

**Washington Coastal Nonpoint Pollution Control Program
Analysis of Finding that State has Satisfied All Conditions of Approvability
(i.e., Full Approval Decision)**

I. INTRODUCTION

The Coastal Nonpoint Pollution Control Program, set forth in Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) of 1990, 16 U.S.C. § 1455b, addresses nonpoint source pollution problems in coastal waters. Section 6217 directs states and territories with approved coastal zone management programs to develop coastal nonpoint programs to implement management measures for nonpoint source pollution control, for the purpose of restoring and protecting coastal waters. Only coastal states that choose to participate in the National Coastal Zone Management Program pursuant to Section 306 of the Coastal Zone Management Act (CZMA) are required to implement coastal nonpoint pollution programs (or coastal nonpoint programs) under section 6217 of the CZARA.

Section 6217 is jointly administered by the National Oceanic and Atmospheric Administration (NOAA) and the United States Environmental Protection Agency (EPA) (collectively, Federal agencies). On January 19, 1993, EPA issued technical guidance to assist states in designing coastal nonpoint programs. This document, titled *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*, 840-B92-002 (January 1993), addresses five major source categories of nonpoint pollution: (1) urban runoff, (2) agriculture runoff, (3) forestry runoff, (4) marinas and recreational boating, and (5) hydromodification. The guidance also addresses nonpoint source pollution issues associated with the loss or damage to wetlands and riparian areas.

In March 1996, NOAA published a programmatic environmental impact statement (PEIS) that assessed the environmental impacts associated with the approval of state and territory coastal nonpoint programs pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*. The PEIS forms the basis for the environmental documents NOAA is preparing on each state and territorial coastal nonpoint program submitted for approval. In the PEIS, NOAA determined that the full approval and approval, with conditions (i.e., “conditional approval”) of coastal nonpoint programs will not result in any significant adverse environmental impacts and that these actions will have an overall beneficial effect on the environment.

On May 15, 1998, NOAA and EPA issued an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the approval, with conditions, of Washington's coastal nonpoint program for public comment (63 FR 27055). On June 30, 1998, NOAA and EPA approved the Washington coastal nonpoint program, with conditions. For the conditional approval findings, see <https://coast.noaa.gov/data/czm/pollutioncontrol/media/findwa.txt>.

Since that time, Washington has undertaken a number of actions to address each of the identified conditions. Based on those actions and the materials provided by the State that document how its program meets each condition, on June 15, 2020, NOAA and USEPA published a notice and request for public comment on the proposed finding that Washington has satisfied all conditions of approvability on its coastal nonpoint program. (85 FR 36186). On August 12, 2020, the agencies published another notice extending the public comment period an additional 30 days. (85 FR 48674).

This memo examines whether supplemental environmental review under NEPA is required prior to NOAA and USEPA making its decision on whether to approve in full Washington's coastal nonpoint program.

II. BACKGROUND

Pursuant to CZARA, state coastal nonpoint programs must contain the following components:

- Coordination with existing state programs
- Determination of the state's coastal nonpoint management area
- Determination of critical coastal areas
- Processes for the implementation of 6217(g) management measures
- Identification and implementation of additional management measures
- Technical assistance
- Public participation
- Administrative coordination
- Identification of enforceable policies and mechanisms

Of these requirements, the development of processes that provide for the implementation of 6217(g) measures is the most detailed and complex component. Management measures are defined as "economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of best available nonpoint pollution control practices,

technologies, processes, siting criteria, operating methods, or other alternatives." 16 U.S.C. § 1455b(g)(5).

States are required to develop programs and processes to implement 56 management measures. The management measures address five categories of nonpoint source pollution: Agriculture, Forestry, Urban Areas, Marinas and Boating, and Hydromodification. Management measures also address the protection and restoration of wetlands and riparian areas. State programs must also provide for the implementation of "additional management measures... that are necessary to achieve and maintain applicable water quality standards and protect designated uses." § 1455b(b)(3).

Should a state fail to submit an approvable program, NOAA and EPA are both required, by statute, to withhold 30 percent of a state's CZMA 306 funds and Clean Water Act (CWA) 319 funds. § 1455b(c)(3)-(4). In recognition of challenges states faced in developing programs, NOAA and EPA developed a policy for approvals, with conditions, whereby the penalty provision of section 6217 will be suspended during the conditional approval period.¹ In the March 1996 PEIS, three alternatives were analyzed: approval, approval with conditions, and program disapproval (i.e., finding that a state had failed to submit an approvable program). Under program disapproval, the state would be subject to the penalty provisions. In the PEIS, NOAA concluded that both the full approval and approval, with conditions, of coastal nonpoint programs in general would have beneficial effects on the physical and biological environment associated with reduced nonpoint sources of pollution, improved water quality, and enhanced recreational opportunities. The PEIS noted that there might be some slight and localized positive and negative socioeconomic effects as with management measure implementation and behavior changes to reduce nonpoint sources of water pollution, but adverse environmental impacts would not be significant (NOAA 1996).

After preparing a programmatic NEPA document, such as a PEIS, federal agencies may "tier" from the programmatic analysis to a narrower analysis of a specific project, policy, or program (pursuant to 40 C.F.R. §§ 1502.20 and 1508.28). The PEIS stated that approval of each state coastal nonpoint program would be analyzed in an EA that would be tiered from the PEIS. The tiered EAs refer back to the PEIS, and they focus on the characteristics and issues ripe for discussion when agencies consider a related action.

NOAA completed a tiered EA in 1998 for the Washington Coastal Nonpoint Pollution Control Program, which analyzed the alternatives of approving the program fully, approving the program with conditions, and denying approval of the program (i.e.,

¹ Final Administrative Changes to Coastal Nonpoint Pollution Control Program Guidance, Oct. 16, 1998 (proposed March 12, 1998).

finding the program had failed to submit an approval program, or no approval). The EA concluded that both full approval and approval with conditions of the Washington coastal nonpoint program would not result in any significant environmental impacts in Washington different from those analyzed in the PEIS and would have primarily beneficial effects on the environment.

Further, the EA indicated that approval with conditions would have the same or greater benefits as full approval, by encouraging Washington to strengthen its coastal nonpoint program to satisfy the conditions while maintaining full CZMA and CWA funding, provided that Washington later satisfied the conditions. The EA concluded that the no action alternative, or no approval, would have negative environmental impacts because the program would risk loss of 30 percent of its coastal zone management funding. Based on the results of the analysis, NOAA issued a Finding of No Significant Impact (FONSI). NOAA and the USEPA found that the proposed Washington coastal nonpoint program qualified for approval with conditions. No public comments were received when the EA, FONSI and proposed findings were made available for public comment.

