

# Final Evaluation Findings

## New York Coastal Management Program

April 2007 to July 2015

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## Summary of Findings

The Coastal Zone Management Act requires the National Oceanic and Atmospheric Administration (NOAA) 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 New York Coastal Management Program by the New York State Department of State, the designated lead agency, for the period from April 2007 to July 2015. The evaluation focused on three target areas: federal consistency, coastal resilience, and the Local Waterfront Revitalization Program.

The findings in this evaluation document will be considered by NOAA in making future financial award decisions concerning the New York Coastal Management Program. The evaluation came to these conclusions:

**Accomplishment:** The New York Coastal Management Program's technical and financial assistance to communities through the Local Waterfront Revitalization Program has brought economic development to historic waterfronts, increased community resilience, and provided new and enhanced opportunities for the public to enjoy the waterfront, including in underserved communities.

**Accomplishment:** The New York Coastal Management Program's noteworthy level of effort to update its federally approved program includes submission and approval of 18 new or updated Local Waterfront Revitalization Programs that are now incorporated into the coastal program, ensuring that local enforceable policies can be used for federal consistency.

**Accomplishment:** The New York Coastal Management Program has designed and implemented a collaborative evaluation process for Local Waterfront Revitalization Programs that assists communities with better implementing their approved local programs.

**Accomplishment :** The New York Coastal Management Program's initiatives to update the Significant Coastal Fish and Wildlife Habitat narratives and boundaries for the South Shore and Hudson River regions based on new biological information improves the state's ability to implement the policy and expands the protection of significant fish and wildlife habitat. The updated Significant Coastal Fish and Wildlife Habitat narratives and boundaries have been incorporated into the state's federally approved coastal management program.

**Accomplishment:** The New York Coastal Management Program helped design a new storm recovery process that worked to engage community members across all groups and assisted local communities with identifying and addressing local recovery priorities. Coastal program staff members provided exemplary technical support to communities recovering from Hurricane Sandy and developed maps and an assessment tool to assist communities and state agencies in planning for climate change and recovery from storms.

**Necessary Action:** The New York State Department of State should work with the NOAA Office for Coastal Management to develop an agreed-upon template with standard language accurately describing the difference between federal consistency and state consistency that will be included in Department of State documents, forms, website, and future Local Waterfront Revitalization Program submittals by August 31, 2018.

**Recommendation:** The NOAA Office for Coastal Management encourages the coastal program to continue to conduct evaluations of select Local Waterfront Revitalization Programs every year.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York State Department of State to provide all draft new and updated Local Waterfront Revitalization Programs (whether a copy or a hyperlink to the website) to the Office for Coastal Management for an initial review during the open 60-day public comment period.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to continue to improve coordination and collaboration with other federal and state agencies, particularly the Department of Environmental Conservation, to ensure that the best available information is used in permitting decisions and the permitting process is efficient.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to conduct at least one consistency training every year for state and local government staff members and officials.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to continue its efforts to work with state agencies and local governments to incorporate climate resilience and natural hazard mitigation into existing planning and development activities.

This evaluation concludes that the New York State Department of State is successfully implementing and enforcing its federally approved coastal management 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 Coastal Zone Management Act.

## Program Review Procedures

The National Oceanic and Atmospheric Administration (NOAA) evaluated the New York Coastal Management Program in fiscal year 2015. The evaluation team consisted of Carrie Hall, evaluation team lead; Randall Schneider, Mid-Atlantic region lead; and Glynnis Roberts, site liaison with the NOAA Office for Coastal Management; and Kate Skaggs, CoastSmart communities planner, Maryland Coastal Management Program. The support of the coastal management 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 secretary of the New York State Department of State, published a notice of “Intent to Evaluate” in the *Federal Register* on May 27, 2015, and notified members of New York’s congressional delegation. The coastal management program posted a notice of the public meeting and opportunity to comment in the *Times Union* on May 25, 2015.

The evaluation process included a review of relevant documents and a survey of stakeholders, which helped identify three target areas for the evaluation: federal Consistency, coastal resilience, and the Local Waterfront Revitalization Program. A site visit was conducted and the evaluation team held meetings with staff members and group discussions with stakeholders and program staff members about the target areas. In addition, a public meeting was held on Wednesday, July 8, 2015 at 4:00 p.m. local time in Room 505 on the 5<sup>th</sup> Floor of One Commerce Plaza at 99 Washington Avenue, Albany, New York, to provide an opportunity for members of the public to express their opinions about the implementation of the program. Stakeholders and members of the public were also given the opportunity to provide written comments. No written comments were received. NOAA then developed draft evaluation findings, which were provided to the coastal management program for review, and the program’s comments were considered in drafting the final evaluation findings.

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

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

**Recommendations** are actions that the office believes would improve the program but which 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 New York Coastal Management Program was reorganized several times during the evaluation period. At the start of the evaluation, the coastal program was the Division of Coastal Resources, a line division within the New York State Department of State. The coastal program also began carrying out new programs for the department: Brownfield Opportunity Areas and Ocean and Great Lakes planning. In 2013, the coastal program was moved to the new Office of Planning and Development. The office serves as the state planner for disaster recovery efforts funded by the U.S. Department of Housing and Urban Development following Hurricanes Irene and Sandy, and Tropical Storm Lee. The office now also includes Smart Growth and Building Standards and Codes. The new office's mission is to increase resilience and sustainable growth of New York communities by advancing progressive land use solutions, community-based development, and building standards and codes. The office works through partnerships with community-based organizations, academia, local governments, natural resource and social service agencies, and other stakeholders. Although the coastal program did not lose staff positions during the evaluation period, 21 of 56 positions were vacant as of January 2015.

