

Final Evaluation Findings

Washington Coastal Management Program

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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 Washington Coastal Zone Management Program administered by the Washington Department of Ecology, the designated lead agency, for the period from October 2009 to June 2017. The evaluation focused on these target areas: federal consistency, shoreline master programs, coastal hazards and resilience, and marine spatial planning.

NOAA will consider the findings in this evaluation document in making future financial award decisions concerning the Washington Coastal Management Program. This evaluation concludes that the Washington Coastal Management Program 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.

The evaluation came to these conclusions:

Program Administration

Accomplishment: The Washington Coastal Program's regional and national leadership benefits the program by leveraging efforts at regional and national scales to support Washington and allows other coastal programs to benefit from its expertise.

Recommendation: The Office for Coastal Management encourages the Washington Coastal Program to continue to work with NOAA to achieve full approval of its Coastal Nonpoint Pollution Control Program.

Federal Consistency

Accomplishment: The coastal program submitted changes to the Shoreline Management Act and its implementing regulations and identified the enforceable policies in the act and its implementing regulations for Coastal Zone Management Act federal consistency review purposes. The changes were approved by NOAA with limited exceptions and qualifications.

Necessary Action: The NOAA Office for Coastal Management finds that the Department of Ecology must

- A. Review and ensure that materials on the Department of Ecology and Governor's Office for Regulatory Innovation and Assistance websites accurately describe federal consistency. The department must obtain approval from the Office for Coastal Management on revised language and post the corrected information on its website by December 31, 2018.

- B. Either submit a program change and obtain approval from NOAA for the use of forms for federal licenses or permits and federal assistance to state and local governments or remove the language requiring the forms from the department's website by May 31, 2018.
- C. The Department of Ecology must work with NOAA to develop and submit a description of the state's federal consistency regulations and procedures for NOAA approval by December 31, 2020. This description should be the primary place the coastal program directs people for information on federal consistency.

Recommendation: The Office for Coastal Management encourages

- A. The Washington Department of Ecology to look at the organizational structure of the state's Federal Consistency Program—including staff members' roles and responsibilities, distribution of work, expertise of involved staff members, training needs, and opportunities for improved collaboration across state programs and with the Office for Coastal Management—to identify and pursue opportunities for improvement.
- B. The coastal program to work with the Office for Coastal Management to provide training on federal consistency for federal agencies and state and local government staff members as appropriate to improve federal consistency implementation.
- C. The coastal program to prioritize the completion of the identification of individual enforceable policies within the remaining authorities that compose the federally approved coastal program and to develop a process for regular submittal of program changes.
- D. The coastal program to work with tribal governments to improve the notification process. This could include creating a separate tribal mailing list that is updated regularly, ensuring that the most appropriate technical contacts from each tribe are included on the list. In addition, the list could be set up so that tribal contacts could identify their regions of interest.

Shoreline Master Programs

Accomplishment: The Washington Coastal Program has successfully worked with local coastal governments to develop shoreline master programs that strengthen environmental protection, provide for public access, and to the maximum extent possible, reserve the shorelines for water-oriented uses. The Department of Ecology has approved 104 shoreline master programs, and 14 programs have been formally submitted for review.

Recommendation: The Office for Coastal Management encourages the Department of Ecology and the coastal program in their efforts to improve compliance with shoreline master programs and provide technical assistance to local governments to ensure that permits are conditioned to achieve the desired results.

Recommendation: The Office for Coastal Management encourages the Department of Ecology and the coastal program in their efforts to invest in developing methods to measure

and monitor “no net loss” and to use the information to inform shoreline regulations and policy development and implementation of shoreline master programs, including compliance. In addition, the office encourages the coastal program to work with relevant state agencies, local and tribal governments, and other organizations to develop and encourage use of these methods.

Coastal Hazards

Accomplishment: The Washington Coastal Program and Washington Sea Grant’s funding and management of the Coastal Hazards Network has improved hazards coordination among state and federal programs and leveraged resources to better support community needs.

Accomplishment: The Washington Coastal Program’s collaboration with the Federal Emergency Management Agency’s Risk Mapping, Assessment and Planning (Risk MAP) program is helping communities better identify and implement resilience strategies. The coastal program is a Federal Emergency Management Agency Cooperating Technical Partner, enabling agency funds to be administered by the coastal program for improved coastal multi-hazard mapping and outreach.

Recommendation: The Office for Coastal Management encourages the coastal program to consider pursuing the formalization of the Coastal Hazards Network through an executive order or state legislation to ensure its sustainability and to increase its effectiveness among state agencies.

Recommendation: The Office for Coastal Management encourages the Department of Ecology to pursue ongoing stable funding for the Coastal Monitoring and Analysis Program.

Marine Spatial Planning

Accomplishment: The Washington Coastal Management Program has led an inclusive process to develop a marine spatial plan that includes new priority ecological, human use, and economic data, as well as seafloor maps to inform coastal decision-making; provides analyses to support decision-making related to ocean uses; and provides recommendations for managing particular areas and siting new ocean uses.

Recommendation: The Office for Coastal Management encourages

- A. The Washington Coastal Program in its efforts to determine how best to maintain, manage, and update existing data sets and tools for analyzing and visualizing the data, and support the acquisition of priority new data and
- B. The Washington Department of Ecology to work with the State Ocean Caucus members to develop a communication and education plan for the implementation of the marine spatial plan once finalized. The communication and education plan should be for multiple audiences—stakeholders, other governments (local, tribal, other state agencies, and federal), as well as the state legislature. The communication and education plan should address what having a marine spatial plan means, the processes for implementing the plan, and roles of the different state agencies.

Program Review Procedures

The National Oceanic and Atmospheric Administration (NOAA) evaluated the Washington Coastal Management Program in fiscal year 2017. The evaluation team consisted of Carrie Hall, evaluation team lead; Kris Wall, West Coast regional coastal management specialist; Rebecca Smyth, West Coast director; and Steve Couture, manager of the New Hampshire Coastal Management Program. The support of Washington Coastal Management Program staff members was crucial in conducting the evaluation, and this support is most gratefully acknowledged.

NOAA sent a notification of the scheduled evaluation to the director of the Washington Department of Ecology, published a notice of “Intent to Evaluate” in the *Federal Register* on May 31, 2017, and notified members of Washington’s congressional delegation. The coastal management program posted a notice of the public meeting and opportunity to comment in the *Chinook Observer* on May 10, 2017.

The evaluation process included a review of relevant documents and a survey of stakeholders, which helped identify target areas for the evaluation: federal consistency, coastal hazards and resilience, marine spatial planning, and shoreline master programs. 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 Tuesday, June 27, at 5:30 p.m. Eastern time at the Department of Ecology Auditorium, 300 Desmond Drive, SE, Lacey, Washington 98503 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. A summary of the written comments received and the NOAA Office for Coastal Management’s responses are included in Appendix A. NOAA then developed draft evaluation findings, which were provided to the Washington Department of Ecology for review, and the department’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

Program Administration

The Department of Ecology (Ecology) Shorelands and Environmental Assistance Program administers Washington's Coastal Management Program. Ecology houses a broad range of programs addressing water, air, and waste, and the Padilla Bay National Estuarine Research Reserve. The state's implementing authorities are the Shoreline Management Act, Water Pollution Control Act, Washington Clean Air Act, State Environmental Policy Act, Energy Facility Site Evaluation Council Law, and Ocean Resources Management Act.

Administrative Improvements

The coastal planner developed a new performance measure and grants tracking system, which has streamlined processes and improved the quality of information submitted to NOAA through the semiannual performance progress reports. Staff members have been trained on how to use the new tracking system and the type of information they should be providing. The coastal program is also better able to close out its cooperative agreements within the initial 18-month award period instead of requesting extensions.

Regional and National Leadership

The Washington Coastal Program is a regional leader in the West Coast Governor's Alliance (now West Coast Ocean Partnership), the West Coast Regional Planning Body, the Pacific Coast Collaborative, the Lower Columbia Regional Solutions Group, and nationally through the Coastal States Organization. The coastal program's regional and national leadership allows other coastal programs to benefit from their expertise and also benefits the program by leveraging efforts at regional and national scales to support Washington. Examples include the following:

- The coastal program manager has served as the West Coast regional representative on the Coastal States Organization's Executive Committee and is currently serving as vice-chair and on the strategic planning committee.
- The coastal planner has been participating in the Coastal States Organization work group on climate adaptation and community resilience, whose work includes developing a stronger partnership with the Federal Emergency Management Agency.
- In partnership with Oregon's Coastal Program, coastal program staff members co-convene the Lower Columbia Solutions Group to address regional sediment management issues in the lower Columbia River, serve on technical and management working groups, and manage contracts to conduct dredge disposal, monitoring, and research.
- Coastal program staff represent the state of Washington on the West Coast Regional Planning Body.
- Coastal program staff members represent the West Coast region on the National Ocean Council's Governance Coordinating Committee.

Coastal Nonpoint Pollution Control Program

The Coastal Nonpoint Pollution Control Program (Coastal Nonpoint Program), created by § 6217 of the Coastal Zone Act Reauthorization Amendments of 1990, is jointly administered by NOAA and the U.S. Environmental Protection Agency (EPA). Two of the Coastal Nonpoint Program's key purposes are to strengthen the links between federal and state coastal zone management and water quality programs, and to enhance state and local efforts to manage land use activities that degrade coastal waters. Each state's coastal nonpoint program is subject to NOAA and EPA review for approval. Washington's Coastal Nonpoint Program was approved with conditions in 1998 and is led by the Department of Ecology. Congress has not provided appropriations for NOAA to fund coastal programs to implement the Coastal Nonpoint Pollution Control Program since fiscal year 2009.

The previous evaluation findings included a Necessary Action that

Ecology must work with the Office for Coastal Management to develop and submit to the office by May 31, 2011, a work plan with interim benchmarks and a timeline for meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program. The documentation indicating how the outstanding conditions are met must be submitted to the Office for Coastal Management no later than November 30, 2014.

The Washington Coastal Program submitted its interim benchmarks and timeline to the office on May 26, 2011, and submitted documentation indicating how the outstanding conditions were met in July 2011. While Washington satisfied the necessary action, EPA and NOAA determined that the federal agencies were not prepared to propose that Washington had met the remaining conditions due to concerns that the Pacific Northwest Tribes raised in a 2012 white paper. In that paper, the tribes explained that their treaty-reserved rights to harvest salmon and steelhead were being impaired by ongoing habitat loss and water quality impairments and requested that the federal government use its full authority under many programs to protect treaty rights. In response, the federal partners deferred proposing approval of Washington's Coastal Nonpoint Program to allow time for broader discussions with the tribes and federal agencies regarding the white paper and the protection of water quality and salmon habitat. Subsequently, the state of Washington pursued a new approach to conditions related to agricultural management measures. Ecology is currently developing a new approach to identify, implement, and track agriculture best management practices to address this condition. The Office for Coastal Management encourages the Washington Coastal Program to continue to work with NOAA toward strengthening revisions to the state's Coastal Nonpoint Pollution Control Program.

Coastal Habitats

Land Acquisition

The coastal program brings together the capacity of state agencies, local and tribal governments, and nonprofit conservation organizations to further habitat acquisition, protection, and restoration. The coastal program has a dedicated wetlands stewardship specialist who works to connect conservation partners with external funding opportunities that promote coastal wetland habitat

acquisition and restoration activities. In partnership with other organizations, the coastal program applies for and manages multiple grants to protect coastal habitats. During the evaluation period, the coastal program had two successful NOAA Coastal and Estuarine Land Conservation projects, Kiket Island and Dabob Bay. The coastal program set as one of its three 2012-2017 evaluation metrics, a target to protect 1,000 acres of coastal habitat by acquisition or easement and exceeded this target, protecting over 1,813 acres.