On July 16, 2020, the Council for Environmental Quality (CEQ) finalized new NEPA regulations that became effective on September 14, 2020 (85 FR 43304). Under the new regulations, 40 C.F.R. § 1506.13 (2020), the new regulations apply to all NEPA processes “begun after the effective date, but agencies have the discretion to apply them to ongoing NEPA processes.” NOAA and EPA published the proposed findings on June 15, 2020, and commenced preparing this NEPA Adequacy review before publication of the proposed findings. Likewise, this adequacy review relies on NEPA documents also prepared in 1996 (PEIS) and 1998 (EA), well before the effective date. As such, NOAA had determined it is appropriate to rely on the CEQ regulations in place prior to the July 16, 2020, rulemaking.

III. ANALYSIS

Under NEPA, an EIS or EA must be supplemented and re-circulated for public comment if, in pertinent part, “[t]he agency makes substantial changes in the proposed action that are relevant to environmental concerns” or “there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 CFR § 1502.9(c). The courts have further interpreted this threshold for supplementation as fairly high and subject to a rule of reason, such as where “new information must provide a seriously different picture of the environmental landscape such that another hard look is necessary.” *Wisconsin v. Weinberger*, 745 F.2d 412, 418 (7th Cir. 1984), or if the new information is sufficient to show that the remaining action will affect the environment “in a significant manner or to a significant extent not already considered.” *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 373-74 (1989). In this

analysis, we compare the proposed action to the alternatives analyzed in the PEIS and EA, and examine the new information, to determine if supplemental analysis under NEPA is required prior to full approval of the Washington Coastal Nonpoint Program (i.e., finding that the state has satisfied all conditions of approvability on its program).

A. Changes to the Proposed Action

The proposed action and range of alternatives is the same as that analyzed in the EIS and EA. In the PEIS, the proposed action was NOAA's decision on the approvability of the state and territory coastal nonpoint programs, and the alternatives were to approve the state and territory programs, conditionally approve programs, or deny approval of programs, depending on whether the programs meet the requirements of section 6217. In the 1998 EA for Washington, the proposed action (and preferred alternative) was approval with conditions of the Washington coastal nonpoint program, and the alternatives were full approval (to approve the program without conditions) or to deny approval of the program. Now, the proposed action and the preferred alternative is full approval, i.e., finding that a state has satisfied all conditions of approval on its program. As described below, while the content of Washington's coastal nonpoint program has changed, the agencies' proposed action and alternatives, and the environmental impacts thereof, remain the same.

The preferred alternative identified in the 1998 EA was approval of the Washington coastal nonpoint program subject to certain conditions, based on a finding that the program met many, but not all, of the requirements of section 6217 and related guidance. The approval with conditions was granted on June 30, 1998. NOAA and USEPA put several conditions on Washington's program related to agriculture; urban development; marinas and recreational boating; hydromodification; wetland and riparian area management measures; Washington's proposed coastal nonpoint program boundary; monitoring approach; processes for identifying critical coastal areas; and developing and revising additional management measures for these critical coastal areas. More information regarding the specific conditions that were placed on Washington's program can be found in NOAA and USEPA's 1998 findings document on Washington's Coastal Nonpoint Program (available on NOAA's Coastal Nonpoint Program website at <https://coast.noaa.gov/data/czm/pollutioncontrol/media/findwa.txt>).

The proposed action and preferred alternative at this time is finding that Washington has satisfied all conditions of approvability on its program (i.e., full approval). Full approval was analyzed in both the PEIS and the Washington EA. Since the publication of the Washington EA, Washington better articulated how its existing programs and authorities address the 6217(g) management measures and further strengthened other parts of its coastal nonpoint program. While the program designed to meet the

management measures is more fully developed, the proposed finding that Washington has satisfied all conditions of approvability on its program simply confirms that Washington has developed a program to implement management measures necessary to achieve and maintain applicable water quality standards and protect designated uses.

Approval of the remaining conditions is not necessary for Washington to implement management measures as described in its coastal nonpoint program, as these programs exist under state and local laws, regulations, and programs. The approval means that Washington remains eligible to continue to receive undiminished grant funding under section 306 of the CZMA and section 319 of the Clean Water Act, and it may now focus its limited resources on implementing the state program. As such, the proposed action has not changed in a way that affects the environmental impacts analysis or conclusions contained in the EA. Some particular management measures are discussed below for illustration purposes. A full description of the updates to the State's coastal nonpoint program may be found in the proposed findings.

First, the approval decision recognizes that Washington is no longer required to implement certain management measures identified in the approval with conditions because of updated agency guidance. For example, in 1998, Washington's program was originally conditioned for the construction site erosion and sediment control, and construction site chemical control, management measures. The state also had conditions for the roads, highways and bridges construction projects, and construction site chemical control, management measures as well as the hydromodification management measures for erosion and sediment control and chemical pollutant control for dams. However, with the USEPA's expansion of the National Pollutant Discharge Elimination System (NPDES) construction stormwater permit program to cover all construction activities greater than one acre in 1999, NOAA and the USEPA issued new guidance for the coastal nonpoint program in 2002, stating that state coastal nonpoint programs were now exempt from the 6217(g) management measures for construction site erosion and sediment control, construction site chemical control, roads, highways and bridges construction projects, roads, highways and bridges construction site chemical control, dam erosion and sediment control, and dam chemical pollutant control because these management measures are addressed through NPDES permit requirements.²

Similarly, the 1999 update to the NPDES stormwater rules also created the NPDES Phase II stormwater program, expanding NPDES stormwater permit coverage to small

² NOAA and USEPA. 2002. Policy Clarification on Overlap of 6217 Coastal Nonpoint Programs with NPDES Phase I and Phase II Storm Water Regulations. December 2002.
https://coast.noaa.gov/data/czm/pollutioncontrol/media/NPDES_CZARA_Policy_Memo.pdf

municipal separate storm sewer systems (MS4s) in U.S. Census Bureau defined urbanized areas. NOAA and USEPA's 2002 policy clarification regarding overlap of the coastal nonpoint program with the NPDES stormwater program also exempted state coastal nonpoint programs from several other 6217(g) management measures within MS4 areas because these management measures are now covered by NPDES permits as well.³ These exemptions within MS4 areas applied to the new and existing development management measures, and the roads, highways and bridges management measures for operation and maintenance and runoff systems. Nine counties (Snohomish, King, Pierce, Clark, Cowlitz, Kitsap, Skagit, Thurston and Whatcom) and 84 localities in western Washington are designated as Phase I or II municipalities subject to NPDES permitting for MS4 discharges.

Second, and as noted above, Washington strengthened its program in some areas to address the conditions that were placed on it. For example, to address the conditions related to the marina siting and design management measures for fuel station design, stormwater runoff, and sewage facilities, and most of the management measures for marina operations and maintenance, the State developed a voluntary clean marina certification program and complimentary marina best management practices manual, *Pollution Prevention for Washington State Marinas*.⁴ The State distributed copies of the manual to all 200 marinas across the state and an interactive version is available online. The State also provides free technical assistance to marinas participating in the certification program to help them implement the best practices. As of 2018, 81 marinas were certified, representing approximately 40 percent of the marinas and ports within the coastal nonpoint program area. A decision finding that Washington has satisfied its marina conditions recognizes that the State has programs to implement these management measures consistent with the agency guidance.

