of Ocean and Coastal Resource Management (OCRM) has reviewed the changes to the Pennsylvania Coastal Zone Management Program (PCZMP) submitted on July 12, 1985, pursuant to 15 CFR 923.80 and 84. As a result of this review, OCRM has found that the changes indicated below do not substantially change any enforceable policies or authorities related to implementation of the PCZMP. Therefore, we approve the changes listed below as "routine program implementation."

On the date you publish the notice required by CFR 923.84(b)(4), Federal consistency shall apply to these changes:

1. The title "Coastal Zone Management Branch" has been changed to "Division of Coastal Zone Management;"
2. A reference to the National Wetland Inventory Mapping has been included in the Commonwealth's wetland policy #IV-1, Wetlands, Chapter 2, page II-2-16 of the PCZMP approved plan;
3. Inclusion of a reference to Policy #II-1, Dredging and Spoil Disposal, under the authority paragraph for Port Activities/Planning, Policy VII-2, Chapter 2, page II-2-23 of the PCZMP approved Plan;
4. Changes related to the conflict resolution mechanisms for DER intradepartmental disputes as described under Chapter 4, Program Monitoring and Evaluation, of the PCZMP approved Plan.
5. Changes related to the conflict resolution mechanisms for DER interdepartmental disputes as described under Chapter 4, Program Monitoring and Evaluation, of the PCZMP approved Plan.
6. Title change for figure IV-4 included under the PCZMP approved Plan; and
7. Title change for figure IV-5 included under the PCZMP approved Plan.

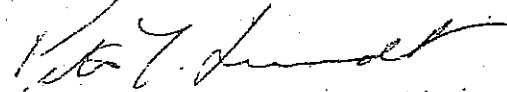


Based on the information provided under item II of your submission, the OCRM is unable to complete its review of the proposed change related to the inclusion of language for mitigating the loss of wetlands. Therefore, at this time, we must deny approval of this change. In order to complete our review of the change, additional information is required. Upon receipt of this information, another four-week time period will be initiated. During this time, the OCRM will make a decision on your request. Please provide the following information to OCRM as soon as possible:

1. the authority by which the Commonwealth will/may consider or require mitigation;
2. a description of the criteria/standards by which projects qualify for mitigation;
3. a description of the mitigation methods; and
4. any other pertinent information relating to the Commonwealth's policies and procedures for mitigation.

If you have any questions, please call Pat Scott of my staff on (202) 634-4124.

Sincerely,



Peter L. Tweedt  
Director

July 25, 1986

717-783-9500

Peter L. Tweedt, Director  
U.S. Department of Commerce  
National Oceanic and Atmospheric Administration  
National Ocean Service  
Office of Ocean and Coastal Resource Management  
3300 Whitehaven St., NW  
Washington, DC 20235

JH  
7/28  
WJ  
7/25  
7/25

Re: DER File No. RM-WR  
CZ10:RPI (II)

Dear Mr. Tweedt:

We are requesting that the proposed change to Policy IV-1: Wetlands, Part II, Chapter 2, Page II-2-16; Policy IV-1: Enforcement/Regulations which was submitted as part of RPI (II) on July 11, 1985, be dropped from further consideration. This request is prompted by a review of this matter by our legal staff whereby they have informed us that an RPI is not necessary in the case of addressing wetland mitigation in our current wetlands policy since, in their opinion, we already have provisions for mitigation in the authority enforcing our wetland policy and any change in the policy to elaborate these provisions would only confuse the issue.

Therefore, we believe that since adequate language exists in our wetlands policy and adequate protection exists in our current authorities providing for mitigation of wetlands impacts, maintaining the policy in its original format would be the most prudent course of action.

If you have any questions or require clarification on the above information, please contact me at your earliest convenience.

Sincerely,

E. James Tabor, Chief  
Division of Coastal Zone Management  
Bureau of Water Resources Management

cc: Malone (2)  
Tabor (2)  
McSparran  
Pepper  
Homer  
Johnson

SM:car

## RPI II

### PROPOSED ROUTINE PROGRAM IMPLEMENTATION CHANGES TO PENNSYLVANIA'S COASTAL ZONE MANAGEMENT PROGRAM

#### Introduction:

The following are the proposed Routine Program Implementation (RPI) changes to Pennsylvania's Coastal Zone Management (CZM) Program. These changes concern a title change for the Coastal Zone Management Branch, the Wetlands Policy (contained in Chapter 2), the Port Activities/Planning Policy (also contained in Chapter 2) and Program Monitoring and Evaluation: Conflict Resolution Mechanisms (contained in Chapter 4). For a clear comparison, the original statement is given first, followed by the revised statement. A justification is presented after each change. Finally, the report concludes with a statement on the impact the changes would have on Pennsylvania's CZM Program and why the proposed changes constitute a RPI and not a Program Amendment as defined by Federal Regulations.