Protecting, Restoring, and Managing Wetlands

The Department of Ecology manages wetlands through the co-administration of the Shoreline Management Act with local governments as discussed in the “Shorelines Master Program” section, issuance of §401 water quality certifications, in-lieu fee mitigation programs, and wetland mitigation banking. Under §401 of the Clean Water Act, a state agency must grant or waive §401 certification before a federal agency can issue a permit or license for an activity that may result in a discharge that originates in the state. Coastal program staff members worked closely with the U.S. Army Corps of Engineers and other key partners on the first three in-lieu fee mitigation programs in the state. These programs enable a permittee to pay a fee to a third party instead of conducting project-specific mitigation or buying credits from a wetland mitigation bank to cover the expected cost of replacing the wetland functions lost or degraded as a result of the impact of the permittee’s project. As of January 2017, the coastal program is no longer involved in the authorization of management of in-lieu fee programs. The coastal program also approved one mitigation bank and monitored nine banks in the coastal counties.

In 2013, Ecology received a Wetland Program Development Grant from the EPA to develop a statewide plan for the state as part of EPA’s Enhancing State and Tribal Programs effort. Ecology and an interagency work group developed the Wetland Program Plan (2015) focused on monitoring and assessment, regulation, and voluntary restoration and protection.

Coastal program staff members partner with other state agencies to implement the state’s wetland program plan. The coastal program leads a statewide interagency and academia monitoring and assessment work group to develop and implement the state’s wetland monitoring and assessment strategy, apply for funds to implement monitoring projects, and assist in developing wetland monitoring grant applications. The work group is working to obtain much needed information on the extent, type, and conditions of Washington’s wetlands, whether the most sensitive wetlands are being protected, how wetlands are changing on the landscape, and whether no-net-loss is being achieved. The work group serves an important role as state funding does not cover the staff resources necessary to monitor and assess wetlands.

The coastal program also developed various education resources, both printed and web-based, to encourage stewardship, including the “Homeowners’ Guide to Wetlands and Buffers” (2014). The guide provides homeowners with concise information on key topics such as regulations, buffers, clearing and mowing, using chemicals, dumping and filling, pet control, septic systems, and urban stormwater runoff.

Findings for Program Administration

Accomplishment: The Washington Coastal Program's regional and national leadership benefits the program by leveraging efforts at regional and national scales to support Washington and allows other coastal programs to benefit from its expertise.

Recommendation: The Office for Coastal Management encourages the Washington Coastal Program to continue to work with NOAA to achieve full approval of its Coastal Nonpoint Pollution Control Program.

Federal Consistency

In Washington, the staff members responsible for implementing federal consistency are both organizationally and geographically located in different offices and sections of the Department of Ecology Shorelands and Environmental Assistance Program as well as not under the supervision of the coastal program manager. At the department's main office in Olympia there are two staff members in the Environmental Review and Transportation section whose major focus is implementing federal consistency: a federal consistency lead and coordinator. Additional staff members from both the Northwest and Southwest Regional offices are responsible for permitting and are involved in federal consistency reviews. These federal consistency staff work under different section managers than the core coastal management program staff who are located in the Coastal/Shorelands Section. The state's organizational structure requires coordination and collaboration across offices and sections to ensure consistent implementation of federal consistency in compliance with federal regulation and it appears that this coordination and collaboration is not always occurring.

As part of this evaluation, the evaluation team reviewed state government websites related to federal consistency, met with staff members, and heard from stakeholders involved in the federal consistency process. The team's review of the Department of Ecology's website and Governor's Office for Regulatory Innovation and Assistance found that in a number of places the text inaccurately describes the procedural and informational requirements for federal consistency. In addition, the information provided is not always consistent with the coastal program's updated program document, *Managing Washington's Coast: Washington State's Coastal Zone Management Program (2001)*, Chapter 5, "Administering the Coastal Zone Management Program." The Department of Ecology must review and ensure that materials from the Department of Ecology and Governor's Office for Regulatory Innovation and Assistance accurately describe federal consistency. The Department of Ecology must obtain approval from the Office for Coastal Management on revised language and post the corrected information on their website by December 31, 2018. When reviewing and revising its website and informational materials, the coastal program should pay particular attention to differentiating the requirements for (1) federal agency activities, (2) federal license or permit activities, and (3) federal assistance to state and local governments.

A state cannot require the use of forms for federal agencies. The coastal program currently has mandatory forms on its website for federal agency activities, federal license or permit activities, and federal assistance to state and local governments. A coastal program may use mandatory

forms for federal consistency review for projects receiving a federal license or permit or federal assistance to state and local governments only if those forms are submitted as a program change and approved by the NOAA Office for Coastal Management. Forms may be provided as an option to federal agencies for federal agency activities, but it must be clear on the website and any other documentation that the form is optional and not required. The department must submit a program change and obtain approval from NOAA for the use of forms for federal licenses or permits, and federal assistance to state and local governments or remove the language requiring the forms from the department's website by May 31, 2018. If the coastal program chooses to submit these forms as a program change, the coastal program should ensure that any state requirements are met.

It was not clear to the evaluation team that some state actions comply with NOAA's federal consistency regulations in the *Code of Federal Regulations*, 15 CFR Part 930. The Department of Ecology must review its federal consistency process and procedures (working as needed with NOAA's Office for Coastal Management) to make any changes necessary to ensure the state is in compliance the Coastal Zone Management Act's implementing regulations. In particular, the coastal program should review its process for issuing stay agreements for extending federal consistency review periods and the timelines and use of the public appeals process to the Pollution Control Hearings Board, which is not described consistently on Ecology's website. The Department of Ecology must work with NOAA to develop and submit a description of the state's federal consistency regulations and procedures for NOAA approval by December 31, 2020. This description should be the primary place the coastal program directs people for information on federal consistency. The coastal program is encouraged to work closely with the NOAA Office of Coastal Management during this process to determine if a program change should also be submitted. The NOAA Office for Coastal Management encourages the coastal management program to review the document, *Federal Consistency Overview* (<https://coast.noaa.gov/czm/consistency/media/federal-consistency-overview.pdf>), and work with the NOAA Office for Coastal Management to ensure that all processes and timelines are followed. In addition, when developing an updated description of the state's federal consistency regulations and procedures, the coastal program should consider providing information in a more instructional format versus a narrative description and ensure that the information aligns with information provided on its website.

As in the previous evaluation findings (2011), evaluation team members noted the importance of federal consistency training for state, local, and federal staff members. The NOAA Office for Coastal Management encourages the coastal program to work with our office to provide training on federal consistency for federal agencies and state and local government staff members as appropriate to improve federal consistency implementation. In addition to training delivered by the Office for Coastal Management, the coastal program may pursue assistance from our office in developing trainings and communication materials on federal consistency. In addition, providing clear and accurate information on the department's website should assist with communicating the requirements of the federal consistency process. The coastal program may wish to provide examples of federal consistency submittals on their website.

The coastal program meets monthly with the Army Corps of Engineers to discuss projects under review. The coastal program may wish to expand this model and explore regular meetings with

other federal agencies that regularly undertake large projects, such as the U.S. Navy. These meetings could provide the coastal program with information on upcoming projects, enable the coastal program to provide information on the federal consistency process, and answer any questions the federal agency may have before a project is submitted for review.

The coastal program has worked with the Office for Coastal Management to determine whether the policies of local shoreline master programs should be incorporated into the federally approved program as enforceable policies for the purpose of federal consistency review. Washington's state-level policies are sufficient to maintain an approvable program, and the state can rely on its state-level policies for federal consistency review. The Office for Coastal Management does not require that local coastal programs be submitted for incorporation into the federally approved program, although a state may choose to do so. This proposed change has raised concerns with local governments. The Office for Coastal Management encourages the coastal program to come to a decision about including policies from local shoreline master programs as enforceable policies for federal consistency use, and then develop and provide guidance to local governments and stakeholders that addresses this issue.

The coastal program has completed the identification of enforceable policies in the Shoreline Management Act and its implementing regulations, one of the six major authorities that constitute the approved program. The Office for Coastal Management commends the coastal program for undertaking and successfully completing this effort. The Office for Coastal Management encourages the coastal program to prioritize the completion of the identification of individual enforceable policies within the remaining authorities that compose the federally approved coastal program and to develop a process for regular submittal of program changes. As the identification of enforceable policies in each authority is completed and approved by the Office for Coastal Management, the coastal program is encouraged to post this information on its website.

The evaluation team heard from tribal members that the process for notifying tribes of the opportunity to comment as part of the federal consistency process should be improved. The Office for Coastal Management encourages the coastal program to work with tribal governments to improve the notification process. This could include creating a separate tribal mailing list that is updated regularly, ensuring that the most appropriate technical contacts from each tribe are included on the list. In addition, the list could be set up so that tribal contacts could identify their regions of interest.

The evaluation team noted a number of opportunities for the coastal program to improve the effectiveness and clarity of federal consistency. In addition, the coastal program could benefit from a stronger working partnership between core program staff and those implementing federal consistency. The Office for Coastal Management encourages the department to look at the organizational structure of the state's Federal Consistency Program—including staff members' roles and responsibilities, supervision, distribution of work, expertise of involved staff members, training needs, and opportunities for improved collaboration across state programs and with the office—to identify and pursue opportunities for improvement. As part

of this effort, the department could reach out to other state coastal programs to learn from their federal consistency processes.

Federal Consistency Findings

Accomplishment: The coastal program submitted changes to the Shoreline Management Act and its implementing regulations and identified the enforceable policies in the act and its implementing regulations for Coastal Zone Management Act Federal Consistency review purposes. The changes were approved by NOAA with limited exceptions and qualifications.

Necessary Action: The NOAA Office for Coastal Management finds that the Department of Ecology must

- A. Review and ensure that materials on the Department of Ecology’s and Governor’s Office for Regulatory Innovation and Assistance websites accurately describe federal consistency. The department must obtain approval from the Office for Coastal Management on revised language and post the corrected information on their website by December 31, 2018.
- B. Either submit a program change and obtain approval from NOAA for the use of forms for federal licenses or permits and federal assistance to state and local governments or remove the language requiring the forms from the department’s website by May 31, 2018.
- C. The Department of Ecology must work with NOAA to develop and submit a description of the state’s federal consistency regulations and procedures for NOAA approval by December 31, 2020. This description should be the primary place the coastal program directs people for information on federal consistency.

Recommendation: The Office for Coastal Management encourages

- A. The Washington Department of Ecology to look at the organizational structure of the state’s Federal Consistency Program—including staff members’ roles and responsibilities, distribution of work, expertise of involved staff members, training needs, and opportunities for improved collaboration across state programs and with the office—to identify and pursue opportunities for improvement.
- B. The coastal program to work with our office to provide training on federal consistency for federal agencies and state and local government staff members, as appropriate, to improve federal consistency implementation.
- C. The coastal program to prioritize the completion of the identification of individual enforceable policies within the remaining authorities that compose the federally approved coastal program and to develop a process for regular submittal of program changes.
- D. The coastal program to work with tribal governments to improve the notification process. This could include creating a separate tribal mailing list that is updated regularly, ensuring that the most appropriate technical contacts from each tribe are included on the list. In addition, the list could be set up so that tribal contacts could identify their regions of interest.

Shoreline Master Programs

Overview

Washington's Shoreline Management Act was passed by the legislature in 1971 and by voters in 1972. To carry out the policies and regulations in the act, local governments develop shoreline master programs that meet state requirements but are tailored to the needs of an individual community. In 1995, the legislature amended the act and in January 2004 revised guidelines became effective requiring local governments to update their programs. Ecology oversees and provides guidance and technical assistance to local governments developing and implementing their shoreline master programs

The major focus of the coastal program has continued to be working with the 133 local coastal jurisdictions to update their shoreline master programs. The coastal program has successfully worked with local governments to develop shoreline master programs that strengthen environmental protection, provide for public access, and to the maximum extent possible reserve the shorelines for water-oriented uses. For one of its three evaluation metrics, the coastal program set a target of 80 local governments with comprehensively updated shoreline master programs from 2012 to 2017. The coastal program dedicated extensive staff time and towards working with local governments and reviewing draft programs to achieve approved shoreline master programs over this five-year period. Although, the coastal program was not able to meet this target, 73 programs were approved during the 2012-2017 time period, and another 14 programs have been formally submitted to Ecology for review. A total of 104 programs have been approved since the comprehensive program updates began, including 31 programs approved prior to 2012. The remaining jurisdictions are working on developing their programs (see also "Evaluation Metrics" section)

The coastal program provides extensive technical assistance to local governments, including collecting, analyzing, and providing data to support local governments, developing policy guidance, providing technical guidance in program development and implementation, and assisting local governments with enforcement and compliance. As the coastal program is wrapping up the last comprehensively updated shoreline master programs, it has also developed guidelines for the eight-year periodic review. The coastal program developed a local Sounding Board to obtain input and feedback from local governments. The evaluation team heard very positive feedback on Ecology's efforts to work collaboratively with local governments to develop the periodic review process. State shoreline rules addressing the periodic review were formally adopted in August 2017.