### Local Waterfront Revitalization Program

New York's Local Waterfront Revitalization Program provides communities with the opportunity to build consensus and a vision for their waterfronts, identify strategies for achieving that vision, and receive assistance in implementing the vision. A program may be comprehensive or it may address only the most critical issues affecting a community's waterfront and harbor areas. The goal of the program is to maximize the benefits from economic development, environmental conservation, and public use of the waterfront while minimizing any potential conflicts among these objectives.

The coastal program is responsible for implementing the revitalization program and, in partnership with other state agencies, provides technical and financial assistance for developing waterfront plans and projects. Once programs are approved by the Department of State, state agency actions are required to be consistent with the approved plan to the maximum extent practical. Once NOAA approves the incorporation of a plan into the state's federally approved coastal program, the federal consistency provision of the Coastal Zone Management Act applies. As of September 2014, 66 Local Waterfront Revitalization Programs covering 74 participating communities were approved by the New York State secretary of state and incorporated into New York's federally approved coastal management program.

The coastal program submitted routine program changes covering 18 Local Waterfront Revitalization Programs to the NOAA Office for Coastal Management for approval and incorporation into New York's federally approved coastal management program. Developing and revising local programs is a major undertaking by both the coastal program and local jurisdictions. However, the incorporation of new Local Waterfront Revitalization Programs and amendments to existing local programs is critical to the implementation of the New York Coastal Management

Program. Evaluation participants recognized the importance of the local programs for giving local governments a strong voice in federal agency decision-making, as well as the critical role of the coastal program and the effort that it puts forth in working with local governments and the NOAA Office for Coastal Management.

The Local Waterfront Revitalization Program uses a ground-up approach to build on a community's identity through the local waterfront revitalization program. Local government partners praised coastal program staff members for their support of local communities and technical assistance in helping communities create and achieve their visions, or as one stakeholder described, "teaching a man to fish." Stakeholders referred to the coastal program staff as an "essential partner" that helped coordinate agencies and provided funding and technical assistance depending upon the situation.

The state's Environmental Protection Fund, created in 1993, provides funding for the Local Waterfront Revitalization Program. The fund is financed primarily through a dedicated portion of real estate transfer taxes. Five state agencies, including the Department of State, administer the funds to support a wide range of projects. From 2007 to 2014, the coastal program awarded \$9.5 million to local communities to support the development of, and updates to, special area management plans, which were matched with \$9.5 million in local funds. Special area management plans include local waterfront revitalization programs, redevelopment plans, watershed management plans, and community visioning and strategy development. The funding can be used for a wide range of projects that include public access, environmental justice issues, stormwater, health surveys, incorporation of climate resilience adaptation project monitoring, and mitigation banking.

**EXAMPLE: City of Rochester**

*The city of Rochester's Local Waterfront Revitalization Program was originally approved in 1990 and has over the past 25 years provided a clear vision and critical set of policies, goals, and recommendations to guide the future development of the Lake Ontario shoreline and the Genesee River and Erie Canal corridors. The program has improved public access to the waterfront, recreational opportunities, and water quality and has resulted in erosion and flood control improvements. The city's program has leveraged millions of dollars of public and private financing for improvements within the program boundaries. Major waterfront development projects include the Genesee River wave surge project; port site redevelopment and new marina, River Street redevelopment; Genesee River Trail segments; O'Rorke Bridge; park, bridge and trail improvements; signage and wayfinding improvements; land acquisition; river overlooks; and other public infrastructure and environmental remediation improvements.*

*The program has also provided significant opportunities for residents, neighborhood organizations, property owners, and stakeholders to become involved in, and affect, the development of the city's waterfront areas. The program has been an important tool and "venue" for community feedback and input regarding the city's overall waterfront vision, goals, policies, and implementation recommendations. Thousands of residents have participated in the*

*planning process through various community meetings, public information meetings, focus group meetings, special events, conferences, and online surveys.*

### ***Public Access and Scenic Areas of Statewide Significance***

Public access is a key component of the local waterfront revitalization programs. Every local waterfront revitalization plan includes public access policies and projects. Between 2007 and 2013, coastal communities received funding from the Environmental Protection Fund for 159 public access projects totaling over \$58 million dollars to help implement their local waterfront revitalization programs. The public access projects include development of several blueways, small boat and paddling routes that link heritage sites, trails, greenways historic resources, scenic byways, and community centers, and several greenways that provide linear open space along a river, stream, rail-trail, canal or other route for conservation, recreation, and transportation.

#### ***EXAMPLE: Hunts Point***

*Hunts Point in South Bronx is an area of historically concentrated industrial use that is designated a Significant Maritime Industrial Area in the City of New York's Local Waterfront Revitalization Program to protect current and future industrial, maritime, and other working-waterfront uses. Hunts Point is home to the largest food market in the U.S and second largest in the world, feeding over 23 million people throughout the region and employing over 3,000 workers. The area is also vulnerable to storm surges. Hunts Point had 2.5 miles of waterfront that was completely inaccessible to the upland community. The South Bronx Greenway was proposed to link existing and new parks through a network of waterfront and on-street routes and to provide the low-income Hunts Point community with public access to the waterfront while reducing the area's vulnerability to storm surges. The coastal program helped support this effort with technical assistance and environmental protection funds, including creating a bicycle and pedestrian connection to Randall's Island and its existing network of pathways and recreational amenities and creating a new park, Hunts Point Landing, a \$7.3 million project that includes an outdoor amphitheater, scenic overlook, fishing pier, and kayak and boat launch.*

New York's Coastal Policy 24 provides for the designation and protection of scenic areas of statewide significance. Scenic Areas of Statewide Significance are areas that are visually accessible to the public and designated for their unique and highly scenic landscapes in the coastal area. During the evaluation period, the Village and Town of East Hampton on the eastern end of Long Island partnered to develop a Scenic Resources Protection Plan, resulting in the designation of the East Hampton Scenic Area of Statewide Significance in 2010. The 12-year effort resulted in nine scenic areas covering more than 25,000 acres being designated in 2010 for their sweeping views of the ocean with beaches and coastal bluffs, the Montauk Point Light House, and freshwater ponds and streams.

