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UNITED STATES
DEPARTMENT OF COMMERCE

DRAFT
ENVIRONMENTAL IMPACT
STATEMENT

PROPOSED FEDERAL APPROVAL
OF THE COASTAL ZONE MANAGEMENT PROGRAM,
STATE OF WASHINGTON

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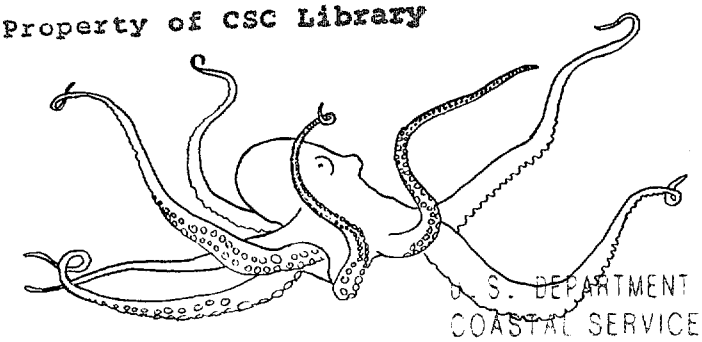

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PREPARED BY

OFFICE OF COASTAL ZONE MANAGEMENT
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE
ROCKVILLE, MARYLAND 20852

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Summary

(X) Draft ( ) Final Environmental Impact Statement
Department of Commerce, National Oceanic and Atmospherice Administration,
Office of Coastal Zone Management
For additional information about this proposed action or this statement, please contact:

Edward T. LaRoe
Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
Rockville, Maryland 20852 Phone (301) 496-8896

1. Proposed Federal approval of State of Washington Coastal Zone Management Program, Olympia, Washington
(X) Administrative ( ) Legislative

2. It is proposed that the Secretary of Commerce approve the Coastal Zone Management Program application of the State of Washington, pursuant to P.L. 92-583. Approval would permit implementation of the proposed program, allowing program administrative grants to be awarded to the state, and require that Federal actions be consistent with the program.

3. Approval and implementation of the program will restrict or prohibit land and water uses in certain parts of the Washington coast, while promoting and encouraging development and use activities in other parts. This may affect property values, property tax revenues, and resource extraction or exploration. The program will provide an improved decision-making process for determining coastal land and water uses and siting of facilities of National Interest, and will lead to increased long-term protection of and benefit from the state's coastal resources.

4. Alternatives considered:

A. Federal alternatives to approval of Washington CZM Program:

1) Delay approval of Washington CZM Program until all coastal city and county master programs are completed and approved.
2) Delay approval until state or national land use legislation is adopted.
3) Delay approval until Federal policies establishing the national interest in the siting of facilities are developed.

B. Implementation and Control Alternatives for the State CZM Program

1) Use of other authorities for funding and implementation of the program
2) Increased direct state control over its CZM program
3) Increased local government control over the state CZM program

C. Alternatives to Proposed Program Elements

1) Extend the coastal zone boundary to 500 feet
2) Extend SMA permit control to presently exempted activities
3) Compensation for loss of property value resulting from program

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5. List of all Federal, State, and local agencies and other parties from which comments have been requested.

Federal Agencies

Department of Agriculture
- Agricultural Stabilization and Conservation Service
- Forest Service
- Soil Conservation Service
- Rural Electrification Administration
- Agriculture Research Service

Department of Defense
- Army Corps of Engineers
- U.S. Navy (Ship Pollution Control)

Department of the Interior
- Bureau of Land Management (public lands)
- Office of Oil and Gas
- Bureau of Outdoor Recreation
- Fish and Wildlife Service
- Bureau of Indian Affairs (Indian lands)
- Geological Survey
- National Park Service
- Office of Land Use and Water Planning
- Bureau of Reclamation
- Office of Saline Water
- Bureau of Mines
- Power Marketing Administration

Department of Transportation
- Coast Guard
- Transport and Pipeline Safety

Environmental Protection Agency
- Regional Administrator, Region X

U. S. Water Resources Council

Department of Health, Education and Welfare
- Public Health Service

Department of Housing and Urban Development

Nuclear Regulatory Commission

Department of Justice

Energy Research and Development Administration

Federal Energy Administration

Federal Power Commission

General Services Administration

National Aeronautics and Space Administration (remote sensing)

Advisory Council on Historic Preservation

Federal-State

Pacific Northwest River Basins Commission

State

Washington

Department of Agriculture
Department of Emergency Services
Department of Commerce and Economic Development
Department of Ecology
Department of Fisheries
Department of Game
Department of Highways
Department of Natural Resources
Department of Social and Health Services
Office of Community Development
Interagency Committee for Outdoor Recreation
Parks and Recreation Commission
Office of Program Planning and Fiscal Management

County

Clallam County
Grays Harbor
Island
Jefferson
King
Kitsap
Mason
Pacific
Pierce
San Juan
Skagit
Snohomish
Thurston
Wahkiakum
Whatcom

Other Parties

Alpine Lakes Protection Society
American Institute of Planners
American Water Works Association
Environmental Defense Fund
Federation of Western Outdoor Clubs
Izaak Walton League
League of Women Voters
Mountaineers
National Audubon Society
National Wildlife Federation
Natural Resources Defense Council
North Cascades Conservation Council
Northwest Pulp and Paper Association
Pacific Northwest National Seashore Alliance
Planning Association of Washington
Puget Sound Coalition
Sierra Club
The Nature Conservancy
Washington Association of Soil and Water Conservation Groups
Washington Environmental Council
Washington Forest Protection Association
Washington Public Utility Districts Association
Washington State Association of Sanitarians
Washington State Association of Water and Sewer Districts
Washington State Grange
Washington State Sportsmen's Council

6. Draft Statement transmitted to the Council on Environmental Quality on March 14, 1975, and made available to the public on March 21, 1975. A public hearing will be held on this proposal on April 22, 1975, at 7:00 p.m. to 12:00 midnight in the Conference Room, General Administration Building, Capitol Complex, Olympia, Washington.

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I. INTRODUCTION

In response to the intense pressures upon, the conflicts within, and the importance of the coastal zone of the United States, the Congress in 1972 passed the Coastal Zone Management Act (P.L. 92-583; 86 Stat. 1280; hereinafter referred to as the Act; included as Appendix 1). Signed into law by President Nixon on October 27, 1972, the Act authorized a new Federal program to be administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA).

The Act affirms a national interest in the effective management, beneficial use, protection, and development of the coastal zone, and provides assistance and encouragement to the coastal states to develop and implement rational programs for managing their coastal zones. Three financial assistance grant programs are authorized by the Act. Section 305 authorizes annual grants to assist any United States coastal state or territory in the development of a management program for the land and water resources of its coastal zone (program development grants). Under Section 306, after developing a management program, the state may submit it to the Secretary of Commerce for approval; if approved, the state is then eligible for annual grants to administer its management program (program administration grants). A third section (Section 312) provides grants for an estuarine sanctuary program, to preserve a representative series of undisturbed estuarine areas for long-term scientific and educational purposes.

As an additional incentive for state participation, the Act stipulates that Federal actions within the coastal zone shall be, to the maximum extent feasible, consistent with approved state management programs (the "Federal consistency" requirement, Section 307).

Guidelines defining the procedures by which states can qualify to receive development grants under Section 305 of the Act, and the policies for development of a state management program, were published on November 29, 1973 (15 CFR Part 920, Federal Register 38(229):33044-33051). By the end of Fiscal Year 1974, 28 of 34 coastal states and territories had received program development grants.

Guidelines for the implementation of the estuarine sanctuary program were published on June 4, 1974 (15 CFR Part 921, Federal Register 39 (108): 1922-1927), and the first estuarine sanctuary grant was awarded to the State of Oregon on June 27, 1974.

On January 9, 1975, NOAA's Office of Coastal Zone Management (OCZM) published criteria to be used for approving state coastal zone management programs and guidelines for program administrative grants (15 CFR Part 923, Federal Register 40(6):1683-1695; see Appendix 2). These proposed criteria and guidelines set forth (a) the standards to be utilized by the Secretary of Commerce in reviewing and approving coastal zone management programs developed and submitted by coastal states for approval, (b) procedures by which coastal states may qualify to receive program administrative grants, and (c) policies for the administration by coastal states of approved coastal zone management programs.

Pursuant to the Section 306 guidelines, OCZM has now received for review and Secretarial approval, proposed coastal zone management programs, in varying stages of completion for all or part of their coasts: Washington, Oregon, the mid-coast segment of Maine (seeking segmented approval), and the San Francisco Bay Area Conservation and Development Commission (also seeking segmented approval).

The OCZM has determined that approval of a state's coastal zone management program, with resultant impacts on potential funding, consistency of Federal actions and permits, and ultimately land-use in toto, has the potential for causing a significant impact on the environment, and that, therefore, an environmental impact statement should be prepared pursuant to the National Environmental Policy Act (NEPA). This environmental impact statement is intended to present for review by interested parties the State of Washington's coastal zone management program and its application for approval under Section 306 of the Coastal Zone Management Act. Because of the nature of the Washington program submission, which consists largely of guidelines, regulations, and coordinative mechanisms for implementation, as well as the nature of the Federal program approval itself, which focuses more upon the procedure which the state has used to develop its program and (ensuring for example that a variety of factors have been adequately considered and that the decisions are based on sound information) rather than its substance, this environmental statement is necessarily different from and more general than the more usual, project-oriented EIS.

II. DESCRIPTION OF THE PROPOSED ACTION

A. The Federal Coastal Zone Management Program

The enactment of the Coastal Zone Management Act of 1972 culminated a lengthy history of Federal interest in and concern for the coastal zone and its resources. Significant national interest can be traced from the Committee on Oceanography of the National Academy of Sciences' (NASCO) 12-volume report "Oceanography 1960-1970," (1959) to the Report of the Commission on Marine Science, Engineering, and Resources (1969), which proposed that a Coastal Management Act be enacted that would "provide policy objectives for the coastal zone and authorize Federal grants-in-aid to facilitate the establishment of State Coastal Zone Authorities empowered to manage the coastal waters and adjacent land." (p.56) The National Estuarine Pollution Study (1969), authorized by the Clean Water Restoration Act of 1966, and the National Estuary Study (1970), authorized by the Estuarine Areas Study Act of 1968, further documented the importance of the conflicting demands upon our Nation's coasts. Together these reports stressed the need to protect and wisely use these important national resources, and concurred that a specific program designed to promote the thoughtful protection and management of our coastal zone was necessary.

In response to these recommendations, the first legislative proposals for coastal management programs were introduced in 1969. Long and extensive hearings were held on these and subsequent bills during the next three years (e.g.: House 91-14,91-46, and 92-16; Senate 92-15, 92-753, and 92-1049).

The overwhelming support for the final Act (P.L. 92-583), which passed 68-0 in the Senate and 376-6 in the House, clearly reflected the need for decisive action in the coastal zone.

The Act opens by stating that "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone." (Section 302(a)). The statement of Congressional findings goes on to describe how competition for the utilization of coastal resources, brought on by the increased demands of population growth and economic expansion, has led to the degradation of the coastal environment, citing "loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion." The Act then states that the "key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states...in developing land and water use decisions with more than local significance." (Section 302(h)).

While local governments and Federal agencies are required to cooperate, coordinate and participate in the development of the management programs, the state level of government is clearly given the central role and responsibility for this process. The Act provides a number of incentives and means of achieving these objectives and policies. Under Section 305 it enables the 30 coastal states (Great Lakes states are included) and four coastal territories to receive grants from NOAA to cover two-thirds of the costs of developing coastal zone management programs. Broad guidelines and minimum requirements in the Act provide the necessary direction for developing these programs. For example, during the program development, each state must address specific issues such as the boundaries of its coastal zone; geographic areas of particular concern; permissible and priority land and water uses, including specifically those uses that are undesirable or of lowest priority; and areas for preservation or restoration. During the planning process, the state is directed to consult with local, regional, and relevant Federal agencies and governments, and general public interests. These annual grants can be renewed twice, so that Federal support can be provided to states for up to three years for this program development phase.

Upon completion and adoption of the management program by the state, and after approval by the Secretary of Commerce, states and territories are eligible under Section 306 to receive administrative grants (presumably in greater amounts than for program development) to cover two-thirds of the costs of implementing these programs. The criteria for approval of state coastal zone management programs and guidelines for applying for program administative grants are provided in Appendix 2. The states' administration of their programs will be reviewed annually by OCZM and, as long as they are administered consistent with the approved management program, the states will remain eligible for annual administrative grants.

The Act provides that the views of Federal agencies principally affected by such programs must be adequately considered by the Secretary of Commerce in his review and approval of the management program. The Department has established a formal review process to receive the comments from such Federal agencies and by which serious disagreements may be resolved (15 CFR Part 925, Interim Regulations. Federal Register, Vol. 40, No. 41, February 28, 1975).

Evaluation of the statutory requirements established in the Act and guidelines will concentrate primarily upon the adequacy of state processes in dealing with key coastal problems and issues. It will not, in general, deal with the wisdom of specific land and water use decisions, but rather with a determination that in addressing those problems and issues, the state is aware of the full range of present and potential needs and uses of the coastal zone, and has developed procedures, based upon scientific knowledge, public participation and unified governmental policies, for making reasoned choices and decisions.

Management programs will be evaluated in the light of the Congressional findings and policies as contained in Sections 302 and 303 of the Act. These sections make it clear that Congress in enacting the legislation was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the "urgent need to protect and to give high priority to natural systems in the coastal zone." A close working relationship between the agency responsible for the coastal zone management program and the agencies responsible for environmental protection is vital in carrying out this legislative intent. States are encouraged by the Act to take into account ecological, cultural, historic and esthetic values as well as the need for economic development in preparing and implementing management programs through which the states, with the participation of all affected interests and levels of government, exercise their full authority over coastal lands and waters.

In addition, the Act provides coastal states and territories with the opportunity to apply for grants to cover one-half of the costs of acquisition, development and operation of estuarine sanctuaries, wherein natural field laboratories are established in order that scientists and students may be provided the opportunity to examine over a period of time ecological relationships in representative undisturbed estuaries of the coastal zone.

Although signed in October 1972, implementation of the Federal Coastal Zone Management Program was delayed by the Administration's decision not to request appropriations for the remainder of FY 1973 or FY 1974. This decision was made on the grounds that more information on the nature and extent of state activities and needs was required before committing funds, and because of the desire by the Administration to coordinate or subsume the operation of the coastal zone management program with or under the then pending land use legislation. Eventually in response to the pressing needs and demands in the coastal zone, and in view of apparent action on the land use legislation, the President on August 1973, forwarded an amended budget request to Congress requesting $5 million to begin implemention of the Coastal Zone Managemant Act. This request was amended by Congress to provide a final appropriation of $12 million for FY 1974, and was signed by the President on November 27, 1973. About $7.2 million of this total was for program development grants (Section 305), $4 million for estuarine sanctuary grants, and $800,000 for program administration within NOAA.

The OCZM budget for FY 1975 remained at $12 million, distributed however as $9 million for program development, $2.1 million for state program administration grants, and $900,000 for internal NOAA program administration. About $3.2 million remained available in the estuarine sanctuary program as carry over funds from FY 1974. Currently 29 of 30 eligible states, and two of four elibible territories have received grants under the program. Grant awards through February 1975 are summarized in Table I.

B. The Washington Coastal Zone Management Program

The coastal zone management program proposed by the State of Washington is managed by the State's Department of Ecology (DOE) with a key role in implementation provided by city and county governments acting under state overview. The principal authority for the program is provided by the state's Shoreline Management Act (SMA) which was enacted in 1971 prior to the Federal CZMA, together with state-established guidelines and regulations for its implementation (Appendices 3 and 4). Additional authority necessary to establish a comprehensive management program is provided through the DOE's administration of air and water pollution control requirements and flood zone control. Also important are the State Environmental Policy Act, the State Environmental Coordination Procedures Act, and the Thermal Power Plant Site Evaluation Council Act, along with the Department of Natural Resources control over wetland dredge and fill, which will all be exercised in a coordinated fashion to achieve comprehensive management. These authorities, taken together, form the adopted body of goals, policies, objectives, and statements of problems for the Washington CZM program. These overall goals and policies will be supplemented and made more specific through the development of a planning program and regulatory permit system provided for in the SMA.

The principal problems and issues facing Washington's coast, as identified in the Shoreline Management Act, are:

- the valuable and fragile nature of the state's shorelines
- public concern relating to their utilization, protection, restoration, and preservation
- unrestricted construction on privately and publicly owned shorelines
- need to recognize and protect private property rights consistent with the public interest, and need for increased coordination in the management and development of the shorelines.

These problems are addressed specifically through the establishment of policies in the SMA and its implementing regulations. However, the broad framework within which they are to be addressed is provided by the State Environmental Policy Act (SEPA) of 1971 which closely parallels the National Environmental Policy Act in both intent and directive. SEPA declares it state policy to: encourage productive and enjoyable harmony between man and his environment; promote effects which will prevent or eliminate damage to the environment and biosphere; stimulate the health and welfare of man; and enrich understanding of the ecological systems and natural resources important to the

TABLE I

Status of Grant Awards, Office of Coastal Zone Management
(including amendments approved through February 1975)

State or Territory	Date Awarded	Federal Share	Matching Share	Total Program
FY 1974				
Section 305				
Rhode Island	3/13/74	$154,415	$77,208	$231,623
Maine	3/13/74	$230,000	$115,000	$345,000
Oregon	3/13/74	$250,132	$141,214	$391,346
California	4/23/74	$720,000	$371,946	$1,091,946
Mississippi	4/23/74	$101,564	$50,782	$152,346
Michigan	4/23/74	$330,486	$203,961	$534,447
South Carolina	5/10/74	$198,485	$100,015	$298,500
Maryland	5/10/74	$280,000	$185,765	$465,765
Washington	5/14/74	$388,820	$194,410	$583,230
Texas	5/16/74	$360,000	$191,648	$551,648
Ohio	5/21/74	$200,000	$166,300	$366,300
Massachusetts	6/4/74	$210,000	$105,000	$315,000
Connecticut	6/5/74	$194,285	$130,359	$324,644
New Hampshire	6/7/74	$78,000	$39,000	$117,000
Hawaii	6/10/74	$250,000	$125,000	$375,000
Georgia	6/13/74	$188,000	$115,400	$303,400
Delaware	6/14/74	$166,666	$83,334	$250,000
Florida	6/14/74	$450,000	$285,853	$735,853
Wisconsin	6/20/74	$208,000	$145,215	$353,215
Pennsylvania	6/20/74	$150,000	$75,000	$225,000
Alabama	6/20/74	$100,000	$50,000	$150,000
Minnesota	6/21/74	$99,500	$49,750	$149,250
North Carolina	6/21/74	$300,000	$200,000	$500,000
Illinois	6/24/74	$206,000	$103,000	$309,000
Alaska	6/26/74	$600,000	$300,000	$900,000
Louisiana	6/26/74	$260,000	$134,090	$394,090
Puerto Rico	6/26/74	$250,000	$125,000	$375,000
New Jersey	6/27/74	$275,000	$137,500	$412,500
Section 312				
Oregon	6/27/74	$823,965	$823,965	$1,647,930
FY 1975				
Section 305				
Virginia	8/14/74	$251,044	$125,522	$376,566
New York	11/8/74	$550,000	$275,000	$825,000
Virgin Islands	11/26/74	$90,000	$45,000	$135,000
*Oregon	2/11/75	$158,811	$79,406	$238,217

*Second grant award.

state and nation.