Technical Assistance and Guidance

The coastal program provides communities with hands-on support and guidance in developing their updated shoreline master programs. Evaluation participants stated that the coastal program played a very valuable role in ensuring that state laws were met and keeping local jurisdictions "within the sideboards" of the law and regulations.

The coastal program has a Shoreline Planners Toolbox that provides guidance and reference materials for local governments. The toolbox is updated on an ongoing basis as new information becomes available. A key resource in the toolbox is the *Shoreline Master Program Handbook*. The coastal program has continued to develop and publish chapters in the handbook, and two sections are discussed further below. The handbook was cited by evaluation participants as being a helpful resource for local planners. In addition, participants appreciated Ecology's effort in synthesizing the most recent science and data, in particular for buffers. They noted that it was challenging for planners to review all the literature.

Green Shorelines Guidance

Comprehensive changes in the 2003 Shoreline Master Program Guidelines include an emphasis on soft shoreline stabilization over shoreline armoring. Local governments are responsible for incorporating this preference within their updated shoreline master programs and applying this preference through shoreline master program administration. To assist local government planners and permit staffs in planning and implementing shoreline stabilization provisions within shoreline master programs, the coastal program successfully applied for a NOAA Coastal Management Fellow (2012-2014) to work on a Green Shorelines Initiative. The project resulted in the publication of the guidance document, "Soft Shoreline Stabilization Guidance: Shoreline Master Program Planning and Implementation Guidance," in March 2014. The guidance focuses on soft shoreline stabilization management of marine shorelines in Puget Sound.

The coastal fellow worked closely with coastal program staff members and received input from local government planners and permit staff members, as well as representatives of Washington Department of Fish and Wildlife, Washington Department of Natural Resources, Army Corps of Engineers, and NOAA. The coastal fellow also developed and implemented an outreach and engagement strategy, including presenting the guidance to five coastal counties in collaboration with the Department of Fish and Wildlife. A webpage, "Shoreline Stabilization Measures: Spotlight on Puget Sound," went live in March 2014, giving guidance to local government planners on the different types of shoreline stabilization measures and the potential advantages and disadvantages of each. The Softshore Stabilization Shoreline Master Program Guidance was selected by the National Ocean Service as a top ten accomplishment for the Office for Coastal Management in 2014.

Sea Level Rise Guidance

The Shoreline Management Act and Shoreline Master Program Guidelines contain no explicit references to climate change or sea level rise, but they require local jurisdictions to use the most current, accurate, and complete scientific and technical information available. The coastal program developed an appendix to the handbook to provide guidance to local governments regarding incorporating sea level rise into their shoreline master programs as part of a Section 309 Strategy. The coastal program conducted a review to understand management concerns, reviewed management systems and institutional structures, worked with local governments to develop meaningful state guidance, and provided technical assistance to communities to build capacity.

Almost half of comprehensively updated shoreline master programs with marine shorelines include specific policies or regulations addressing sea level rise. In addition, new shoreline master programs include vegetative buffers and building setbacks that not only serve to protect existing ecological functions, but also will avoid authorization of new development that would be subject to future hazardous conditions.

In addition, the coastal program successfully competed for a NOAA Coastal Fellow for 2016-2018 and the fellow is developing guidance and tools for improved implementation of shoreline armoring regulations in Puget Sound to limit unnecessary shoreline armoring on Puget Sound.

Data and Research

Aerial Oblique photography – Measuring No Net Loss

The coastal program successfully applied for a competitive Project of Special Merit and received funding to acquire a new set of aerial photographs of Washington’s coastal marine shorelines and to develop a set of best practices for using the image set to share with local governments, state resource agencies, and other coastal programs throughout the nation. The coastal program also has oblique aerial photos from the 1970s, with additional series flown in the 1990s, 2001, and 2006 that are available on the Washington Coastal Atlas.

The photographs allow coastal managers to identify relatively small changes, such as tree removal, bulkhead construction, and addition or modification of piers and docks. The images are an essential tool for monitoring shoreline activity for regulatory compliance. The images also provide a unique view of natural changes, such as landslides, shoreline erosion, and changes in estuarine marshes, as well as progress of restoration actions such as dike removals. The photos are also used in preparing shoreline inventory and characterization reports, developing restoration plans, and informing and engaging citizens in public meetings and on local planning websites. A consistent source of comparable imagery across the marine coast will also be tool in determining whether jurisdictions have met Ecology’s standard of ensuring “No net loss of shoreline ecological functions.” The image series can be used in combination with innovative high-resolution change detection data layers developed by the Washington Department of Fish and Wildlife. The coastal program also conducted a short survey to learn about the methods, success, and best practices for using the images, and used the findings to guide the project and create a summary for interested parties.

Feeder Bluff Study

The coastal program obtained funding from the EPA’s National Estuary Program to complete a feeder bluff project, looking at eroding coastal bluffs that deliver a significant amount of sediment to the beach over an extended period and contribute to the local littoral sediment budget. The project included Puget Sound-wide mapping (2,500 miles) of bluffs and coastal land forms and the development of guidance materials related to the application of this information to planning and restoration. The maps are available as GIS layers and on Ecology’s Coastal Atlas website. The guidance material is available as reports and as a website, with links to related materials and to the maps.

Water Quality

The Washington Coastal Program addresses water quality through the provision of technical guidance on cumulative and secondary impacts of development and water quality, and the development and implementation of shoreline master programs. These coastal program efforts and many others led by other state entities, help to implement Washington's Coastal Nonpoint Pollution Control Program, which is discussed in the "Program Administration" section.

The *Shoreline Master Program Handbook* provides guidance on topics to assist local governments with ensuring water quality, including "No Net Loss of Shoreline Ecological Functions," "Vegetation Conservation, Buffers and Setbacks," "Shoreline Environment Designations," "Cumulative Impacts Analysis," and "Integration of Critical Areas Ordinances." Local governments are required to submit draft local shoreline master programs to Ecology for approval. Coastal program staff members review the draft programs to ensure that local governments have considered existing water quality studies and information in their characterization and analysis, and that they have developed appropriate development standards such as shoreline buffers that ensure new development does not result in a net loss of shoreline ecological functions or further degrade other shoreline values.

After programs are approved, Ecology provides regulatory technical support. In addition, as discussed in the "Federal Consistency" section, coastal program staff members issue Section 401 Water Quality Certifications that projects will comply with state water quality standards, and conditions of the Section 401 certification become conditions of the federal permit or license. Coastal program staff members also review federal projects for consistency with state enforceable policies, which address protection of water quality. As discussed in the "Program Administration" section, the coastal program assists with land acquisition projects, developed and runs the state's wetland mitigation banking program, and developed and ran the in-lieu fee mitigation programs to protect coastal water quality. The coastal program has also developed educational materials, for example, "The Homeowners Guide to Wetlands and Buffers" (2015), to encourage actions to protect water quality.

Public Access

The coastal program addresses public access through shoreline master programs and by providing information on public access sites through the Coastal Atlas. In addition, the coastal program assists with the acquisition of land for habitat protection and public access as discussed in the "Public Administration" section. Protecting the public's access to the shorelines is one of three major policies of the Shoreline Management Act. The act states: "The public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible." The act calls for shoreline master programs to include a public access element and a recreational element to preserve and enlarge recreation opportunities.

Local governments identify existing physical and visual public access sites and public access needs and opportunities as part of the development of their shoreline master programs. The *Shoreline Master Program Handbook* provides guidance and gives examples of how programs

can address public access issues; for example, local governments may set up fee-in-lieu programs for development sites where public access cannot be provided due to health, safety, or security programs.

The coastal program also developed a comprehensive inventory of public access sites during the evaluation period, which is available through the Washington Coastal Atlas. This was the first significant update to the 1986 comprehensive public access inventory. The Coastal Atlas provides information on 50 descriptive attributes for each access site, allowing for both quantitative and qualitative analysis related to public access using the downloadable GIS data. The Coastal Atlas also features a public access search tool, allowing users to search for access sites by county, name, location, or specific amenities and activities.

Measuring “No Net Loss,” and Compliance and Enforcement

The Shoreline Management Act sets a goal of no net loss of shoreline ecological functions, but neither the act nor the shoreline guidelines include a process for measuring “no net loss.” The *Shoreline Master Program Handbook* contains a chapter, “No Net Loss of Shoreline Ecological Functions,” that provides guidance to local governments on how a shoreline master program can demonstrate their program will not result in loss of ecological function over a planning horizon, typically 20 years. The chapter also includes indicators that local governments can track to assist in determining if they have achieved no net loss.

The primary responsibility for implementing and enforcing shoreline master programs lies with local governments. Previous evaluation findings have included recommendations that the coastal program increase its focus on compliance and enforcement. Several commenters raised issues with regard to compliance, specifically that construction was occurring without permits, permit conditions were not being followed, and local governments were issuing inappropriate variances. Although the coastal program last had a compliance and enforcement specialist on staff in 2008, coastal program planners and wetland staff members provide assistance to local governments and will prioritize concerns based on the severity of the violation and resources involved in undertaking compliance activities. Planning and wetland staff members conduct a variety of compliance-related activities such as

- Issuing notices of correction for removal of unpermitted developments and working with the local governments and property owners to achieve compliance;
- Coordinating with local governments and U.S. Army Corps of Engineers to address unpermitted work in wetlands and working with property owners to address the violation;
- Approving mitigation plans;
- Investigating reports of flooding of multiple properties due to illegal boat launch modification and calls with concern citizens and working with owner to remediate;
- Testifying and participating in appeals before the Shoreline Hearings Board, Pollution Control Hearings Board, and Superior Court; and
- Addressing local government decisions that are inconsistent with the Revised Code of Washington and Washington Administrative Code by advising local governments on

administrative interpretations, filing of State Environmental Policy Act comments, or suggesting permits be withdrawn.

The Puget Sound Marine and Nearshore Grant Program received over \$20 million from EPA to fund actions that advance Puget Sound recovery, including Effective Regulation and Stewardship Project Grants. Several studies were conducted and finalized in 2013-14 that looked at compliance, enforcement, and public outreach issues, including about bulkheads. The coastal program directly participated in one of the studies, a “Compliance Assessment” in partnership with the Department of Natural Resources and Washington Fish and Wildlife.

Overall the studies found that there was likely a significant issue with compliance but due to time and budget considerations were not able to confirm this in their initial assessments. Issues identified were passed to local governments for follow-up, which occurred outside of the studies. The coastal program also collaborated on a “Monitoring and Adaptive Management” chapter in the Department of Commerce (administers the Growth Management Act) *Critical Areas Assistance Handbook* to improve permit implementation across agencies. In addition, based on the information provided in the draft *Critical Areas Assistance Handbook*, the coastal program has educated staff members with presentations from local researchers and recently received a National Estuary Program grant to conduct workshops around the state in spring 2018.

Beginning in 2017, the coastal program is moving forward with a 309 Strategy to develop methods to assess compliance and effectiveness of shoreline permits. The coastal program believes this will provide an empirical basis for evaluating shoreline master programs, a key component to ensuring programs are achieving their objective, including “no net loss.” Ecology oversees locally issued shoreline permits, and for certain kinds of permits (conditional use and variance permits), Ecology takes the final approval action and has a greater ability to condition the permits. Ecology will use as a model a successful study of wetland mitigation permits that included project monitoring and determining which permit conditions were successful in achieving the desired result. As part of this effort, the coastal program is planning to develop a collaborative compliance program across state agencies and local governments.