In 2012, ten communities along the St. Lawrence River on the Canada–United States border partnered to initiate a study of the 50-mile Thousand Islands Region to be used for designation of a new scenic area of statewide significance. The region's 1,864 islands, unique limestone outcrops, historic island castles and boathouses, Cape Vincent Light House, and freshwater wetlands and bays combine to provide the visual variety, unity, and contrast that make this area

special. The study was funded through an Environmental Protection Fund Local Waterfront Revitalization program grant. The scenic designation is anticipated to lead to increased tourism and small business growth and enhance the historic 454-mile Great Lakes–St. Lawrence River Seaway Trail.

### ***Tools, Guidance, and Training***

#### *Watershed Management Planning*

The coastal program worked with partners to develop a multimedia informational package, “Watershed Plans: Protecting and Restoring Water Quality,” in 2009 to encourage and assist local governments, communities, and other partners to collaboratively protect and restore vital water resources throughout New York. Coastal program staff members have presented the subject of watershed planning and the process outlined in the guidebook, as well as successful case studies and funding opportunities, at a variety of forums. The guidance outlines a planning process that includes building partnerships, assessing existing conditions and capacity, and developing recommendations and strategies. Each watershed plan is guided by an inter-municipal organization, facilitated by the Department of State, which shares resources and cooperates on projects to reduce water pollution. The coastal program provided funding from the Environmental Protection Fund for the preparation of eight watershed management plans between 2010 and 2015. Additionally, during the evaluation period, the two earlier guidebooks, “Making the Most of Your Waterfront” and “Opportunities Waiting to Happen,” were updated.

#### *Revitalizing Hudson Riverfronts*

The coastal program worked with Scenic Hudson and the City of Kingston to develop a guide for appropriate waterfront development along the Hudson River, “Revitalizing Hudson Riverfronts” (2009). The guide provides tools to promote the development of lively, pedestrian-friendly, mixed-use riverfronts in and adjacent to municipal centers while conserving forests, farms, wetlands, and fields, and providing for a continuous public greenway corridor along the river.

#### *Geographic Information Gateway*

At the time of the evaluation site visit, the coastal program was in the final stages of beta testing the state’s new Geographic Information Gateway and gave a demonstration of the tool to the evaluation team. The website is intuitive and provides geographically mapped data that is available to the public. The gateway can be used by government, businesses, and nonprofits for decision-making and directing investments, by schools for teaching students, and by the public for identifying recreational opportunities and learning about coastal and ocean resources. The gateway includes information on many subjects including marine animals, commercial fishing, energy and utilities, recreation, habitat, and transportation. The Latest Conditions page includes real-time information across the state such as water quality, tide levels, and beach conditions. The website also includes case studies of community success stories that demonstrate how the program uses the geographic information to improve planning and decision-making. In 2016, the website won a Special Achievement in GIS Award from ESRI. The gateway is a valuable tool that can assist local governments in their implementation of local waterfront revitalization programs.

### ***Evaluation of Local Waterfront Revitalization Programs***

The coastal program addressed a necessary action found in the previous three evaluation findings (1998, 2004, and 2008) to develop and implement an evaluation process for local waterfront revitalization programs that is able to identify issues and provide recommendations on an established schedule. The evaluations look at the ability of municipalities to determine ongoing consistency with their local waterfront revitalization programs, including local approvals, decision-making procedures, and progress in implementing the program and its enforceable policies. The evaluation process includes a written survey of program success, follow-up discussion, and tour of the community. Between April 2007 and September 2014, the coastal program evaluated 28 coastal communities, and four additional evaluations were underway. The coastal program evaluates approximately six communities a year. As part of the evaluations, coastal program staff members work with the local government to clarify the steps that local governments need to take to have a successful consistency review process. Coastal program staff members meet with local consistency review committees to go over the local consistency review law and review procedures.

The coastal program discussed with the evaluation team that the evaluations have also enabled the coastal program to reengage with programs that were not actively using their local waterfront revitalization programs, many of which were adopted years ago. The communities were then able to start reengaging in the Local Waterfront Revitalization Program. The NOAA Office for Coastal Management commends the coastal program for developing the evaluation process and encourages the coastal program to continue to conduct evaluations of select local programs every year.

### ***Findings for Waterfront Revitalization Program***

**Accomplishment:** The New York Coastal Management Program's technical and financial assistance to communities through the Local Waterfront Revitalization Program has brought economic development to historic waterfronts, increased community resilience, and provided new and enhanced opportunities for the public to enjoy the waterfront, including in underserved communities.

**Accomplishment:** The New York Coastal Management Program's noteworthy level of effort to update its federally approved program includes submission and approval of 18 new or updated Local Waterfront Revitalization Programs that are now incorporated into the coastal program, ensuring that local enforceable policies can be used for federal consistency.

**Accomplishment:** The New York Coastal Management Program has designed and implemented a collaborative evaluation process for Local Waterfront Revitalization Programs that assists communities with better implementing their approved local programs.

**Recommendation:** The NOAA Office for Coastal Management encourages the coastal program to continue to conduct evaluations of select Local Waterfront Revitalization Programs every year.