SMA builds upon these statements by declaring it state policy to plan for and foster all reasonable and appropriate uses of the shorelines in order to promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation. The Washington SMA depends on a blend of state and local authorities and activities to meet these objectives. The state's interest is declared predominant in "shorelines of statewide significance," which include the entire Pacific Ocean coast; the waters of Puget Sound and the Strait of Juan de Fuca; those areas between ordinary high water and extreme low tide along Nisqually Delta, Birch Bay, Hood Canal, Skagit Bay and Padilla Bay; all major lakes and rivers; and associated wetlands. Use priorities are established for these areas in the following order:

- recognize and protect the statewide interest over the local interest
- preserve the natural character of the shoreline
- result in long term over short term benefit
- protect the resources and ecology of the shoreline
- increase public access to publicly owned areas of the shorelines, and
- increase recreational opportunities for the public.

Local governments have the primary responsibility for inventorying their shorelines, developing Master Programs to regulate their use, and initiating the permit program established by the Act. These activities occur within the framework of guidelines prepared by the state DOE (Appendix 4) which also acts in a supportive and review capacity with principal emphasis on insuring compliance with the Act's policy, provisions, and implementing guidelines. The local government master program, basic to the implementation of the SMA, utilizes the inventory information and is essentially a comprehensive land use plan with a strong environmental orientation. It includes basic goals and objectives, the designation of all shoreline areas into a categorization system, and specific regulatory language.

The SMA establishes a regulatory permit system to control "substantial development" along the shoreline. Substantial development is defined as "any development of which the total cost or fair market value exceeds $1,000, or any development which materially interferes with the normal public use of the water or shorelines of the state," with the exception of certain private or agricultural uses. Permits are granted by local governments consistent with guidelines promulgated by DOE, and with local Master Programs after adoption. Following local action on a permit application, DOE must review the application and decision. While lacking veto power, DOE can appeal both negative and affirmative permit decisions to the Shorelines Hearings Board, as can the applicant, or concerned individuals or organizations. The application and appeals procedure are shown in Figure 1.

Under the DOE established guidelines and with DOE assistance, cities and counties are now developing Master Programs for their shorelines. These

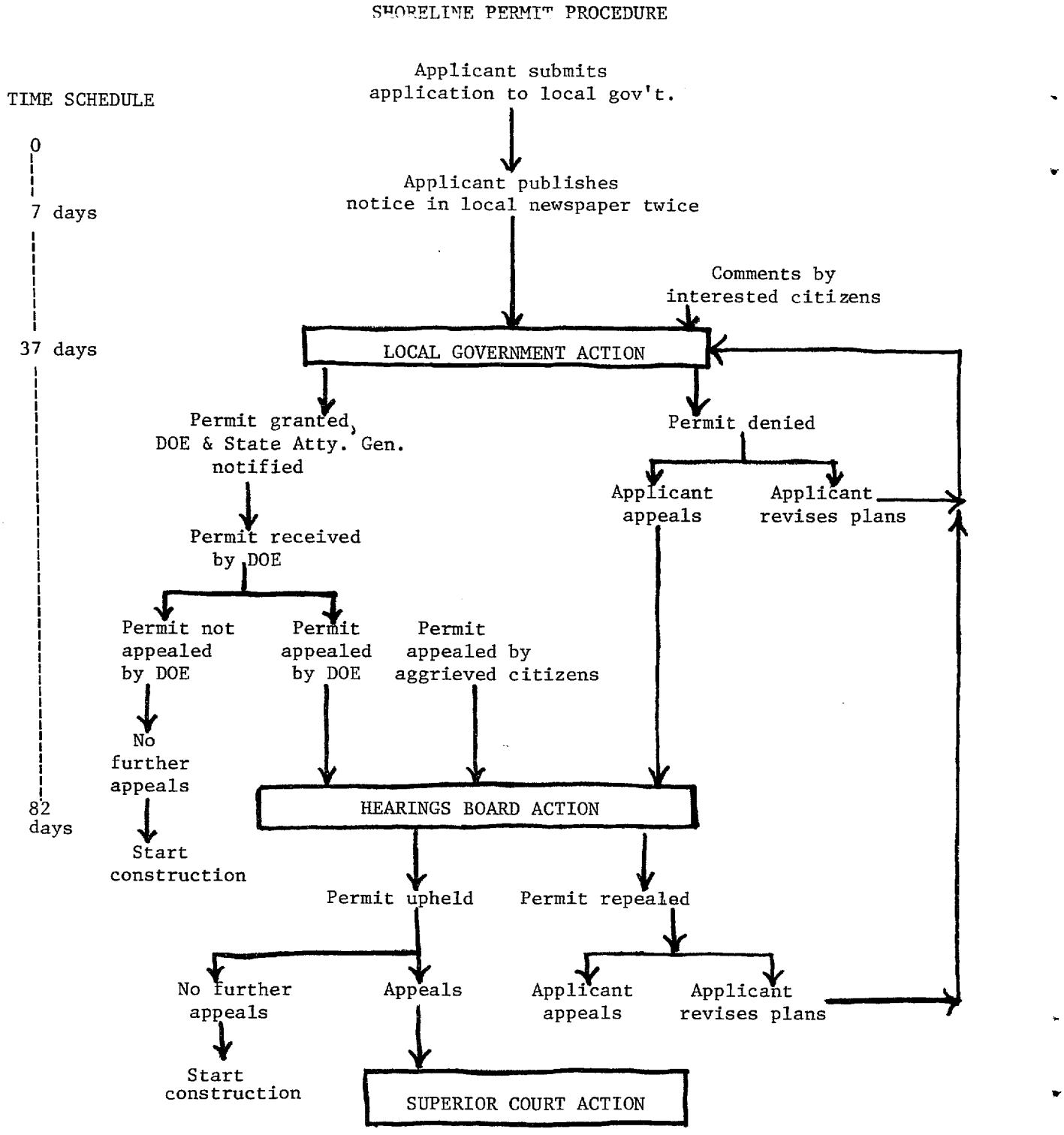

SHORELINE PERMIT PROCEDURE
TIME SCHEDULE
0
7 days
37 days
82 days
Applicant submits application to local gov't.
Applicant publishes notice in local newspaper twice
Comments by interested citizens
LOCAL GOVERNMENT ACTION
Permit granted, DOE & State Atty. Gen. notified
Permit received by DOE
Permit denied
Applicant appeals
Applicant revises plans
Permit not appealed by DOE
Permit appealed by DOE
Permit appealed by aggrieved citizens
No further appeals
Start construction
HEARINGS BOARD ACTION
Permit upheld
Permit repealed
No further appeals
Appeals
Applicant appeals
Applicant revises plans
Start construction
SUPERIOR COURT ACTION

Figure 1.

programs, which must be approved by DOE, will provide a means for guiding land and water use decisions consistent with the overall objectives and criteria. They are to contain policies on the following elements:

(1) An economic development element for the location and design of industries, transportation facilities, port facilities, tourist facilities, commerce, and other developments, the location or use of which is particularly dependent on the shoreline of the state;

(2) A public access element making provisions for public access to publicly-owned areas;

(3) A recreational element for the preservation and enlargement of recreational opportunities;

(4) A circulation element consisting of general location and extent of existing and proposed major thoroughfares, transportation routes, terminals and other public utility facilities;

(5) A land-use element which considers the proposed general distribution, location and extent of housing, business and other land-uses along the shorelines and adjacent land areas;

(6) A conservation element for the preservation of natural resources, including, but not limited to, the scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection; and;

(7) A historical, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values.

In addition to these substantive objectives and policies, the state has established the following administrative and institutional objectives to be met through implementation of a comprehensive CZM program:

- Greater State-Federal cooperation and understanding in the planning, siting, design, construction, and operation of developments in the coastal zone.

- Greater ability of local government to control its share of the coastal zone aided, supported, and guided by the State and Federal governments.

- Increased coordination and more rapid processing of development permits and licenses, with more state and local input into Federally-authorized projects.

- More centralized state policy and regulation in various coastal zone affairs, meaning increased cooperation and communication among state agencies.

- Greater cooperation and understanding among the actual managers; state, Federal, local, Indian, and international; of the various coastal resources of the state, such as oil, fish, beaches, waterways, etc.

- Greater cooperation and understanding among the various users of coastal resources by virtue of their involvement in the managing of these resources.

- More thorough and meaningful reviews of large-scale projects, and thus decisions based on firm environmental and economic grounds.

- Better knowledge of the costs and benefits of various projects and proposals.

One step already taken by the state to meet these objectives was passage of the Environmental Coordination Procedures Act of 1973 (ECPA). ECPA requires DOE, in cooperation with other state agencies having environmental regulatory programs and with local governments, to provide a single master application as an optional procedure for the separate, multiple applications traditionally required. In addition to simplifying procedures for any applicant, the ECPA provides better coordination between state and local regulatory agencies and improved opportunities for public understanding and comment.

Land and Water Uses

As provided by statute, all shorelines of the state have been inventoried by local governments to determine general ownership patterns, natural characteristics, present uses and initial projected uses. These inventories, together with other inventories and data available at the state level have been utilized by DOE in developing its coastal program and in delimiting the state's boundary for CZM purposes.

This boundary is tiered so that the most direct control is provided over substantial development in the coastal waters seaward to the three mile limit of the territorial sea and landward to a line 200 feet inland from the ordinary high tide, or further if necessary to include all "associated" wetlands. The boundary is extended up all major rivers draining into the coastal waters to the limit of salt water influence. Since the SMA applies to all major freshwater rivers and lakes as well as to the coastal area, a consistent system of control actually extends upriver of the defined coastal zone; this enables extended state control of some uses impacting the coastal waters which originate outside the zone.

Additional management controls beyond the boundary established by the SMA are exerted through air and water quality standards and by flood zone permits, all administered by DOE. For administrative, financial, and coordinative purposes, the boundary is extended to a second tier, the inland limit of the 15 coastal counties, whose plans are to be consistent with adopted local Master Programs. Federal lands and Indian controlled lands are excluded from control under the management program, but are subject to

substantial Federal-state consultation. (See Figs. 2 and 3.)

The DOE has defined uses which have a direct and significant impact on the coastal waters as being all "substantial development" as defined in the SMA and additionally all uses which have the potential for altering water quality. These uses are generally controlled by the DOE through its water pollution control permit system, which is administered consistent with standards established by the U.S. Environmental Protection Agency. More importantly, substantial developments within the shorelines of the state require the issuance of a permit under the SMA. The local government has the original responsibility to review and respond to a permit application, and must conduct an inventory, capability-suitability analysis and environmental impact assessment prior to the issuance of each permit. DOE also conducts a "trend-setting" analysis for certain types of development in order to insure that the potential for proliferation of similar developments (cumulative impact) is considered.

When local Master Programs are completed, an even more precise system for delineating permissible and priority uses will exist, since all uses will be related to four types of environments (natural, conservancy, rural and urban) identified as the basis for each local program. Uses of shorelines of statewide significance will always be more stringently managed because of the use priorities established by the SMA.

Use priorities are established for the four environments as follows:

> Natural: This designation is intended to protect unique natural or cultural features which are relatively intolerant of intensive human use. Any activity which changes the existing situation would be desirable only if such change would contribute to the preservation of the area's existing character.
>
> Conservancy: This designation is intended to protect, conserve and manage existing natural and cultural resources to insure recreational benefits and sustained resource utilization. Preferred uses are those which are non-consumptive of the physical and biological resources. Activities of a non-permanent nature which do not substantially degrade the existing character are permitted.
>
> Rural: This designation is intended to protect agricultural land and to maintain open space. New developments are to reflect the surrounding character of the area. Compatible public recreation facilities are recommended.
>
> Urban: This designation is intended to insure optimum utilization of shorelines within urban areas. Emphasis should be given to development within already developed areas and particularly to water dependent industrial and commercial uses. Priority should be given to public visual and physical access to the water.

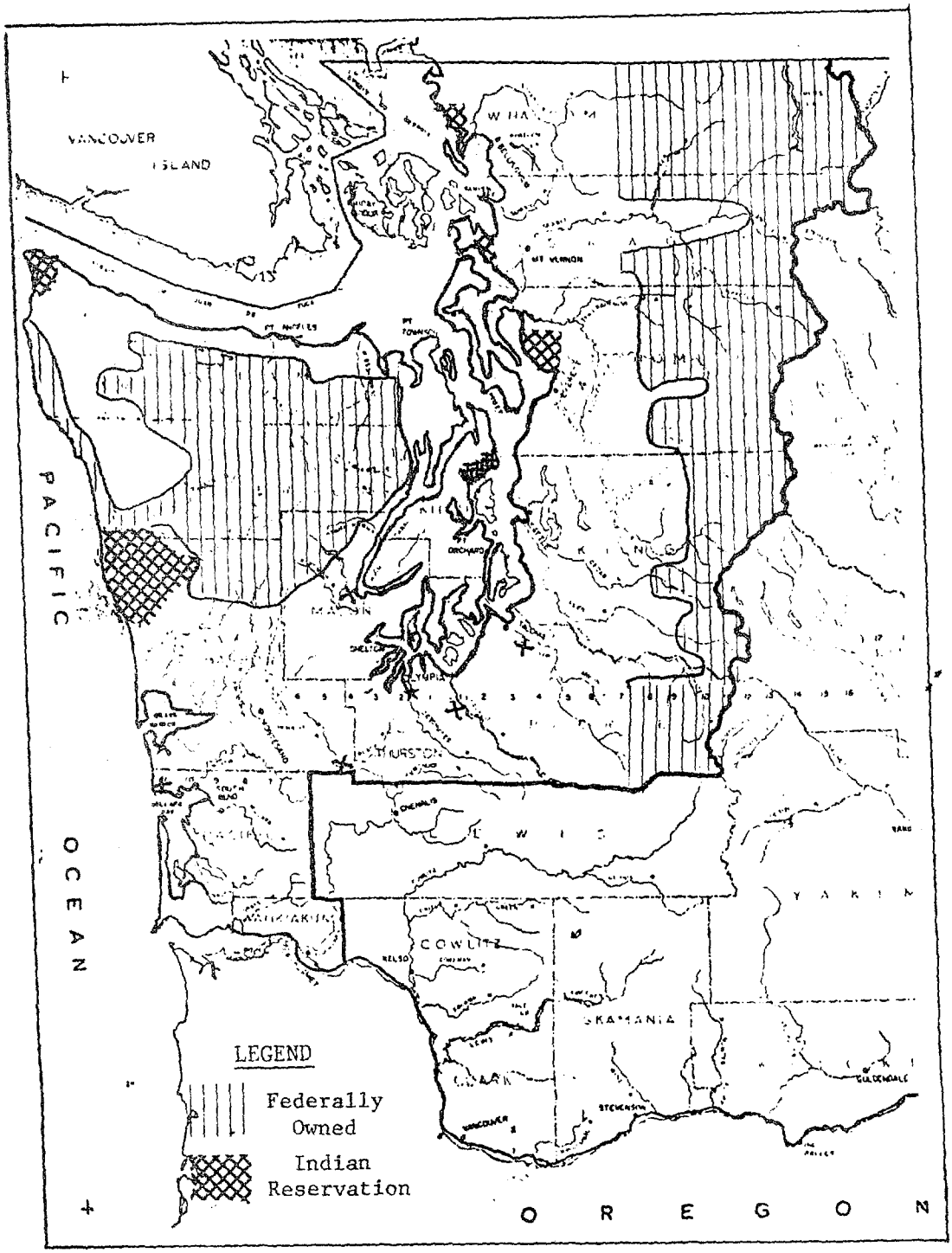


Figure 2 Coastal Zone and Excluded Lands

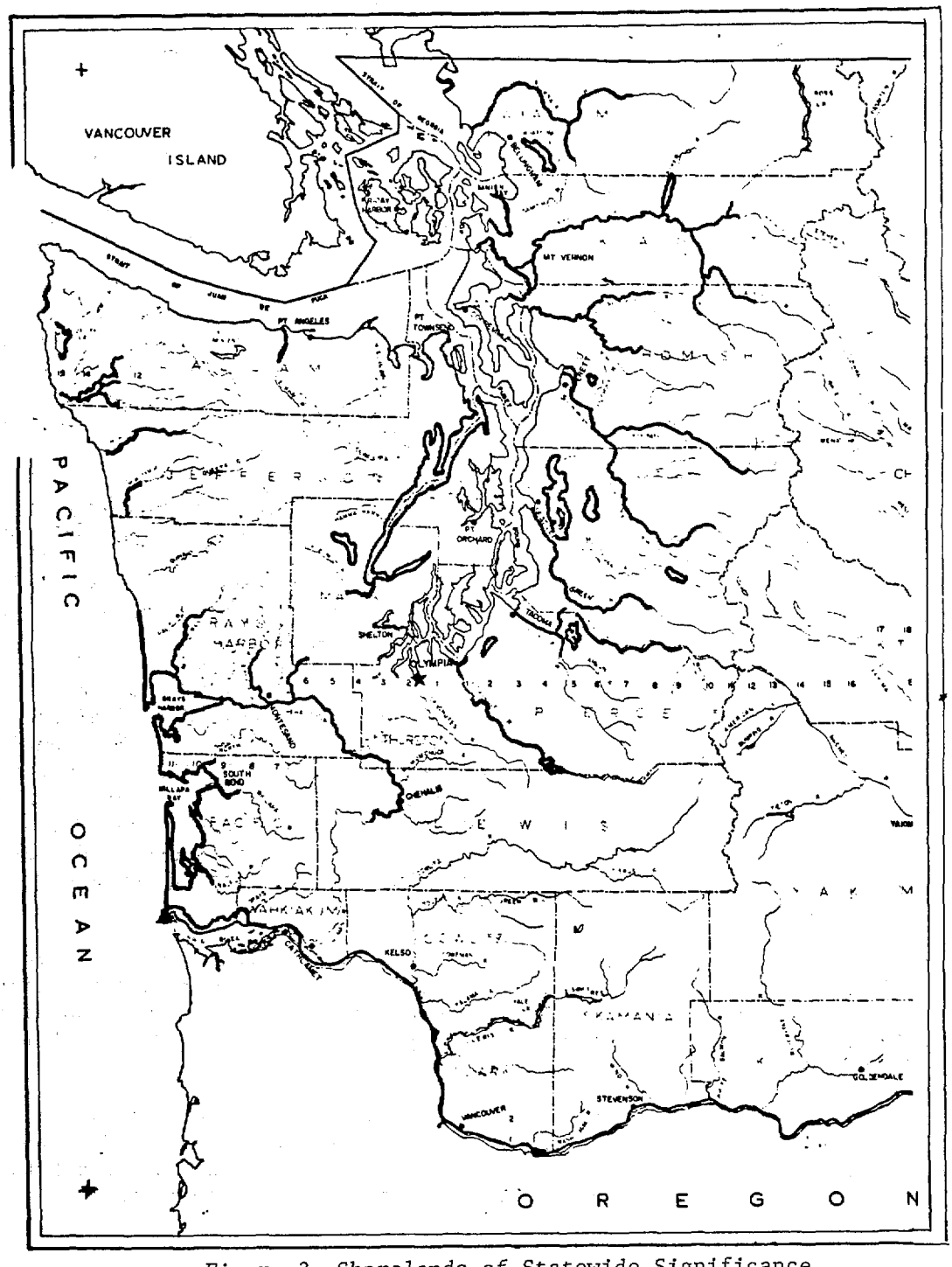


Figure 3 Shorelands of Statewide Significance

Uses of lowest priority are those which are inherently dangerous and harmful to the shoreline.