The coastal program will work with partners to look at shoreline master program permits issued and monitor select projects to understand compliance issues and if the permit conditions led to the desired results. It is anticipated that standard permit conditions could be improved to ensure that future projects are conditioned to achieve desired results and that the results of the study could also assist with evaluating “no net loss” through tracking of shoreline armoring. The project is likely to include a community of practice for local jurisdictions and outreach and technical assistance to ensure that permits are conditioned to achieve the desired results. The Office for Coastal Management encourages Ecology and the coastal program in their efforts to improve compliance with shoreline master programs and provide technical assistance to local governments to ensure that permits are conditioned to achieve the desired results. The Office for Coastal Management also encourages the coastal program to look at a similar project and the associated report that was completed in California, “Towards Compliance Assurance: Developing a Program for Improving Compliance with the California Coastal Act,” prepared by Elijah Davidian (2008).

Local governments have the primary responsibility for measuring and monitoring no net loss of ecological functions. Several local governments have completed studies, including Kitsap and Jefferson Counties. The coastal program can serve an important role in sharing best practices and lessons learned from local governments and potentially assisting with finding funding to support local government studies. In addition, the coastal program's success in obtaining a grant to fund updated oblique aerial photography of the state's marine shorelines will provide local governments with data to document changes over time. In addition, the coastal program may also be able to assist local governments by pursuing or encouraging additional relevant data collection efforts by other state and federal agencies. The Office for Coastal Management encourages Ecology and the coastal program in their efforts to invest in developing methods to measure and monitor "no net loss" and to use the information to inform shoreline regulations and policy development and implementation of shoreline master programs, including compliance. In addition, the office encourages the coastal program to work with relevant state agencies, local and tribal governments, and other organizations to develop and encourage use of these methods.

Findings for Shoreline Master Programs

Accomplishment: The Washington Coastal Program has successfully worked with local coastal governments to develop shoreline master programs that strengthen environmental protection, provide for public access, and to the maximum extent possible, reserve the shorelines for water-oriented uses. Ecology has approved 104 shoreline master programs, and 14 programs have been formally submitted for review.

Recommendation: The Office for Coastal Management encourages Ecology and the coastal program in their efforts to improve compliance with shoreline master programs and provide technical assistance to local governments to ensure that permits are conditioned to achieve the desired results.

Recommendation: The Office for Coastal Management encourages Ecology and the coastal program in their efforts to invest in developing methods to measure and monitor "no net loss" and to use the information to inform shoreline regulations and policy development and implementation of shoreline master programs, including compliance. In addition, the office encourages the coastal program to work with relevant state agencies, local and tribal governments, and other organizations to develop and encourage use of these methods.

Coastal Hazards and Resilience

Overview

The coastal program has initiated and supported a number of projects and initiatives during the evaluation period to help the state and local communities prepare for, and address, coastal hazards and increase their resilience. The coastal program has shown great initiative in bringing partners together and successfully applying for grants to bring additional resources to state efforts. A selection of these projects and initiatives are highlighted below.

The coastal program addresses coastal hazards through

- Generating and providing data and information that helps communities understand the dynamics of shorelines and threats from coastal hazards;
- Providing guidance and planning assistance to help communities, including technical support in understanding hazard information and developing strategies in local plans to address erosion, flooding, geological hazards, and natural protective features, including beaches, dunes, and wetlands;
- Developing trainings to build skills and best practices to enable local decision-making; and
- Working with state and federal partners to coordinate program improvements and leverage resources to better support community needs.

The coastal program works with a number of key partners to address coastal hazards, including Washington Sea Grant, Federal Emergency Management Agency (FEMA), U.S. Army Corps of Engineers, Washington State Department of Commerce, U.S. Geological Survey, Washington State Department of Natural Resources, University of Washington Climate Impacts Group, The Nature Conservancy, and NOAA.

Coastal Hazards Resilience Network

In 2013, the coastal program and Washington Sea Grant established a Coastal Hazards Resilience Network using seed funding from the NOAA Office for Coastal Management and a Columbia River Estuary Study Taskforce grant. The network includes hazards and climate change practitioners from federal and state government agencies, tribes, academic institutions, consulting firms, and nonprofit organizations that are involved in coastal hazards management or producing risk and hazard assessments for marine shorelines in Washington State. Coastal program staff members support the network, primarily the Washington Sea Grant Hershman Marine Policy Fellow with assistance from the coastal planner.

The network seeks to improve regional coordination, integration, and understanding of coastal hazards and climate change impacts through effective partnerships. In addition, the network aims to address multi-hazard planning, preparedness, adaptation, response, and recovery as critical needs in Washington State. Currently, the network has over 75 members from different sectors from Washington and Oregon. The network has resulted in members working together to obtain grants that have increased capacity to address hazards in Washington's coastal communities. The network has been invaluable in furthering parallel resilience initiatives such as FEMA's Risk Mapping and Assessment Planning program (Risk MAP). Evaluation participants cited the value of the network in providing them with access to experts and for allowing partners to maximize the impacts of their outreach and technical assistance.

The evaluation team heard from participants that communities can feel overwhelmed when multiple agency projects are ongoing at the same time. The network provides an informal venue for coordination among technical assistance providers and maximization of resources.

The coastal program and Sea Grant's funding and management of the Coastal Hazards Network has improved hazards coordination among state and federal programs and leveraged resources to better support community needs. While successful, the network remains an informal group. The Office for Coastal Management encourages the coastal program to consider pursuing the formalization of the Coastal Hazards Network through an executive order or state legislation to ensure its sustainability and to increase its effectiveness among state agencies.

Grays Harbor and Washington State Coast Resilience Assessment Final Report

The coastal program and City of Ocean Shores mayor and their U.S. congressional member developed a project proposal to fund technical analysis of erosion hot spots in Grays Harbor County. Through the support of Ocean Shore's congressional representative and others, \$200,000 was included in the state's 2015-17 supplemental capital budget, and the coastal program was responsible for managing this funding. The coastal program successfully pursued an additional \$25,000 in funding from FEMA to support the creation of the Grays Harbor Resilience Coalition, a group of local, state, tribal, and federal representatives. The coalition initially was to develop a list of resilience projects, set priorities, and create a capital budget request for one or more projects in the 17-19 biennium.

The coastal program contracted with the Ruckelshaus Center to assist the coalition with moving forward on a technical analysis. The center recognized that there was a coast-wide interest in increasing coastal resilience. The coalition agreed and conducted an assessment consisting of 104 interviews with key parties, including coastal tribes, coastal residents, elected officials, researchers, scientists, engineers, nongovernmental organizations, other stakeholders, and federal, tribal, state, county, and city government agency staff members. The interviews gathered a range of perspectives, information, and insights about approaches, processes, structures, and resources needed to enhance and support resilience efforts for the coast and coastal communities. The center published the report "Washington State Coast Resilience Assessment Final Report" in May 2017. The assessment includes principles for decision-makers to guide the development of coastal resilience efforts and recommendations and key leveraging actions.

The report's recommendations and key leveraging actions provide valuable feedback on potential strategies for moving forward, and the Office for Coastal Management encourages the coastal program to move forward with considering and implementing the report's recommendations and key leveraging actions. In particular, the Office for Coastal Management encourages the coastal program to explore the key leveraging action to "Create an integrated coast-wide effort to strengthen coastal resilience that is staffed by Washington Sea Grant, Washington State University Extension, Washington State Department of Ecology, and Washington State Emergency Management Division." Several evaluation participants noted that this could be of great value to local communities. In addition to technical expertise, participants stated that it was a challenge to even identify and apply for grant funding. Although the Ruckelshaus report focuses on coastal resilience, the coastal program should consider whether the approach of combined one-stop coastal offices would benefit other coastal management issues.

Locally in Grays Harbor, the coalition continued its efforts to address erosion and build resilience. Coastal program staff members continued to work closely with the Grays Harbor Resilience Coalition to inform them about recent coastal erosion problems, current research, and preliminary findings at several sites of particular concern. Coastal program staff members have worked with the coalition to model future impacts, identify future study sites of interest, and develop a work plan for achieving short- and long-term project goals. Coastal program staff members also attended extensive public meetings to provide information. Evaluation participants stated that Ecology had brought needed technical capacity to the project to assist the local governments. They also cited the value of having the process be locally driven, making it more effective. Participants also cited the ongoing challenge of thinking long-term when there were immediate issues needing attention.

The Office for Coastal Management encourages the coastal program to continue to provide assistance to local governments to help them identify and prioritize regional coastal hazards and develop strategies for both short- and long-term actions. This support is particularly valuable to smaller communities that do not have the resources to do this on their own.

Washington Regional Coastal Resilience Grant

Through partnerships built through the Coastal Hazards Resilience Network, the coastal program, state and local managers, conservation groups, and academic scientists are working with Washington Sea Grant, which was awarded a NOAA Regional Coastal Resilience Grant for the project, “Improving Risk Communication and Leveraging Existing Programs in Washington State to Build Capacity and Enhance Resilience in Coastal Communities.” The project, which began in October 2016, builds on previous efforts and seeks to help Washington’s coastal communities become more resilient in the face of sea level rise, storm surges, wave impacts, and shoreline erosion. Project partners are working together to fill critical information and tool gaps; improve communication of risk about coastal hazards and related climate impacts; rapidly increase the state’s capacity to support coastal resilience by leveraging existing programs, authorities, policies, and capital investment programs through targeted updates to state guidance, capital investment funding criteria, and “lessons learned” at the community level; and assisting three pilot communities with incorporating lessons learned to make statewide guidance more practical and helpful at the community level.

Coastal Adaptation Series – Coastal Training Program

The coastal program, Padilla Bay Coastal Training Program, Washington Sea Grant, NOAA Office for Coastal Management, and Washington Climate Impacts Group created a Climate Change Adaptation Training series, a sequence of courses that assist planners and coastal managers by providing guidance, best practices, and resources to address existing and future impacts of shoreline change in Washington. In 2013, a Climate Working Group composed of experts from the organizations, conducted a needs assessment of state planners and coastal managers on behalf of the Padilla Bay National Estuarine Research Reserve Coastal Training Program. Results indicated that there was an overall need and interest for training in topics that included coastal processes and climate change, incorporating climate change adaptation strategies into

applicable plans, building the case for adaptation and communicating climate change, and lessons learned from using decision-support tools.

To address the identified training needs, the coastal planner and Hershman Fellow have worked with the Coastal Training Program and other partners to help develop training courses. The Coastal Adaptation series includes these classes: Sea Level Rise Adaptation – Opportunities for Planning in Washington State, Coastal Inundation Mapping, Climate Adaptation Planning for Coastal Communities, and How to Communicate about Sea Level Rise. There are currently three courses under development: Understanding the use of Data and Decision-Support Tools, Connecting with Adaptation Leaders and Understanding Implementation, and Incorporating Climate Adaptation Strategies into Comprehensive Planning.

King Tides Initiative

The coastal program jointly manages the King Tides Initiative with Washington Sea Grant. The King Tides Initiative helps raise awareness about sea level rise and how it will impact local communities. Climate change's slow-moving nature and geographically dispersed impacts limit the amount of media coverage it garners. King Tides provides a means of capturing and focusing attention on a predictable but still time-sensitive element of climate change that demonstrates the local impacts. By asking participants to share their photos online through their existing Facebook, Twitter, and Instagram accounts, and to tell their friends about King Tides, the initiative can reach people who have not previously learned about King Tides. The communications staff at Ecology developed a series of captioned photographs for use in advertising the initiative on social media.

Floodplains by Design

The state legislature awarded \$50 million for the 2013-2015 budget biennium for a new statewide program to address flooding, Floodplain by Design. Ecology participated in legislative budget committee work sessions to support the creation of this new concept for water management projects, which would include floodplains, stormwater, and water supply projects. Floodplains by Design is guided by a collaborative partnership of the Department of Ecology, The Nature Conservancy, and Puget Sound Partnership. The program supports the integration of flood risk reduction and restoration of floodplain habitat and function. The state allocated over \$35.5 million for the 2015-2017 biennium while applicants submitted requests for over \$180 million in project funding.