## **Federal Consistency, State Consistency, and Permitting**

### ***Federal Consistency Overview***

The New York State Department of State continues to implement the Coastal Zone Management Act federal consistency provision in a satisfactory manner, coordinating with other state agencies, local governments, federal agencies, and applicants.

There has been some confusion regarding “state consistency” and “federal consistency.” It is important to be clear that for state coastal programs, “state consistency” and “federal consistency” are separate operations. State consistency is where state agencies and any local programs must conduct activities with the state coastal management program. Federal consistency is the review of federal actions that affect the uses or resources of a state’s coastal zone under Coastal Zone Management Act § 307 and NOAA’s regulations at 15 CFR Part 930.

As discussed further in this section, there is a continuing need for training in federal and state consistency. The NOAA Office for Coastal Management encourages the New York Coastal Management Program to pursue increased cross-training for state agencies and programs in federal and state consistency. In addition, the NOAA Office for Coastal Management encourages the coastal program to work with other state agencies, particularly the Department of Environmental Conservation, to improve coordination and collaboration, including opportunities to share site-specific data and information to ensure the best available information is used in permitting decisions.

### ***Local Waterfront Revitalization Program Approvals and Training Needs***

The coastal program has been working with the NOAA Office for Coastal Management and local jurisdictions to address concerns regarding the Local Waterfront Revitalization Program submissions for incorporation into the state’s federally approved coastal zone management program. However, the NOAA Office for Coastal Management and Department of State both still have concerns with the current process for incorporating new and updated local waterfront revitalization programs into the state’s federally approved coastal zone management program. These issues have also resulted in frustration for local governments in the state of New York.

The Department of State stated it would like the NOAA Office for Coastal Management to review and provide comments during the 60-day public comment period. They noted that if the review occurred after a local plan or updated local plan had already been adopted by a municipality and approved by the New York State Secretary of State, that any substantive comments would then be problematic as they would need to revisit local adoption and state approvals. Currently, the coastal program formally submits new or updated local waterfront revitalization programs for review after they have been approved by the secretary. The coastal program has provided the NOAA Office for Coastal Management with the opportunity to comment on a number of draft new and updated local waterfront revitalization programs, and the office has provided feedback on some of these draft programs. The NOAA Office for Coastal Management encourages the coastal program to submit all draft new and updated local waterfront revitalization programs to

the NOAA Office for Coastal Management for review during the 60-day public comment period, and the office will make a good faith effort to review and provide initial comments during the public comment period.

The New York State Department of State also noted concerns with the NOAA Office for Coastal Management's review of waterfront programs and that the office was raising questions regarding the enforceability of policies that were previously incorporated into the federally approved coastal program, even though those policies were not being changed by the proposed amendment. The NOAA Office for Coastal Management reviews draft local waterfront revitalization programs in their entirety. If there is language in programs that is not approvable, or clarification is needed regarding what is an enforceable policy, NOAA will address this in its analysis and subsequent approval or denial.

An additional reoccurring issue with the local waterfront revitalization programs is that they often contain inaccurate descriptions of federal and state consistency, causing confusion for stakeholders. The NOAA Office for Coastal Management encourages the New York Coastal Management Program to develop an agreed-upon template that will be used by all local programs.

The coastal program's website provides extensive information on federal and state consistency, including new draft and final local waterfront revitalization plans. All previously approved local plans have been scanned and are also available. The evaluation team heard from local government staff members that they still did not always know where to go to find information. The coastal program may wish to explore whether there are key gaps in information that could be of assistance to stakeholders or if information could be provided in a more user-friendly format.

Previous evaluations have included recommendations encouraging the coastal program to provide training to local governments and others regarding the federal and state consistency process. This is an ongoing task due to turnover of local and state staff members and officials. Between 2011 and 2015, the coastal program reported in the Coastal Zone Management Act Performance Measurement Database that it held two federal consistency training events in 2014 which were attended by 80 people. The NOAA Office for Coastal Management encourages the coastal management program to continue to provide or expand federal and state consistency training opportunities since turnover in government and elected officials is ongoing.

### ***Communication and Coordination***

Communication and collaboration among state agencies and federal agencies has improved according to stakeholders and coastal program staff members. Overall, the state and federal agency personnel who the evaluation team met with were appreciative that coastal program staff members were engaging and providing feedback earlier in the permitting process. They discussed that this was particularly important because resources and staffing have decreased, and they cannot afford to waste time reviewing projects that would later be denied anyway. They

discussed that early coordination saved staff time and money and enabled agencies to provide consistent advice and reduce uncertainty for applicants.

***EXAMPLE: Champlain Hudson Power Express***

*In 2010, a private developer proposed a 1,000 megawatt underwater and underground high voltage direct current electric transmission system extending from Quebec to New York City. The route initially selected ran the transmission lines subaqueously for the majority of the route, using publicly owned bottomlands in Lake Champlain and the Hudson River. The Department of State's analysis revealed numerous inconsistencies, primarily concerned with navigation, habitats, and fisheries. Working collaboratively with other state and federal agencies, the department was able to identify a route that satisfied the developer's needs and accommodated the concerns of other state agencies, while protecting critical aquatic habitat and fisheries resources and minimizing potential impacts to existing navigational needs.*

Although improvements have been made, evaluation participants noted that there were further opportunities to improve communication and better coordinate the review of permit applications across agencies to minimize conflicts and inconsistencies. In particular, participants noted that it would be very beneficial to get coastal program staff members out in the region on travel more regularly, or locate additional staff members in the region, so that they could visit project sites. For example, the Department of Environmental Conservation has staff members in the region who go out and look at specific sites, whereas Department of State staff must use aerial photography, which can be dated and inaccurate. It was noted that decisions and dissents could be based on faulty information instead of relying on existing "boots on the ground." One potential resolution noted by stakeholders to resolve this issue would be to finalize a memorandum of understanding detailing the coordination and exchange of site-specific information. Another state, Oregon, addressed similar issues by creating a database system that multiple state agencies use. Permit reviewer comments and information from each of the agencies are shared and accessible to reviewers across agencies through the database, helping make information used in reviews consistent and allowing for identified issues to be shared in a timely manner.