From 1998 to present, the changes to the Washington program reflect the development and/or further explanation of specific programs and policies to meet the CZARA management measure requirements. Although the manner in which Washington's program would meet the approval conditions were not known at the time the EA was published, NOAA and the USEPA had identified requirements for program approval, and the impacts of satisfying the requirements were analyzed in the prior NEPA documents. The proposed agency action that Washington has met all conditions of approvability placed on its program, (i.e., full approval) is simply a finding that a program

³ NOAA and USEPA. 2002. Policy Clarification on Overlap of 6217 Coastal Nonpoint Programs with NPDES Phase I and Phase II Storm Water Regulations. December 2002.
https://coast.noaa.gov/data/czm/pollutioncontrol/media/NPDES_CZARA_Policy_Memo.pdf

⁴ Washington Sea Grant. Pollution Prevention for Washington State Marinas. Publication Number WSG-MR 16-05. September 2016. <https://wsg.washington.edu/wordpress/wp-content/uploads/marina-handbook.pdf>

satisfies the program requirements. The action does not vary from that analyzed in the PEIS or EA.

The implementation by Washington of management measures requiring behavior changes to reduce nonpoint sources of water pollution may cause slight negative socioeconomic effects, but neither the socioeconomic impacts, nor any environmental impacts, would be significant. Rather, Washington's implementation of these management measures is expected to have positive impacts on both environmental conservation and human health and safety by increasing the quality of coastal habitats.

Environmental effects are all indirect, as approval is not required for these programs to be implemented, as these programs are already in existence and being implemented by the state or local government. Consistent with the analysis in the 1998 EA, the approval of the conditions will continue the state's eligibility for funding for the state to implement the aforementioned management measures, which are expected to have positive environmental impacts and minor negative socioeconomic impacts.

B. Considerations for Adequacy of Existing EA

1. Comparison of the range of alternatives analyzed and evaluated in the prior two NEPA analysis documents and the proposed action to find that Washington has satisfied all conditions of approvability on its program (i.e., full approval):

The alternatives presented in this sufficiency analysis are generally the only ones available to both NOAA and EPA: full approval (i.e., approval without conditions or finding that a state has satisfied all conditions of approvability placed on its program), approval with conditions, or disapproval (i.e., finding that a state has failed to submit an approvable program).

2. Comparison of Affected Environment

The geographic area and resource conditions of the affected environment have slightly evolved since the management area was analyzed in the existing NEPA document. Some of the characteristics of the affected environment have changed over time. For example, Washington's coastal zone has seen an increase in population, urban development, and agriculture activities. Although there have been some changes to the affected environment since the 1998 EA, the changes in coastal use trends and the evolution of the affected environment continue to provide adequate baseline information to support the findings in the 1998 EA that approval of the program will not have significant impacts on the environment.

a. Coastal Nonpoint Program Management Area Coastal Environment

i. Geographical Boundary

The geographic area across which the Washington coastal nonpoint program extends is nearly the same as the geographic area analyzed in the original 1998 EA for the Washington Coastal Nonpoint Program. Although Washington and NOAA had not yet determined the final geographic boundary for the Washington Coastal Nonpoint Program at the time of the 1998 EA, a boundary consisting of all coastal watersheds was used for the purposes of analysis. This consisted of watershed resource inventory areas (WRIAs) 1-29 in Washington.

The geographic area that was analyzed in the 1998 EA encompasses Washington's current coastal nonpoint program management area which includes everything within WRIAs 1-25.⁵ This includes the 15 coastal counties comprising Washington's coastal zone (Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom) as well as small portions of Cowlitz and Lewis Counties. Only part of the Columbia River watershed that was included in the 1998 EA is not part of Washington's currently defined coastal nonpoint program boundary.

ii. Shoreline Environment

For purposes of this sufficiency analysis, the coastline of Washington has not substantially changed. The Pacific coastline extends from Cape Flattery to the Columbia River. The coastline of Washington has a tidal shoreline length of 3,026 miles and a coastal land area of approximately 20,645 square miles.⁶ The coastal region is characterized by mountainous shorelands with rocky foreshores, and the biota is primarily temperate with some boreal components. The portion of the Columbia River within the Washington coastal nonpoint management area is classified as a positive coastal plain estuary, with shifting sand bars and eroding and accreting islands and banks.

The basic topography and climate of Washington's coastal zone has not significantly altered since 1998, though climate change and anthropogenic factors have caused some changes to the region. Washington's coast consists of a glaciated region in the

⁵ Parts of the Columbia River watershed (WRIAs 26-29) did not end up being included in Washington's coastal nonpoint program boundary.

⁶ <https://www.indexmundi.com/facts/united-states/quick-facts/washington/land-area#map>, <https://www.infoplease.com/world/united-states-geography/coastline-united-states>

northern and coastal plains to the south and west. The coast has a maritime climate with generally mild winters and cool, moderately dry summers.

The annual precipitation on the Olympic Peninsula varies greatly upon location. The southwest portion of the Peninsula (Quinault, Queets, Hoh) is the wettest with an average rainfall of over 140 inches in the lowlands and over 200 inches in the higher mountain elevations.⁷ The Wynoochee River Valley in the southwest portion of the Peninsula holds the annual rainfall record at over 180 inches.⁸ As the climate warms, precipitation in this area falls as rain more often than snow. This excessive rainfall can quickly increase flooding, cause erosion, and increase runoff to surface and groundwater. In Puget Sound, flood risk will also likely increase the risk of streambed scouring of spawning habitat.^{9,10}

iii. Water Quality

Since 1988, impairment of water quality has been assessed in approximately 10 percent of the waters of Washington State. In the Department of Ecology's most recent water quality assessment in 2014, approximately seventeen percent of Washington's assessed waterbodies were deemed to be in Category 5, per the Candidate 303(d) list. This category represents waterbodies with quality standards that have been violated for one or more pollutants, and no pollution control program is in place for that body of water. Additionally, thirteen percent of listings did not meet water quality standards, but were placed in Categories 4A and 4B because cleanup plans for those waterbodies were established.