#### Proposed RPI Changes:

- I. Title change; referenced throughout the Pennsylvania CZM Program and Final Environmental Impact Statement (FEIS).

The title "Coastal Zone Management Branch" has been changed to, "**Division of Coastal Zone Management**".

With this change, all references to "Branch" within the Pennsylvania CZM Program and FEIS will read "**Division**". And references to the "**Division of Coastal Zone Management**" will be abbreviated "**DCZM**".

The change is a result of this Division's status change. The Coastal Zone Management Branch was given Division status and put under the auspices of the Bureau of Water Resources Management, Office of Resources Management.

- II. Changes relevant to wetland loss and identification, Chapter 2, page II-2-16; Policy IV-1: Enforcement/Regulations. The original policy read:

IT IS THE POLICY OF THE COASTAL ZONE MANAGEMENT PROGRAM TO PRESERVE, PROTECT AND, WHERE POSSIBLE, ENHANCE OR RESTORE THE REMAINING TIDAL AND FRESHWATER WETLANDS WITHIN THE COMMONWEALTH'S COASTAL AREAS BY REGULATING THROUGH PERMIT: DRAINING, DREDGING, FILLING, AND OTHER ACTIVITIES THAT AFFECT WATER QUALITY COURSE, CURRENT OR CROSS SECTION OF ANY WATERCOURSE, FLOODWAY OR BODY OF WATER. THIS INCLUDES REGULATED ACTIVITIES IN OR OTHERWISE AFFECTING ANY IMPORTANT WETLAND. THIS WILL ENSURE THE CONSIDERATION OF THE WETLANDS' PUBLIC VALUES SUCH AS; AREAS OF FISH AND WILDLIFE HABITAT, INCLUDING ENDANGERED SPECIES AS IDENTIFIED IN THE FEDERAL ENDANGERED SPECIES ACT OF 1973, STORAGE AREAS FOR FLOOD WATERS, BUFFERS AGAINST SHORELINE EROSION, AND WATER PURIFICATION AREAS.

With the changes (in bold face), this policy will read:

IT IS THE POLICY OF THE COASTAL ZONE MANAGEMENT PROGRAM TO PRESERVE, PROTECT AND, WHERE POSSIBLE, ENHANCE OR RESTORE THE REMAINING TIDAL AND FRESHWATER WETLANDS WITHIN THE COMMONWEALTH'S COASTAL AREAS **INCLUDING BUT NOT LIMITED TO THOSE WETLANDS IDENTIFIED IN THE NATIONAL**

**WETLAND INVENTORY MAPPING BY REGULATING THROUGH PERMIT: DRAINING, DREDGING, FILLING, AND OTHER ACTIVITIES THAT AFFECT WATER QUALITY COURSE, CURRENT OR CROSS SECTION OF ANY WATER COURSE, FLOODWAY OR BODY OF WATER. THIS INCLUDES REGULATED ACTIVITIES IN OR OTHERWISE AFFECTING ANY IMPORTANT WETLAND. THIS WILL ENSURE THE CONSIDERATION OF THE WETLANDS' PUBLIC VALUES SUCH AS: AREAS OF FISH AND WILDLIFE HABITAT, INCLUDING ENDANGERED SPECIES AS IDENTIFIED IN THE FEDERAL ENDANGERED SPECIES ACT OF 1973, STORAGE AREAS FOR FLOOD WATERS, BUFFERS AGAINST SHORELINE EROSION, AND WATER PURIFICATION AREAS. ANY WETLAND LOSS FROM A COASTAL ZONE AREA WILL BE REPLACED AND/OR MITIGATED IN AN APPROPRIATE MANNER AS REQUIRED BY THE REGULATIONS OF THE DEPARTMENT OF ENVIRONMENTAL RESOURCES, 25 PA. CODE CH. 105.**

The purpose of these changes are to further detail the basic policy on wetlands relative to wetland loss and identification. In the case of wetland loss from within the Pennsylvania Coastal Zones, it has been found that the original policy does not clearly provide for their replacement and/or mitigation. In the case of wetland identification, existing program mapping is inadequate and outdated and the U.S. Department of the Interior's Fish and Wildlife Service National Wetland Inventory provides a complete and consistent data base for classifying and locating wetlands in Pennsylvania's Coastal Zone. Therefore, these changes, to further detail the basic policy on wetlands, strengthens CZM's ability to protect and preserve the Commonwealth's coastal wetlands.