The planning program is presently underway, with inventories having been completed and local Master Programs scheduled for completion by this Fall.

The state has defined areas of particular concern, which include all shorelines of statewide significance, state owned tidelands, state parks and wildlife refuges, and flood hazard zones. Natural, scientific, or educational areas administered by the state DNR are also included.

Among those areas designated as being of particular concern, areas will be identified for preservation and restoration. These areas must be of (or have the potential for) biological, natural systems, cultural and/or scenic importance. Further, a majority of experts in appropriate fields must rank the area according to its importance, the urgency of action, and the degree to which the area is pristine. By rating the area numerically for each of these three factors, a priority ranking or value can be determined for a variety of geographic areas. Provision will be made to consider the possibility of a group of small areas, each of moderate importance which in toto might constitute a resource of critical importance. Implementation of the priority ranking system will also be affected by the cost of preservation or restoration, including maintenance.

This ranking system will be applied to areas identified as Natural or Conservancy Environments in the local Master Programs, areas identified in local or state inventories or surveys, and other areas that may be identified by concerned citizens, agencies, etc. Although this task will continue indefinitely, an initial review suggests that the following areas are likely to be included: mouth of the Skagit River, Nisqually River Delta, Willapa Bay Estuary, Grays Harbor Estuary, San Juan Islands. It is expected that certain areas of the Ocean coast and certain offshore fishing banks and undersea landforms will also be included.

At the present time, all classes of facilities whose siting may be judged to be in the national interest appear to be capable of accommodation under the guidelines established by DOE. No potential coastal uses or associated facilities are arbitrarily or categorically excluded by the program, but are constrained by SMA criteria.

Power plant siting is managed under the Thermal Power Plant Site Evaluation Council Act which establishes a state interagency review board and a specific time frame for review. Applicants must show compliance with SMA's substantial development permit system and with air and water quality standards.

DOE further has the ability to insure that uses of national, state and regional benefit are not unreasonably excluded from the coastal zone through approval of Master Programs, which must consider state and local needs, as well as by its ability to appeal negative permit decisions by local government.

A Federal agency task force has been involved for over a year in the review of local Master Programs prior to DOE approval. Continuing involvement through this task force should help insure that site-specific concerns are identified and considered.

Organization

The single agency designated to administer the CZM program is the Department of Ecology. Within DOE, the Shorelands Division handles CZM, SMA, Flood Control and related research. Other divisions are: Operations (permit handling and compliance), Air Resource Management, Solid Waste Planning and Management, and Water Quality. Other state agencies with direct coastal resource management responsibilities are the Departments of Fisheries, Natural Resources, and Parks and Recreation. These agencies, together with the Departments of Agriculture, Emergency Services, Commerce and Economic Development, Highways, Social and Health Services, and related offices and commissions, sit on DOE's State Agency CZM Advisory Committee which serves to coordinate agency activities. Coastal cities and counties are integral parts of the CZM program through their SMA and related responsibilities.

Coordination and Public Participation

The Washington shoreline management concept first took form from an initiative petition circulated by the Washington Environmental Council. After the Council gathered enough signatures for validation and placement on the ballot as a referendum, the State Legislature itself enacted a modified version as the Shoreline Management Act in 1971. This Act was subsequently ratified by popular referendum in the November, 1972 elections. From the moment of its initiation by public action, through ratification and implementation, the SMA has been the subject of intense discussion and public participation.

The state-established guidelines were subject to public hearings prior to promulgation. Through the SEPA requirement, each permit for substantial development and each local government Master Program at the time of adoption is subject to public review. A state environmental impact statement is being filed by DOE to insure that the overall CZM program, too, is subject to public review. These procedures provide for formal review and comment by members of the public and by Federal, state and local agencies.

Additionally, the public is provided direct involvement in program development in several ways. At the local level, the development of each Master Program is steered by a citizens' advisory committee; procedures for this involvement are established under the guidelines. These guidelines supplement

the SMA requirement that Master Programs be developed in consultation with any Federal, state, regional or local agency having special expertise with respect to any environmental impact and that Master Programs consider all plans, studies, etc., made or being made by Federal, state, regional or local agencies, by private individuals, and by organizations.

Moreover, DOE has established several advisory committees to insure that consultation and coordination continue at the state level. A Federal agency committee has been established to help deal with the question of the national interest in facilities siting, to identify specific agency needs and plans, and to review the CZM program. A similar state agency committee has also been established. A committee of local planners has been created to better coordinate the State programs with local governments.

An assessment by the state of the SMA highlighted both strengths and weaknesses. The relative strengths of the SMA include:

1) Planning and implementation system in one package - the SMA provides the criteria for shoreline planning as well as the means for effectuating those plans - the substantial development permit system.

2) The Act is geographically comprehensive - by including freshwater streams and lakes, the mechanism is provided for managing the use and development of those waterbodies which have a direct and significant impact on the coastal zone.

3) State/local relationship - an equitable and workable balance seems to have been achieved in placing the primary responsibility for planning and regulation at the local level, but subject to State overview.

4) State responsibility in the event of local default - a provision of the SMA requires that if a local government fails to comply with the planning requirements, the state is responsible for preparing and adopting a program for that government. This provision has proved to be an effective inducement for many counties to undertake a planning program, several of which had no prior experience or inclination to plan for and regulate development within their jurisdiction.

5) Citizen participation - Citizen participation was given a high priority in development and implementation of the Washington CZM Program. All jurisdictions within the state have appointed committees to work with local planners (and in some cases have undertaken the program themselves). The committees range in size from six to sixty and, statewide, there are well over 1,000 individuals actively involved in the local shoreline planning programs.

6) Explicit definitions - The SMA is relatively definitive in establishing definitions, time requirements and geographic scope, which reduces the opportunity for misinterpretation by landowner or local jurisdiction, and provides a firm basis for State overview.

The State assessment also identified the following weaknesses:

1) Permit system - The lack of discretion to vary the time requirements on permits creates some administrative problems. Single family residences are exempt from the permit system, which weakens the program, particularly in those areas where second home development is prevalent. Furthermore, there are not adequate means for monitoring illegal activity on the shorelines to insure compliance with the law.

2) Appeal backlog - Because of the time involved in preparing and presenting cases to the shoreline hearings board, and frequently the length of time in reaching a decision, there has developed a considerable backlog of pending appeals. As a result, most developers have not been able to obtain a final decision for at least 90 days and sometimes for up to one year.

3) Staff and funding - The shoreline program is being administered at the State level with a staff of fourteen, roughly equally divided between the planning and the permit functions. There is a serious need for additional staff, particularly in the specialized scientific fields. An additional shortcoming is the availability of grant funding for local governments. To date over $500,000 has been provided through DOE for planning purposes, matched equally by local government, for a total commitment of over $1 million. With the large number of jurisdictions involved, however, the funding has not been adequate to meet the cost of the program.

4) Areawide planning - While the shoreline act does define a State Master Program as the cumulative total of all local Master Programs, it does not provide explicit authority for the Department to undertake shoreline planning on a statewide basis to provide a framework within which local programs would be encompassed.

Supplementing the SMA program with the other resource regulatory authorities, as mentioned above, to form a more broadly based comprehensive management program, and approval of the State CZM program with resultant availability of Federal CZM program administrative funds, will aid in overcoming these weaknesses and in creating a stronger overall program.

III. DESCRIPTION OF THE ENVIRONMENT AFFECTED

Encompassing the Puget Sound-San Juan Islands-Straits of Juan de Fuca complex, the shores of the Pacific coast, and the mouth of the Columbia River as far as tidal influence, Washington's roughly 2700 mile coastal zone is one of the richest and most varied in the nation. It extends from the crest of the Cascades to the Pacific Ocean and includes some of the State's most valuable assets. Within its boundaries lie the centers of population and industry for the State as well as important living marine resources and large areas of striking natural beauty.

Puget Sound, the West Coast's largest deep water protected port and the focus of shipping and industry in the Pacific Northwest, is of central importance. Its excellent harbors and proximity to Alaska make the Puget Sound area a prime candidate for receiving oil from Alaska. The Sound is also vitally important to the marine life which both utilizes the Sound as habitat and which provides one of the major bases for the important commercial fishing and tourist industries. The close proximity and increasing interaction of the population to and with these natural resources has in recent years meant increasing demands on and conflicts for the area and its resources. The major competing uses include timber harvest, industry, commercial fishing, recreation, tourism, second home development, and to a lesser extent, agriculture. These uses are interrelated in a complex manner and highlight the need for coastal zone management.

The coastal zone encompasses two types of land formation: glaciated regions in the north and coastal plains to the south and west. The northern area, including Puget Sound, the north shore of the Olympic Peninsula, and the Pacific Coast south to Quinault River, was strikingly molded by glacial activity and is characterized by rugged mountains and glacial valleys (Fig.2). The beaches are narrow, rocky and are backed by high forested bluffs. Rocky outcrops and islands are common offshore. Limited river plains associated with the largest rivers provide the only low flatlands.

In contrast, the southern area is a broad coastal plain with wide sandy beaches, dunes, and extensive lowlands. Sand for this region both originates locally and is provided by the northward littoral drift of sediments along the Pacific Coast. The extensive elongated dunes have formed major estuaries at the mouths of the Chehallis and Willapa Rivers, which drain this area.

The climate of the entire area is maritime, with generally mild winter temperatures and cool, moderately dry summers. Nestled between the Olympics and the Cascades, the Puget Sound climate especially reflects the marine influences. The two mountain ranges, combined with the prevailing ocean breezes, cause large variations in precipitation among localities. Precipitation varies from up to 200 inches per year in the mountains and western slope of the Olympic Peninsula, to a more moderate 35 to 50 inches per year in Puget Sound and the adjacent lowlands. Precipitation is seasonal, being heaviest from October to March and reaching a minimum in July and August. Extensive snowfall in the mountains, however, prolongs the seasonal river discharge into the coastal areas.

The Washington coast may be conveniently divided into three general regions: the Puget Sound-San Juan Island-Straits of Juan de Fuca; the Pacific coastline; and the Columbia River. Each region has different resources, use patterns, and problems.

Puget Sound

The Puget Sound region is the most valuable asset in Washington's coastal zone. The following discussion of Puget Sound's characteristics has been adapted with few changes from the National Estuary Study:

Puget Sound, an extension of the Pacific Ocean, involves approximately 2,700 square miles of water area within the United States. This area of deep channels, passages, inlets, bays and numerous major and minor islands forms a scenic area surrounded by snow-capped mountains of the Cascade range on the east and the Olympic range on the west. About 10 major and 14 minor rivers and numerous small streams flow into Puget Sound and its adjacent waters.

The Sound is basically a deep body of water with depths of 100 to 600 feet less than 1 mile offshore. In many shoreline reaches, shoal areas are nonexistent. Large tideflats and marshland areas are restricted to mouths of the major rivers, with Skagit Bay and Samish Bay flats on the north and Nisqually River delta on the south, the most noteworthy areas. Small tideflats and marshes occur at the head of many inlets in South Puget Sound and Hood Canal. The rest of the shoreline is characterized by forested bluffs 50 to 500 feet high.

The climate of Puget Sound is classed as mid-latitude marine with cool, moist winters and warm summers. The Olympic and Cascade mountain ranges modify the weather of Puget Sound. Port Townsend, in the rain shadow of the Olympic range, receives about 17 inches of precipitation annually. Seattle has an average annual precipitation of about 50 inches. Seventy-five percent of the precipitation occurs in the 6-month period, October through March. At Seattle, the average daily temperature in January is about 40° F., while in July it is about 65°F. Maximum recorded is 100°F., and the minimum is 0° F.

Puget Sound's major freshwater sources are the Nooksack, Skagit, Stillaguamish, Skokomish, Cedar, Elwha, Snohomish, Green, Puyallup, and Nisqually Rivers. Numerous other streams, both large and small, flow into the Sound. Freshwater inflow, as a result of rainy periods, occurs primarily during the period October through March. Snow melt from the Cascade and Olympic ranges occurs through June. River discharge plays a predominant role in the great productivity of Puget Sound.

Tidal circulation varies throughout the area. It is best in the North Sound, where relatively constricted channels and an open connection with the ocean promote good circulation and poorest in the sheltered bays of the South Sound and Hood Canal. Because of the north-south axis of the Sound, there is a difference in the flow of tides. A tide change at Olympia, on the southern most portion of the Sound, will occur approximately 1 hour, 15 minutes after a similar change at Port Townsend, at the north end of the Sound. Tidal amplitude

also varies, being greatest in the southern portion of the Sound and decreasing generally toward its mouth. The tidal currents are variable and strong, and where affected by narrow passages or shallow sills, may exceed 7 knots.

Most areas of Puget Sound are usually well mixed. During periods of continuous heavy rainfall, the areas near the mouths of major rivers will approach freshwater condition. Mixing by strong winds occurs in some areas of the South Sound. Stratification occurs during the late summer in sheltered bays of the South Sound.

Census figures for 1974 indicate that about 2.2 million people live in the Puget Sound area. Areas such as the Duwamish Waterway and Commencement Bay have been modified by human activities. Channel modifications, diking, filling, port facilities and industrial complexes have substantially altered these two areas. Other areas, such as Bellingham, Anacortes, and the Snohomish River, have been modified to a lesser extent. Residential and industrial complexes add both domestic and industrial waste to the Sound. Agricultural runoff from the major river valleys add nutrients to the system.

Puget Sound has historically supported substantial fish and wildlife use. Major commercial and recreational fisheries for salmon, bottomfish, oysters, shrimp, hardshell clams and crab occur on the Sound. With the development of the surrounding area, some of these fisheries, particularly in the Southern Sound, have declined. The principal causes of the decline have been (1) habitat degradation brought about by industrial and domestic wastes and unfavorable land use practices; (2) direct habitat destruction through diking and land fills, as well as construction of upstream water development projects and poor timber harvesting practices. The effect of dike and fills on fish populations is not clearly understood; however, a loss of nursery and rearing habitat has occurred. Loss of wildlife habitat has not been quantified; however, a noticeable deterioration of wildlife resources has occurred which can be attributed to habitat disruption.

Discharges of waste material, whether of industrial, domestic or thermal character, provide the single most important existing stress and threat to the environment of fish and wildlife resources of Puget Sound.

The most important anadromous fish species include chinook, coho, sockeye, chum and pink salmon; steelhead and searun cutthroat trout; searun Dolly Varden; and eulachon. All of these species use Puget Sound as a migration and nursery area. Many spend their entire life cycle in the Sound.

Bait and forage fish include Pacific herring, smelt and anchovies. Herring use the shallow end of many inlets and bays of the Sound for spawning purposes. All of these species are important food sources for other fishes.

Major species of marine fish inhabiting the Sound are Pacific cod, dogfish, skate, lingcod, sablefish, Pacific hake, starry flounder, Pacific halibut, ratfish, and numerous species of sole, rockfish and surfperch. A great many of these fish contribute substantially to commercial and sport fisheries.

A large variety of shellfish inhabit the Sound. Valued species include Pacific and native oysters; Dungeness crabs; littleneck, horse, jacknife, butter, Manila, geoduck, softshell, and cockel clams; rock and Puget Sound pink scallops; pinto abalone; and several species of shrimp.

Puget Sound is an important resting place, feeding area and wintering ground for many thousands of birds in the Pacific Flyway. Major waterfowl species include: Mallard, pintail, canvasback, ruddy, harlequin, ring-necked, and wood duck, widgeon, scaup, goldeneye, green-winged teal, shoveler, Canada, lesser Canada and snow geese, and black grant. Merganser, scoter and American coot also occur. Gulls and terns are the most common shorebirds. Great blue herons are the most common salt marsh birds.

The major wintering areas for waterfowl in Puget Sound are the Skagit, Snohomish and Nisqually flats, and Padilla-Samish Bays. Each small bay and inlet provides a discrete area for a portion of the total waterfront inhabitants population. For example, twenty to thirty thousand snow geese winter in Skagit Bay -- the only concentration of these geese found in the State of Washington.

Waterfowl hunting is a major recreational activity on the Sound in fall and early winter. Nearly one-third of Washington's duck and goose hunting occurs in Puget Sound.

Harbor seals, killer whales and porpoise are commonly found in Puget Sound, and mammals inhabiting adjacent freshwater areas include beaver, muskrat, mink, weasel, otter and racoon.