The coastal program developed and ran a competitive grant processes for the 2015-17 and 2017-2019 bienniums to select the best projects. Projects are evaluated based on their ability to provide cost-effective hazard reduction for people, property, critical facilities, and transportation corridors; achieve multiple benefits, including, but not limited to, salmon recovery, water quality improvements, habitat restoration, and channel migration zone protection; minimize or eliminate future costs for maintenance, operation, or emergency response; and be created through a planning process that includes public comment, such as a comprehensive flood hazard management plan, and readiness. The projects focus on extensive engagement with local populations and work to align stakeholders and permitting toward

common goals. In addition, the coastal program has worked with the collaborating partners to guide the program’s evolution and to award and manage the grants.

Risk Mapping, Assessment, and Planning Program (Risk MAP)

Risk MAP is a program where FEMA works with federal, state, tribal, and local partners across the nation to identify flood risks and promote informed planning and development practices to help reduce those risks. Risk MAP provides high-quality flood maps and information, tools to better assess the risks from flooding, and planning and outreach support to communities to help them take action to reduce flood risks. The flood risk products are not official products for making determinations under the National Flood Insurance Program but provide additional flood risk information to support a community’s floodplain management and hazard mitigation plans.

Building on a partnership that started under the Coastal Hazards and Resilience Network, the coastal program supports and participates in the Risk MAP process. The coastal program became a certified FEMA Cooperating Technical Partner, enabling it to receive and manage funding to support the Risk MAP program. The coastal program was able to use the funding to expand its capacity beyond the State Risk MAP Coordinator (who sits at Ecology) and hire an assistant coastal planner to help connect the fields of risk management and coastal management and planning.

The coastal program’s involvement has helped to ensure that communities evaluate the risks posed by natural hazards holistically. The coastal program has also worked to improve the connections between local government staff members and resources available from state agencies so that communities can address the hazards and implement actions to reduce vulnerability that were prioritized using the Risk MAP data and analysis.

An evaluation participant stated that the Risk MAP process was bringing state agencies together for the first time for the Risk MAP issues, and the process is well received by communities who are using the data in developing and implementing plans. Evaluation participants also highlighted challenges, including that smaller communities do not always have the capacity to use the data and that federal data do not always align with how locals typically need the data—at the parcel level. A representative of Washington’s Department of Commerce noted that they were able to capitalize on the coastal program’s work and were looking to take the Risk MAP example to inland communities. The coastal program’s successful partnership with FEMA and implementation of Risk MAP help communities better identify and implement resilience strategies and improve coastal floodplain mapping and outreach.

EXAMPLE: WILLAPA EROSION CONTROL ACTION NOW

The Willapa Erosion Control Action Now project is an ongoing community initiative to protect the northern shores of Willapa Bay in Pacific County. Willapa Bay has six miles of shoreline with such significant erosion that it has been nicknamed “Washaway Beach.” The Pacific County Department of Community Development requested an assessment of coastal erosion along Washaway Beach for use in land use planning. Ecology’s Coastal Monitoring and Analysis

Program worked in partnership with Oregon State University to provide an assessment of coastal erosion and a projection of future erosion rates. The projections of future shoreline change are essential for long-term planning, and the identification of areas having the highest vulnerability to erosion and flooding are important for guiding near-term management efforts. Ecology published the results in a report, “Assessment of Coastal Erosion and Future Projections for North Cove Pacific County” (June 2017). The project was supported through Risk MAP.

Coastal Monitoring and Analysis Program

The Ecology’s Coastal Monitoring and Analysis Program is part of the coastal program and plays a key role in gathering and analyzing coastal data to increase understanding of coastal hazards and to inform solutions. Coastal staff members support state and local government efforts to address coastal erosion and provide information and technical support. The staff is essential in conducting many pre- and post-project surveys to monitor and understand projects such as bulkhead removal and beach restoration projects. The coastal program has collected quarterly beach profile data regularly over 10 years along the coast. Staff members continue to expand their capacity for data collection and knowledge through training.

Throughout the evaluation site visit, the evaluation heard from multiple state, local, and other partners how valuable the data collected and analysis provided were. The information helped increase understanding of issues and informed their decision-making. In addition, local governments are able to use the data to document issues and obtain financial support from the federal and state governments to address erosion issues. Although the program provides very high value data and analysis, it is supported through grants and Coastal Zone Management Act funding. The Ruckelshaus Center’s report, “Washington State Coast Resilience Assessment Final Report,” identified a key leveraging action: “Secure adequate funding for technical experts and programs to gather and analyze data.” The Office for Coastal Management concurs that technical expertise and the ability to gather and analyze data is important and encourages the Department of Ecology to ensure ongoing stable funding for the Coastal Monitoring and Analysis Program.

Findings for Coastal Hazards

Accomplishment: The Washington Coastal Program and Washington Sea Grant’s funding and management of the Coastal Hazards Network has improved hazards coordination among state and federal programs and leveraged resources to better support community needs.

Accomplishment: The Washington Coastal Program’s collaboration with the Federal Emergency Management Agency’s Risk MAP program is helping communities better identify and implement resilience strategies. The coastal program is a Federal Emergency Management Agency Cooperating Technical Partner, enabling agency funds to be administered by the coastal program for improved multi-hazard mapping and outreach.

Recommendation: The Office for Coastal Management encourages the coastal program to consider pursuing the formalization of the Coastal Hazards Network through an executive order

or state legislation to ensure its sustainability and to increase its effectiveness among state agencies.

Recommendation: The Office for Coastal Management encourages the Department of Ecology to pursue ongoing stable funding for the Coastal Monitoring and Analysis Program.

Marine Spatial Planning

Overview

The coastal program is leading the development of a marine spatial plan for Washington's Pacific Coast. State natural resource agencies, tribal governments, nongovernmental organizations, and stakeholders participated extensively in the development of the preliminary draft plan released for informal review and comment in February 2017. The Draft Marine Spatial Plan provides existing baseline information on ocean resource uses through an online mapping platform; establishes ecosystem indicators to assess status and trends of ocean health and coastal communities over time; provides analyses to support decision-making related to ocean uses; and provides recommendations for managing particular areas and siting new ocean uses. The plan also improves integration of existing policies and management across agencies.

In 2010, the Washington legislature enacted the Marine Waters Planning and Management Act to build on existing state management efforts, improve marine spatial data and mapping, and improve coordination among state agencies. The state legislature allocated funding for plan development in 2012. The State Ocean Caucus, an interagency team of state natural resource agencies, was tasked with leading an inclusive process to develop the plan. Coastal program staff members have led this initiative for the State Ocean Caucus.

In 2013, the Governor's Office charged the Washington Coastal Marine Advisory Council with serving as a forum to bring together stakeholder and community perspectives for the coast to assist with the development of the plan. The advisory council's 26 members represent commercial and recreational fishing, conservation, economic development, coastal energy, recreation, aquaculture, science, ports, state government, coastal marine resources committees, and the community at large. The coastal program staffs the advisory council, and Coastal Zone Management Act funding has supported the plan's development. The planning effort also employed a Science Advisory Panel to provide neutral science-based information, convened by Washington Sea Grant in consultation with the State Ocean Caucus and advisory council. The State Ocean Caucus agencies also worked with tribes at a government-to-government level, including regular communication and tribal consultations.

The coastal program led an inclusive stakeholder process to gather advice throughout the planning process. They worked closely with the Washington Coastal Marine Advisory Council and county marine resource committees, held public meetings and workshops, provided opportunity for public comment, and used email lists and other outreach to inform and engage stakeholder groups. The Washington Coastal Marine Advisory Council played a key role in providing recommendations for the development of the Marine Spatial Plan. State law requires

spending for the Marine Spatial Plan to be consistent with recommendations of the advisory council to the maximum extent possible.

A key early effort was the identification of existing data and an assessment of data gaps. A data prioritization workshop was held to gain a deeper understanding of what data coastal managers need and why. Data gaps were prioritized based on how well they met key needs for the development of the plan. As a result, priority ecological data were pursued, including assessments of status and trends of biological coastal resources and development of indicators to monitor the health of ecosystems, and studies related to human uses and economics were conducted.

Through the marine spatial planning process, coastal program staff members coordinated with federal agencies and academic institutions to leverage their expertise and resources in order to improve the information and data for the plan. The coastal program worked with NOAA's National Centers for Coastal Ocean Science to produce ecological models for several different species of seabirds and marine mammals. They also worked together to bring in other state agencies, federal agencies, and coastal tribes to complete a seafloor mapping inventory and prioritization process. As a result, these groups were able to identify seafloor geographies of shared high-priority and illustrate management needs. Coastal program staff members were able to leverage NOAA's hydrographic vessels and other partners to obtain and process additional seafloor data for these priority areas. The coastal program worked with the NOAA Olympic Coast National Marine Sanctuary, Active Tectonics and Seafloor Mapping Lab at Oregon State University, and several contributing partners to compile raw seafloor mapping data and stitch them together into a seafloor atlas. Data in the seafloor atlas include seabed habitat, backscatter, bathymetry, structural data, and remote sensing with multi-beam sonar. A study was also conducted to look at wave and wind energy potential on the coast through modeling work by Department of Energy's Pacific Northwest National Labs.

The Department of Natural Resources developed and maintains an online data portal to house the data and to allow the data to be displayed and analyzed by coastal decision makers. There is currently no state mandate to maintain a data portal or state funding allocated for this purpose, but the Department of Natural Resources is committed to maintaining the portal, and staff members are using the data to inform their decision-making for aquaculture leasing and any proposed development.

The data collected were analyzed by the State Ocean Caucus to inform recommendations for ocean uses and siting new ocean uses. The draft plan assists in protecting water-dependent uses and resources, as well as informing future ocean development. The draft plan establishes a framework and provides guidance that should improve the coordination, siting, and evaluation of new ocean uses, including marine renewable energy. It is anticipated that the plan will improve the state's enforceable policies by providing clearer interpretations of the policies, procedures, and guidelines and will provide information, analyses, and recommendations for local government plans to use in their shoreline master programs. The state expects to finalize and adopt the plan in early 2018.

The evaluation team heard from stakeholders that the advisory group represented a wide variety of stakeholders and, especially in the beginning, there were tensions; however, members built relationships, and the diversity of views made the process more thorough. They described one of the major benefits as being that the state and local governments now had much more data to inform decisions and that this would make the Marine Spatial Plan “solid.” Participants cited the recreational study and data related to the economic impact of ocean resources on rural communities as being particularly valuable, although one participant noted that data for documenting the economic impact of fishing could be improved. A number of stakeholders commended the coastal program for its project leadership.

There appeared to be some confusion with stakeholders and state agency staff members over how the Marine Spatial Plan would be implemented and what changes to current procedures or project evaluations in state agencies such as the Department of Fish and Wildlife would occur. Additionally there were questions about how local shoreline master programs would be updated to incorporate relevant requirements from the Marine Spatial Plan. Immediately after the state adoption and over time, there is a need to facilitate understanding of the plan and to keep the intended implementation relevant and current with governments (local, state, tribal, and federal), stakeholders, and others. The Office for Coastal Management encourages Ecology to work with the State Ocean Caucus members to develop a communication and education plan for implementation of the marine spatial plan once it is finalized. The communication and education plan should be for multiple audiences—stakeholders, other governments (local, tribal, other state agencies, and federal), as well as the state legislature. The communication and education plan should address what having a marine spatial plan means, the processes for implementing the plan, and roles of the different state agencies.

The number-one concern raised by stakeholders was the long-term viability and cost of maintaining and updating data sets and the GIS viewer so that coastal decision makers could make informed decisions. The Office for Coastal Management encourages the Washington Coastal Program in its efforts to determine how best to maintain, manage, and update existing data sets, provide tools for analyzing and visualizing the data, and support the acquisition of new high-priority data sets. In addition, the coastal program is encouraged to consider documenting the value of the Marine Spatial Plan and viewer in coastal decision-making internally and for other state agencies, local governments, and other stakeholders to support funding requests.