- III. Reference change, Chapter 2, page II-2-23; Policy VII-2: Port Activities/Planning: Encouragement. This policy originally read:

IT IS THE POLICY OF THE COASTAL ZONE MANAGEMENT PROGRAM TO UTILIZE ITS FISCAL AND OTHER PERTINENT RESOURCES TO SUPPORT LONG-RANGE, COMPREHENSIVE PLANNING FOR THE FUTURE DEVELOPMENT AND GROWTH OF THE PORT OF ERIE AND THE PENNSYLVANIA PORTS OF THE DELAWARE ESTUARY, WHICH ENCOURAGES THE ATTRACTION, ENHANCEMENT, AND DEVELOPMENT OF WATER DEPARTMENT ECONOMIC ACTIVITIES. (Also see Policy V-1, IX-A, IX-C).

With the change (in bold face), this policy will read:

**IT IS THE POLICY OF THE COASTAL ZONE MANAGEMENT PROGRAM TO UTILIZE ITS FISCAL AND OTHER PERTINENT RESOURCES TO SUPPORT LONG-RANGE, COMPREHENSIVE PLANNING FOR THE FUTURE DEVELOPMENT AND GROWTH OF THE PORT OF ERIE AND THE PENNSYLVANIA PORTS OF THE DELAWARE ESTUARY, WHICH ENCOURAGES THE ATTRACTION, ENHANCEMENT, AND DEVELOPMENT OF WATER DEPARTMENT ECONOMIC ACTIVITIES. (Also see Policy II-1, V-1, IX-A, IX-C).**

This addition references Policy II-1: Dredging and Spoil Disposal (DSD)/Regulation, (page II-2-10) and is intended to further clarify the original intentions of Policy VII-2: Port Activities/Planning: Encouragement.

- IV. Changes related to the Conflict Resolution Mechanisms, Chapter 4; Program Monitoring and Evaluation

A. Page II-4-8, Regional Office Permits (d.) originally read:

Any major concerns over an application affecting the Coastal Zone Management Program will be addressed in writing to the regional office. Concerns rejected by the region will involve further discussion by regional director and the Coastal Zone Management Program Manager for resolution. If these actions fail to resolve the differences, conflict resolution mechanisms as described later in this chapter will be utilized.

With the change (in bold face), the section will read:

Any major concerns over an application affecting the Coastal Zone Management Program will be addressed in writing to the regional office. Concerns rejected by the region will involve further discussion by **the Regional Director** and the Coastal Zone Management Program Manager for resolution. If these actions fail to resolve the differences, conflict resolution mechanisms as described on **page II-4-18 (Intradepartmental Conflict Resolution)** and depicted in **Figure iv-4 of this chapter will be utilized.**

The above deletion and replacement allows quick and easy reference to the conflict resolution process. Thereby eliminating any confusion.

B. Page II-4-9, Central Office Permits (e.) originally read:

Three possible actions can occur as a result of the meeting: either the Coastal Zone Management Program Manager's concerns can be addressed and he will then issue the form letter mentioned in c. above; the permit issuer will deny the permit based on the Coastal Zone Management Program Manager's concerns; or no agreement may be reached and the process of a conflict resolution will be initiated.

With the change (in bold face), the section will read:

Three possible actions can occur as a result of the meeting: either the Coastal Zone Management Program Manager's concerns can be addressed and he will then issue the form letter mentioned in c. above; the permit issuer will deny the permit based on the Coastal Zone Management Program Manager's concerns; or no agreement may be reached and the process of a conflict resolution will be initiated **as described on page II-4-18 (Intradepartmental Conflict Resolution) and depicted in Figure iv-4 of this chapter.**

This addition also eliminates confusion while allowing for quick and easy reference to the conflict resolution process.

C.1. Conflict Resolution for all Intradepartmental Issues, Page II-4-18, Intradepartmental Conflict Resolution (paragraph 1) originally read:

When the Branch is informed of an activity (not requiring Department permits), it will contact the appropriate bureau and request detailed information on the activity. This detailed information will include drawings, activity descriptions, proposed timeframes for completion and any other information that may be required to evaluate the activity. On receipt of this information, the Branch will notify the chairman of the appropriate coastal zone steering committee of the proposed activity and request that he and his committee provide the Branch with

their opinion of the activity. The Branch will also review the activity for consistency with the program policies. If the review by the Branch and the coastal zone steering committee indicate that the activity is consistent with the program policies, the Branch will indicate this fact to the bureau. The Branch will continue to monitor the activity for continued compliance with the program.

With the change, this section will read:

When the **Division** is informed of an activity\* **affecting the Coastal Zone Management Program**, it will contact the appropriate bureau and request detailed information on the activity. This detailed information will include **permit applications and supporting documentation (where applicable)**, drawings, activity descriptions, proposed timeframes for completion and any other information that may be required to evaluate the activity. On receipt of this information, the **Division** will notify the chairman of the appropriate coastal zone steering committee of the proposed activity (**on pertinent issues**) and request that he and his committee provide the **Division** with their opinion of the activity. The **Division** will also review the activity for consistency with the program policies. If the review by the **Division** and the coastal zone steering committee indicate that the activity is consistent with the program policies, the **Division** will indicate this fact to the bureau. The **Division** will continue to monitor the activity for continued compliance with the program.