Evaluation participants stated that for larger projects coordination was usually very good, but for smaller permits the process could be improved and that this might also be addressed through a memorandum of understanding with the Department of Environmental Conservation. Other challenges faced by the staff include working with consultants, particularly after Hurricane Sandy, who are not familiar with the consistency review process and reviewing new types of projects such as emerging energy technologies.

***Process Improvements***

The New York State Department of State made several process improvements to federal consistency, including process improvements to state permitting. The state uses its state permitting process for federal consistency purposes in addition to issuing state permits.

***EXAMPLE: Waterfront Navigator – New York City’s One Stop Waterfront Permit Planner***

*To address the concerns of waterfront businesses and property owners that receiving construction permits on the New York City waterfront was confusing, time consuming, and expensive, the coastal program assisted the New York City Economic Development Corporation’s effort to create a comprehensive, user-friendly website resource for waterfront permit information. The Waterfront permit planner website includes an interactive project questionnaire, frequently asked questions, a waterfront permitting assistance toolbox, step-by-step infographics, links to other waterfront resources, and a directory of federal, state, and city agencies. The website was created to help applicants create better permit applications, thereby expediting construction and development in New York City by facilitating a more efficient and predictable permit process. The website went live soon after the evaluation site visit.*

The coastal program also worked to streamline the permitting process through increased use of nationwide permits. In 2012, coastal program staff members reviewed the proposed regional nationwide permits and concurred with 10 regional nationwide permits, concurred with conditions for 34, and objected to 6 permits. For those permits with conditions, coastal program staff members worked to develop focused conditions so that a larger number of smaller actions could be approved through nationwide permits.

***Technology for Consistency and Permitting***

The coastal program has continued to invest in technology upgrades to improve the federal consistency and permitting process. The program transitioned to a new Oracle database that provides project information to reviewers, including location, contact information, and project details, and has the ability to conduct limited queries. At the time of the site visit, the database was being upgraded. The program is also working with the state’s Bureau of Information Technology Services to make improvements to a GIS application that uses Google maps for geocoding and locating projects. The tool can be used to map a proposed project and to easily identify other projects in the vicinity so that cumulative impacts can be evaluated. The GIS application is linked to the consistency review database to record information associated with federal and state consistency review. The upgraded technology will allow the program to better track data and types of activities along waterbodies or specific geographic areas and assess the cumulative level of threat from these activities and any cumulative impacts associated with individual projects. The improved technology will allow increased efficiency and effectiveness of the federal consistency and permitting processes.

***Significant Coastal Fish and Wildlife Habitat***

Significant Coastal Fish and Wildlife Habitat narratives and boundaries are used by the coastal program, as well as by Department of Environmental Conservation permit reviewers, municipal governments, consultants, educators, and others in making management decisions that protect listed species, rare communities, and important human uses associated with the state’s wetland resources. The Department of Environmental Conservation and Department of State both play a role in their designation. Once designated by the state, local waterfront revitalization programs are required to protect designated sites and are encouraged to use local land use controls for

habitat protection. State agencies regulating proposed actions that require an environmental impact statement must ensure that significant habitats will be protected from harm from such activities. Once the sites are incorporated into the federally approved program, they are also considered in federal consistency reviews.

One of the coastal program's major initiatives has been updating the Significant Coastal Fish and Wildlife Habitat designations. The coastal program made this a strategy in its Section 309 Assessment and Strategies covering 2006-2010 and 2011-2015 and going forward for 2016-2020. The Significant Coastal Fish and Wildlife Habitat in the South Shore region was adopted by New York State on August 28, 2008, and federal consistency went into effect on December 15, 2008, after NOAA Office for Coastal Management approval.

In 2012, the coastal program completed revisions to the Significant Coastal Fish and Wildlife Habitat narratives and boundaries for the Hudson River region and Westchester County. With assistance from the Hudson River National Estuarine Research Reserve and in partnership with the Department of Environmental Conservation, the department collected new biological information allowing the identification of new Hudson River sites and updating of existing habitat narratives and boundaries. The revisions and newly designated sites improve the state's ability to implement the policy, expanding protection of Hudson River habitat areas through federal consistency review and proactive planning with local governments and other state agencies.

The coastal program is continuing efforts to update the Significant Coastal Fish and Wildlife Habitats and is currently working on the Great Lakes offshore habitats, the St. Lawrence region, and Westchester County's Long Island Sound shorelines. The updates will allow the department to make sound policy decisions and consistency determinations as the number of proposed large-scale projects related to the development and installation of energy generation sites in the Great Lakes and St. Lawrence regions is increasing.

### ***Findings for Federal Consistency, State Consistency, and Permitting***

**Accomplishment :** The New York Coastal Management Program's initiatives to update the Significant Coastal Fish and Wildlife Habitat narratives and boundaries for the South Shore and Hudson River regions based on new biological information improves the state's ability to implement the policy and expands the protection of significant fish and wildlife habitat. The updated Significant Coastal Fish and Wildlife Habitat narratives and boundaries have been incorporated into the state's federally approved coastal management program.