Findings for Marine Spatial Planning

Accomplishment: The Washington Coastal Management Program has led an inclusive process to develop a marine spatial plan that includes new priority ecological, human use, and economic data, as well as seafloor maps to inform coastal decision-making; provides analyses to support decision-making related to ocean uses; and provides recommendations for managing particular areas and siting new ocean uses.

Recommendation: The Office for Coastal Management encourages

- A. The Washington Coastal Program in its efforts to determine how best to maintain, manage, and update existing data sets and tools for analyzing and visualizing the data, and support the acquisition of priority new data; and
- B. The Washington Department of Ecology to work with the State Ocean Caucus members to develop a communication and education plan for implementation of the marine spatial plan once it is finalized. The communication and education plan should be for multiple audiences – stakeholders, other governments (local, tribal, other state agencies, and federal), as well as the state legislature. The communication and education plan should address what having a marine spatial plan means, the processes for implementing the plan, and the roles of the different state agencies.

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. Programs were encouraged to set targets that would stretch the program, and it was anticipated that in some cases targets would not be met. If a program does not meet a target, the reasons and context are discussed during the evaluation.

METRIC 1

Goal: Protect and Manage Shorelines in Partnership with Local Governments

Objective: By 2017 the majority of local governments within Washington’s Coastal Zone will have new Shoreline Master Programs (SMPs) that contain a no-net-loss of shoreline ecological functions performance standard.

Strategy: The Washington Coastal Zone Management Program works in partnership with local governments to carry out the state’s Shoreline Management Act. Local governments develop and manage local Shoreline Master Programs (SMPs) while the state provides assistance, oversight, and final approval. To meet this objective, the WA CZMP will provide financial assistance and ongoing technical support to local governments to ensure consistency with the state SMP Guidelines. The program will also provide final review and approval of all locally adopted SMPs.

Performance Measure: Number of CZMP local governments with comprehensively updated SMPs containing the no-net-loss of shoreline ecological functions performance standard defined in WAC 173-26-020(13) obtaining state approval.

Target: Between 2012-2017, 80 CZMP local governments with comprehensively updated SMPs containing the no-net-loss of shoreline ecological functions performance standard defined in WAC 173-26-020(13) obtain state approval.

Year	Approved SMPs
1	22
2	21
3	13
4	7
5	10

Cumulative Results: During the five-year period 73 SMPs were completed.

Discussion: As of June 30, 2017, 104 of 133 SMPs in the coastal zone have been approved by the Department of Ecology. In addition to the 104 SMPs that have been approved, another 14 have been formally submitted and are under review, four are under way, and the status of one was not reported.

METRIC 2

Goal: Protect, Restore, and Manage Wetlands

Objective 1: By 2017, wetland banking credits will be purchased from the seven state-approved wetland mitigation banks in the coastal zone to meet permit requirements and result in better mitigation of environmental impacts.

Strategy: To meet the target, the WA CZMP will encourage the use of wetland bank credits where their use is environmentally preferable to on-site mitigation. Washington currently has seven approved wetland mitigation banks, and credits become available as wetlands are restored in the banks. The use of wetland banking in the state of Washington is relatively new. Program staff will advise permit applicants of the availability of bank credits for compensatory mitigation; provide ongoing outreach to local governments on the establishment and use of wetland banks; provide training for local governments and consultants on credit use; and provide guidance to local governments on including wetland banks as an allowable mitigation option in local critical areas ordinances.

The state-approved Wetland Mitigation Banks in the coastal zone:

County	Bank Name
Skagit	Skagit Environmental
Skagit	Nookachamps
Snohomish	Skykomish
Snohomish	Snohomish Basin
King	Springbrook Creek
Whatcom	Lummi
Pacific	Long Beach
Grays Harbor	Ocean Shores

Definitions

Potential Credit – A credit that is anticipated to be generated by the bank but is not currently available for use. Potential credits have not been released by the department.

Released Credit – An available credit that has been released by the department after a bank attains the performance standards specified in the instrument. Only available and reserved credits may be used to compensate for unavoidable wetland impacts authorized under a federal, state, or local permit or other authorizations in accordance with the conditions of the instrument.

Used Credit – A used or “debited” credit is an available credit that has been withdrawn from the bank to meet regulatory requirements. Once used, it is removed from the ledger and cannot be used again.

Performance Measure: Percentage of wetland banking credits available in the seven state approved wetland mitigation banks that are used to meet permit requirements.

Target: By 2017, 25% of the wetland banking credits available in the seven state approved wetland mitigation banks have been used to meet permit requirements.

Results:

Year	Percentage
1	34 percent
2	37 percent
3	26 percent
4	33 percent
5	33 percent

Discussion: The percentage changes over time as additional credits are released and used. As new credits are released for use, the percentage of used credits may go down temporarily. As of June, 2017, the coastal program met its target of 25%.

Bank & Year Certified	Potential Credits (KEEP)	Acres (KEEP)	Released Credits	Used Credits	% Potential Credits that have been Released	% Released Credits that have been Used
Long Beach (2013)	10.92	76	8.45	0.9806	77%	12%
Lummi (2012)	126.5	379.9	27.67	11.098	22%	40%
Nookachamps (2009)	101.02	284.9	30.12	6.272	30%	21%
Ocean Shores (2016)	11.77	121.86	4.8	0	41%	0%
Skagit (2011)	241.7	396	28.98	7.6	12%	26%
Skykomish (2006)	113	172	42.86	15.039	38%	35%
Snohomish (2005)	163.1	202.4	74.524	33.5941	46%	45%
Springbrook (2006)	45.12	129.36	40.75	9.9851	90%	25%

METRIC 3

Goal: Protect, Restore, and Manage Wetlands

Objective 2: By 2017, important CZM habitats will be protected through WA CZMP-assisted acquisition and easement.

Strategy: The WA CZMP will partner with tribes, land trusts, local governments and others to identify priority sites for acquisition and then collaborate on developing funding proposals for acquisition. The program will submit proposals for the Coastal and Estuarine Land Conservation Program, National Coastal Wetlands Conservation Grant Program, North American Wetlands Conservation Act grants, and other sources, as available.

Performance Measure: Acres of CZM habitat protected by acquisition or easement with assistance from CZM-funded staff.

Target: Between 2012-2017, 1,000 acres of CZM habitat will be protected by acquisition or easement with assistance from CZM-funded staff.

Results:

Year	Acreage
1-3	615
4	306.26
5	891.92

Cumulative total: 1813.18 acres

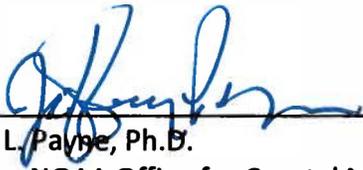
Discussion: Washington’s Coastal Zone Management Act funds do not support the direct acquisition of habitat. Funds are dedicated to support staff in continued work with partners to develop project proposals and acquire federal funding to acquire or purchase easements on important coastal habitats. Progress on this measure has been excellent and we have already met our 5-year performance target.

Conclusion

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

These evaluation findings contain one necessary action that is mandatory by the deadlines given and seven 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 Washington Coastal Management Program which may have implications regarding the state's financial assistance awards. However, it does not make any judgment about or replace any financial audits.



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

12/19/2017

Date

Appendix A: Response to Written Comments

**Nina Bell, Executive Director
Northwest Environmental Advocates**

Ms. Bell provided comments and four attachments. The attachments are as follows:

- U.S. Department of Commerce and U.S. Environmental Protection Agency letter to Maia D. Bellon, Director Washington State Department of Ecology regarding Washington's Coastal Nonpoint Pollution Control Program, Nonpoint Source Management Program, and Federal Trust Obligations to Tribes dated April 23, 2013.
- U.S. Department of Commerce and U.S. Environmental Protection Agency letter to Megan White and Gordon White of the State of Washington Department of Ecology regarding the results of their review of Washington's Water Quality Management Plan to Control Nonpoint Source Pollution, dated September 21, 2000.
- U.S. Department of Commerce letter to Ms. Roylene Rides-at-the-Door U.S.D.A. Natural Resources Conservation Service and Mr. Dennis McLerran, of the U.S. Environmental Protection Agency Region 10 regarding the use of a matrix of riparian buffers and request to assist with refining the matrix, dated January 30, 2013.
- Interim Riparian Buffer Recommendations for Streams in Puget Sound Agricultural Landscapes (Originally proposed as federal Option 3 for the Agricultural Fish and Water (AFW) Process, March 2002) Guidance, dated October 28, 2013.

Ms. Bell states that NOAA must find that the state of Washington is not eligible for any funding under the Coastal Zone Management Act for the following reasons:

- A. that in order to approve a state's management program, NOAA must find that the program "contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program (CNPCP) of the State required by section 1455b of this title," namely the Coastal Zone Act Reauthorization Amendments (CZARA). *Id.* at § 1455(d)(16).
- B. CZMA section 306(b) requires that for a state to receive grant funding, a state's program must meet all applicable requirements of the statute and has been approved in accordance with subsection (d) of Section 306. 16 U.S.C. § 1455(b). One of the requirements of subsection (d) is "The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 1455b of this title. (16 U.S.C. § 1455(d)(16))."
- C. It is failing to adhere to its management program, address the coastal management needs identified in Section 303(2)(A-K) and adhering to the conditions of its grants to the extent applicable because it does not have an approved CNCP.

Ms. Bell notes the 2010 evaluation document explains that Washington had not documented progress towards meeting the conditions on the approval of the Coastal Nonpoint Program. She notes the findings include a necessary action, "Ecology must work with OCRM to develop and submit to OCRM by May 31, 2011 a work plan with interim benchmarks and a time line for

meeting the outstanding conditions of its conditionally approved Coastal Nonpoint Program. The documentation indicating how the outstanding conditions are met must be submitted to OCRM no later than November 30, 2014.” Ms. Bell urges that in responding to public comments, NOAA misrepresents the law that should guide its evaluation. NOAA’s argued that the Washington Coastal Nonpoint Program meets Coastal Zone Act Reauthorization Amendments is based on an *ultra vires* interpretation of the statute and that the concept of “conditional approval” is contrary to the intent of Congress that states have approved programs by specified dates.

Ms. Bell asserts that the current evaluation fails to meet the requirements of the Coastal Zone Management Act Section 312(b) for conducting an evaluation in an open and public manner as the previous evaluation findings did not acknowledge any open issues with regard to Washington’s 1998 “conditional approval” besides forestry practices. In particular, there was no discussion of on-site disposal septic systems and agriculture and no discussion of additional activities related to the Coastal Nonpoint Program that have occurred since 2013. The additional materials Ms. Bell stated should be acknowledged were (1) NOAA and EPA letter to Maia Bellon, Ecology, informing Washington that the agencies were not prepared to approve Washington’s Coastal Nonpoint Program and (2) William Stelle, National Marine Fisheries Service letter to Roylene Rides-at-the-Door U.S. Department of Agriculture, and Dennis McLerran, EPA that included (3) an attachment, a recommended matrix of riparian buffers. The two letters and the matrix were submitted as attachments.

Ms. Bell also expressed concerns that the current evaluation might not meet the requirements of Section 312. In particular that the review must include “detailed findings” and discuss protection of water quality from nonpoint source pollution as identified in Section 303(2) including: at subsection (A) the protection of natural resources including estuaries, fish and wildlife and their habitat; at subsection (C) and (H), the consideration of the views of affected federal agencies, in particular, the views of the EPA and National Marine Fisheries Service on the adequacy of nonpoint controls on logging and farming in coastal watersheds.