Human benefits from natural resources of the Sound include food, industry, recreation, research, education and an environment for living. Estimates made for specific recreational uses of Puget Sound for 1965 include 800,000 man-days of hunting, 700,000 angler-days of salmon fishing, 850,000 angler-days of bottom fishing, and 100,000 man-days for shellfish sport harvest. In addition, commercial fishermen annually harvest over 6 million salmon, 20 million pounds of bottom fish, and over 6 million pounds of shellfish. The total value of sport fish catch exceeds that of the commercial fishery, but an estimate of total recreational use of Puget Sound and its resources is not available. (U.S. DOI National Estuary Study, Vol. 5, Appendix G, pp. 69-72).

The Sound's principal physical resource is its deep water protected port facilities. The primary ports are at Port Angeles (on the Straits of Juan de Fuca), Bellingham, Everett and Seattle-Tacoma. These ports are the closest U.S. ports to the far East, and form the base for an expanding trade with the Orient. Because of the shipping facilities, the state's industries have located on the Sound. These industries which form the economic base for most of the region's population, have located on the main river plains, filled and diked much of the valuable natural habitat, and chemically polluted the waters upon which the living population of the bay depend. The narrow channels and often fast tidal currents create navigational hazards to shipping; fogs are common and can obscure visual landmarks used in navigation. The potential future use of the Sound by larger tankers is an additional problem facing the state. Oil refineries, which will almost

certainly be used more heavily in the future, and the lumber mills are also major industrial activities in the Sound.

Agriculture in this region is primarily restricted to the northeast section of the Puget Sound Basin, largely in the flood plains and lowlands adjoining the major rivers.

The tourist, recreational and second home industries are among the fastest growing activities in Puget Sound. Currently ranked behind food, manufacturing and forest products, the tourist industry alone may assume the number one position by the year 2000. The three industries tend to center around the water resources of the area; the physical (waterways, bays, etc.) the biological (fish and shellfish) and esthetic resources of the Sound serve as the major attractions. The role of these water resources is indicated by the fact that the resident population has the highest boat ownership per capita in the nation. Because of the increase in tourism and recreation, and the number of watercraft, much of the Puget Sound area previously inaccessible by land has only recently begun to feel the result of man's impact.

The National Estuary Study identified filling, dredging and diking; pollution; public access; industrial, commercial and residential development; upstream land and water use; agriculture; and mining as significant management problems facing the Sound.

Pacific Coast

The Pacific coastline, extending from Cape Flattery to the Columbia River, is divided into two major types: the rocky, mountainous terrain in the north and the flat coastal plain in the south. The northern coast from Cape Flattery and to the Quinault River is similar biophysically to the Straits of Juan de Fuca west of Port Angeles, and consists of narrow, steeply sloping rocky beaches backed by high forested bluffs. Numerous rocky outcrops exist just offshore. As in the rest of the state's coastline, the climate is strongly marine influenced with mild but wet winters. The areas of heaviest rainfall occur in this stretch of the coast.

Although a few fishing villages are located along the western coast of the Straits of Juan de Fuca, the northern Pacific Coast proper is scarcely populated and remains largely unaltered. Almost the entire coast and most of the uplands are owned by the Federal government or are part of Indian reservations, and are therefore excluded from state management under the CZMA. There are no large estuaries, good harbors, or industrial sites. The major use of the area is recreational; hikers, campers and climbers use the area, primarily Olympic National Park, on a seasonal basis. Intertidal hardshell clams and razor clams form an important and widely harvested resource along this region's coast. Commercial salmon fishing occurs off the whole coast, but sport fishing activity is concentrated off Cape Flattery and the mouth of the Quillayute River.

From the Quinault River south to the Columbia River, the coastal lands are characterized by wide sandy beaches and extensive dunes backed by grasslands and forests. Two major estuaries occur in this region: Grays Harbor at the mouth of the Chehalis River, and Willapa Bay at the mouth of the Willapa River. These two resources have served as a focus for development and industry along the Pacific portion of Washington's coastline, while providing as well important fish and wildlife habitat. The sandy beaches, mud flats, marshes, eelgrass beds, and waterways play an essential role in maintaining fish and shellfish, including salmon, sturgeon, herring, hard and softshell clams, oysters, crabs and waterfowl, which are of intrinsic as well as commercial and recreational value.

Food products (fishing and agriculture) and timber-related industries are the major industries in the region, although here, too, the tourist and recreation industries are playing an increasingly important role.

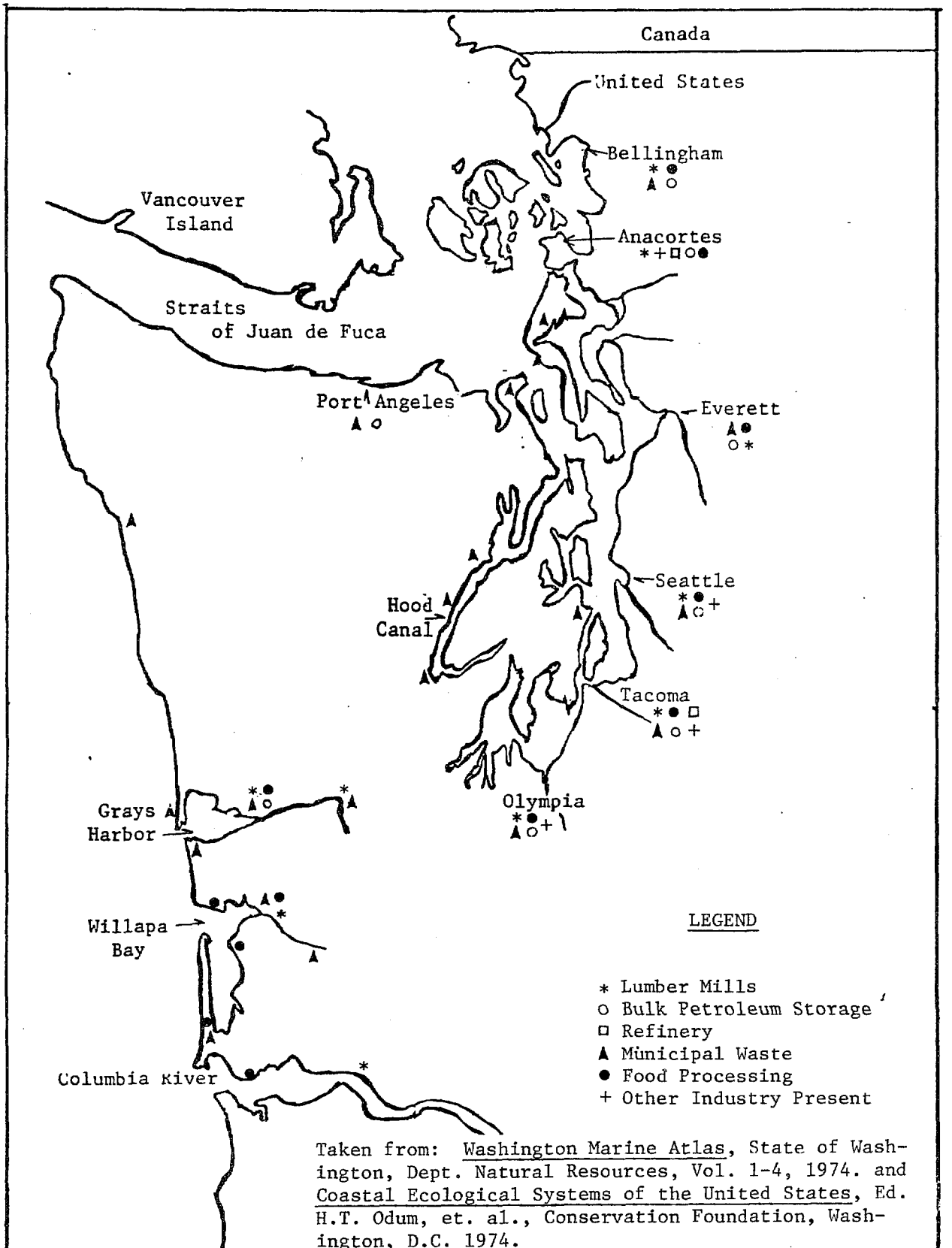
Grays Harbor is at present the area most severely impacted by man's activities on Washington's Pacific coast. Various industrial and domestic wastes are discharged into the area, which is also affected by the shipping and log storage associated with the logging industry. Willapa Bay is less affected by industry, but is increasingly affected by tourist and residential (largely second home) development. About 6,300 acres of marsh and tidelands have been filled for agricultural uses, with an equal amount of filling planned for pasture. An extensive discussion of the resources and management of Willapa Bay is presented in the National Estuary Study (Vol. 3, Appendix B., pp. 213-248).

Although the entire Pacific coast region is considered a favorable geologic environment for petroleum production, the area has yet to demonstrate a petroleum resource potential. Prior to 1970, 14 wells had been drilled along the continental margin of Washington and Oregon; all were dry holes. In recent industry ranking of 17 offshore sites along the United States coasts, the Oregon-Washington coast placed last in desirability of leasing in order to initiate drilling activity.

Columbia River

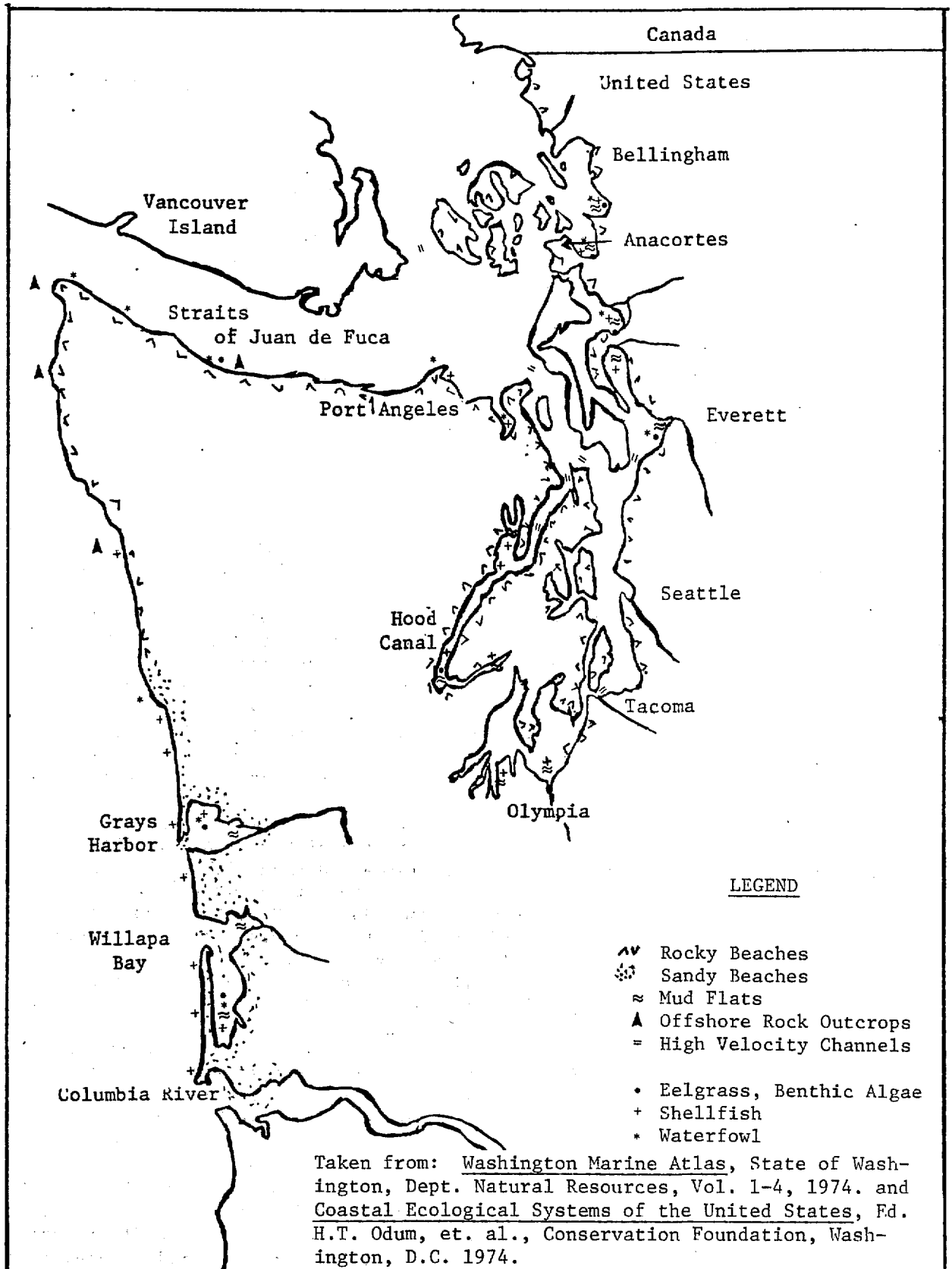
For implementing the coastal zone management program, Washington has defined its coastal boundary as extending up the Columbia River to the eastern boundary of Wahkiakum County, which approximates the limit of measurable salt water influence. Although major port and industrial activity occurs upriver from this boundary (primarily in the Portland, Oregon area on the opposite bank of the Columbia), this portion of the Columbia has been little affected by man's activities.

The Columbia is the largest river in the Northwest United States, and is the only one with sufficient freshwater discharge to appreciably influence the neighboring Pacific. The portion within the state coastal zone can be classified as a positive coastal plain estuary, displaying slight horizontal and vertical salinity gradients, but no sharp stratification. The bottom sediments are largely mud or mixed sand and mud, and are subject to continual, natural deposition and erosion patterns. The area is one of shifting sand bars, variously eroding and accreting islands and banks



Taken from: Washington Marine Atlas, State of Washington, Dept. Natural Resources, Vol. 1-4, 1974. and Coastal Ecological Systems of the United States, Ed. H.T. Odum, et. al., Conservation Foundation, Washington, D.C. 1974.

Figure 4 Major Industrial Sites



Taken from: Washington Marine Atlas, State of Washington, Dept. Natural Resources, Vol. 1-4, 1974. and Coastal Ecological Systems of the United States, Ed. H.T. Odum, et. al., Conservation Foundation, Washington, D.C. 1974.

Figure 5 Selected Natural and Physical Resources

The climate remains maritime until the Cascades, well beyond the boundaries of the state's defined coastal zone.

Although fishery resources have been adversely affected by upriver activities, the Columbia remains an important habitat for fish and waterfowl; it is probably best known for its extensive salmon fishery.

The river has been subject to extensive dredging for navigation purposes. Upriver hydroelectric dams have had significant effects on downstream water temperature and sediment loads; in fact, these impoundments have changed sediment deposition and discharge patterns in the area which may eventually lead to erosion along the beaches on the Pacific coast.

Within Washington's coastal zone, large stretches of the Columbia have been used for log storage. There are few, small industrial and domestic waste discharge sites in the area.

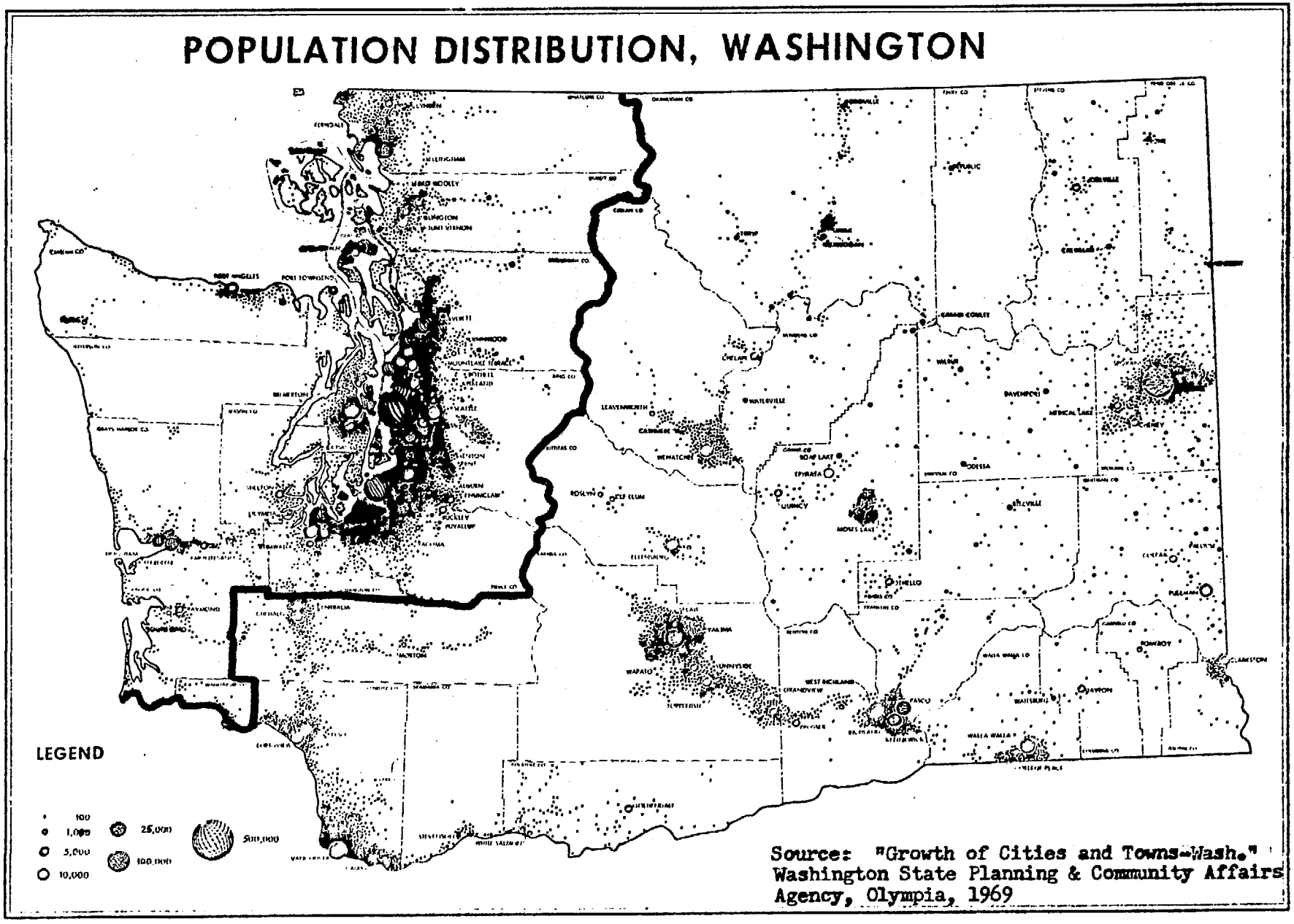
Socio-Economic Factors

In general, Washington has experienced a growth rate in excess of the national average since World War II. This increase has been due primarily to the employment opportunities and amenities found in the Puget Sound region, causing a net immigration to the state. The state experienced a particularly rapid growth in the years between about 1965 and 1969, and far slower growth from 1969 to the present, both demonstrating how the volatile economic condition of the aerospace industry affected the population of the state. In fact, from 1970 through 1973, the state experienced a net emigration, with an actual decline in total population in 1972. This trend has apparently now reversed, and the state, at least in terms of unemployment, is now healthier than the national average.