Of the 2,071 sites that were assessed in both 2004 and 2014, three percent improved from 'impaired' to 'non-impaired', or healthy, mostly due to the successful implementation of pollution control practices including efforts to reduce fecal bacteria pollution. Nineteen percent of the assessed waterbodies' status changed to 'impaired', and the majority of listings were unchanged and remained impaired (41 percent). Lastly, 37 percent of the total sites that were assessed in both 2004 and 2014 remained designated as non-impaired.¹¹ Overall freshwater quality, as measured by the Water Quality Index (WQI), has not changed substantially since 1997 at the 31 river and stream monitoring stations across Puget Sound watersheds. However, WQI scores do

⁷ <https://www.usclimatedata.com/climate/port-townsend/washington/united-states/uswa0351>

⁸ https://www.fs.usda.gov/detail/olympic/about-forest/?cid=fsbdev3_049559

⁹ <https://cig.uw.edu/our-work/applied-research/>

¹⁰ <https://fortress.wa.gov/ecy/publications/documents/1201004.pdf>

¹¹ <https://vitalsigns.pugetsoundinfo.wa.gov/VitalSignIndicator/Detail/15>

demonstrate improvements in measures of fecal coliform bacteria and total nitrogen for major rivers in Puget Sound.¹²

b. Coastal Nonpoint Program Management Area Land and Water Uses

This section provides a description of the terrestrial environment and the land and water uses and users in the Washington coastal nonpoint program management area. The Washington coastal nonpoint program management area supports extensive and varied commercial and recreational activities. As in 1998, various land and water uses in Washington have the potential to threaten and degrade coastal water quality if adequate measures to control nonpoint source pollution are not employed. For the purpose of supplementation review, Washington's terrestrial environment and land and water uses have not significantly changed.

i. Coastal Zone Population

Population in Washington has increased from 5,688,000 people in 1998 to 7,614,893 people in 2019, and the population is growing at a rate of 1.73 percent per year.¹³ While specific population data is not readily available for Washington's coastal nonpoint program management area, the total population of Washington's coastal watershed counties, a close approximation, has increased from 3,983,185 in 1998 to 5,225,402 in 2018.¹⁴ The average population density within the coastal watershed counties has also increased, from 210.9 people per square mile in 1998 to 276.7 people per square mile in 2018. Population growth can create additional pressure to increase development in the region, which, in turn, could increase nonpoint source pollution if not managed properly.

ii. Agriculture

In 1997, there were 40,113 farms in Washington State. There are currently 35,600 farms located in Washington, and 14,600,000 acres are farmed in the state¹⁵. This reflects a general decrease in farm operations in Washington since 1998. However, the coastal nonpoint management area, in particular, has seen an increase in agricultural practices, as outlined in detail below.

¹² <https://vitalsigns.pugetsoundinfo.wa.gov/VitalSignIndicator/Detail/17>

¹³ <https://www.census.gov/quickfacts/WA>

¹⁴ <https://oceanoeconomics.org/Demographics/PHresults.aspx>

¹⁵ https://www.nass.usda.gov/Quick_Stats/Ag_Overview/stateOverview.php?state=WASHINGTON

AGRICULTURAL OVERVIEW - WASHINGTON'S COASTAL ZONE¹⁶

County	Farms 1998	Farms 2017	Acreage 1998	Acreage 2017
Clallam	328	528	13,000	17,197
Grays Harbor	385	469	27,000	105,233
Island	278	390	14,000	15,850
Jefferson	116	221	5,000	13,753
King	1,221	1,796	24,000	41,975
Kitsap	366	698	3,900	9,391
Mason	145	324	3,900	18,136
Pacific	248	346	13,000	52,365
Pierce	1,059	1,607	27,000	45,766
San Juan	155	316	11,000	18,402
Skagit	754	1,041	73,000	97,664
Snohomish	1,225	1,558	48,000	63,671
Thurston	811	1,200	26,000	62,250
Wahkiakum	110	145	8,700	13,836
Whatcom	1,367	1,712	91,000	102,523
Totals	8,568	12,351	388,500	678,012

iii. Forestry

The Pacific Northwest remains one of the world's leading timber producing regions in the world. The Washington State Legislature finds the state's forest products industry to play a critical economic and environmental role. Three primary forestry sectors make up Washington's Forest Products Industry: wood manufacturing, paper manufacturing, forestry and logging and port activity.¹⁷ Washington leads the nation in the exportation

¹⁶ https://quickstats.nass.usda.gov/?source_desc=CENSUS

¹⁷ <http://www.commerce.wa.gov/wp-content/uploads/2017/01/Sector-Leads-Forest-Strategy-2016.pdf>

of wood, paper, and lumber products.¹⁸ Approximately half of the state is forested, with almost 23 million acres of forestland.¹⁹ Around 53 percent, or 11,723,070 acres, of Washington’s forests is reserved for recreation and regulatory and voluntary restrictions set-aside for environmental protection on county, state, tribal, and private forestland.²⁰ Around the time of the 1998 EA, around 21 million acres of private, state, and federal lands were forested.²¹ Approximately 63 percent of Washington’s forests were owned or managed by federal, state, or local governments, or by tribes.²² The remaining 36 percent of forests were privately owned by small family tree farmers and individuals.²³

WASHINGTON’S FORESTRY OVERVIEW²⁴

	2000	2019
Government Forestland (acres)	13,419,000	14,261,000
Private Industrial Forestlands (acres)	4,573,000	4,614,000
Private Non-industrial Forestlands (acres)	3,240,000	3,244,000
Total acres	21,299,000	22,119,000

iv. Urban

Residential development has increased in Washington’s coastal zone in the past two decades. In 2000, the Washington coastal zone contained 1,712,116 housing units, with a housing density of 90.7 per square mile. Housing development has increased to 2,202,548 housing units in 2018, with a housing density of 116.6 per square mile.²⁵ These numbers reflect the coastal watershed, which is close to but not exactly equivalent to the coastal nonpoint boundary.

¹⁸ <http://www.commerce.wa.gov/wp-content/uploads/2017/01/Sector-Leads-Forest-Strategy-2016.pdf>

¹⁹ <http://www.commerce.wa.gov/wp-content/uploads/2017/01/Sector-Leads-Forest-Strategy-2016.pdf>

²⁰ <http://www.commerce.wa.gov/wp-content/uploads/2017/01/Sector-Leads-Forest-Strategy-2016.pdf>

²¹ Washington State Department of Ecology, 1995

²² <http://www.wfpa.org/sustainable-forestry/>

²³ <http://www.wfpa.org/sustainable-forestry/>

²⁴ <http://www.wfpa.org>

²⁵ <https://oceanomics.org/Demographics/PHresults.aspx>

v. Marinas

Recreational boating activities remain to be a major use of Washington's coastal waters. There are approximately 239,316 boats registered in the State of Washington in 2020.²⁶ Compared to the boats registered in Washington in 1990, this is an increase of 25,273. There are currently 200 marinas located in Washington state, a decrease from the 234 marinas located in the state in 1991.²⁷

C. Direct and Indirect Effects Comparison

This section discusses a direct and indirect effects comparison between the full approval analysis in this sufficiency analysis and the existing NEPA documents. The direct and indirect effects of full approval of the Washington program (i.e., finding that the state has satisfied all conditions of approvability on its program) are similar qualitatively and quantitatively to the effects of full approval discussed in the 1996 PEIS and the 1998 Washington EA. The programs, initiatives and other components proposed for inclusion in the Washington coastal nonpoint program are already operating, independent of the NOAA-EPA proposed action. The elements of the coastal nonpoint program are supported by enforceable policies and mechanisms that will remain in effect regardless of the federal action. Thus, there are limited direct impacts of the federal action itself, particularly now that there is no longer a dedicated funding source for coastal nonpoint programs.