\*Removal of phrase (not requiring Department permits).

The original guidelines for Intradepartmental Conflict Resolution did not clearly state how conflicts concerning activities requiring Department permits would be handled. With this change it will be clear as to the process of conflict resolution that will be utilized to resolve all intradepartmental issues.

C.2 Changes to the Conflict Resolution Mechanisms Page II-4-18 to II-4-19, Intradepartmental Conflict Resolution (paragraphs 2, 3 and 4) originally read:

In the event the activity is found to be inconsistent, the Program Manager will schedule a meeting with the appropriate bureau to discuss and resolve the conflicts. If this meeting does not resolve the conflicts, a meeting will be scheduled with the Deputy Secretary for Resources Management to assist in resolving the conflict.

The Branch is located in this Deputate; and for conflicts between the Branch and any bureau of this Deputate, the Deputy Secretary will resolve the conflict.

If the conflict is with a bureau in another Deputate, the Deputy Secretary for Resources Management will request a meeting with the appropriate Deputy Secretary to resolve the conflict. If this meeting fails to resolve the conflict, the Deputy Secretary for Resources Management will request a meeting with the Secretary of the Department of Environmental Resources to resolve the conflict. The Secretary will issue a decision that is administratively binding on all parties involved in the activity. (See Figure iv-4).

With the changes (in bold face), the section will read:

In the event the activity is found to be inconsistent, **DCZM** will schedule a meeting with the appropriate **Division staff** to discuss and resolve the conflict. **If this meeting does not resolve the conflict, a meeting will be scheduled by the CZM Division Chief with the appropriate Division Chief.\* If this meeting fails to resolve the conflict, a meeting between the Bureau Director of Water Resources Management and the appropriate Regional Director/Bureau Director will be scheduled to resolve the conflict. If the conflict is still unresolved, a meeting may be requested between the Deputy Secretary for Resources Management and the appropriate Deputy Secretary. Failure to resolve the conflict during the course of this meeting will require the Deputy Secretary for Resources Management to request a meeting with the Secretary of the Department of Environmental Resources.** The Secretary will issue a decision that is administratively binding on all parties involved in the activity. (See Figure iv-4).

**\*The Division of Coastal Zone Management is located in the Bureau of Water Resources Management, Office of Resources Management. Therefore, the Bureau Director will resolve conflicts between Divisions while the Deputy Secretary will resolve conflicts between Bureaus in this Deputate.**

The changes which occur above are a result of this Division's status change. The Coastal Zone Management Branch was given Division status and put under the auspices of the Bureau of Water Resources Management, Office of Resources Management. Thereby altering the various stages involved in the Conflict Resolution Mechanisms.

- C.3. Title Change, Page II-4-18, Intradepartmental Conflict Resolution; the title originally read:

Intradepartmental Conflict Resolution

With changes (in bold face), it will read:

Intradepartmental Conflict Resolution (Permit and Non-Permit Conflicts)

This change is needed to further clarify the applications of these mechanisms.

- D. Changes to the Conflict Resolution Mechanisms, Page II-4-19, Interdepartmental Conflict Resolution originally read:

The first steps of this process are identical to the intradepartmental conflict resolution process. The major difference in the two processes occurs when an activity is proposed by another State agency and is determined to be inconsistent. In this event, the Program Manager for the Branch will meet with the appropriate representatives from the agency to resolve the conflict. If the meeting fails to resolve the conflict, the Program Manager will request that the Deputy Secretary for Resources Management schedule a meeting with appropriate representatives of the agency to resolve the conflict.

If this meeting fails to resolve the conflict, the Deputy Secretary for Resources Management shall contact the Secretary of the Department of Environmental



Resources and request that a meeting be scheduled with the appropriate representatives of the agency to resolve the conflict. If this meeting also fails to resolve the conflict, the Secretary of the Department of Environmental Resources may request the Governor to review the conflict and issue an order resolving the conflict. This order will be administratively binding on all parties under the Governor's jurisdiction. (See Figure iv-5.)

With changes (in bold face), it will read:

The first steps of this process are identical to the intradepartmental conflict resolution process. The major difference in the two processes occurs when a **conflict is unresolved following the meeting between the Deputy Secretary for Resources Management and the appropriate Deputy Secretary for the outside agency.**

**At this point, DCZM through the Deputy Secretary for Resources Management, requests that a meeting be scheduled between the Secretary of the Department of Environmental Resources and the appropriate Department Secretary.** If this meeting also fails to resolve the conflict, the Secretary of the Department of Environmental Resources may request **a meeting with the** Governor to review the conflict and issue an order resolving the conflict. This order will be administratively binding on all parties under the Governor's jurisdiction. (See Figure iv-5.)