Figure 6 graphically shows that the majority of the state's population is concentrated in the central and southern region of Puget Sound. The four coastal counties of King, Kitsap, Pierce and Snohomish contain over 57% of the total state population as well as two of the state's three SMSA's: Seattle-Everett and Tacoma. From 1960 to 1970, these counties experienced an overall increase of 28.1%, with Snohomish County achieving the fastest rate of growth (54.0%). Large gains were realized by the smaller suburban communities surrounding the Seattle area, while metropolitan Seattle experienced a 4.7% decline.

On the other hand, with the exception of a few favorable port sites, the Olympic Peninsula and the Pacific Coast regions are sparsely populated. The population along the Pacific coast and mouth of the Columbia is far more stable, and in fact is actually slowly declining in Wahkiakum County.

About 2,075 miles or about 75% of Washington's shoreline landward of the extreme high waterline is in private ownership, as is about 60% of the state's tidelands. Of the remaining coastline, the Federal government owns about 155 miles, including the Olympic National Park and various wildlife refuge areas. Non-Federal public ownership totals 107 miles, primarily state, county and city parks (see Table II). When tidelands (between extreme low tide and



Symbols used on this map are three dimensional. Numbers of people represented by each symbol is proportional to the volume following examples illustrate scale used on this map.

Figure 6

TABLE II

SELECTED SOCIO-ECONOMIC DATA

Region County City	Population				Shoreline[3] Ownership (in miles)			Shoreline[3] Use (in miles)				Major[1] Industries Of Region
	1960[1]	1970[1]	% Change	1980[2] Forecast	Federal	Public (Non-Federal)	Private	Recreational (Public)	Recreational (Private)	Non-recreational (Development)	Undeveloped	
North Coast Region	39,661	45,431	14.5									
Clallam	30,022	34,770	15.8	40,348	35.4	8.0	112.6	8.9	0	6.0	141.1	Forest Products Tourism Farming Commercial Fishing
Port Angeles	12,653	16,367	29.4									
Jefferson	9,639	10,661	10.6	11,562	35.4	3.3	155.3	15.6	2.2	2.0	174.2	
Port Townsend	5,074	5,241	3.3									
South Coast Region	69,139	75,349	8.9									Forest Products Fisheries Tourism Dairy & Cranberry Farming
Grays Harbor	54,465	59,553	9.3	69,230	1.1	8.9	136.0	29.0	8.1	8.0	100.9	
Aberdeen	18,741	18,489	(1.3)									
Hoquiam	10,762	10,446	(2.8)									
Pacific	14,674	15,796	(7.6)	17,066	35.4	7.9	141.7	46.8	0	1.0	137.2	
Raymond	3,301	3,126	(5.3)									
- Wahkiakum	3,573			4,141	0	0	8	0	0	0	8	
North Puget Sound	144,177	165,198	14.6									Forest Products Oil Refining Aluminum Production Logging Equipment & Hoist Manufacturing Electronics Food Processing & Boat Building Government Dairy & Vegetable Farming
Whatcom	70,317	81,950	16.5	89,347	1.1	11.2	89.2	8.9	0	5.0	88.1	
Bellingham	34,688	39,375	13.5									
Ferndale	1,442	2,164	50.1									
Skagit	51,350	52,381	2.0	69,871	2.2	3.3	121.5	4.5	3.5	6.0	113.0	
Mt. Vernon	7,921	8,804	11.1									
Sedro Valley	3,705	4,548	24.1									
Anacortes	8,414	7,701	(8.5)									
San Juan	2,872	3,856	34.5	3,145	4.4	9.1	345.5	7.7	0	1.0	350.3	
Island	19,638	27,011	37.5	35,414	13.4	8.9	171.7	5.6	3.5	1.0	183.9	
Oak Harbor	3,942	9,167	132.5									
Central Puget Sound	1,512,974	1,937,370	28.1									Transportation Aerospace Shipbuilding & Repair Lumber & Wood Products Paper & Allied Products Metals and Machinery Food Processing Retail and Wholesale Trade Government
King	935,014	1,159,375	24.0	1,355,544	2.2	12.2	98.6	6.7	0	14.0	92.3	
Seattle	557,087	530,831	(4.7)									
Bellevue	12,809	61,196	377.8									
Mercer Island	-	19,819	-									
Redmond	1,426	11,020	672.8									
Kitsap	84,176	101,732	20.9	110,405	11.0	8.9	191.1	4.5	0	4.0	202.5	
Bremerton	28,922	35,307	22.1									
Pierce	321,598	411,027	27.8	467,683	13.4	14.3	207.3	3.3	0	9.0	222.7	
Tacoma	147,979	154,407	4.3									
Puyallup	12,063	14,742	22.2									
Snohomish	172,149	265,236	54.0	299,174	0	2.2	40.8	1.1	0	15.0	26.9	
Edmonds	8,016	23,998	199.4									
Everett	40,304	53,622	33.0									
Lynnwood	7,207	16,919	134.8									
South Puget Sound												Forest Products
Mason	16,251	20,018	28.7	21,048	0	5.5	168.5	3.3	22.7	1.0	147.0	Agriculture Government
Shelton	5,651	6,515	15.3									
Thurston	55,049	76,894	39.7		0	3.3	86.7	1.1	0	4.0	84.9	
Olympia	18,273	23,296	27.5									
Tumwater	3,885	5,373	38.3									

Data: From

1 - Washington State/The Beauty of It, The Fact of the Matter Department of Commerce & Economic Development, Olympia 1974

2 - "Oil on Puget Sound"

3 - USCE National Shoreline Study, Washington

ordinary high tide) which are owned by the state and managed by various public agencies are included, the public access shoreline mileage increases to 735 miles. Table III summarizes the approximate mileage of public beaches in the state. Some of the non-Federal public land is owned by port districts and utilized for waterborne commerce facilities. Additionally, about 40 miles of privately owned shoreline is used for recreational purposes, such as resort areas and privately owned marinas.

TABLE III

APPROXIMATE MILEAGE OF PUBLIC BEACHES

Area	Number of Beaches	Average Length	Total Mileage
Puget Sound (South of Port Townsend)	215	2000 feet	90
San Juan Islands & Mainland (North of Deception Pass)	147	6000 feet	175
Strait of Juan De Fuca (Port Townsend to Cape Flattery)	21	2500 feet	10
Open Coast (From Cape Flattery to Mouth of Columbia River - including Grays Harbor & Willapa Bay)	28		470
Total	386		735

The major users of the coastal resources are the residential and development users; the timber industry; the commercial and sport fishing interests; the manufacturing industries; and tourist and recreational users. About 77 miles of shoreline have nonrecreational development such as commercial and industrial areas. Heavy industry is concentrated along the shores of Commencement Bay and Elliott Bay, on the tideflats of the Puyallup River, and in the lower Duwamish River area. Irrigated croplands, urban and industrial land use, surface water storage, and water related recreation facility development are all projected to increase at the loss of forest land, nonirrigated agricultural land, and fish and wildlife lands.

The vast aesthetic resources of the Washington coastal zone are of benefit to the local, state and national populace as well. The coastal zone of Washington contains a tremendous variety of landforms, seascapes, vegetation and panoramic views which provide rich enjoyment and inspiration to those who view them.

An appreciation of this resource as well as the other rich coastal resources, has led the residents of Washington to be concerned about maintaining a quality environment. The recognition that the state's coastal resources were a limited commodity, while the pressures on them were increasing, led to the passage of the state Shoreline Management Act as well as other environmental laws, and in turn is a contributing reason why Washington is one of the first states to apply for approval of its coastal zone management program.

IV. RELATIONSHIP OF THE PROPOSED ACTION TO LAND USE PLANS, POLICIES AND CONTROLS FOR THE AREA

In the introduction to the Coastal Zone Management Act, the Congress found that "present state and local institutional arrangements for planning and regulating land and water uses . . . are inadequate," and that "the key to more effective protection and use of the land and water resources of the coastal zone is for the states to . . . develop land and water use programs for the coastal zone, including unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance." (Section 302(g) and (h)). Both the Washington Shoreline Management Act and its coastal zone management program substantially recognize these objectives, and are in fact designed to provide both a more unified approach toward managing the coastal resources and a comprehensive management program itself. This action, by the state and (if approved) the Federal government combined, would be expected to have a direct relationship to and significant impact on existing land use plans, policies and controls in the state's coastal zone.

Except for areas in Puget Sound, most of the state's shoreline is not presently zoned. In addition, a variety of land use plans or projections of varying scope and by different local, state and even Federal agencies, have been prepared, frequently coincident to the state's coast, and again primarily for areas around Puget Sound. The National Estuary Study identifies about 100 separate institutional organizations, including state agencies, city and county governments, special purpose districts and Federal agencies which in some way take part in the management of the coastal resources and users in Washington. These agencies, authorities and policies have generally been implemented in a fragmented fashion, frequently to achieve conflicting objectives.

The Washington coastal zone management program is intended to coordinate government and agency actions into a comprehensive program to achieve common, explicit objectives. It will interact with existing or future land-use policies and controls in many ways.

The SMA and DOE have set, after extensive public hearings and input, statewide objectives and policies for management of the coastal zone. These will provide new and coordinated direction to existing agencies and controls. The SMA has also mandated that all coastal county and city governments must develop Master Programs regulating the use of land and waters in the 200 foot shoreline. The DOE, again after public hearings, has established guidelines setting minimum requirements to be met by county and city governments as they develop their Master Programs.

The local government Master Programs for shoreline areas will supersede all existing land-use plans, zoning and other controls. Zoning must be made consistent with the new Master Programs. In general, however, the Master Programs reflect existing land use and policies, so the impact of this requirement should not be great. The Snohomish County government, for example, evaluated and coordinated several state and Federal programs, such as the Land-Use Allocation Plan - Managed Marine Lands (Department of Natural Resources; Washington Marine Atlas (Department of Natural Resources); National Flood Insurance Program; Puget Sound Governmental Conference Interim Regional Development Plan; U.S. Corps of Engineers - Snohomish River Basin Study; and existing county, municipal and Port Authority plans, policies and regulations, during the preparation of its Master Program. In addition, the CZM Act requires that the state coastal zone management program be coordinated with the implementation and requirements of the Federal Water Pollution Control Act and the Clean Air Act.

Finally, approval of the state coastal zone management program by the Secretary of Commerce will have implications on other Federal agency policies and controls. Section 307(c) of the Act provides that: (1) Federal agencies conducting or supporting activities or undertaking development in the coastal zone of a state shall insure that the activities or projects are to the maximum extent consistent with the approved state management program, and (2) except in the interest of national security, Federal agencies shall not issue licenses or permits for any activity affecting land or water uses in the coastal zone unless the state issues a certification that the activity complies with the approved program.

Although all of these impacts have the potential for significantly affecting land-use plans, policies and controls, it should again be recognized that throughout the development of the state guidelines, procedures and program, the DOE has maintained close contact with other affected Federal and state agencies and local governments. A variety of advisory committees and task forces have been established to provide greater cooperation and coordination in implementation of the program.

V. PROBABLE IMPACT OF THE PROPOSED ACTION ON THE ENVIRONMENT

As indicated in the description of the Federal coastal zone management program (Section II), it is clearly the intention of the CZM Act to produce a net environmental gain or benefit in the Nation's coasts. The Act encourages states to achieve this goal through better coordination, explicit recognition of long-term objectives and the development of a more rational decision-making process in context with the overall policy guidance. It might be expected that this process, which could affect much of the activity along the coasts, would have a substantial environmental impact. However, as there have previously been no management programs approved, the impact of such an action is difficult to assess. Unlike a specific project of activity, there is no real experience upon which an analysis of the environmental impact can be assessed.

Undoubtedly both beneficial and adverse environmental and socio-economic effects will derive from Federal approval and state implementation of the Washington coastal zone management program. The following appear most significant.

A. Impacts directly resulting from Federal approval

Impacts associated with the Federal approval of the Washington coastal zone management program fall into two categories: (1) impacts due to a direct transfer of funds to the state and local governments, and (2) impacts from the implementation of the Coastal Zone Management Act.

Federal approval will permit the Office of Coastal Zone Management to award program administrative grants (Section 306) to Washington. This will increase the level of employment of specialists such as planners, scientists, permit review and enforcement officials at both the state and local government levels, and provide or augment the professional basis for resource management which may not have previously existed. As pointed out in Section II, one of the weaknesses of the Washington program to date has been a lack of funding and inadequate staffing to administer and enforce the various program requirements. Federal 306 grants will be used to help administer and enforce the state and local Master Programs. Increased funding should speed up the completion of Master Programs and provide the resources for continual improvement of those programs. Funds will be used to allow for more detailed studies related to the human and natural environments which will increase the quality of the base from which coastal zone management decisions will be made. An increase in the staff will speed up the permit review and appeals system and provide better enforcement of the program regulations.

Federal approval and state implementation of the state's coastal zone management program will also have implications for Federal agency actions and on the national interest in the siting of facilities of more than local concern. As explained earlier, the Federal consistency requirements of the Act (Section 307(c) and (d)) require that direct Federal activities or development projects must be consistent to the maximum extent practicable

with approved state programs. Federal agencies issuing licenses or permits for any activity affecting the coastal zone are generally constrained from doing so until the state certifies that the proposed activity is in fact consistent with its management program. In addition, Federal agencies are in most cases restricted from approving proposed projects affecting the coastal zone which require Federal assistance unless they are consistent with the coastal management program.

Although states have previously had the opportunity to comment upon Federal actions, licenses or permits, in the past this comment has not generally been required or mandatory. This new responsibility will provide for more coordinated and comprehensive management of coastal resources and uses, and has the potential for reducing the fragmented, single-purpose and frequently conflicting nature of activities affecting the coastal zone.

The Federal Coastal Zone Management Act does require that state governments issue or deny a certification of consistency within six months from the time of application, or consistency will be presumed. There is some confusion in Washington as to how this provision will be implemented at the state and local levels, specifically what the sequence of events will be (whether the applicant can or will apply for certification prior to or after the granting or refusal of a state shoreline management permit) and whether and at what point a state environmental impact statement will be required. However, some local governments have expressed the fear that responding within six months (shoreline management permits now take a minimum of three months to process) will impose an insurmountable administrative burden on them. Program administrative grants should help to alleviate that burden, if it in fact exists.

In cases where projects are judged inconsistent with the management program and the state has objected or denied certification, Federal agencies will have to deny permit applications unless the appeal procedures established by the OCZM are applied. The impacts associated with a Secretarial override, should it be exercised, could be significant, but would depend on an evaluation of each specific case.

The overall thrust of Federal consistency will be to provide closer cooperation and coordination between Federal, state and local government agencies involved in coastal zone related activities and management. This will be considered to be a desirable impact and indeed, is one of the objectives of the Act as discussed earlier.

Federal approval of a state's program would also signify that the state has an acceptable procedure and administrative mechanism to insure the adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. Such facilities might include energy production and transmission; recreation; interstate transportation; production of food and fiber; preservation of life and property; national defense and aerospace; historic, cultural, esthetic and conservation values; and mineral resources, to the extent they are dependent on or relate to the coastal zone.

This policy requirement is intended to assure that national concerns over facility siting are expressed and dealt with in the development and implementation of state coastal zone management programs. The requirement should not be construed as compelling the states to propose a program which accommodates certain types of facilities, but to assure that such national concerns are included at an early stage in the state's planning activities and that such facilities not be arbitrarily excluded or unreasonably restricted in the management program without good and sufficient reason.

This provision might have two impacts. First, it will prohibit a state from arbitrarily or categorically prohibiting or excluding any use or activity dependent on the coastal zone. Whereas in the lack of a comprehensive planning program such consideration might simply be ignored by oversight or default, this requirement will insure they are specifically included. On the other hand, the existence and approval of an explicit procedure will protect the state from the capricious imposition of actions or projects by Federal agencies in the name of the National Interest. In either event, the procedure should lead to the more deliberate and thoughtful and less fragmented and wasteful, siting of such facilities in the Nation as a whole.

Finally, Federal approval of the Washington coastal zone management program would be the first of thirty-four steps (there being thirty-four coastal states and territories) necessary to ultimately achieve the national goals and policies in the Act, to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations.

B. Impacts Resulting from the State and Local Government Actions

Although the Washington shoreline management program was begun prior to the passage of the Federal CZM Act, and would continue even if Federal funds or approval were withheld, approval by the Secretary can be expected to affect the program (as outlined above) in such a fashion as to make it more complete, effective, and timely. It would therefore seem appropriate to examine the impacts of the state program. Again, because the proposed action is regulatory and goal oriented, rather than proposing actual physical development or specific activity in the coastal zone, the actual assessment of impacts is difficult.

The state has identified twenty desirable environmental effects resulting from its implementation of the SMA and from local government preparation of shoreline Master Programs. These might be summarized as:

(1) the recognition and protection of the coastal zone and its esthetic, cultural, biological and natural components, as a fragile, limited, and valuable resource;

(2) the protection of public rights, such as public health and safety; public access and navigation; recreation; and public property, dependent on or related to the coastal zone;

(3) the promotion of proper and desirable development in suitable locations, and the restriction, reduction or prohibition of incompatible, undesirable, or unnecessary coastal uses and activities;

(4) the promotion and enhancement of long-range public benefits, especially from renewable resources, at the expense of short term benefits; and

(5) an increase in coordination and cooperation in planning and management efforts among state and local governments.

The designation of all coastal areas into one of the four environmental types (natural, conservancy, rural, or urban) in the local government Master Programs will have several effects. Until all local government Master Programs are developed and approved, it is impossible to assess the ratio of lands in each category. DOE representatives have indicated that perhaps 1 to 5% of the shoreline may ultimately be classified as urban, 10 to 15% rural, 2 to 5% natural, and the remainder conservancy. Based on the amount of land already urbanized (perhaps 3%) the estimate for the first two categories may be low.