The indirect effects of activities falling under the umbrella of the coastal nonpoint program have beneficial effects to the natural and socioeconomic environment. For more information about these effects, see Section 4 of both the 1996 PEIS and the 1998 Washington EA. The funding levels available to Washington for coastal management and water quality initiatives will not change as a result of full program approval (i.e., finding that Washington has satisfied all conditions of approvability on its program). Washington would simply continue to be eligible to receive CZMA Section 306 funds. If NOAA and EPA were to find that Washington had failed to submit an approvable program (i.e., disapprove the program), a 30 percent reduction in CZMA Section 306 coastal zone management and CWA Section 319 nonpoint source management funding would have indirect adverse effects on the physical, biological, and socioeconomic environments because it would reduce investments in efforts to manage coastal uses and improve water quality. The state's CZMA Section 306 funding supports overall implementation of the state's coastal zone management program.

²⁶ <https://www.marinetitle.com/boat-registration/WA-Washington.htm>

²⁷ <https://marinas.com/browse/marina/US/WA/16>

While not all activities supported through CZMA Section 306 funds are directly related to water quality and coastal habitat, the Washington coastal management program often supports efforts every year related to coastal water quality. These initiatives, as well as other initiatives of the coastal management program related to coastal resilience, public access and other coastal management issues may also have to be reduced. The state's CWA section 319 funding is used to fund eligible projects that reduce pollutant loads and improve water quality, including installation of BMPs that reduce the transport of pollutants to waterbodies. If the state's CWA Section 319 funding is reduced, Washington would have to cut the number of projects that improve water quality and reduce nonpoint source pollution it is able to support.

NOAA and EPA's proposed finding that Washington has satisfied all conditions of approvability on its program (i.e., full program approval) signifies that Washington has demonstrated that it has met all coastal nonpoint program requirements, including that it has in place programs and processes to implement the 6217(g) management measures. This continued implementation and funding of Washington's nonpoint program translates to continued beneficial effects to water quality as discussed in the EA. Also, as noted in the EA, both conditional and full approval of the Washington coastal nonpoint program help make existing programs more effective by continuing to strengthen the link between federal and state coastal zone management and water quality programs in Washington. Thus, the various direct, indirect, and cumulative effects resulting from implementation of the new proposed action are similar to those analyzed in prior NEPA documents, including the 1998 EA.

D. Analysis of Cumulative Impacts

Cumulative impacts, as defined in NEPA, are the impacts from the proposed action, when added to other past, present, and reasonably foreseeable future actions affecting the same geographic range or area of potential effect. In addition to the discussion on environmental impacts from the proposed action, cumulative impacts, in particular, assist stakeholders to understand the complete picture of what is taking place in the project area because it looks at not just the impacts from the proposed action, but also impacts from all other actions and natural influences. The Washington State Department of Natural Resources has identified multiple stressors that lead to potential adverse cumulative impacts within the coastal nonpoint program boundary.

Increased population growth, urban development, and fishing, agricultural, forestry activities, have placed greater pressure on salmon and their habitat in Washington. Salmon populations within Washington's coastal nonpoint program boundary have declined due to habitat loss, overfishing, damming of rivers, and water pollution. In

1991, the first salmon in Washington were declared endangered under the Endangered Species Act. In the next few years, 14 additional species of salmon and steelhead and 3 species of bull trout were designated as at-risk of extinction. By the late 1990s, in Washington, populations had dwindled so significantly that salmon, steelhead, and bull trout were listed as threatened or endangered in nearly three-fourths of the state.^{28,29}

Today, nearly 20 years later, numbers have slightly increased as a result of salmon recovery efforts, though in most of the state salmon, numbers are below recovery goals.³⁰ Currently, 17 species of salmon, steelhead and bull trout in Washington remain on the Endangered Species Act list, though many species are now listed as threatened rather than endangered.³¹ Ten salmon species in Washington are currently listed, though only two species are endangered (Chinook salmon of the Upper Columbia River Spring DPS and Sockeye salmon of the Snake River), and no new species of salmon have been added to the Endangered Species Act since 2007.³²

Progress in certain sectors, such as hatcheries, harvest, and nearshore restoration, are being offset by challenges in other sectors, such as habitat loss, disease, predation, and invasive species. In addition, issues associated with climate change such as warming oceans, habitat loss, invasive species, changing stream environments, and shifting food webs are playing a greater role.³³

Washington administers and assists with a number of programs implemented to protect and preserve salmon habitat in the state. These programs respond to habitat and population changes and proactively aid salmon populations faced with a changing environment. To aid in salmon recovery, Washington has implemented measures to protect the wild salmon that remain and help them increase their numbers by making progress on restoring where they live.³⁴

Native American Tribes in Washington are also committed to protecting and recovering salmon by way of hundreds of successful salmon habitat restoration projects. Jointly with the state government, Treaty Tribes co-manage the salmon resource and produce about 40 million salmon annually. Data has shown that Washington's salmon recovery

²⁸ https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=SOS-ExecSumm-2018-FINAL%20web_14054b82-91a9-47f8-aebc-d4b4151bba20.pdf

²⁹ <https://stateofsalmon.wa.gov/exec-summary/>

³⁰ https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=SOS-ExecSumm-2018-FINAL%20web_14054b82-91a9-47f8-aebc-d4b4151bba20.pdf

³¹ <https://everettclipper.com/13315/showcase/net-gain-snohomish-county-awarded-funds-for-salmon-restoration/>

³² <https://wdfw.wa.gov/species-habitats/at-risk/listed>

³³ https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=SOS-ExecSumm-2018-FINAL%20web_14054b82-91a9-47f8-aebc-d4b4151bba20.pdf

³⁴ <https://rco.wa.gov/salmon-recovery/progress/>

projects have helped to restore habitat, and scientists are hopeful that those restoration measures will result in an increase in salmon numbers in the Washington coastal nonpoint pollution management area.³⁵ For example, estuary restoration projects in the South Fork Skagit River delta have restored 682 acres of tidal wetlands, which has helped support around 160,000 young Chinook salmon every year. System-wide monitoring of Chinook salmon population density in the Skagit delta also shows an increase of 690 smolts per hectare in the restored habitat. Restoration efforts also extended the overall time that juvenile Chinook spent in estuaries in the Skagit. This gave the juveniles additional time to grow, and resulted in greater overall fish survival. Additionally, restoration of about 900 acres of the Nisqually River estuary resulted in fish remaining in the estuary for 30 percent to 75 percent more time, giving the population time to transition from freshwater to saltwater.³⁶