NOAA Office of Coastal Management Response: The Office for Coastal Management determines the Washington Coastal Program continues to comply with the Coastal Zone Management Act, including relevant provisions of the Coastal Zone Act Reauthorization Amendments. NOAA and EPA approved the Washington Coastal Nonpoint Program with conditions in 1998, and the program has made significant, incremental progress toward satisfying these conditions over time, as documented by the federal agencies’ interim approvals of Washington’s subsequent program and plan submissions for informal review over time. In the 2010 review of Washington’s program under Section 312, the Office for Coastal Management issued a Necessary Action directing that the coastal program submit documentation on meeting the remaining conditions. Washington provided such documentation when it submitted its interim benchmarks and timeline to the Office on May 26, 2011, and submitted documentation indicating how the outstanding conditions were met as of July 2011. While Washington satisfied the Necessary Action, EPA and NOAA deferred publishing a public notice inviting comment on the federal agencies’ proposed findings that Washington had met the each of the 1998 conditions; that deferral was due to concerns that the Pacific

Northwest Tribes raised in a 2012 white paper. In that white paper, the tribes explained their position that treaty-reserved rights to harvest salmon and steelhead were being impaired by ongoing habitat loss and water quality impairments and requested that the Federal Government use their full authority under many programs to protect treaty rights. In response, the federal partners elected to defer proposing approval of the conditions on Washington's Coastal Nonpoint Program in order to allow time for broader discussions with the tribes and federal agencies regarding the white paper and the protection of water quality and salmon habitat. Subsequently, the State of Washington pursued a new approach to the agricultural management measures. Ecology is currently developing a new stakeholder-led approach to identify, implement and track agriculture best management practices to revise its program with respect to this condition. In January, 2017, Ecology solicited public comment on the draft process design and, based on public comment, several changes were made to the Process Design document. When Washington submits information describing how the revised agriculture best management practice process meets the condition, which NOAA and EPA anticipate will provide greater protection for Tribal treaty rights, the federal agencies will publish proposed findings relating to all of the conditions for public comment, whereupon the Northwest Environmental Advocates is encouraged to provide comment for the agencies' consideration.

As for the concerns raised about public engagement, NOAA conducted the 312 evaluation in an open and public manner and solicited public comment. NOAA published notice of public meeting and opportunity to provide written comments in the *Federal Register*, *Chinook Observer*, Ecology's website as well as the Office for Coastal Management's website. Any review of Washington's Coastal Nonpoint Program submissions occurs under Coastal Zone Act Reauthorization Amendments requirements, and the Federal agencies will provide prior notice and opportunity for comment of their bases for approving the state's work with respect to the 1998 conditions.

**Dr. Trina Bayard, Director of Bird Conservation
Audubon Washington**

Dr. Bayard states that current conservation work in Willapa Bay and Grays Harbor is not sufficient. She states that coastal program support for estuary resource inventories and habitat classification would have multiple benefits for fish, birds, and other wildlife, coastal resource economies including aquaculture and fisheries and would allow us to better understand and plan for changes associated with climate change and development pressure.

Dr. Bayard also recommends that the coastal program pursue the estuary habitat classification scheme currently being applied to coastal estuaries in Oregon and elsewhere (Coastal and Marine Ecological Classification Standard) so that coastal stakeholders can better understand and assess the status and trends of habitat values, resource values, and development pressure across time and space.

Dr. Bayard also states that Grays Harbor and Willapa Bay lack a strong collaborative planning body such as the Puget Sound Partnership and/or access to sophisticated spatial data and

recommends that the coastal program form a task force to identify priority management and information needs for these and potentially other “neglected” estuaries and provide recommendations on the planning infrastructure needed to support management and protection of estuaries.

Dr. Bayard states that the researches in Washington state provide exceptional, locally relevant science but that to make use of this information in management decisions, especially at the level of the Shoreline Management Program, the coastal program would likely need additional staff capacity to assess and integrate this information into specific recommendations for shoreline master program updates and other regulatory mechanisms like the Hydraulic Code. She notes that in addition, incentives for nature-based solutions to issues like shoreline hardening would help drive technologic innovation and investments in environmentally sustainable practices.

NOAA Office for Coastal Management Response: The NOAA Office for Coastal Management thanks Dr. Bayard for her comments. The NOAA Office for Coastal Management is supportive of efforts to improve understanding of estuary resources. In addition, the state has provided multi-year funding as part of the Marine Spatial Plan for additional studies of the state’s coastal ecological resources including assessments of status and trends of biological coastal resources and development of indicators to monitor the health of ecosystems and oceanographic mapping. Through the shoreline master program planning process local governments are also required to do inventories.

The Office for Coastal Management concurs that it would be beneficial for the coastal program to consider use of the Coastal and Marine Ecological Classification Standard which provides a comprehensive national framework for organizing information about coastal and oceans and their living systems. The office has discussed Audubon’s comments with the coastal program and offered technical assistance if the coastal program wishes to pursue this.

Grays Harbor did adopt an Estuary Management Plan in 1986 but it is no longer considered relevant given the updated Shoreline Master Program Guidelines. The coastal program is leading an effort to develop a Marine Spatial Plan for the Pacific Coast including the coastal estuaries of Grays Harbor and Willapa Bay which is providing additional baseline information to support decision-making and establishing a framework and guidance that improves the coordination, siting, and evaluation of new ocean uses. At this time the office has not found that the creation of a task force to address Willapa Bay and Grays Harbor is necessary.

The Office for Coastal Management concurs that additional staff would increase the program’s capacity for incorporating the best available science into coastal decision making. Although the coastal program has not hired additional long-term staff for this during the evaluation period, they have been very successful in competing to obtaining fellows to support multiple efforts which are discussed throughout the findings.

**Dale Beasley, President
Coastal Federation of Fisheries**

Mr. Beasley provided comments on behalf of the Coalition of Coastal Fisheries and an attachment. The attachment:

- Mark McClain, Prosecuting Attorney Pacific County letter to Fran Sant of the Department of Ecology, regarding the incorporation of shoreline master programs into the federally approved Coastal Management Program, dated April 25, 2017

Mr. Beasley recommends continuing the Coastal Zone Management Act program as it is beneficial to the nation, state and local jurisdictions. He states that fisheries are vital to community stability in Washington and crab is larger than all other coastal fisheries in both Washington and Oregon combined. He discussed that non-tribal fishing communities are impacted by a fifty-fifty sharing of fish with treaty tribes which applies along the coast except for the most southern 38 miles of coastline, making this offshore area particularly valuable for non-tribal fishing communities. He also noted that this area is under pressure for energy development, as energy development is not allowed within the Olympic National Marine Sanctuary boundaries. The state is also facing challenges such as climate change and loss of sediment due to dams in the Columbia River.

He cited that the recent *Quinault Indian Nation, et al. v. City of Hoquiam* decision by the Washington State Supreme Court as important in reaffirming the importance of the Ocean Resources Management Act's focus on "Protect and Preserve Existing Sustainable Uses including fishing." The court held that the act "is designed to address environmental threats to our coastal waters and specifically addresses the threats posed by increased expansion of the fossil fuel industry along the Pacific Coast."

Mr. Beasley complimented the Lower Columbia River Solutions Group which is supported by both the Washington and Oregon coastal programs. He states that the group is a model of cooperation between government authorities and local people who work together to address coastal issues, a science driven solutions model. He described the group as "simply amazing and highly beneficial at all levels, local, state, and federal" and that the group can and should serve as a national model. He noted that the group's efforts have led to research showing that spreading sediment over a wider area improves crab survival.

Mr. Beasley noted that the Columbia River Crab Fishing Association is continuing to try to change mouth of the Columbia River dredging and sediment disposal so that dredge material use provides the crab industry life safety and natural resource protections while also contributing to stabilizing coastal erosion in a measurable manner. He noted challenges with the Army Corps of Engineers approach to fund the least cost option and states that "a necessary change in the Corps' Principles and Guidelines as well as reasonable adjustments including CZMA re-consistency determination are necessary" to improve dredge material management.

Mr. Beasley also discussed the state's development of a Marine Spatial Plan. He noted that fishing interests have the most to lose with the addition of new users to the ocean coast, particularly energy interests. He expressed concerns that the State Ocean Caucus was often at odds with the legislative intent of the Marine Spatial Plan legislation. He noted that the major problem associated with the Washington plan was that the coastal needs were not properly assessed and therefore the best beneficial solutions for all could not be reached. In particular, Mr. Beasley raised issues with the process used to collect information from fisherman and the methods used for determining how to display the data on maps. He states that the maps do not accurately reflect fishing concentration and that fishermen were shut out of correcting these issues due to the fact that meetings to discuss the maps were held in the middle of fishing season. He also stated that the coastal economic report was underfunded, and a fish from vessel to plate study to capture the full value of the fishery should have been conducted. He expressed concern that the Bureau of Ocean Energy Management and the state would not be able to use the data to demonstrate reasonable foreseeable effects for the purpose of federal consistency.

Mr. Beasley expressed concern over proposed changes to the state's regulations with regards to whether local programs should be incorporated into the state's federally approved program. Mr. Beasley calls for the state and NOAA to "reinstate the full local authority and integrity of the coastal program." Mr. Beasley expressed concerns that the state and NOAA were attempting to marginalize local authorities of coastal shoreline master programs. Mr. Beasley provided a letter from Mark McClain Prosecuting Attorney Pacific County to Fran Sant dated April 25, 2017 asking the Department of Ecology not to amend WAC 173-27-060. The letter also expresses concern that Ecology views the Shoreline Management Act and the Shoreline Master Program Guidelines as being the core enforceable policy and the County's Shoreline Master Program as merely its local expression. The letter states that they find no legal authority for that interpretation. Mr. Beasley expressed support of Pacific County's preliminary draft plan that states that there is no room on the Washington coast for industrial scale ocean development. He states that this will need to be incorporated into the federally approved Washington Coastal Program. He noted that Pacific County is the only local shoreline master program with an ocean section.

Mr. Beasley also provided the following footnotes for the Washington Coastal Program to consider:

- The coastal program needs to look at how current changes to federal executive orders will impact the coastal program.
- Knowledge of sand movement is getting better but needs to be improved.
- Washington needs to strongly advocate federal mitigation for a truncated sediment supply through direct beach placement of Columbia River dredged sediments or the coastal erosion problem will continue to grow worse; the coastal program can help create better outcomes.
- To improve safety, coastal nearshore disposal should be controlled and the limit on mound induced wave amplification monitored and an upper limit of 10% increased

wave amplification ensured. This standard was enacted for the first time as part of the Pacific County Shoreline Master Program update.

NOAA Office for Coastal Management Response: The NOAA Office for Coastal Management thanks Mr. Beasley for his comments and acknowledges his statement that the Coastal Zone Management Act program is beneficial to the nation, state, and local jurisdictions. The office appreciates Mr. Beasley’s explanation of the value of Washington’s southern coast to fishermen, his compliments of the Lower Columbia River Solutions Group and description of their efforts and results, and his discussions of the challenges around mouth of Columbia River dredging.

Mr. Beasley also noted concerns with the development of the state’s Marine Spatial Plan, particularly that the coastal needs of fisherman were not properly assessed and that their economic impact was not fully studied which could impact federal consistency decisions. The Office for Coastal Management has included a recommendation encouraging the coastal program in its efforts to determine how best to maintain, manage and update existing datasets, provide tools for analyzing and visualizing the data, and support the acquisition of priority new data. The office is supportive of the coastal management program seeking additional funding to help fill data gaps.

The Washington Coastal Program has worked with the Office for Coastal Management to determine whether the policies of local shoreline master programs should be incorporated into the federally approved program as enforceable policies for the purpose of federal consistency review. Washington’s state-level policies are sufficient to maintain an approvable program and the state can rely on their state-level policies for federal consistency review. The Office for Coastal Management does not require that local coastal programs be submitted for incorporation into the federally approved program although a state may choose to do so.

The state may choose to submit local shoreline master programs for incorporation into the federally approved program. The Office for Coastal Management will review the program to ensure that the enforceable policies are approvable. The *CZMA Federal Consistency Overview* (Rev. 2016) is a resource for understanding what types of policies are approvable or not approvable. For example, policies should be based on effects to coastal uses or resources and not on a particular type of activity. This ensures that the policy is applicable to any type of activity that has coastal effects and will not discriminate against a particular user group.