Lands designated as natural, or to a lesser extent conservancy, as well as lands designated by the state for preservation or restoration, will be provided increased long-term, if not permanent, protection. These resources, their values and benefits, will be perpetuated, which will be generally beneficial to the environment. In contrast, lands designated rural and especially urban potentially will guarantee the ultimate development of such areas with concomitant loss of natural resources. Population, commercial, and industrial densities will likely increase in such areas. While this might be considered a negative or adverse environmental impact, and assuredly will be in some circumstances, it must be recognized that not all development or activity in the coastal zone can or should be halted. As long as these determinations are based on sound information and processes which reflect the value of the natural environment, a process for determining where development should go, as well as where it should not, can be environmentally beneficial, for the designation of specific areas for development will focus and restrict such activities to carefully chosen sites. This will reduce the development pressures on other environmentally sensitive or valuable areas, and will also serve to reduce urban sprawl with its variety of induced impacts.

On the other hand, protection of some natural areas may mean that resources there, such as timber or minerals, could not be utilized or exploited. No large mineral reserves have been identified in the coastal zone, and the impact of prohibiting timber harvest in those sections of the 200 foot coastal strip will be insignificant in view of the overall state timber resources.

Because the categorization of coastal lands into the four environmental types will restrict or reduce the development potential of some properties and enhance the same potential in others, property values and ultimately property tax revenues may be affected. Without a great deal of experience it is difficult to assess the magnitude of such an impact. Potentially the result might be a displacement of property values (losses in some areas and gains in others) more than a net loss or gain. The most adversely affected sector will be the investment speculators. It is also probable that such changes

will be short-term only, and that with insured protection of use and enhanced protection of the coastal amenities the long-term property values in the coast will increase.

The SMA does specify that where use of land is restricted because of the SMA, the "restrictions imposed . . . shall be considered by the county assessor in establishing the fair market value of the property." (RCW 90.58-290). While providing relief to aggrieved property owners, the decrease in property values will decrease the amount of property tax generated revenues received by local governments. This could result in: (1) a decrease in public service to the community, especially in counties lacking some urban environments in which the increase in property value might offset the tax loss, and (2) increase taxes in some areas.

As indicated earlier, however, because the supply of developable lands would be reduced, their value and taxes would increase. Further, as the coastal aesthetic and resource amenities are protected and preserved adjacent properties will become more desirable for residential and recreational uses. The higher value of these lands would result in a positive effect on the tax base, which may fully compensate for anticipated tax losses.

The restriction on the use of land imposed by the categories, and the requirements to reduce the visual and environmental impacts of development and coastal activities, may increase operating or capital costs for some operations. These will be balanced by public gains from the continued protection or enhancement of the coastal resources. To the extent they occur such losses really reflect the external costs of such operations, which have traditionally been born by the public but which are now, though regulatory authority, being charged to the responsible individual.

The designation of the 200 foot boundary may tend to increase the development pressure on adjacent lands immediately inland from the boundary (that is, just outside of the coastal zone permit boundary). This will result from two causes. First, activities and development prohibited or restricted in the coastal zone may simply relocate just outside of its boundaries. In some cases developers may relocate simply to avoid the permit procedure.

Secondly, the value or attractiveness of these lands will be enhanced as the coastal resources are protected and as assurance is provided that future uses will remain consistent or compatible with desired objectives.

The state intends to closely monitor such activities and regulate them as necessary or desirable by other state authorities (such as air and water pollution controls, flood plain zoning, etc.)

The exemption by the state of certain activities (e.g. agriculture, private residence, and private bulkheading) from SMA permit requirements will have the potential for an adverse environmental impact on coastal resources. Exemption from the SMA permit procedure, however, does not provide exemption from other state regulatory authorities, which will be fully utilized to minimize the impact of such activities on coastal land and waters.

The impact of the program on the distribution of people in coastal areas may be significant. Future residential subdivisions and multi-family dwellings may be prohibited from specific areas. This may ultimately result in greater population densities in rural and urban areas, but will also tend to limit urban sprawl into non-developed areas.

The program is intended to protect water dependent uses and coastal resources. This would result in the protection and even enhancement of commercial and sport fishing industries, and the continuation of other water dependent industries. The program is not intended to displace existing non-water dependent industries, but with time and the arrival of new industries, gradual shifts in industrial patterns may occur. The program is not expected to affect employment.

The state program will also provide for greater coordination of state, local, and Federal actions to explicitly identified goals. This will reduce conflict and counter-productive activities. Although the new mechanisms and procedures will undoubtedly disrupt established procedures, practices, and relationships, such disruptions will be only short-lived.

Finally, by reducing the careless destruction of coastal resources and the benefits they provide, the Washington coastal zone management program can be expected to produce long-term economic benefits, while reducing short-term gains made at the expense of those resources and which frequently encumber society with long-term maintenance costs.

VI. ALTERNATIVES TO THE PROPOSED ACTION

A. Federal Alternatives to Approval of Washington CZM Program

The Secretary could delay Washington CZM program approval until all coastal city and county Master Programs are completed and approved by the Washington Department of Ecology.

Since the coastal city and county Master Programs are the basic implementing mechanisms for the CZM and SMA programs, delay of CZM program approval until their completion might permit a better determination to be made of the ability of the State of Washington and its local governments to meet the intention of the CZM Act. Performance could be more thoroughly analyzed leading to a better evaluation of specific areas and regulatory activities. In addition, completion of all programs would allow time for more effective regional cooperative efforts. However, state policies, authorities, appeal procedures and management activities are sufficient to meet CZM requirements and are and will continue to be in force if local programs do not meet these stringent requirements. In addition, the CZM Act and OCZM in administering the Act acknowledge that effective management of a state's coastal zone necessarily is a continuing process, only one step of which is program approval. The State of Washington's SMA and other legislation, together with other program elements meet the spirit and letter of the CZM Act. All local coastal Master Programs are to be completed by the end of 1975, and all applicable state standards, criteria and review authorities will be maintained during and after such completion. Even though some delays have been experienced in master program development over the last year and a half, and some minor additional delays could occur, substantial progress has been made. At this time all cities and counties have a Master Program in progress at one stage or another. HUD 701 funds which are being used for completion of these programs will be diverted to other programs at the end of FY 75. The majority of OCZM 306 funds are planned to be used for continuing improvement and refinement as well as implementation of these Master Programs starting in FY 76. A second year 305 grant could not be used for this purpose, since it can only be used to support program development, not implementation.

Delay in 306 funding until all Master Programs are approved would only serve to slow down the implementation and refinement processes. Moreover, such a delay of 306 funds would serve to cast a shadow over the efforts to date and might seriously jeopardize the enthusiasm and momentum for effective coastal management which the State of Washington has initiated.

Furthermore, if approval is not given for the Washington CZM program, then the Federal consistency section (Sec. 307) of the CZM Act cannot be applied within the state. Specifically, this section requires that any Federal agency which conducts, supports or undertakes an activity in or affecting the CZ shall insure that the activity is "to the maximum extent practicable" consistent with an approved state CZM program. The consequence of delayed approval is that inconsistent Federal actions in the coastal zone may cause disruptions to existing state standards and local Master Programs.

The Secretary could delay approval of the Washington CZM program until legislation is passed for comprehensive statewide and nationwide land use programs.

Over the past several years there have been attempts both nationally and in the State of Washington to enact effective land use legislation. Once such legislation is passed, it might be logical to merge the CZM program into the broader context of a land and water use program for each state and the nation as a whole. Delay of implementation of CZM and the SMA in Washington would allow the state to create one resource management program rather than having to go through the policy, administrative and institutional difficulties of melding CZM with a statewide land use program.

Delay in CZM program approval for Washington will not terminate the shoreline management program which is well underway. Rather, it would serve to delay its full implementation. Thus, lack of CZM program approval would not cause the State of Washington to await a comprehensive land use program. Only a complete reversal of state policy would do that.

The Washington State CZM and SMA programs are, in effect, serving as pilot programs for more comprehensive land use program in a critical environmentally valuable geographic area of the state. Much can be learned from their shoreline management experience which could be applied to all the lands of the state. In the meantime, Washington's coastal resources, the most threatened and perhaps most valuable in the state, are starting to be effectively managed on a shared state-local basis. Waiting for a comprehensive land use program may cause a delay sufficient to allow the loss or damage of many of these valuable resources.

The Secretary could delay CZM program approval until the Federal establishment has developed specific policies for the siting of facilities meeting requirements which are of national interest.

The CZM Act requires that adequate consideration be given to the national interest in siting of certain facilities within a state's coastal zone. The state has considered and provides for many of these needs including defense installations, port facilities, power generating complexes and fisheries management. Legislative authority to insure that all such facilities meet both state and national needs would be beneficial to the CZM program. However, until Federal agencies formulate long-term plans which indicate national and regional needs for such facilities within the country, decisions will be made largely on a case by case basis and thus state legislation could, at best, have a limited impact on promoting the national interest. It is expected that until such national policies are promulgated by the Federal government, the authorities the State of Washington has in the Thermal Power Plant Site Evaluation Council Act, the SMA and the CZM Act, will be adequate to provide for the national interest in siting such facilities. In addition, DOE will be advised in these matters by the Federal and state agency committees established to deal with the national and state interests in the siting of facilities.

B. Implementation and Control Alternatives for the State CZM Program

The State of Washington could use other existing authorities for funding and implementation of a state program meeting the objectives of the CZM Act.

Specifically these include the National Marine Sanctuary provisions of the Ocean Dumping Act, the Estuarine Sanctuary provisions of the CZM Act, the HUD 701 Program, Areawide Waste Treatment Management Programs (Section 208, PL 92-500), the State Environmental Coordination Procedures Act, the state's Shoreline Management Act (SMA), the Thermal Power Plant Site Evaluation Council Act, the National and State Environmental Policy Acts (NEPA and SEPA), the Clean Air Act, the Water Pollution Control Act, local comprehensive plans, flood zone and other permit authorities, and other such activities.

The proliferation of authorities which place controls upon land and water use has questionable utility, especially when they overlap significantly. There is no question that the objectives of the proposed CZM program coincide to some degree with the objectives of the authorities listed above. The state's use of existing authorities, especially the SMA and the SEPA, could go a long way to meeting the concepts described in the CZM Act.

However, the basic purposes of the CZM Act: "to promote effective management, beneficial use, protection, and development of the coastal zone" and to develop "unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance" are not completely covered by any of these authorities. Furthermore, none of the existing authorities except the CZM Act have basic requirements for consistency with an approved program of Federal actions affecting the coastal zone nor for consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. Without the CZM framework existing authorities are either very general in nature or have a specific or single purpose intent.

The Estuarine and Marine Sanctuary provisions are designed to preserve water areas for specific (research, educational, recreational, historic, esthetic, etc.) values but forbid industrial, commercial or residential uses. The HUD 701 program has provided some funds for development of Master Programs (under the SMA) and for development of local comprehensive plans, but after July 1, 1975, these funds will be diverted for other purposes. NEPA, the Clean Air Act, and the Water Pollution Control Act and SEPA have as their objective adequate consideration and regulation of air and water quality. While these are fundamental to and an integral part of the CZM program, they are insufficient to direct the effective balance between conservation and development that is intended by CZM. Existing permits are designed for specific purposes (air quality protection, water quality, water table reductions, preservation of food fish resources, wildlife protection, compliance with zoning laws, etc.) but cannot be used effectively to comprehensively plan and manage the resources of the coastal zone, which is one of the major unifying thrusts of CZM. The SMA is the principal authority which the state will use to administer the CZM Act, but it does not meet all the requirements of the Act. Specifically missing are areas of particular concern and designation of areas for restoration and preservation. It is clear then, that these other authorities fill many of the

individual requirements of the CZM Act, but do not individually or separately provide for the comprehensive land and water use management program called for by the Act and implemented through program approval.

The state might exert complete control over the implementation of the CZM Program.

This is essentially Initiative 43, a bill entitled "The Shorelines Protection Act," which was rejected by public vote of the people of the State of Washington in November 1972 in favor of the existing SMA. Strong support for Initiative 43 came from the Washington Environmental Council, while opposition came from local governments and many development groups.

This alternative would result in policies, regulations and control being applied statewide. There would be less conflict of interest for local governments which otherwise would have to regulate development projects that are the primary source for their tax base. Only one plan would have to be developed and implemented rather than 15 county and 37 city programs. It would meet the intentions of the CZM Act that states effectively exercise their responsibilities in the coastal zone. It would enable easier inter-state and multi-state cooperation and coordination.

Total state control of the implementation of the CZM Act, however, would require new legislation by the State of Washington. Although this certainly is possible, the conflicts produced by the existing SMA indicates that such a step would not be acceptable to the people of the State. Total state control would not put responsibility into the hands of local government, subject to state review and approval, and thereby would almost certainly engender significant local obstruction of the program.

In contrast to the above alternative, county and city governments might exert complete control over implementation of the CZM programs with no overall guidelines and performance standards from the state. CZM money would be given directly to local governments through an organization such as an association of counties.

In this case local concerns and conditions would be handled by local governments. The additional state permits required by the SMA could be eliminated.

This alternative could not be acceptable under the conditions of the CZM Act, which indicates that states must assert their full authorities and responsibilities in management of the resources of the coast. Furthermore, the Act stipulates that CZM grants must be awarded to states, This alternative would essentially imply that local governments could continue to conduct "business as usual," a condition which is at least in part responsible for the degradation of the resources of some coastal areas. In essence, total local control is incompatible with the objectives of coastal zone management and not allowable under the Act.

C. Alternatives to Proposed Program Elements

The state could extend the boundary of most direct control to 500 feet, measured horizontally, inland from the ordinary high tide instead of the proposed 200 feet. The proposed boundary around estuaries, river mouths, etc., would be maintained.

This alternative was also a part of Initiative 43 which was rejected by the voters in November, 1972.

Increasing the proposed boundary from 200 feet to 500 feet would increase the number of acres under the most direct state control from approximately 57,000 acres to approximately 142,000 acres, plus the associated wetlands. The proportional control over "substantial development" would certainly enhance coastal resource protection by decreasing development activities which would significantly degrade the quality of coastal waters. In addition, natural areas within the 500 feet would be preserved, providing effective natural drainage, contaminent removal and an aesthetically pleasing buffer zone between shoreline and development areas.

While certain benefits, as explained above, would accrue with such increased control, a proportional increase in administrative responsibility would be necessary. Since the proposed 200 feet boundary includes the first row of building lots and often the associated access road as well as many of the unstable or dangerous building areas, extension to 500 feet probably would not add proportionally to the benefits derived from the shoreline protection requirements. Furthermore, since the associated wetlands such as marshes, bogs, swamps, estuaries, and mudflats, included with the 200 feet boundary, are the principal natural areas in need of preservation, the increase to 500 feet would not be necessary to protect them. In addition, a 500 foot boundary in urban areas would be extremely difficult to administer. Moreover, the state feels that adequate control can be maintained over uses on lands inland from the 200 foot boundary by the use of water quality control and other regulations. Finally, the voters of the state rejected the 500 foot boundary in favor of the 200 foot boundary in November, 1972. There is no evidence that the voters of Washington would find the 500 foot boundary acceptable now.

The definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on coastal waters could include uses excluded from the SMA definitions of "substantial development," as well as those included by that definition.

These additional uses, which are presently exempt from SMA permit requirements, are:

(1) construction of the normal protective bulkhead, common to single family residence

(2) construction of a barn or similar agricultural structure on wetlands.

(3) construction on wetlands by an owner, leasee, or contract purchase of a single-family residence for his own use or for the use of his family.

These additions to the definition of uses which have a direct and significant impact would help insure better protection to shoreline and wetland areas. Protective bulkheads, due to their frequency of occurrence add significantly to changes in the natural physical processes of the erosion and accretion of shoreline. While bulkheads provide short term localized erosion protection, they disrupt the natural processes, often causing more severe erosion down current. Development in wetland areas, whether agricultural, private residential or commercial, almost always adds to the degradation of natural biological processes and water quality. Non-point source wastes, agricultural and private residential waste products (septic tank effluent) as well as disruption of the natural surface water and ground water flow patterns could be expected to cause significant adverse impact on coastal waters.

The major adverse impact expected from expanding the definition of "substantial development" to include these additional development activities is that pressure for these activities would be great and little tolerance would be shown for the time delays caused by the permits required prior to construction. Moreover, these uses are only exempt from the SMA permit requirements and not other state controls. As with the above alternative, the state believes that adequate control can be maintained over these uses by its existing authorities over dredge and fill, water quality, and flood control zoning.

<u>The state could compensate land owners for a drop in property value of property or for economic opportunities lost as a result of construction permits deprived by the SMA within the 200 foot boundary.</u>

This is essentially House Bill No. 550 currently in the House Committee on Ways and Means - Revenue.

There is little doubt that implementation of the CZM program in Washington will cause a constraint on existing land use and development along the shoreline, especially within the 200 foot boundary. This can be expected as established procedures are abandoned and new ones are implemented. As a result of those constraints, changes in property values will occur and allowable methods and locations for construction will change, with a resultant economic loss to some and economic gain to others. It can be expected, however, that as new procedures, policies and regulations become established and accepted, the process of site selection and obtaining construction permits will be no more lengthy or costly than at present. It can also be expected that as concern for preservation of the natural values of the shorelines and the coastal waters increases, there will be an increase in the value of controlled coastal property to a point equal to if not exceeding the previously projected values.

Compensation to property owners for loss due to this disruption would be a controversial, costly and an extremely complicated and difficult administrative problem. The state is not exerting eminent domain, but rather restricting uses of the land for the public health, safety and welfare under its legitimate regulatory powers. It is difficult to establish exactly now how uses to which the property could be put would affect its value. General trends can be predicted, but specific property values are subject to too many influences to predict future price. Claims, if House Bill No. 550 or a similar compensation measure passed, could be expected to be in the order of one hundred million dollars for the coastal lands adversely influenced by the CZM and SMA programs, but in the lack of similar experience, the state would not have the ability to judge how realistic or excessive these might be. While few would question the fact that short-term economic losses would occur, others would question its magnitude and would claim that long-term economic gain would offset such losses.

VII. PROBABLE ADVERSE ENVIRONMENTAL EFFECTS WHICH CANNOT BE AVOIDED

While an overall assessment of the probable effects would indicate the Washington coastal zone management program is environmentally beneficial, a number of potential adverse impacts can be identified.

The regulations and controls deriving from the Master Programs and the state management program will assure that some areas will be developed more fully and more swiftly than if development were to proceed in a fragmented, less controlled fashion. This will result in the loss of environmental amenities associated with those resources. This will be offset by a corresponding increased protection of other areas and resources.

The same program regulations and plans will reduce or restrict the usability of some lands; this may result in diminished value for some coastal property, with a loss to the property owner and a decrease in property taxes.

Resource extraction or exploitation, especially timber harvest, may be restricted or prohibited in some (a small percentage) of the coastal lands.