With that said, the Skagit River system forecasts 2020 declines for most species of salmon. Approximately 49,000 coho are forecast to return, down from about 68,000 in 2019. Approximately 13,400 fall chinook are forecast to return, down from 13,900 in 2019. Approximately 5,700 spring chinook are also forecast to return. Approximately 13,200 Baker Lake sockeye are forecast to return, down from 33,700 in 2019. Approximately 17,700 chum are forecast to return, up from 11,700 in 2019.³⁷

Washington has experienced great changes caused by global climate change. Washington's coast is being affected by global ocean acidification when deep ocean water upwells into the coastal zone and enters the Puget Sound and coastal inlets. Local carbon and nutrient pollution can increase Puget Sound's sensitivity to the effects of acidification. In the summer, upwelled Pacific Ocean water flows inshore and increases acidification. Nitrogen loading and organic-matter inputs from various local sources fuel algae growth, decreasing oxygen levels and increasing carbon dioxide levels in the water, resulting in ocean acidification. Additionally, industrial emissions of carbon dioxide and other acidic gases are absorbed by Puget Sound marine waters, increasing the acidity levels of the ocean.³⁸

Sea level rise has also affected coastal Washington. The sea level has risen significantly over the last ten years and it is now rising by approximately one inch every five years.³⁹ Projected changes in Washington's climate also show an increase in fall

³⁵ <https://stateofsalmon.wa.gov/exec-summary-page-4/>

³⁶ <https://stateofsalmon.wa.gov/statewide-salmon-recovery-data/>

³⁷ https://www.goskagit.com/scnews/news/salmon-forecasts-look-bleak-for-anglers-as-low-returns-expected/article_7d6cc4da-3c6b-5278-963b-71d10642b0d6.html

³⁸ <https://ecology.wa.gov/Air-Climate/Climate-change/Greenhouse-gases/2017-greenhouse-gas-data>

³⁹

<https://tidesandcurrents.noaa.gov/waterlevels.html?id=9449880&units=standard&bdate=19500101&edate=20191231&timezone=GMT&datum=MLLW&interval=m&action=>

and winter flooding. This affects salmon rearing, migration and spawning. Salmon populations are also affected by changing temperatures in lakes, Puget Sound, and the coastal region, which can decrease available food sources for the salmon.⁴⁰ Urban water supply systems in the Puget Sound region will likely collect less water in late spring and early summer due to rising temperatures and increased drought risk.⁴¹

There are many programs and regulations in Washington that are designed to reduce nonpoint source pollution, many of which are part of the state's coastal nonpoint program such as the state's Total Maximum Daily Loads (TMDL) program and Stormwater Management Manual for Western Washington (stormwater manual). A more complete discussion of other programs and authorities aimed at reducing nonpoint source pollution and protecting water quality can be found in Washington's Nonpoint Source Management Plan.⁴² Since the 1998 EA, Washington has made improvements to many of these programs to be able to better manage and control nonpoint source pollution. For example, more TMDLs and water quality implementation plans have been developed and are being implemented. Washington continues to update its stormwater manual to reflect the latest advances in stormwater best management practices. The most recent edition was released in 2019.⁴³

The Governor of Washington established the Orca Task Force in 2018 to develop long-term recommended actions to support Southern Resident orca recovery. The recommended actions, which the state has already begun to implement, include actions that will also have benefits for coastal water quality such as restoring nearshore habitat, reducing stormwater threats, and improving the effectiveness and implementation of NPDES permits.⁴⁴ For example, the state increased its capital budget for habitat restoration projects by 22 percent and provided additional funding to hire three additional nonpoint source water quality specialists to increase the technical assistance and improve the state's ability to enforce water quality and habitat protection laws.

Nonpoint source pollution cannot be addressed by one entity or program by itself. It requires a comprehensive effort by many different organizations that are able to bring their resources and expertise to bear. Therefore, in addition to various state initiatives and programs to address nonpoint source pollution and improve coastal water quality in

⁴⁰ <https://ecology.wa.gov/Air-Climate/Climate-change/Climate-change-the-environment>

⁴¹ <https://ecology.wa.gov/Air-Climate/Climate-change/Climate-change-the-environment>

⁴² Washington Department of Ecology. Washington's Water Quality Management Plan to Control Nonpoint Sources of Pollution. July 2015. Publication No. 15-10-015. Accessed 6/9/2019. <https://fortress.wa.gov/ecy/publications/SummaryPages/1510015.html>

⁴³ Washington Department of Ecology. *Stormwater Management Manual for Western Washington*. Publication Number 19-10-021. Updated July 2019. Accessed 8/9/2019. <https://fortress.wa.gov/ecy/ezshare/wq/Permits/Flare/2019SWMMWW/Content/Resources/DocsForDownload/2019SWMMWW.pdf>

⁴⁴ Southern Resident Orca Task Force. 2019. Final Report and Recommendations. Accessed 4/2/2020. https://www.governor.wa.gov/sites/default/files/OrcaTaskForce_FinalReportandRecommendations_11.07.19.pdf

coastal Washington, there are additional efforts being carried out by federal, Tribal, and local governments, non-governmental organizations and the private sector. These and similar activities are likely to continue for the foreseeable future. For example, through its Pacific Coast Salmon Recovery Fund, NOAA's National Marine Fisheries Service provides funding to implement various projects to improve salmon habitat and that have beneficial impacts on water quality.⁴⁵ Also, several federal agencies, including NOAA and the USEPA, have been working with tribes, the State of Washington, the City of Tacoma, Port of Tacoma and private companies to clean up toxic contaminants from Commencement Bay. As part of this clean up effort, over 350 acres of Puget Sound habitat has been restored, benefiting water quality, salmon, and other wildlife.⁴⁶

The 6217(g) management measures are designed to reduce and/or prevent polluted runoff, thus limiting stress caused by poor water quality on resources and local communities within the coastal nonpoint management area. While the programs that comprise Washington's coastal nonpoint program may cause limited cumulative effects on coastal communities and individuals that need to modify certain behaviors, such as those related to forest practices, dairy nutrient management, stormwater management, and waste disposal, government agencies and individuals have been subject to economic costs related to administering water quality and environmental management programs (including the coastal nonpoint program) for years. In addition, the programs that comprise the coastal nonpoint program already exist and are being implemented and will continue to be implemented at the federal, state or local level regardless of NOAA and the USEPA's finding that Washington has met all conditions of approvability on its coastal nonpoint program (i.e., full approval). Therefore, NOAA and USEPA's action to find that Washington has satisfied all conditions of approvability on its coastal nonpoint program would not create any additional cumulative effects.

NOS concludes that the proposed action and the effects of implementing Washington's coastal nonpoint program will improve water quality and increase the potential for resources to sustain themselves. Further, NOS concludes that the action, when added to the other past, present, and reasonably foreseeable future actions within the coastal nonpoint program area will not significantly alter the ecosystem or have an adverse effect. Additionally, the proposed action, when combined with other actions, will not affect the potential for any resources in the coastal nonpoint management area to sustain themselves in the future. Therefore, NOS concludes that cumulative impacts to the proposed action, as defined under NEPA, are not significant.