**Necessary Action:** The New York State Department of State should work with the NOAA Office for Coastal Management to develop an agreed-upon template with standard language accurately describing the difference between federal consistency and state consistency that will be included in Department of State documents, forms, website, and future Local Waterfront Revitalization Program submittals by August 31, 2018.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York State Department of State to provide all draft new and updated Local Waterfront Revitalization

Programs (whether a copy or a hyperlink to the website) to the Office for Coastal Management for an initial review during the open 60-day public comment period.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to continue to improve coordination and collaboration with other federal and state agencies, particularly the Department of Environmental Conservation, to ensure that the best available information is used in permitting decisions and the permitting process is efficient.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to conduct at least one consistency training every year for state and local government staff members and officials.

## Coastal Resilience

### *Overview*

The state of New York faced a number of weather events during the evaluation period, including Hurricane Irene and Tropical Storm Lee (2011), Hurricane Sandy (2012), and summer storms (2013) that caused tremendous damage to coastal communities. These events required significant redirection of coastal program staff efforts during the review period as part of a larger program by the state to invest significant resources into recovery efforts and assisting communities with adapting new resilience measures to address future storms and climate-related threats. The coastal program, working with partners, made significant progress in addressing these issues during the evaluation period, working on new studies, restoration projects, tool development, policy updates, and improved coordination across the state. One need noted by stakeholders is that going forward, the state and nation will need a better means of monitoring and reporting the effectiveness of management responses and environmental consequences to support adaptive management.

### *Preparing for Climate Change*

During the evaluation period, the state legislature, governor, and state agencies worked to gain an understanding of the current and future impacts of climate change to the state and to identify and pursue options for adapting to climate change. The coastal program played a key role in the state's efforts to build coastal resilience in a changing climate.

#### *New York State Sea Level Rise Task Force Report to the Legislature*

In 2007, the New York state legislature created the Sea Level Rise Task Force with representatives from state and local government agencies, nonprofits, and local communities. The taskforce's charge was "evaluating ways of protecting New York's remaining coastal ecosystems and natural habitats, and increasing coastal community resilience in the face of sea level rise, applying the best available science as to sea level rise and its anticipated impacts." The final report, *New York State Sea Level Rise Task Force Report to the Legislature* (2010), includes 9 findings and

14 specific recommendations. Coastal program staff members served on the Sea Level Rise Task Force and several of the technical committees.

#### *Climate Action Plan Interim Report*

The governor issued Executive Order 24, in 2009, which formally established a state goal of reducing greenhouse gas emissions 80 percent below 1990 levels by 2050. The executive order also created a New York Climate Action Council, composed of 15 state agencies, with a directive to prepare a climate action plan to assess how all economic sectors can reduce greenhouse gas emissions and adapt to climate change. The council brought together more than 100 technical experts and stakeholders along with state agency staff members to examine mitigation and adaptation policy options available and to analyze the costs and benefits of adopting the policies. Coastal program staff members provided technical assistance and content for the “Adaptation” chapter of the *Climate Action Plan Interim Report* (2010). The overarching goal of the adaptation recommendations is to create a more climate-resilient New York State.

#### *Community Risk and Resiliency Act – 2014*

The Community Risk and Resiliency Act was signed into law in September 2014, charging relevant state agencies to consider climate risk due to sea level rise, storm surges, and flooding in the permitting, design, and approval of certain facilities. The act requires the Department of Environmental Conservation to adopt science-based sea-level rise projects into regulation by January 2016 and to update the projections on a five-year basis. The Department of State is also required to prepare a model law that local governments can use to enforce similar standards and enables the department to use Local Waterfront Redevelopment Program authority and funding to help local governments prepare plans to mitigate future physical climate risks. The Departments of State and Environmental Conservation are to prepare guidance on the implementation of the act with specific reference to data sets and risk analysis tools and “available data predicting the likelihood of future extreme weather events,” and the use of natural resources and natural processes to enhance resilience.

#### *Supporting Information Sharing across Agencies*

Following issuance of the Sea Level Rise Task Force report and Climate Action Plan, coastal program staff members initiated a staff-level climate change discussion group in partnership with the Department of Environmental Conservation. The informal group has grown to include 12 state agencies and serves as an unofficial forum for sharing information on initiatives, providing guidance and review for new programs, and advocating research priorities. This group is the core source of information and expertise within state agencies on climate change topics.

#### ***New York Rising Community Reconstruction Programs***

The coastal program played an important role in setting up and implementing New York’s recovery effort after Hurricane Sandy. After the storm, the governor reached out to the Department of State because of its coastal hazards and resilience planning expertise, close working relationships with coastal communities, and existing draft guidance for post-storm

redevelopment. Coastal program staff members were reassigned to support the New York Rising Community Reconstruction Program. Staff played a lead role in developing the guidance for New York Rising Community Reconstruction Plans, including a risk assessment tool and risk area maps. During this time, the governor's office also created the Office of Storm Recovery to oversee the New York Rising Community Reconstruction Program, and coastal program staff continued to work very closely with the staff of the new office. The program provided more than \$650 million in funds for planning and implementation to rebuild and improve resilience for 124 communities severely damaged by Hurricane Irene, Tropical Storm Lee, and Hurricane Sandy, many in the coastal zone.

In September 2013, 52 planning committees representing 102 communities affected by Hurricane Irene, Tropical Storm Lee, or Hurricane Sandy began to develop community reconstruction plans. A second round of planning began in June 2014 for an additional 22 communities. Coastal program staff members and contracted planning firms supported the planning committees. The planning effort included extensive engagement of local citizens and business owners and outreach to traditionally underrepresented groups, such as immigrant populations and students.