Development pressures may increase on lands adjacent to but immediately inland from the 200 foot shoreline permit zone, with concomittant destruction of environmental resources in that zone.

Finally, population and industrial growth will be limited to specific areas, with the result that both will ultimately become more densely concentrated.

VIII. RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF THE ENVIRONMENT AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

While approval of the proposed state coastal zone management program will restrict local, short-term uses of the environment, it will also provide long-term assurance that the natural resources and benefits provided by the Washington coast will be available for future use and enjoyment. This theme is central to the state and Federal programs.

Without the implementation of rationally based land and water use management programs intense short-term uses and gains, such as provided by residential or industrial development, might be realized. However, such uses would most likely result in long-term restrictions on coastal resource use and benefit because of degradation of the environment. Without proper management the traditional conflicts between coastal resource users -- residential, commercial, industrial, timber, recreational, and wildlife -- could be expected to occur.

By providing a sound basis for decision-making, and by protecting the important segments of the natural system, the management program will directly contribute to the long-term maintenance of the environment.

IX. IRREVOCABLE OR IRRETRIEVABLE COMMITMENTS OF RESOURCES THAT WOULD BE INVOLVED IN THE PROPOSED ACTION SHOULD IT BE IMPLEMENTED

The approval of the state coastal zone management program, and implementation of the local government Master Programs, will lead certain areas of the Washington coastline to be intensely, and for all practical purposes, irrevocably developed. This will cause the loss of some environmental resources. A limited amount of timber and perhaps mineral resources will also be removed from direct commercial exploitation.

X. CONSULTATION AND COORDINATION WITH OTHERS

The state DOE has actively encouraged and solicited participation by a variety of state and Federal agencies, local governments, special interest groups and the public at large during the preparation and implementation of its coastal zone management program. A partial list of those involved includes representatives of all counties or county planning departments, all state agencies, and the following Federal agencies: EPA, FPC, FEA, Federal Highway Administration, U.S. Forest Service, U.S. Soil Conservation Service, Bureau of Indian Affairs, Bureau of Reclamation, Bureau of Outdoor Recreation, U.S. Fish and Wildlife Service, National Park Service, U.S. Geological Survey, Maritime Administration, Economic Development Administration, NOAA, U.S. Army Corps of Engineers, Department of Defense, Civil Preparedness Agency, U.S. Coast Guard, Federal Aviation Administration, and the Federal Regional Council. The state has established a Federal agency committee to assist in coordination and cooperation in development of the program.

As the state received Federal CZM funds to develop its program, representatives from the Office of Coastal Zone Management also met with a variety of Federal and state agencies to ensure coordination. These included meetings, generally with the regional representatives, between OCZM and FEA, National Marine Fisheries Service, Soil Conservation Service, the Economic Development Administration, the Pacific Northwest River Basins Commission, the Federal Regional Council, and the Department of the Interior, HEW and HUD. Meetings were also held with the Puget Sound Governmental Conference and the Pacific Northwest National Seashore Alliance.

XI. PUBLIC HEARING

As a part of the review and comment process pursuant to this proposal, a public hearing for the purpose of receiving information and comments from concerned public and private organizations and citizens will be held from 7:30 p.m. to 12:00 midnight on April 22, 1975, at the:

Conference Room
General Administration Building
Capitol Complex
Olympia, Washington

Persons wishing to make a statement at the hearing should so inform the :

Edward T. LaRoe
Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
Rockville, Maryland 20852 (phone: 301 496-8896)

of their desires. It may be necessary to impose a time limit on speakers.

Both written and oral statements will be accepted. Comments should address the adequacy of the draft Environmental Impact Statement as well as the desirability of the proposed action.

Copies of the complete state application, with supporting documents, will be available for public inspection at the following locations:

CLALLAM COUNTY

North Olympic Library System
2210 S. Peabody Street
Port Angeles 98362
206 457-4464 -- James H. Kirks, Jr.

GRAYS HARBOR

Aberdeen Timberland Library
121 E. Market Street
Aberdeen 98520
206 533-2360 -- Rosalie Spellman

ISLAND CO.

Snow Isle Regional Library
P.O. Box 148
Marysville 98270
206 259-8177 -- Mae L. Schoenrock

JEFFERSON CO.

Port Townsend Public Library
1228 Lawrence Street
Port Townsend 98368
206 385-3181 -- Madge M. Wallin

KING COUNTY

King County Library System
300 8th Ave., North
Seattle 98109
206 344-7465 -- Herbert F. Mutschler

KITSAP COUNTY

Kitsap Regional Library
612 5th Street
Bremerton 98310
206 377-3955 -- Irene Heninger

MASON COUNTY

Timberland South Mason LIbrary
Rt. 5, Box 35
Shelton 98584
206 426-1362 -- Doris Whitmarsch

PACIFIC COUNTY

Raymond Public Library
507 Duryea
Raymond 98577
206 942-2408 -- Jay Windisch

PIERCE COUNTY

Pierce County Library
2356 Tacoma Ave., S
Tacoma 98402
206 572-6760 -- Carolyn J. Else

SAN JUAN CO.

Eastsound (Meyers) Library
Orcas Island
P.O. Box 165
Eastsound 98245 -- Polly Klauder

SKAGIT CO.

Anacortes Public Library
1209 9th Street
Anacortes 98221
206 293-2700 -- G. Douglas Everhart

SNOHOMISH CO.

See Island Co.

THURSTON CO.

Olympia Public Library
7th and Franklin
Olympia 9850.
206 352-0595 -- Margaret Coopinger

WAHKIAKUM CO.

Cathlamet Public Library
P.O. Box 337
Cathlamet 98612
206 795-3254 -- Eleanor A. Taylor

WHATCOM CO.

Whatcom County Library
5205 N.W. Road
Bellingham 98225
206 733-1250 -- Linda Hellyer

And at the following locations in the vicinity of Washington, D.C. :

Office of Coastal Zone Management
NOAA

From March 21 to March 31
11400 Rockville Pike
Room 306
Rockville, Maryland 20852

From April 2 to May 21
3300 Whitehaven St., N.W.
Page 1 Building
Room 301
Washington, D. C. 20235

Department of Commerce
Main Commerce Building
14th & Constitution, N.W.
Room 7046
Washington, D.C. 20230

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Grays Harbor Regional Planning Commission, 1973, Grays Harbor Erosion Management Study.

Odum, H. T., et al, Editors, 1974. Coastal Ecological Systems of the United States, Conservation Foundation, Washington, D.C. 4 volumes.

Oregon State University, 1971. Oceanography of the Nearshore Coastal Waters of the Pacific Northwest Relating to Possible Pollution. Water Quality Office, U.S. Environmental Protection Administration, 2 volumes.

Pacific Northwest River Basins Commission, (1969). Columbia - North Pacific Region Comprehensive Framework Study of Water and Related Lands. Appendix XVI.

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Washington, State of, Department of Natural Resources, 1974. Washington Marine Atlas,. 6 volumes.

Washington, State of, Office of Program Planning and Fiscal Management, 1974. Pocket Data Book, 1973.

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APPENDIX 1

PUBLIC LAW 92-583

COASTAL ZONE MANAGEMENT

ACT OF 1972

Public Law 92-583
92nd Congress, S. 3507
October 27, 1972

An Act

To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

Marine Resources and Engineering Development Act of 1966, amendment.

80 Stat. 998; 84 Stat. 865.

TITLE III—MANAGEMENT OF THE COASTAL ZONE

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this title, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such managament programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems.

DEFINITIONS

SEC. 304. For the purposes of this title—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set

aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307(f).

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 307(g).

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) The grants shall not exceed 66⅔ per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program. Limitation.

(d) Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for

review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 306 of this title.

Grants, allocation.

(e) Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however*, That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

(f) Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

Expiration date.

(h) The authority to make grants under this section shall expire on June 30, 1977.

ADMINISTRATIVE GRANTS

Limitation.

SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

Allocation.

(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however*, That no annual administrative grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

Program requirements.

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration

Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and 80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone;

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

80 Stat. 1262; 82 Stat. 208. 42 USC 3334.

Program modification.

(g) The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the state under the program as amended.

Segmental development.

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

INTERAGENCY COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c)(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

Certification.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such

certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security. Notification.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security. 42 USC 4231.

(e) Nothing in this title shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program. Ante, p. 816. 81 Stat. 485; 84 Stat. 1676. 42 USC 1857 note.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such pro-

gram, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

PUBLIC HEARINGS

SEC. 308. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

Financial assistance, termination.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

RECORDS

SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

Audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

ADVISORY COMMITTEE

Coastal Zone Management Advisory Committee, establishment; membership.

SEC. 311. (a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

Compensation, travel expenses.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their

homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently. 80 Stat. 499; 83 Stat. 190.

ESTUARINE SANCTUARIES

SEC. 312. The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed $2,000,000. No Federal funds received pursuant to section 305 or section 306 shall be used for the purpose of this section. Grants. Federal share.

ANNUAL REPORT

SEC. 313. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

RULES AND REGULATIONS

SEC. 314. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title. 80 Stat. 383.

AUTHORIZATION OF APPROPRIATIONS

SEC. 315. (a) There are authorized to be appropriated—

(1) the sum of $9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed $30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed $6,000,000 for the fiscal year ending June 30, 1974, as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.

Approved October 27, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 92-1049 accompanying H.R. 14146 (Comm. on Merchant Marine and Fisheries) and No. 92-1544 (Comm. of Conference).
SENATE REPORT No. 92-753 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 118 (1972):
Apr. 25, considered and passed Senate.
Aug. 2, considered and passed House, amended, in lieu of H.R. 14146.
Oct. 12, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 44:
Oct. 28, Presidential statement.

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APPENDIX 2

COASTAL ZONE MANAGEMENT

PROGRAM APPROVAL REGULATIONS

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

COASTAL ZONE MANAGEMENT PROGRAM ADMINISTRATIVE GRANTS

NOTICE OF FINAL RULEMAKING

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PART 923—COASTAL ZONE MANAGEMENT PROGRAM APPROVAL REGULATIONS

The National Oceanic and Atmospheric Administration (NOAA) on August 21, 1974, proposed guidelines (originally published as 15 CFR Part 923), pursuant to the Coastal Zone Management Act of 1972 (Pub. L. 92-583, 86 Stat. 1280), hereinafter referred to as the "Act," for the purpose of defining the procedures by which States can qualify to receive administrative grants under the Act.

Written comments were to be submitted to the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, before November 22, 1974, and consideration has been given these comments.

The Act recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation. Present State and institutional arrangements for planning and regulating land and water uses in the coastal zone are often inadequate to deal with the competing demands and the urgent need to protect natural systems in the ecologically fragile area. Section 305 of the Act authorizes annual grants to any coastal State for the purpose of assisting the State in the development of a management program for the land and water resources of its coastal zone (development grant). Once a coastal State has developed a management program, it is submitted to the Secretary of Commerce for approval and, if approved, the State is then eligible under Section 306 to receive annual grants for administering its management program (administrative grants).

The regulations below set forth (a) criteria and procedures to be utilized in reviewing and approving coastal zone management programs pursuant to section 306 of the Act, and (b) procedures by which coastal States may apply to receive administrative grants under section 306(a) of the Act. The criteria and procedures under (a) constitute the "guidelines for section 306" referred to in 15 CFR 920.

The National Oceanic and Atmospheric Administration is publishing herewith the final regulations describing procedures for applications to receive administrative grants under section 306 of the Act. The final regulations and criteria published herewith were revised from the proposed guidelines based on the comments received. A total of thirty-two (32) States, agencies, organizations and individuals submitted responses to the proposed section 306 guidelines published in the FEDERAL REGISTER on August 21, 1974. Of those responses received, nine (9) were wholly favorable as to the nature and content of the guidelines as they appeared in the FEDERAL REGISTER on August 21, 1974. Twenty-three (23) commentators submitted suggestions concerning the proposed Section 306 guidelines.

The following analysis summarizes key comments received on various sections of the draft regulations and presents a rationale for the changes made:

1. Several commentators asserted that the guidelines did not adequately reflect the environmental considerations contained in the Act. No changes were made in response to these comments since the guidelines more than adequately reflect the environmental concerns in the legislation as evidenced in part by the comment section under § 923.4:

> Management programs will be evaluated in the light of the Congressional findings and policies as contained in Section 302 and Section 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the 'urgent need to protect and to give high priority to natural systems in the coastal zone.

2. Several comments were received on the necessity of the Secretary of Commerce preparing and circulating an environmental impact statement on each individual State application as required by § 923.5. The National Environmental Policy Act, 42 USC 4332, and implementing regulations, 38 FR 20562, August 1, 1973, require an environmental impact statement be prepared and circulated on each individual State's application. An environmental impact statement shall be prepared on each individual State's application by the Secretary, primarily on the basis of an environmental assessment, and other relevant data, prepared and submitted by the individual States. This section was amended to reflect the requirement of the National Environmental Policy Act environmental impact statement requirements.

3. Several comments indicated that the States did not have a clear understanding as to what was meant under § 923.11 (b)(4) which refers to Federal lands subject solely to the discretion of, or which is held in trust by, the Federal government, its officers and agents. This section has been amended in order to provide a procedure for identifying those lands which are within the framework of this section.

4. Several commentators indicated that there was uncertainty as to what the requirements of the national interest were pursuant to § 923.15. This section has been amended in order to more succinctly state what the requirements are pursuant to this section and how a State must meet these requirements during the development and administration of its coastal zone management program. At the request of several commentators, several additions have been made to the list of requirements which are other than local in nature.

5. Several commentators indicated that § 923.26, which pertains to the degree of State control needed to implement a coastal zone management program, did not offer sufficient guidance in interpreting the legislation. In response to these comments, § 923.26 has been expanded to include specific examples of how a State may implement this section.

6. Comments received indicate there was some misunderstanding in interpreting § 923.43, which deals with geographical segmentation. This section has been substantially amended in order to indicate that the segmentation issue refers to geographical segmentation of a State's coastal zone management program. The requirements for a State to receive approval on a segmented basis are clearly set forth in the amendment to the regulations.

7. Extensive discussions have taken place with various elements of the U.S. Environmental Protection Agency (EPA) concerning the applicability of air and water pollution requirements to the development, approval and implementation of State management programs pursuant to § 923.44 of the proposed regulations. State coastal zone management programs have also been surveyed in order to determine current and anticipated problems, issues and opportunities associated with carrying out the requirements of section 307(f) of the Coastal Zone Management Act, and § 923.44 of the draft approval regulations. Consolidated EPA comments have been received, together with State reviews, and one comment from the private sector. Specific clarifications and changes as a result of these reviews are contained in §§ 923.4, 923.12, 923.32 and § 923.44 of these regulations.

8. One commentator objected to the amount of detail required in section 306 applications and the undue administrative burden proposed pursuant to Sub-

part F of the proposed regulations. The revisions attempt to both clarify and reduce those requirements, while still requiring sufficient information for the Office of Coastal Zone Management to approve management programs and make sound funding decisions.

Accordingly, having considered the comments and other relevant information, the Administrator concludes by adopting the final regulations describing the procedure for application to receive administrative grants under section 306 of the Act, as modified and set forth below.

Effective date: January 8, 1975.

Dated: January 6, 1975.

ROBERT M. WHITE,
Administrator, National Oceanic and Atmospheric Administration.

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AUTHORITY: 86 Stat. 1280 (16 U.S.C. 1451-1464).

Subpart A—General

§ 923.1 Purpose.

(a) This part establishes criteria and procedures to be employed in reviewing and approving coastal zone management programs submitted by coastal States and for the awarding of grants under Section 306 of the Act.

(b) The Act sets forth in sections 305, 306 and 307 a number of specific requirements which a management program must fulfill as a condition for approval by the Secretary. These requirements are linked together as indicated in the subparts which follow. Presentation of the State management program in a similar format is encouraged since it will enable more prompt and systematic review by the Secretary. However, there is no requirement that a State present its management program in the format which corresponds exactly to the listing of categories below. The broad categories are: Land and Water Uses, Subpart B; Authorities and Organization, Subpart C; Coordination, Subpart D; and Miscellaneous, Subpart E. Subpart F, Applications for Administrative Grants, deals with applications for administrative grants upon approval of State coastal zone management programs which will be subject to periodic review by the Secretary in accordance with Section 309 of the Act. In addition to providing criteria against which State coastal zone management programs can be consistently and uniformly judged in the approval process and establishing procedures for the application by States for administrative grants, it is the intent of this part to provide guidance to coastal States in the development of management programs. Therefore, many of the sections dealing with approval requirement in the subparts are followed by a "comment" which refers to a section or sections of the Act and indicates the interpretation placed upon the requirements of the Act or the regulation by the Secretary.

§ 923.2 Definitions.

In addition to the terms defined in the Act and 15 CFR 920.2, the following terms shall have the meanings indicated below:

"Final approval" means, with respect to a coastal zone management program, approval of a program which terminates the eligibility of the State for grants under Section 305 of the Act and makes the State eligible for grants under Section 306 of the Act. In cases where a State has elected to follow the geographical segmentation option pursuant to § 923.43, final approval will apply only to that specific geographical segment. The State will continue to remain eligible for development grants pursuant to Section 305 of the Act for the remainder of the State's coastal zone.

"Preliminary approval" means, with respect to a coastal zone management program, approval of a program which does not terminate the eligibility of the State for further grants under Section 305 of the Act, and which does not make the State eligible for grants under Section 306 of the Act.

"Use of regional benefit" means a land or water use that typically provides benefits to a significant area beyond the boundaries of a single unit of the lowest level of local, general-purpose government.

§ 923.3 Submission of management programs.

(a) Upon completion of the development of its management program, a State shall submit the program to the Secretary for review and final approval in accordance with the provisions of these regulations. A program submitted for final approval must comply with all of the provisions set forth in Subparts A–E of this part, including, in particular, Subpart C, which requires that certain authorities and plans of organization be in effect at the time of the submission.

(b) Optionally, the State may submit for the preliminary approval of the Secretary a program complying with the substantive requirements of this part, but for which the proposed authorities and organization complying with the provisions of Subpart C are not yet legally effective. In reviewing a program submitted for preliminary approval, the Secretary may grant such approval subject to establishment of a legal regime providing the authorities and organization called for in the program. If the State elects this option, it shall continue to be eligible for funding under Section 305 but it shall not yet be eligible for funding under Section 306 of the Act until such time as its program is finally approved. Upon a showing by the State that authorities and organization necessary to implement the program which has received preliminary approval are in effect, final approval shall be granted.