As noted in IV.C.2., the above changes are a result of this Division's status change. The Coastal Zone Management Branch was given Division status and put under the auspices of the Bureau of Water Resources Management, Office of Resources Management. Thereby altering the various stages involved in the Conflict Resolution Mechanisms.

E.1. Title Change, Figure iv-4, Title of figure originally read:

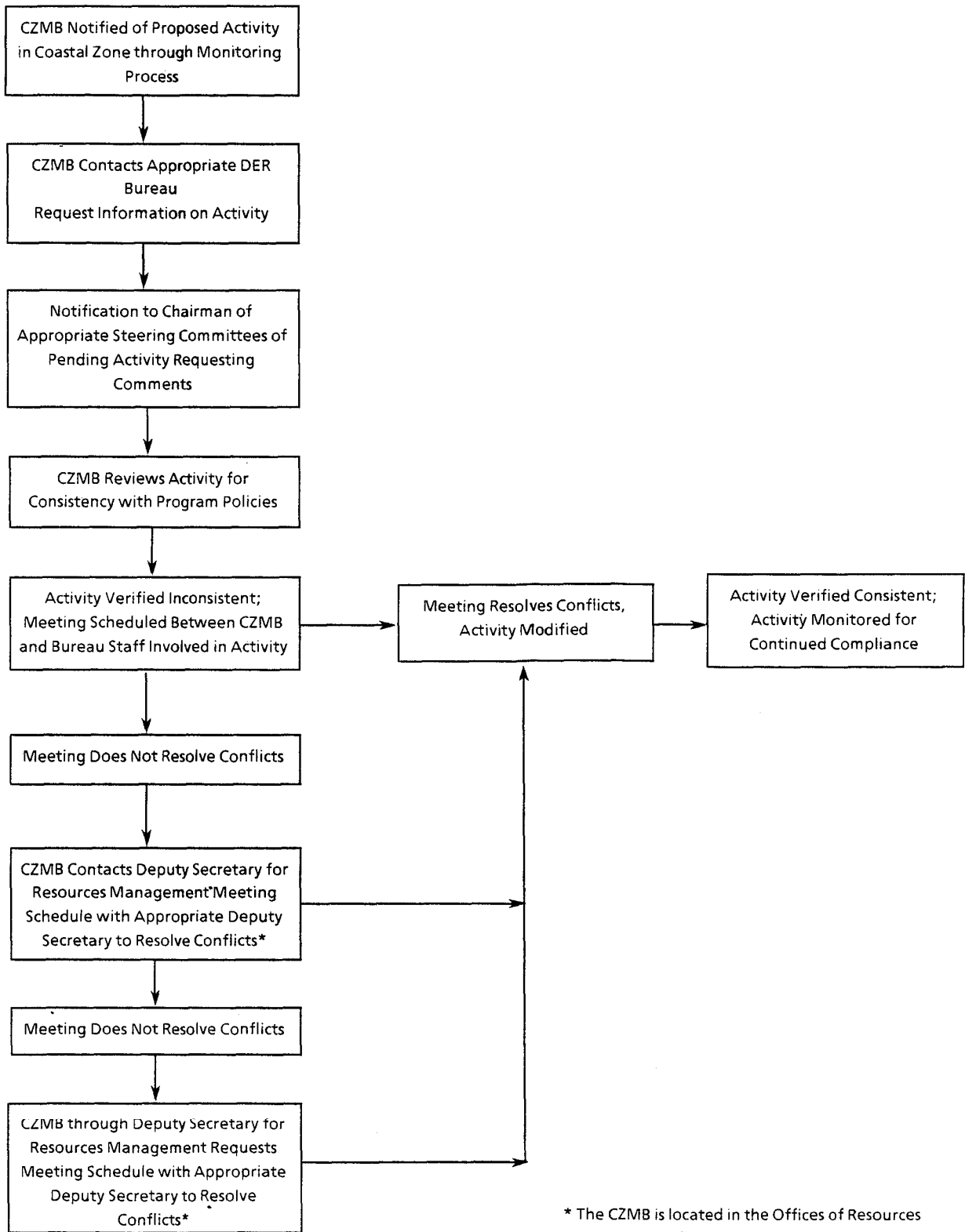
DER ADMINISTRATIVE CONFLICT RESOLUTION FOR NONENFORCEABLE  
POLICIES.

With the change, it will read:

INTRADEPARTMENTAL ADMINISTRATIVE CONFLICT RESOLUTION.