The eight-month planning process began by defining the scope of the planning area, surveying storm damages and assessing critical community post-storm issues, and developing community visions. Next, the planning committees inventoried critical community assets and assessed the assets' exposure to risk. Based on this initial work, the planning committees identified recovery and resilience needs and opportunities, developed a series of comprehensive reconstruction and resilience strategies, and then identified projects and implementation actions to help fulfill those strategies. Throughout the process, meetings were held to solicit input from all members of the community. Coastal program staff members' existing relationships with communities were invaluable in assisting communities with a bottom-up approach to recovery. The evaluation team heard from stakeholders that staff members' knowledge and insight were helpful in choosing projects that were eligible for federal funding, making the process faster and more efficient.

After the plans were completed, communities were eligible to apply for between \$3 million and \$25 million in additional funds to support the implementation of projects and activities identified in the plans. The Governor's Office of Storm Recovery then immediately began selecting high-priority projects that were feasible. The office also launched a special Rising to the Top competition for both rounds, offering additional funding to communities for special categories that included best use of green infrastructure, regional collaboration, and engagement of vulnerable populations.

The Nelson A. Rockefeller Institute of Government conducted a study, "A Managed-Participatory Approach to Community Resiliency: A Case Study of New York State's Response to Extreme Weather Events." The study evaluated the quality of the community reconstruction plans in terms of the most frequently used criteria in literature. The study found that the state's managed-participatory planning method was particularly strong because it was achieved through a process of systematic local participation and improved the likelihood of projects being

implemented through a variety of mechanisms, including increased civic capacities within the communities.

### *Risk Mapping*

Coastal program staff members had been working on risk assessment tools and a framework for addressing coastal storm hazards since August 2008. After Hurricane Sandy, with technical assistance from the NOAA Office for Coastal Management, coastal program staff members built on this work to develop maps with geographic classifications of risk areas to support the risk assessment process for the counties of the Lower Hudson River, New York City, and Long Island. In coordination with the Governor's Office of Storm Recovery, these risk assessment and map tools were incorporated into the guidance and procedures followed by the New York Rising Community Reconstruction Program for community recovery plans. With technical assistance from the contractors and coastal program staff, the risk assessment tool was used to assign risk scores to major community assets. Risk scores were based on the aggregate score of three factors: hazard, exposure, and vulnerability. The planning process uses the risk scores to rank projects, showing each project's contribution to reducing hazards risks in the community.

The New York State Office of Parks and Recreation used the risk assessment tool as part of a climate planning effort to assess parks and park infrastructure susceptibility to sea level rise. The state's Historic Preservation Office used the risk area maps and assessment process to determine the susceptibility of historic registry resources to flood events. The Governor's Office of Storm Recovery used the risk areas for initial identification of areas susceptible to future extreme weather events or repetitive losses for consideration in an enhanced buyout program. The coastal program is looking to further develop the tool and incorporate new data on risk areas and landscape features and vulnerabilities and to develop an analogous method for use in Great Lakes and upstate riverine communities.

### *Living Shorelines*

The Hudson River Sustainable Shorelines project, a collaborative project led by the Hudson River National Estuarine Research Reserve, engaged key shoreline stakeholders and decision makers, including property owners, regulators, policy makers, experts, and consultants, to build consensus about preferred methods for shoreline stabilization. The project team includes natural and social scientists, engineers, natural resource managers, communication specialists, and consensus-building experts. The project included characterization of the Hudson River Shoreline and living shorelines research and demonstration projects. The project has helped address the challenges of implementing living shorelines in New York, including lack of information, the vast diversity of shoreline types, competing coastal interests, site contamination, degradation of the environment, and the regulatory environment. Coastal program staff members served on the advisory board, providing advice and input into the project.

### *Regional Resilience Planning*

For its 2016-2020 309 strategy, the coastal program will be taking a regional approach to resilience planning and is proposing to develop regional resilience plans for Nassau and Suffolk

Counties. For Nassau County, the plans will build off of existing New York Rising Community Reconstruction Plans for communities. A regional resilience plan for Suffolk County is planned for development after the completion of the Long Island South Shore Estuary Reserve Recovery and Resilience Plan. The coastal program will assist with conducting a regional shoreline characterization and an assessment of existing shoreline stabilization structures along the Long Island's South Shore, and develop guidance and technical assistance for local governments and applicants in the development of appropriate shoreline stabilization. It is anticipated that the guidance on natural processes and nature-based features will be able to be incorporated into other regional resilience plans, New York Rising Community Reconstruction plans, and local waterfront revitalization programs. The coastal program is looking to move more towards regional planning to increase efficiencies and as a means to address issues that cross jurisdictions.

### ***Findings for Coastal Resilience***

**Accomplishment:** The New York Coastal Management Program helped design a new storm recovery process that worked to engage community members across all groups and assisted local communities with identifying and addressing local recovery priorities. Coastal program staff members provided exemplary technical support to communities recovering from Hurricane Sandy and developed maps and an assessment tool to assist communities and state agencies in planning for climate change and recovery from storms.

**Recommendation:** The NOAA Office for Coastal Management encourages the New York Coastal Management Program to continue its efforts to work with state agencies and local governments to incorporate climate resilience and natural hazard mitigation into existing planning and development activities.

## **Evaluation Metrics**

Beginning in 2012, state coastal management programs began tracking their success in addressing three evaluation metrics specific to their programs. The evaluation metrics include a five-year target and provide a quantitative reference for each program about how well it is meeting the goals and objectives it has identified as important to the program.

### **METRIC 1**

**Goal:** *Federal Consistency Review* – Ensure consistency between proposed federal license or permit activities and the New York State Coastal Management Program enforceable policies.