⁴⁵ NMFS. 2020. Pacific Coast Salmon Recovery Fund (Website). Last updated 2/27/2020. Accessed 4/2/2020. <https://www.fisheries.noaa.gov/grant/pacific-coastal-salmon-recovery-fund>

⁴⁶ NOAA. 2015. Expanding a Washington River's Floodplain to Protect Northwest Salmon and Communities (website). August 13, 2005. Accessed 4/3/2020. <https://darrp.noaa.gov/hazardous-waste/expanding-washington-river%E2%80%99s-floodplain-protect-northwest-salmon-and-communities>

E. Public Review

On May 15, 1998, NOAA and the USEPA announced a 31-day public comment period on the proposed conditional approval findings, EA, and FONSI for the Washington coastal nonpoint program. No public comments were received on any of those documents. As noted above, full approval was one of the alternatives presented in the EA. Thus, the public has already been given one opportunity to comment on the environmental consequences of the action that is currently being proposed.

On June 15, 2020, NOAA and USEPA announced in the Federal Register a proposed decision that Washington has satisfied all conditions of approvability placed on its coastal nonpoint program for a 60-day public comment period (i.e., full approval).⁴⁷ The comment period was extended by an additional 30 days.⁴⁸ NOAA and EPA received 1,293 comment letters during the public comment period. There were 14 unique comment letters and 1,278 form comment letters that were compiled and submitted by one organization that were relevant to the proposed decision. NOAA and EPA developed a Response to Comments document that summarizes and provides responses to all comments received.⁴⁹ One comment letter did not address the proposed decision, and therefore it is not reflected in this Response to Comments document. Of the relevant comments received, all opposed the proposed decision. Commenters raised specific concerns about Washington's coastal nonpoint program and commented on various aspects of coastal nonpoint source pollution management in Washington. The commenters were generally in agreement that the State needs to do more to protect coastal water quality. In response to the comments, NOAA and EPA made some revisions to the proposed decision document to improve clarity. NOAA and USEPA have provided multiple opportunities for public engagement, and the public has received sufficient notice and opportunity to comment on the proposed action.

IV. CONCLUSION

NOAA has determined that there is not a need to supplement the existing 1998 Washington coastal nonpoint program EA in order to find that Washington has satisfied all conditions of approvability placed on its coastal nonpoint program. The changes to the proposed action and the new information and circumstances do not suggest the proposed action will result in significant adverse impacts, and the expected impacts of the action currently proposed were considered in the 1998

⁴⁷ 85 FR 36186 (accessible via <https://www.federalregister.gov/documents/2020/06/15/2020-12670/coastal-nonpoint-pollution-control-program-intent-to-find-that-washington-has-satisfied-all>)

⁴⁸ 85 FR 48674 (accessible via <https://www.federalregister.gov/documents/2020/08/12/2020-17627/coastal-nonpoint-pollution-control-program-intent-to-find-that-washington-has-satisfied-all>)

⁴⁹ <https://coast.noaa.gov/czm/pollutioncontrol/#Washington>

Washington EA. Therefore, the 1998 Washington EA and FONSI remain valid and NOAA will continue to rely on them to support the proposed action.

V. FINDING OF NO SIGNIFICANT IMPACT

Pursuant to section 6217 of Coastal Zone Act Reauthorization Amendments, the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) propose to find that Washington has satisfied all conditions of approvability placed on its coastal nonpoint pollution control program. In addition to the proposed action, NOAA and EPA considered additional alternatives: disapproval and no action (maintaining the approval with conditions).

The Final Environmental Assessment (EA) in 1998 prepared to evaluate the proposed action of approving with conditions, found that the proposed action and the alternatives of full approval and disapproval will not result in any significant environmental impacts, or impacts different from those analyzed in the 1996 Programmatic Environmental Impact Statement (PEIS) for the Coastal Nonpoint Pollution Control Program, which resulted in a Finding of No Significant Impact (FONSI). The 1998 EA was tiered off the 1996 PEIS and focused on information specific to Washington. The analysis in the 1998 EA indicates that potential environmental effects from full approval and implementation of the proposed Washington program (the preferred alternative) would not be significant individually or cumulatively. NOAA prepared an analysis of the current proposed action to find that Washington has satisfied all conditions of approvability (i.e., full approval), and has determined that the impacts do not differ from those analyzed in the 1998 EA and 1996 PEIS. Thus, preparation of a Finding of No Significant Impact (FONSI) is warranted.

NOAA uses eleven criteria for determining the significance of the impacts of a proposed action. These criteria are discussed below as they relate to the proposed action. Each criterion is discussed below with respect to the proposed action and considered individually, as well as in combination with the others.

a. Has the agency considered both beneficial and adverse effects? (A significant effect may exist even if the Federal agency believes on balance the effect will be beneficial.)

The agency has considered both beneficial and adverse effects, and no significant effects are anticipated. The primary beneficial effects of the Washington Coastal Nonpoint program relate to the improvement of Washington's water quality. Washington also expects the program to promote an improved coastal habitat, improved public

health, increased aesthetic value of coastal areas and enhanced recreational opportunities as a result of cleaner water and healthier coastal habitats.

b. To what degree would the proposed action affect public health and safety?

The proposed approval decision would not be anticipated to have significant impacts on public health or safety because it would not alter any Washington programs already in operation. Additionally, the implementation of management measures reduces nonpoint source pollution generation from a variety of sources and minimizes the delivery of pollutants into Washington's land, surface water, and groundwater, which could result in minor improvements to public health and safety due to cleaner coastal waters.

c. To what degree would the proposed action affect unique characteristics of the geographic area in which the proposed action is to take place?

None. Though there are unique places within the Washington coastal nonpoint management area, the proposed action will not affect its unique characteristics because it does not create any new programs or initiatives. Finding that the state has satisfied all conditions of approval placed on its coastal nonpoint program does not create new programs or policies that change how Washington already manages nonpoint source pollution; the programs and policies that comprise Washington's coastal nonpoint program already exist and are being implemented by state, local, and other entities regardless of NOAA and USEPA's action.

d. To what degree would the proposed action have effects on the human environment that are likely to be highly controversial?

The effects of the proposed action on the human environment are not likely to be highly controversial. No public comments were received during the public comment period for Washington's proposed conditional approval findings and draft EA. NOAA and EPA received 14 unique comment letters and 1,278 form comment letters that were compiled and submitted by one organization that were relevant to the 2020 proposed decision that Washington had satisfied all conditions of approval on its coastal nonpoint program. In addition, one Tribal Government requested formal government to government consultation on the proposed decision. The public's and Tribal engagement in the proposed decision demonstrates an interest in nonpoint source pollution management in coastal Washington. While the commenters were not supportive of the federal agencies' proposed decision, that does not mean the proposed action to find that Washington has satisfied the conditions of approvability on its coastal nonpoint program will have controversial effects on the human environment. The programs and authorities

that comprise Washington's coastal nonpoint program are already in existence and being implemented at the state and local level and will continue to be implemented regardless of NOAA and USEPA's action. Therefore, NOAA and USEPA's action will not create any additional effects on the human environment beyond what is already occurring in absence of the action.