**Chad Bowechop, Manager
Makah Tribal Council Office of Marine Affairs**

Mr. Bowechop provided comments regarding Federal Consistency and shoreline master programs. He stated that tribes need increased funding and capacity building to fully participate in, and contribute to, the Coastal Zone Management Program and that the current status is a fundamentally inequitable condition for the tribes. In particular, he stated that there should be explicit federal or state funding to engage tribes in the shoreline master program process. He also raised concerns with the current institutional barriers to tribal participation in state

planning for the ocean beyond the 3-mile mark. He also commented that the Shoreline Management Program does not meet the government-to-government consultation requirements outlined within the Makah Ocean Policy. He also encouraged the inclusion of tribal government-to-government consultation guidelines such as those within the Makah Ocean Policy, as appendices to the newest version of the Washington Coastal Program and/or the local shoreline master program guidelines. Mr. Bowechop stated that NOAA must take into account the ability to protect Ocean and Marine related Treaty Trust Protected Resources in its assessment of the Washington Coastal Program. Lastly, he encouraged including a recommendation regarding support for local permitting and enforcement offices, which are integral for developing and implementing shoreline master program policies.

NOAA Office for Coastal Management Response: The Office for Coastal Management Thanks Mr. Bowechop for his comments. The Coastal Zone Management Act requires that evaluations assess whether the state coastal program is fully implementing and enforcing its coastal management program approved by the Secretary and has addressed its coastal management needs as identified in 16 U.S.C. § 1452 (A)-(K), as well as adhered to the terms of its federal funding. This evaluation has been conducted in compliance with the Coastal Zone Management Act.

Washington's Coastal Management Program was approved by NOAA in 1976. The requirements for an approved program are described in the Coastal Zone Management Act and implementing regulations (15 C.F.R. Part 923). NOAA does not have authority under the Coastal Zone Management Act to require a state to amend its program; NOAA can only require a state to remedy non-compliance with its federally approved program if NOAA determines that a state is not adhering to its approved program.

NOAA acknowledges that tribes could benefit from increased funding and capacity to participate in the coastal zone management program. The Coastal Zone Management Act directs how NOAA must allocate funds to implement the act. Under the Coastal Zone Management Act, for the purposes of administering a state's coastal management program, NOAA is only authorized to make grants to "coastal states." The term "coastal state" is defined as a "state of the United States," and therefore, NOAA is not authorized to provide Coastal Zone Management Act grants directly to a tribe.¹

Under NOAA's Coastal Zone Management Act regulations, a state may decide to allocate a portion of its coastal management program grant to Indian tribes conducting work that is compatible with the state's approved coastal management program, and would or could directly affect the state's coastal zone. See 15 C.F.R. § 923.92(b)(2). NOAA, however, does not have authority to require a state to allocate Coastal Zone Management Act funding this manner.

¹ NOAA is aware that a bill to amend the Coastal Zone Management Act has been introduced by Representative Kilmer that would authorize NOAA to provide federal funding to support tribal participation in the management of the Tribal coastal zone.

With respect to Tribal opportunities for participation in the State’s coastal management program, the Coastal Zone Management Act and NOAA’s implementing regulations require that states provide opportunity for public participation in their coastal management programs. The regulations further provide that Tribal participation in coastal management efforts may be supported and encouraged through a State’s program. There are, however, no Coastal Zone Management Act requirements for states to have specific tribal government-to-government consultation requirements.² Accordingly, NOAA lacks authority to require that a state engage in tribal consultation on the implementation of its coastal management program.

Finally, the Office for Coastal Management concurs that permitting, enforcement, and compliance are key aspects of Washington’s Shoreline Master Programs. The findings discuss enforcement and compliance in the “Shorelands Master Program” section and the findings contain a recommendation encouraging the program in its efforts to improve permit compliance and to ensure permits are conditioned to achieve the desired results.

**Charles Woodruff, Chairman
Quileute Tribal Council**

Chairman Woodruff stated that tribes need increased funding and capacity building to fully participate in, and contribute to, the Coastal Zone Management Program and that the current status is a fundamentally inequitable condition for the tribes. He states that NOAA must exercise its trust responsibilities on behalf of the tribes even though the CZMA does not expressly reference tribes. NOAA cannot delegate its trust responsibilities to the state.

The Chairman also states that NOAA should conduct an independent evaluation of whether the adoption and implementation of shoreline master programs by other jurisdictions between 2009 and 2017 have achieved properly functioning condition in those jurisdictions. The Quileute Tribe is particularly interested in Clallam County. NOAA’s evaluation should assess what is happening on the ground at the local level, not just what is happening on paper. It should be a legally and scientifically rigorous evaluation of whether Washington’s shoreline program is actually achieving no net loss of “ecological function.”

The Chairman also stated that he believes Marine Spatial Planning in an extremely important process and tool and applauds the state for moving the process forward. He notes that the lack of funding limits the Quileute Tribe’s ability to participate in the development of the plan but that they have provided extensive comments on the spring 2017 draft.

NOAA Office for Coastal Management Response: The Office for Coastal Management thanks Chairman Woodruff for his comments. As noted in a previous response, The Coastal Zone Management Act requires that evaluations assess whether the state coastal program is fully

² NOAA recognizes that the U.S. government and Federally-recognized American Indian Tribes have a unique government-to-government relationship. The federal consultation requirements attendant to the relationship are between federal agencies and tribes. For additional information on NOAA’s policy to provide for meaningful and timely input from Tribes into Federal decision-making, see the NOAA 13175 Policy, available at: <http://www.legislative.noaa.gov/policybriefs/NOAA%20Tribal%20consultation%20handbook%20111213.pdf>.

implementing and enforcing its coastal management program approved by the Secretary and has addressed its coastal management needs as identified in 16 U.S.C. § 1452 (A)-(K), as well as adhered to the terms of its federal funding. This evaluation has been conducted in compliance with the Coastal Zone Management Act.

Washington's Coastal Program was approved by NOAA in 1976. The requirements for an approved program are described in the Coastal Zone Management Act and implementing regulations (15 C.F.R. Part 923). NOAA does not have authority under the Coastal Zone Management Act to require a state to amend its program; NOAA can only require a state to remedy non-compliance with its federally approved program if NOAA determines that a state is not adhering to its approved program.

NOAA acknowledges that tribes could benefit from increased funding and capacity to participate in the coastal zone management program. The Coastal Zone Management Act directs how NOAA must allocate funds to implement the act. Under the Coastal Zone Management Act, for the purposes of administering a state's coastal management program, NOAA is only authorized to make grants to "coastal states." The term "coastal state" is defined as a "state of the United States," and therefore, NOAA is not authorized to provide Coastal Zone Management Act grants directly to a tribe.³

Under NOAA's Coastal Zone Management Act regulations, a state may decide to allocate a portion of its coastal management program grant to Indian tribes conducting work that is compatible with the state's approved coastal management program, and would or could directly affect the state's coastal zone. See 15 C.F.R. § 923.92(b)(2). NOAA, however, does not have authority to require a state to allocate Coastal Zone Management Act funding this manner.

In addition, NOAA has not delegated any tribal consultation responsibilities for Coastal Zone Management Act activities to the state. NOAA's authority and responsibility to engage with tribes is not derived from the Coastal Zone Management Act. NOAA recognizes that the U.S. government and Federally-recognized American Indian Tribes have a unique government-to-government relationship. NOAA has a tribal consultation handbook⁴ that provides the process through which NOAA fulfills its trust responsibility to Federally-recognized American Indian Tribes. The NOAA handbook describes coordination with Tribal Governments and, for specific NOAA actions that might have tribal implications, Government-to-Government consultation under Executive Order 13175 with the potentially affected tribe(s).

With respect to the chairman's comments on the shoreline master programs, NOAA notes that the purpose of this evaluation was to broadly assess the operation and management of the state program, including how the state is addressing the national coastal zone management

³ NOAA is aware that a bill to amend the Coastal Zone Management Act has been introduced by Representative Kilmer that would authorize NOAA to provide federal funding to support tribal participation in the management of the Tribal coastal zone.

⁴ <http://www.legislative.noaa.gov/policybriefs/NOAA%20Tribal%20consultation%20handbook%20111213.pdf>

objectives, how it is implementing and enforcing the state coastal management program, and how well it is adhering to programmatic terms and conditions of financial assistance awards. A legally and scientifically rigorous evaluation of the state's individual shoreline master programs and determination of whether or not "no net loss of shoreline ecological function," has occurred in each jurisdiction is beyond the scope of this evaluation. However, the evaluation findings discuss measuring and monitoring of no net loss in the "Shoreline Master Program" Section of these findings and include a recommendation that the coastal program further invest in developing methods to measure and monitor "no net loss" and to work collaboratively with relevant stakeholders including local and tribal governments in this effort. NOAA encourages the Quileute Tribe and others to engage with the state in this effort.

The Office for Coastal Management concurs that Marine Spatial Planning can be an important process and tool for managing coastal resources.

**Ryan Miller, Environmental Liaison
Tulalip Tribe**

Mr. Miller stated that NOAA should include a necessary action requiring the state to improve enforcement and accountability through clearly identified actions and by specified dates, as well as include in this year's evaluation report what has been accomplished to date by the state to address the 2004 and 2010 program suggestions. He stated that compliance is being evaded through local statutory language that turns directives in the Coastal Zone Management Act into discretionary language that is allowing permits and waivers that harm the tribes' treaty rights and interests and is leading to continuing failure to implement the Coastal Zone Management Act.

He stated that Federal, state, and local governments need to follow through with consistent approaches under rules to protect the coastal zone. The rules need to be harmonized and followed consistently, particularly around characterizing habitats that need to be protected and restored and to ensure enforcement is adequately meeting statutory Coastal Zone Management Act goals and protecting the coastal environment.

He also encouraged revision and implementation of shoreline master programs to ensure greater commonality or harmonization of regulatory language across shoreline master programs within watersheds and across the state. This could include such simple actions as encouraging use of model language alternatives developed by Ecology for the next round of shoreline master program updates, or intermittent updates of local ordinances, where the use of these model language essentially "guaranteed approval" of that provision of an shoreline master programs. This also would help streamline the Ecology-NOAA process for incorporation of updated shoreline master programs into the coastal program. Comparative analyses made for the Tulalip Tribes in 2013 and 2015 describe differences among the provisions of local shoreline master programs and actions that can be taken. Such model regulatory language should ensure that discretion in issuing permits and waivers does not circumvent the objectives of the Coastal Zone Management Act or adversely affect tribal treaty rights and interests

NOAA Office for Coastal Management Response: The Office for Coastal management thanks Mr. Miller for his comments. Washington’s Coastal Management Program was approved by NOAA in 1976. The requirements for an approved program are described in the Coastal Zone Management Act and implementing regulations (15 C.F.R. Part 923). NOAA does not have authority under the Coastal Zone Management Act to require a state to amend its program; NOAA can only require a state to remedy non-compliance with its federally-approved program if NOAA determines that a state is not adhering to its approved program. Based upon our evaluation, NOAA has found that the state is complying with its federally-approved coastal management program.

The Office for Coastal Management is supportive of the state of Washington’s efforts to provide technical assistance, such as model ordinances, and outreach to local governments to assist them with the development and implementation of their programs. The evaluation findings discuss training provided to local planners through the Padilla Bay National Estuarine Research Reserve’s Coastal Training Program and the Shoreline Planners Toolbox, which was developed to assist local programs with developing shoreline master programs. The *Shoreline Planners Handbook*, part of the toolbox, is continually being updated to address current issues such as sea level rise. These comments have been provided to the coastal program and they may wish to consider incentivizing local program use of model ordinances.

Compliance and enforcement issues are discussed in the *Shoreline Master Programs Section* of this report. The evaluation findings include a recommendation encouraging the coastal program to continue to move forward with a current initiative to improve compliance with shoreline master programs and provide technical assistance to local governments to ensure permits are conditioned to achieve the desired results.

Finally, the Office for Coastal Management no longer includes summaries of the state’s progress towards addressing prior evaluation findings in the evaluation reports. The state’s progress towards achieving the 2004 program suggestions is available to the public upon request, and a copy will be provided to Mr. Miller.