**Objective:** Provide review of proposed federal license or permit activities in the coastal zone to ensure they do not adversely impact coastal resources and uses.

**Strategy:** Coastal program staff will pre-screen all federal applications, and then communicate with applicants when necessary to understand their proposed project. Staff will advise applicants

on modifications to bring projects into conformance with New York State Coastal Management Program policy.

**Performance Measure:** Percent of federal consistency federal license or permit activities reviewed where the project was modified or withdrawn due to consultation with the applicant to meet state coastal program enforceable policies.

**Target:** Ten (10) percent of federal consistency projects reviewed where the project was modified, withdrawn, or found to be inconsistent due to consultation with the applicant to meet state coastal program enforceable policies, in the five-year reporting period.

First Year Results: 7%

Second Year Results: 9%

Third Year Results: 10%

Fourth Year Results: 7%

Cumulative Results: 8.25%

**Discussion:** Coastal program staff members review approximately 1,100 actions a year for federal consistency with the state's coastal program enforceable policies. The coastal program has not met its target of 10 percent of federal consistency projects reviewed where the project was modified, withdrawn, or found to be inconsistent after consultation with the applicant to meet state coastal program enforceable policies. The performance measure could be influenced by various competing factors such as applicants possessing a high level of knowledge because of training from coastal program staff members on effective applications that already address state and federal concerns, or staff not having enough time to conduct a full review. The performance measure and associated target do not provide a clear indicator of success or failure.

## **METRIC 2**

**Goal:** *Public Access* – Improve Public Access to the Shoreline

**Objective:** Provide funds and technical assistance for projects using a variety of techniques such as planning assistance and construction funding to implement plans to provide improved public access.

**Strategy:** Staff members whose activities are substantially supported by Coastal Zone Management Act funds will provide technical assistance to local governments for implementing public access components of waterfront plans. Program staff members will guide municipalities in using New York State competitive grant funding to provide or enhance public waterfront access as identified by a waterfront management or revitalization plan. The New York State Department of State funds waterfront planning and implementation as a means to protect and restore water resources and local economies. Each project is guided by a municipal or an inter-municipal organization or advisory committee facilitated by the New York State Department of State. To

support creation and implementation of waterfront revitalization plans, the coastal program provides grants through the statewide Consolidated Funding Application that uses money from the state Environmental Protection Fund. Grants are provided to support projects identified in a local waterfront plan or to support the goals and objectives of the coastal program. The coastal program staff annually reviews and ranks grant applications, oversees the grants, and provides technical assistance to the local planning group.

**Performance Measure:** Number of waterfront revitalization projects completed by municipalities that include planning for public access, construction of new public access facilities, or enhancement of existing public access facilities.

**Target:** One hundred (100) waterfront revitalization projects completed by municipalities, including planning for public access, construction of new public access facilities, or enhancement of existing public access facilities in the five-year reporting period.

First Year Results: 26  
Second Year Results: 21  
Third Year Results: 19  
Fourth Year Results: 46

Cumulative Results: 112

**Discussion:** The coastal program met and exceeded its target in year 4. Staff members provided technical assistance to local governments to plan and implement local waterfront revitalization programs. Much of this work focused on urbanized coastal areas. However, a range of municipally led projects came from the diverse community types across New York's distinctive regions, including inland waterway areas. Coastal program staff members guided municipalities in using New York State Environmental Protection Fund–Local Waterfront Revitalization Program competitive grant funding to restore or enhance public access at new or existing sites.

### **METRIC 3**

**Goal:** *Watershed Management* – Preserve and restore the natural resource base of watersheds to achieve municipal benefit.

**Objective:** Complete local implementation projects based on watershed plans for land and water management.

**Strategy:** Staff members whose activities are substantially supported by Coastal Zone Management Act funds will provide technical assistance to local governments to implement watershed plans. Coastal program staff members will guide municipalities in using New York State competitive grant funding to restore or enhance watershed water quality or habitats as identified by a watershed management plan. The New York State Department of State funds watershed planning and implementation as a means to protect and restore water resources and

local economies. Each project is guided by an inter-municipal organization or advisory committee facilitated by the New York State Department of State. To support watershed organizations and creation and implementation of watershed management plans, the New York Coastal Management Program provides grants through the statewide Consolidated Funding Application that uses money from the state Environmental Protection Fund. Grants are provided to support projects identified in a local watershed management plan or to support the goals and objectives of the coastal program. The coastal program staff annually reviews and ranks grant applications, oversees the grants, and provides technical assistance to the local planning group.

**Performance Measure:** Number of watershed plan implementation projects completed by local governments and/or watershed organizations to restore or enhance watershed water quality or habitats.

**Target:** Staff assistance to twenty (20) watershed plan implementation projects completed by local governments and/or watershed organizations to restore or enhance watershed water quality or habitats in the five-year reporting period.

First Year Results: 5

Second Year Results: 8

Third Year Results: 11

Fourth Year Results: 8

Cumulative Results: 32

**Discussion:** The coastal program met and exceeded its target during the third year of the five-year reporting period. Staff members provided technical assistance to local governments to create or implement watershed plans. Coastal program staff members guided municipalities in using New York State competitive grant funding to restore or enhance watershed water quality or habitats as identified by a watershed management plan, or by developed subwatershed-based studies or plans.

## Conclusion

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

These evaluation findings contain one necessary action that must be completed by the date given. The evaluation findings also contain five 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 New York Coastal Management Program that may have implications regarding the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.

signed: Dr. Jeffrey Payne  
Jeffrey L. Payne, Ph.D.  
Director, NOAA Office for Coastal Management

August 2, 2017  
Date

## **Appendix A. Response to Written Comments**

No written comments received.