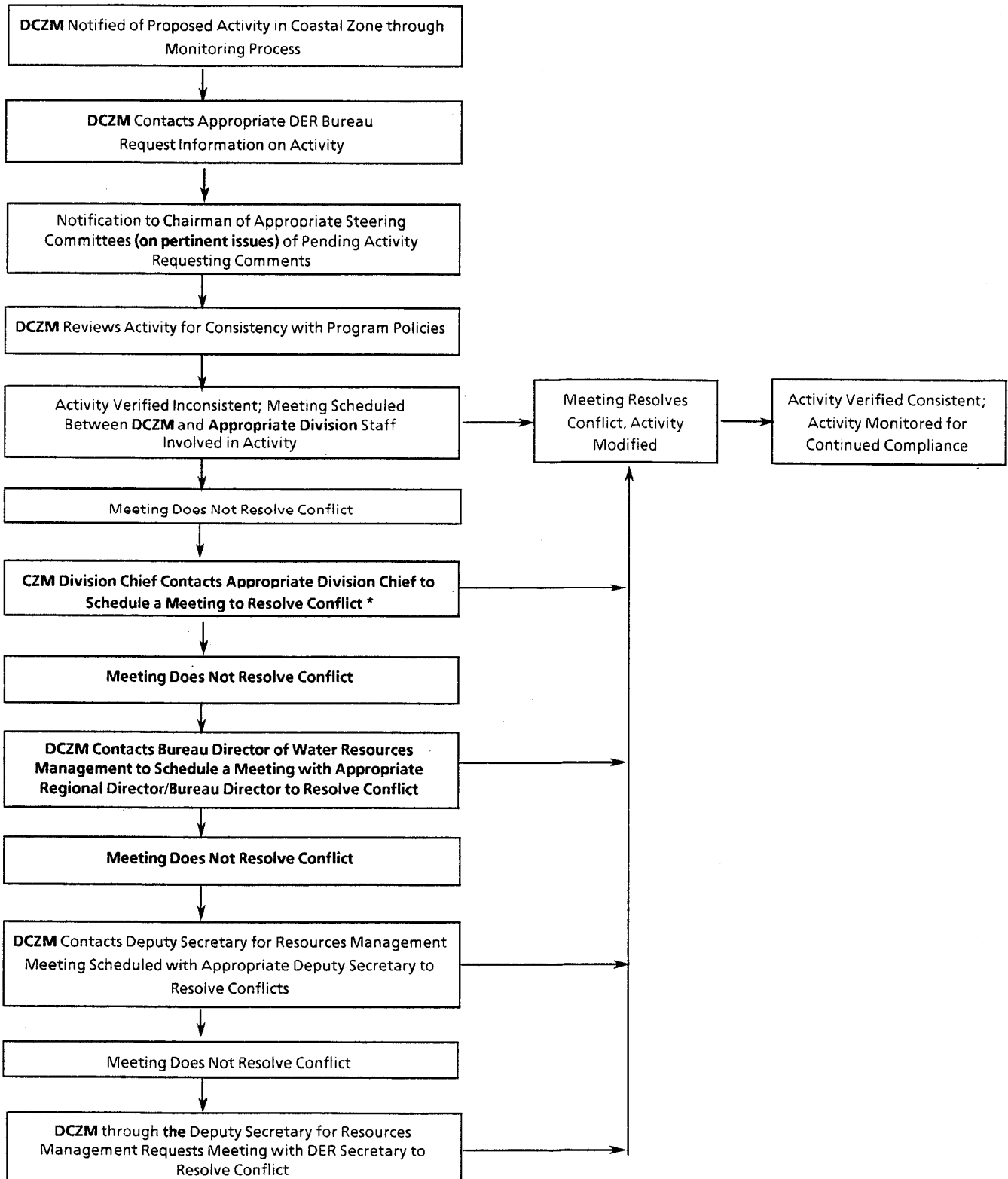
The changes in IV.C.1. necessitate the revision of this title. The above change also enables easy referencing between the text and figure.

E.2. Figure iv-4, This figure originally read:



\* The CZMB is located in the Offices of Resources Management of the DER. Therefore, the Deputy Secretary will resolve conflicts between Bureaus in this Deputate and CZMB

With the changes it will read:

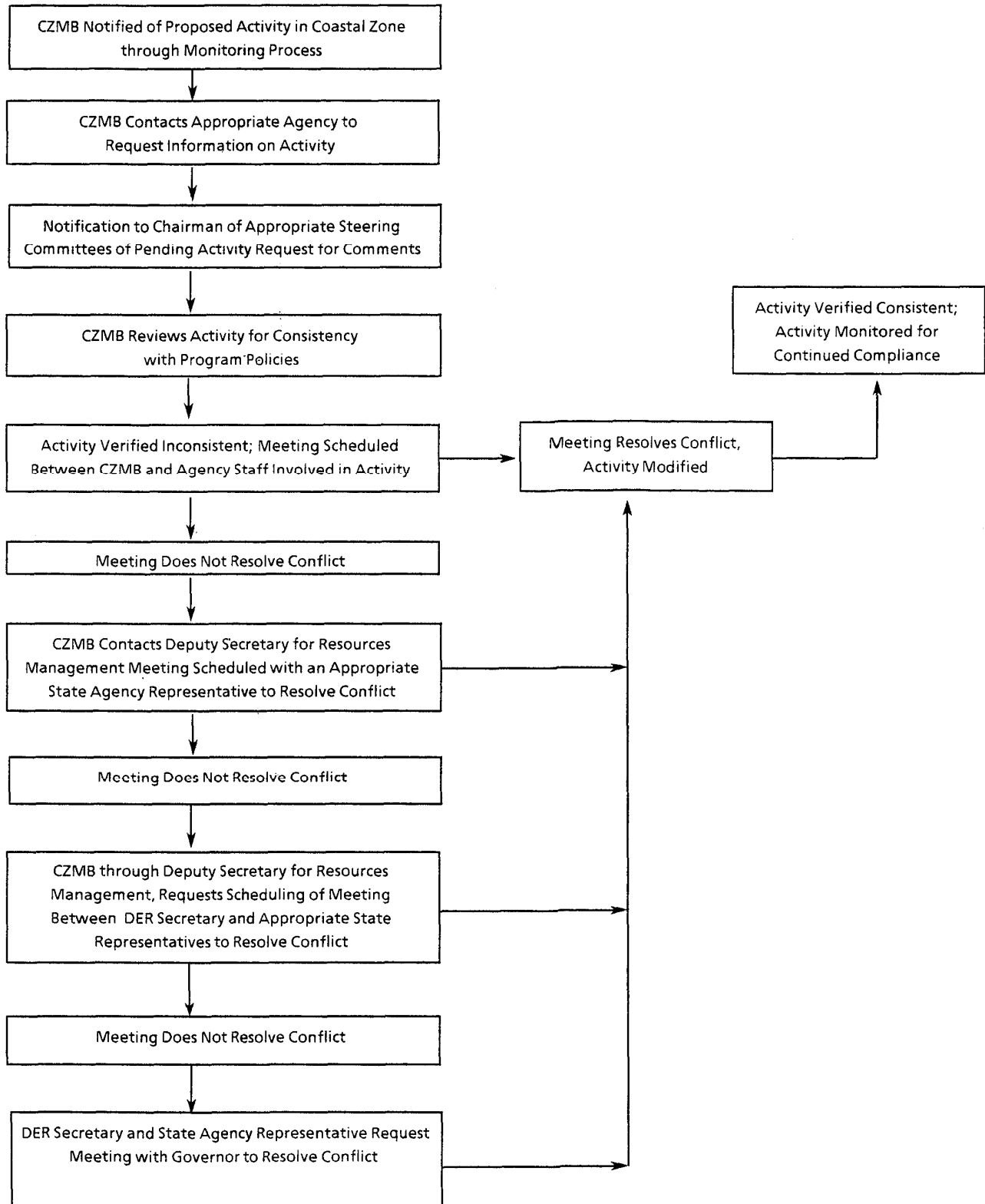


\* The Division of Coastal Zone Management is located in the Bureau of Water Resources Management, Office of Resources Management. Therefore, the Bureau Director will resolve conflicts between Divisions while the Deputy Secretary will resolve conflicts between Bureaus in this Deputate.