While NOAA and USEPA's proposed action would allow Washington to be eligible for future funding (if appropriated) to implement its coastal nonpoint program, any potential effects of that future funding on the human environment are unknown and speculative at this time. NOAA has mechanisms in place for evaluating any effects on the human environment if and when a future funding decision is made.

e. What is the degree to which effects are highly uncertain or involve unique or unknown risks?

None. There are no uncertain, unique, or unknown risks associated with the proposed finding that Washington has satisfied all conditions of approvability on its coastal nonpoint program. The Washington Coastal Nonpoint Program consists entirely of existing state and local requirements, as well as voluntary educational and participatory activities, which do not have uncertain, unique, or unknown risks.

f. What is the degree to which the action establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

None. NOAA and USEPA evaluate individually each proposed coastal nonpoint program by carefully reviewing all materials submitted by any conditionally approved state or territory to evaluate whether the information provided addresses applicable conditions of approvability. The finding that Washington has satisfied all conditions of approvability on its coastal nonpoint program does not have any bearing on whether NOAA and USEPA will make similar findings of programs in other jurisdictions. Thus, this action does not establish a precedent for future actions or represent a decision in principle about a future consideration.

g. Does the proposed action have individually insignificant but cumulatively significant impacts?

No, this action would not have any individually insignificant but cumulatively significant impacts. A finding that a state has satisfied all conditions of approvability on its coastal nonpoint program would facilitate continued investments in addressing coastal nonpoint pollution in Washington. These investments and other endeavors identified as

components of the Washington Coastal Nonpoint Program would be expected to give Washington improved control of sources of nonpoint pollution and result in reduced pollutant levels entering coastal waters, improved water quality, and enhanced coastal habitat. The Washington Coastal Nonpoint Program has beneficial impacts on the physical, biological, and socioeconomic environment in Washington. Potential adverse effects would not exceed the ability of human or natural communities to withstand stress. Thus, neither the incremental effects of a finding that Washington has satisfied all conditions of approvability nor program implementation will have individually or cumulatively significant effects.

h. What is the degree to which the action adversely affects entities listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historic resources?

NOAA and EPA have provided informal and formal tribal consultation opportunities throughout the process of reviewing Washington's coastal nonpoint program, consistent with each agency's policies on consultation and coordination with Indian Tribes and Executive Order 13175. One tribe also requested formal consultation and the federal agencies consulted with that tribe. During this consultation, the public comment period and at other forums, the federal agencies heard from several tribes regarding concerns about the effects of coastal nonpoint pollution on tribal interests, including salmon, and felt that NOAA and the USEPA needed to do more to protect these trust resources. They did not believe that the federal agencies should find that Washington had fully satisfied the conditions on its program at this time because of their concerns that the State's existing programs and authorities to manage nonpoint source management were not effective at protecting salmon. The federal agencies believe that Washington's coastal nonpoint program provides mechanisms for the State to address many sources of nonpoint pollution, and the USEPA and NOAA's finding that the State has satisfied all conditions of approvability on the program will allow the State to continue to receive important grant funds it can use to implement this program.

The overall success of Washington's coastal nonpoint program in addressing water quality impairments and salmon habitat will require a concerted and ongoing effort that depends on the successful implementation of a matrix of federal, state, and local regulatory efforts. Many of the tribal treaty rights concerns cannot be fully addressed through the authorities of any one program, state or federal, such as the coastal nonpoint program. Additionally, the continued implementation and adaptive management of Washington's coastal nonpoint program is an ongoing process. NOAA and EPA are committed to continuing to work with tribes and use our suite of authorities and forums to protect treaty rights, improve water quality, and protect and restore listed species.

Also, issuing a finding that Washington has satisfied all conditions of approval on its coastal nonpoint program is a federal action that would have no potential to affect significant scientific or historic resources in Washington because it is an administrative action. Prior to approving or providing funding (typically under the Coastal Zone Management Act for other types of specific activities in Washington that address coastal nonpoint pollution, NOAA's Office for Coastal Management evaluates environmental compliance needs and ensures compliance with NHPA and all other applicable requirements. For example, targeted consultations under NHPA are conducted for those activities that have the potential to cause an adverse effect on historic properties. At that time, NOAA can provide to the Washington Department of Archaeology and Historic Preservation the site-specific details necessary to fully analyze the effects of specific actions to historic properties.

i. What is the degree to which endangered or threatened species, or their critical habitat, as defined under the Endangered Species Act of 1973, are adversely affected?

None. Finding that Washington has satisfied all conditions of approval on its coastal nonpoint pollution program would have no effect on threatened and endangered species or their critical habitat. Projects aimed at managing, quantifying, and controlling coastal nonpoint pollution funded by NOAA under the Coastal Zone Management Act are evaluated individually with respect to their potential to affect resources protected pursuant to the Endangered Species Act; appropriate procedures are followed if there is a need to consult with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

j. Does the proposed action have a potential to violate federal, state, or local law for environmental protection?

No. Finding that Washington has satisfied all conditions of approval on its coastal nonpoint program does not have the potential to violate federal, state, or local law. Federally-supported projects intended to reduce coastal nonpoint pollution are required to comply with all applicable federal, state, and local laws, including those for environmental protection. Given project review at the state and federal level, no violation of environmental protection laws is threatened.

k. Will the proposed action result in the introduction or spread of a non-indigenous species?

No. Finding that Washington has satisfied all conditions of approval on its coastal nonpoint program will not result in the introduction or spread of any non-indigenous

species. The components of the program are already in place and exist and are being implemented at the state and local level regardless of the federal action. Neither the components identified as planned parts of the Washington Coastal Nonpoint Program nor federally-supported nonpoint pollution reduction projects would be expected to introduce any invasive species because they would be subject to federal and state requirements and best management practices intended to reduce the spread of non-indigenous species. The Washington Department of Natural Resources, other state agencies, and other entities are involved in invasive species management.

Finding of No Significant Impact

State of Washington Coastal Nonpoint Pollution Control Program

Analysis of Full Approval Decision

In view of the information and analysis presented in the attached Environmental Assessment evaluating consequences related to the federal action about the Washington Coastal Nonpoint Pollution Control Program, it is hereby determined that finding that Washington has satisfied all conditions of approvability on its program will not significantly impact the quality of the human environment, as described above and in the supporting Programmatic Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

Keelin Kuipers

Deputy Director

Office for Coastal Management

Date

ATTACHMENTS:

Original PEIS

EA/FONSI for Conditional Approval of Washington program

Conditional Approval Findings

Findings that Washington Has Satisfied All Conditions of Approvability