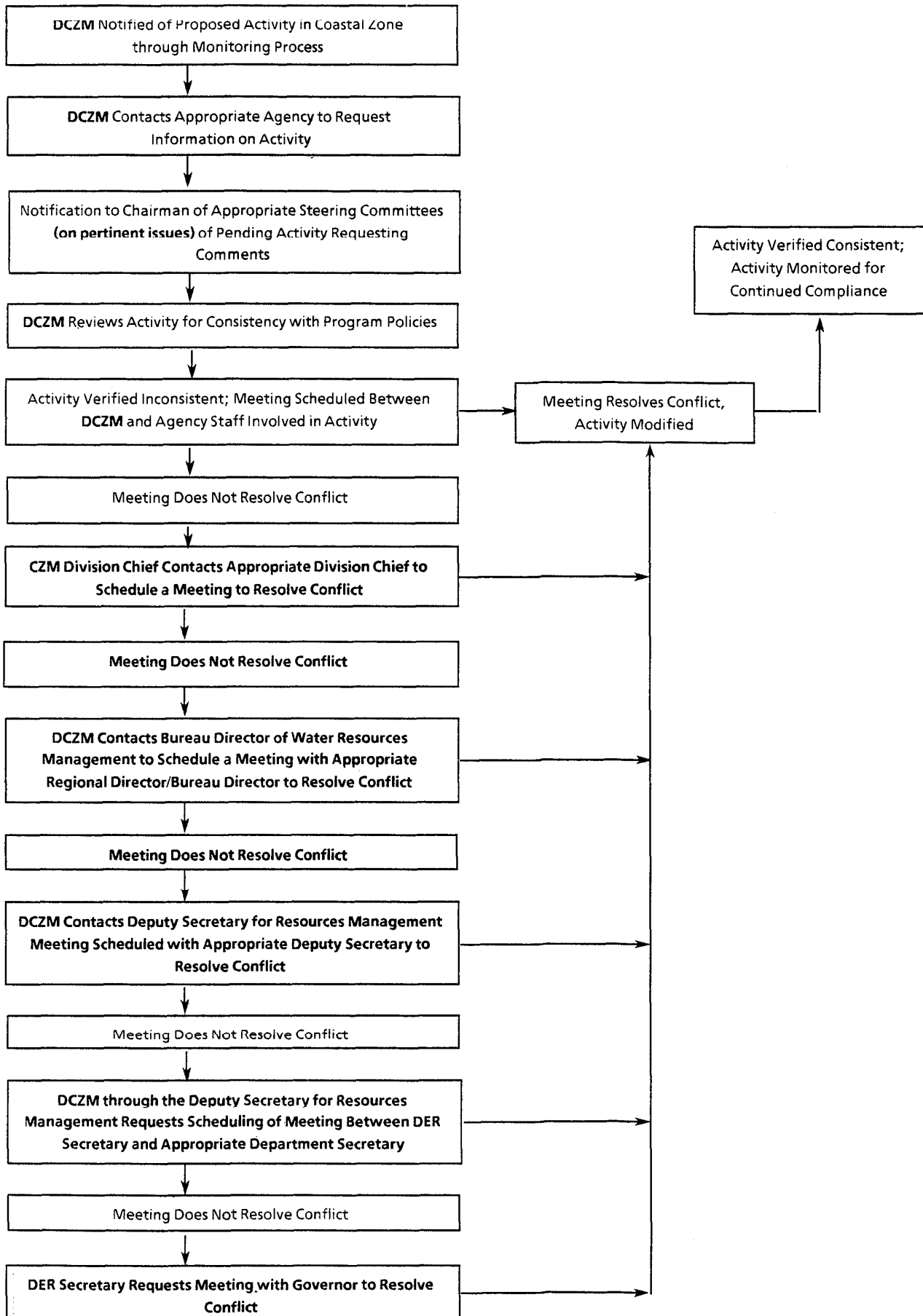
The additional Phrase in the third block of this figure provides for situations in which the Steering Committees need not be notified. These situations consist of conflicts that are purely of an administrative nature.

All other changes are a result of this Division's status change. The Coastal Zone Management Branch was given Division status and put under the auspices of the Bureau of Water Resources Management, Office of Resources Management.

E.3. Figure iv-5, This figure originally read:



With the changes it will read:



The changes occurring in E.3. result from the same reasons given for changes in E.2.

- F. Title change, Figure iv-5, title of figure originally read:

STATE AGENCY ADMINISTRATIVE CONFLICT RESOLUTION FOR NONENFORCE-  
ABLE POLICIES.

With the change, it will read:

INTERDEPARTMENTAL ADMINISTRATIVE CONFLICT RESOLUTION.

This revision also allows for easy referencing between the text and figure.  
Thereby making the chapter more understandable.

In conclusion, Routine Program Implementation **I**. is formal notification of this Division's status change. We have determined this change to be a RPI and not a Program Amendment because it does not substantially change enforceable policies already in existence.

Routine Program Implementation **II**. is initiated in order to further detail the policy on wetlands to assure that any wetland loss will be replaced and/or mitigated in an appropriate manner. We have determined this change to be a RPI because it will only clarify the provisions in the Wetlands Policy to preserve, protect and, where possible, enhance or restore the remaining tidal and freshwater wetlands within the Commonwealth's coastal zones, as opposed to a Program Amendment which would reflect a substantial change to the basic structure of the Wetlands Policy.

Routine Program Implementation **III** is determined a RPI because it corrects an oversight in the Pennsylvania CZM Program. Policy II-1: DSD/Regulation was originally intended for inclusion as a reference. This policy provides for an environmentally safe disposal area once dredging of port areas, (necessary for continued port usage) is completed.

Routine Program Implementation **IV**. will clarify the CZM Program's conflict resolution process concerning all intradepartmental issues and define basic changes resulting from this Division's status change. These changes constitute an RPI as opposed to a Program Amendment because they correct an oversight in the original statement and, overall, provide clarity and strength to the original intentions of the Conflict Resolution Mechanisms.