Comment. The purpose of the optional procedure is to provide a State with an opportunity for Secretarial review of its program before State legislation is enacted to put the program into legal effect. Some States may prefer not to utilize the optional procedure, especially those which have legislative authority enabling the coastal zone agency of the State to put the program into effect by administrative action. In any event, the Office of Coastal Zone Management will be available for consultation during all phases of development of the program.

(c) States completing the requirements set forth in Subpart B—Land and Water Uses, and Subpart D—Coordination, will be deemed to have fulfilled the statutory requirements associated with each criteria. If, however, a State chooses to adopt alternative methods and procedures, which are at least as comprehensive as the procedures set forth below, for fulfilling those statutory requirements contained in Subparts B and D, they may do so upon prior written approval of the Secretary. The States are encouraged to consult with the Office of Coastal Zone Management as early as possible.

Comment. The thrust of the Act is to encourage coastal States to exercise their full

authority over the lands and waters in the coastal zone by developing land and water use programs for the zone, including unified policies, criteria, standards, methods and processes for dealing with land and water uses of more than local significance. While the Act mandates a State to meet specific statutory requirements in order for the State to be eligible for administrative grants, it does not require the State to follow specific processes in meeting those requirements. The Secretary will review any State management program that meets the requirements contained in Subparts B and D in addition to the other subparts contained herein.

§ 923.4 Evaluation of management programs—general.

(a) In reviewing management programs submitted by a coastal State pursuant to § 923.3, the Secretary will evaluate not only all of the individual program elements required by the Act and set forth in Subparts B–E of this part, but the objectives and policies of the State program as well to assure that they are consistent with national policies declared in Section 303 of the Act.

(b) Each program submitted for approval shall contain a statement of problems and issues, and objectives and policies. The statements shall address:

(1) Major problems and issues, both within and affecting the State's coastal zone;

(2) Objectives to be attained in interagency and intergovernmental cooperation, coordination and institutional arrangements; and enhancing management capability involving issues and problem identification, conflict resolution, regulation and administrative efficiency at the State and local level;

(3) Objectives of the program in preservation, protection, development, restoration and enhancement of the State's coastal zone;

(4) Policies for the protection and conservation of coastal zone natural systems, cultural, historic and scenic areas, renewable and non-renewable resources, and the preservation, restoration and economic development of selected coastal zone areas.

(c) The Secretary will review the management program for the adequacy of State procedures utilized in its development and will consider the extent to which its various elements have been integrated into a balanced and comprehensive program designed to achieve the above objectives and policies.

Comment. Evaluation of the statutory requirements established in this subpart will concentrate primarily upon the adequacy of State processes in dealing with key coastal problems and issues. It will not, in general, deal with the wisdom of specific land and water use decisions, but rather with a determination that in addressing those problems and issues, the State is aware of the full range of present and potential needs and uses of the coastal zone, and has developed procedures, based upon scientific knowledge, public participation and unified governmental policies, for making reasoned choices and decisions.

Management programs will be evaluated in the light of the Congressional findings and policies as contained in Sections 302 and 303 of the Act. These sections make it clear that Congress, in enacting the legislation, was concerned about the environmental degradation, damage to natural and scenic areas, loss of living marine resources and wildlife, decreasing open space for public use and shoreline erosion being brought about by population growth and economic development. The Act thus has a strong environmental thrust, stressing the "urgent need to protect and to give high priority to natural systems in the coastal zone." A close working relationship between the agency responsible for the coastal zone management program and the agencies responsible for environmental protection is vital in carrying out this legislative intent. States are encouraged by the Act to take into account ecological, cultural, historic and esthetic values as well as the need for economic development in preparing and implementing management programs through which the States, with the participation of all affected interests and levels of government, exercise their full authority over coastal lands and waters.

Further assistance in meeting the intent of the Act may be found in the Congressional Committee Reports associated with the passage of the legislation (Senate Report 92–753 and House Report 92–1049). It is clear from these reports that Congress intended management programs to be comprehensive and that a State must consider all subject areas which are pertinent to the particular circumstances which prevail in the State. A comprehensive program should have considered at least the following representative elements:

(1) Present laws, regulations, and applicable programs for attainment of air and water quality standards, on land and water uses, and on environmental management by all levels of government;

(2) Present ownership patterns of the land and water resources, including administration of publicly owned properties;

(3) Present populations and future trends, including assessments of the impact of population growth on the coastal zone and estuarine environments;

(4) Present uses, known proposals for changes and long-term requirements of the coastal zone;

(5) Energy generation and transmission;

(6) Estuarine habitats of fish, shellfish and wildlife;

(7) Industrial needs;

(8) Housing requirements;

(9) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming and pleasure boating;

(10) Open space, including educational and natural preserves, scenic beauty, and public access, both visual and physical, to coastlines and coastal estuarine areas;

(11) Mineral resources requirements;

(12) Transportation and navigation needs;

(13) Floods and flood damage prevention, erosion (including the effect of tides and currents upon beaches and other shoreline areas), land stability, climatology and meteorology;

(14) Communication facilities;

(15) Commercial fishing; and

(16) Requirements for protecting water quality and other important natural resources.

The list of considerations is not meant to be exclusive, nor does it mean that each consideration must be given equal weight. State initiative to determine other relevant factors and consider them in the program is essential to the management of the coastal zone as envisioned by Congress.

In assessing programs submitted for approval, the Secretary, in consultation with other concerned Federal agencies, will examine such programs to determine that the full range of public problems and issues affecting the coastal zone have been identified and considered. In this connection, developments outside the coastal zone may often have a significant impact within the coastal zone and create a range of public problems and issues which must be dealt with in the coastal zone management program.

The Secretary encourages the States to develop objectives toward which progress can be measured and will review program submissions in this light. While it is recognized that many essential coastal zone management objectives are not quantifiable (e.g. public aspirations, "quality of life"), others are, and should be set forth in measurable terms where feasible (e.g. shore erosion, beach access, recreational demand, energy facility requirements). Identifying and analyzing problems and issues in measurable terms during the program development phase will facilitate the formulation of measurable objectives as part of the approval submission.

§ 923.5 Environmental impact assessment.

Individual environmental impact statements will be prepared and circulated by NOAA as an integral part of the review and approval process for State coastal zone management programs pursuant to the National Environmental Policy Act (Pub. L. 91–190, 42 USC 4321 et seq) and its implementing regulations. The Administrator of NOAA will circulate an environmental impact statement prepared primarily on the basis of an environmental impact assessment and other relevant data submitted by the individual applicant States.

Subpart B—Land and Water Uses

§ 923.10 General.

(a) This subpart deals with land and water uses in the coastal zone which are subject to the management program.

(b) In order to provide a relatively simple framework upon which discussion of the specific requirements associated with this subpart may proceed, it may be helpful to categorize the various types of land and water uses which the Act envisions.

(1) The statutory definition of the landward portion of the coastal zone states that it "extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters." Thus, the coastal zone will include those lands and only those lands where any existing, projected or potential use will have a "direct and significant impact on the coastal waters." Any such use will be subject to the terms of the management program, pursuant to Section 305(b)(2).

(2) There may well be uses of certain lands included within the coastal zone which will not have such "direct and significant impact." Such uses may be subject to regulation by local units of government within the framework of the management program.

(3) The Act also requires that management programs contain a method of assuring that "local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit." This requirement is described more fully in § 923.17.

(c) As part of the State's management program, it must address and exercise authority over the following:

(1) *Land and water uses which have a direct and significant impact upon coastal waters.* These uses are described more fully in § 923.12.

(2) *Areas of particular concern.* Section 305(b)(3) specifies that the management program include an inventory and designation of areas of particular concern within the coastal zone. Section 923.13 deals more thoroughly with this statutory requirement. Such areas must be considered of Statewide concern and must be addressed in the management program.

(3) *Siting of facilities necessary to meet requirements which are other than local in nature.* The management program must take "adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature" (Section 306(c)(8)). This requirement is more fully discussed in § 923.15.

§ 923.11 Boundaries of the coastal zone.

(a) *Requirement.* In order to fulfill the requirement contained in Section 305(b)(1), the management program must show evidence that the State has developed and applied a procedure for identifying the boundary of the State's coastal zone meeting the statutory definition of the coastal zone contained in Section 304(a). At a minimum this procedure should result in:

(1) A determination of the inland boundary required to control, through the management program, shorelands the uses of which have direct and significant impacts upon coastal waters,

(2) A determination of the extent of the territorial sea, or where applicable, of State waters in the Great Lakes,

(3) An identification of transitional and intertidal areas, salt marshes, wetlands and beaches,

(4) An identification of all Federally owned lands, or lands which are held in trust by the Federal government, its officers and agents in the coastal zone and over which a State does not exercise any control as to use.

(b) *Comment.* Statutory citation: Section 305(b)(1):

> Such management program shall include * * * an identification of the boundaries of the coastal zone subject to the management programs.

Useful background information concerning this requirement appears in Part 920.11, which is incorporated into this part by reference.

(1) The key to successful completion of this requirement lies in the development and use of a procedure designed to identify the landward extent of the coastal zone. Included in this procedure must be a method for determining those "shorelands, the uses of which have a direct and significant impact upon the coastal waters." These uses shall be considered the same as the "land and water uses" described in § 923.12, reflecting the requirements of Section 305(b)(2) of the Act regardless of whether those uses are found, upon analysis, to be "permissible." The coastal zone must include within it those lands which have any existing, projected or potential uses which have a direct and significant impact upon the coastal waters and over which the terms of the management program will be exercised. In some States, existing regulations controlling shoreland uses apply only in a strip of land of uniform depth (e.g. 250 feet, 1,000 yards, etc.) behind the shoreline. Such a boundary will be acceptable if it approximates a boundary developed according to the procedure outlined above and extends inland sufficiently for the management program to control lands the uses of which have a direct and significant impact upon coastal waters. States may wish, for administrative convenience, to designate political boundaries, cultural features, property lines or existing designated planning and environmental control areas, as boundaries of the coastal zone. While the Secretary will take into account the desirability of identifying a coastal zone which is easily regulated as a whole, the selection of the boundaries of the coastal zone must bear a reasonable relationship to the statutory requirement. Nothing in this part shall preclude a State from exercising the terms of the management program in a landward area more extensive than the coastal zone called for in this part. If such a course is selected, the boundaries of the coastal zone must nevertheless be identified as above and the provisions of the Act will be exercised only in the defined coastal zone. It should be borne in mind that the boundary should include lands and waters which are subject to the management program. This means that the policies, objectives and controls called for in the management program must be capable of being applied consistently within the area. The area must not be so extensive that a fair application of the management program becomes difficult or capricious, nor so limited that lands strongly influenced by coastal waters and over which the management program should reasonably apply, are excluded.

(2) Inasmuch as the seaward boundary of the coastal zone is established in the Act, the States will be required to utilize the statutory boundary, i.e. in the Great Lakes, the international boundary between the United States and Canada, and elsewhere the outer limits of the United States territorial sea. At present, this limit is three nautical miles from the appropriate baselines recognized by international law and defined precisely by the United States. In the event of a statutory change in the boundary of the territorial sea, the question of whether a corresponding change in coastal zone boundaries must be made, or will be made by operation of law, will depend on the specific terms of the statutory change and cannot be resolved in advance. In the waters of Lake Michigan, the boundary shall extend to the recognized boundaries with adjacent States.

(3) A State's coastal zone must include transitional and intertidal areas, salt marshes, wetlands and beaches. Hence the boundary determination procedure must include a method of identifying such coastal features. In no case, however, will a State's landward coastal zone boundary include only such areas in the absence of application of the procedure called for herein or in § 923.43.

(4) Since the coastal zone excludes lands the use of which is by law subject solely to the discretion of, or which is held in trust by the Federal government, its officers and agents, the coastal zone boundary must identify such lands which are excluded from the coastal zone. In order to complete this requirement, the State should indicate those Federally owned lands, or lands held in trust by the Federal government, *and* over which the State does not exercise jurisdiction as to use. In the event that a State fails to identify lands held by an agency of the Federal government as excluded lands, and the agency, after review of the program under Section 307(b), is of the opinion that such lands should be excluded, the disagreement will be subject to the mediation process set forth in said section.

§ 923.12 Permissible land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305(b)(2), the management must show evidence that the State has developed and applied a procedure for defining "permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters," which includes, at a minimum:

(1) a method for relating various specific land and water uses to impact upon coastal waters, including utilization of an operational definition of "direct and significant impact,"

(2) an inventory of natural and man-made coastal resources,

(3) an analysis or establishment of a method for analysis of the capability and suitability for each type of resource and application to existing, projected or potential uses,

(4) an analysis or establishment of a method for analysis of the environmental impact of reasonable resource utilizations.

(b) *Comment.* Statutory citation: Section 305(b)(2):

> Such management program shall include * * * a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact upon the coastal waters.

Useful background information concerning this requirement appears in 15 CFR 920.12, which is incorporated into this part by reference. Completion of this requirement should be divided into two distinct elements: a determination of those land and water uses having a direct and significant impact upon coastal waters, and an identification of such uses which the State deems permissible.

(1) *Section 305(b)(4).* In identifying those uses which have a "direct and sig-

nificant impact," the State should define that phrase in operational terms that can be applied uniformly and consistently, and should develop a method for relating various uses to impacts upon coastal waters. Existing, projected and potential uses should be analyzed as to the level and extent of their impact, be it adverse, benign or beneficial, intrastate or interstate. These impacts should then be assessed to determine whether they meet the definition of "direct and significant impact upon coastal waters." (These are the ones by which the boundaries of the coastal zone are defined.) Those uses meeting that definition are automatically subject to control by the management program.

(2) In determining which land and water uses may be deemed permissible, a State should develop a method for assuring that such decisions are made in an objective manner, based upon evaluation of the best available information concerning land and water capability and suitability. This method should include at a minimum:

(i) An inventory of significant natural and man-made coastal resources, including but not limited to, shorelands, beaches, dunes, wetlands, uplands, barrier islands, waters, bays, estuaries, harbors and their associated facilities. This should not be construed as requiring long-term, continuing research and baseline studies, but rather as providing the basic information and data critical to successful completion of a number of required management program elements. States are encouraged, however, to continue research and studies as necessary to detect early warnings of changes to coastal zone resources. It is recognized that in some States a complete and detailed inventory of such resources may be expensive and time consuming in relation to the value of information gathered in the development of the management program. Much information, of course, already exists and should be integrated into the inventory. The Secretary, in reviewing this particular requirement, will take into account the nature and extent of the State's coastline, the funding available and existing data sources.

(ii) An analysis or establishment of a method for analysis of the capabilities of each resource for supporting various types of uses (including the capability for sustained and undiminished yield of renewable resources), as well as of the suitability for such resource utilization when evaluated in conjunction with other local, regional and State resources and uses. Resource capability analysis should include physical, biological and chemical parameters as necessary.

(iii) An analysis or establishment of a method for analysis of the impact of various resource uses upon the natural environment (air, land and water). Based upon these analyses and applicable Federal, State and local policies and standards, the State should define permissible uses as those which can be reasonably and safely supported by the resource, which are compatible with surrounding resource utilization and which will have a tolerable impact upon the environment. These analyses, in part, will be provided through existing information on environmental protection programs, and should be supplemented to the extent necessary for determining the relationship between land uses and environmental quality. Where a State prohibits a use within the coastal zone, or a portion thereof, it should identify the reasons for the prohibition, citing evidence developed in the above analyses. It should be pointed out that uses which may have a direct and significant impact on coastal waters when conducted close to the shoreline may not have a direct and significant impact when conducted further inland. Similarly, uses which may be permissible in a highly industrialized area may not be permissible in a pristine marshland. Accordingly, the definition may also be correlated with the nature (including current uses) and location of the land on which the use is to take place. The analyses which the State will undertake pursuant to this section should also be useful in satisfying the requirements of § 923.13 through § 923.17.

§ 923.13 Areas of particular concern.

(a) *Requirement.* In order to fulfill the requirements contained in Section 305 (b)(3), the management program must show evidence that the State has made an inventory and designation of areas of particular concern within the coastal zone. Such designations shall be based upon a review of natural and man-made coastal zone resources and uses, and upon consideration of State-established criteria which include, at a minimum, those factors contained in 15 CFR 920.13, namely:

(1) Areas of unique, scarce, fragile or vulnerable natural habitat, physical feature, historical significance, cultural value and scenic importance;

(2) Areas of high natural productivity or essential habitat for living resources, including fish, wildlife and the various trophic levels in the food web critical to their well-being;

(3) Areas of substantial recreational value and/or opportunity;

(4) Areas where developments and facilities are dependent upon the utilization of, or access to, coastal waters;

(5) Areas of unique geologic or topographic significance to industrial or commercial development;

(6) Areas of urban concentration where shoreline utilization and water uses are highly competitive;

(7) Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc.; and

(8) Areas needed to protect, maintain or replenish coastal lands or resources, including coastal flood plains, aquifer recharge areas, sand dunes, coral and other reefs, beaches, offshore sand deposits and mangrove stands.

(b) *Comment.* Statutory citation: Section 305(b)(3).

Such management program shall include * * * an inventory and designation of areas of particular concern within the coastal zone.

Useful background information concerning the requirement appears in 15 CFR 920.13, which is incorporated here by reference. It should be emphasized that the basic purpose of inventorying and designating areas of particular concern within the coastal zone is to express some measure of Statewide concern about them and to include them within the purview of the management program. Therefore, particular attention in reviewing the management program will be directed toward development by the State of implementing policies or actions to manage the designated areas of particular concern.

§ 923.14 Guidelines on priority of uses.

(a) *Requirement.* The management program shall include broad policies or guidelines governing the relative priorities which will be accorded in particular areas to at least those permissible land and water uses identified pursuant to § 923.12. The priorities will be based upon an analysis of State and local needs as well as the effect of the uses on the area. Uses of lowest priority will be specifically stated for each type of area.

(b) *Comment.* Statutory citation: Section 305(b)(5)

Such management program shall include * * * broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority.

As pointed out in 15 CFR 920.15, the priority guidelines will set forth the degree of State interest in the preservation, conservation and orderly development of specific areas including at least those areas of particular concern identified in § 923.13 within the coastal zone, and thus provide the basis for regulating land and water uses in the coastal zone, as well as a common reference point for resolving conflicts. Such priority guidelines will be the core of a successful management program since they will provide a framework within which the State, its agencies, local governments and regional bodies can deal with specific proposals for development activities in various areas of the coastal zone. In order to develop such broad guidelines, the management program shall indicate that a method has been developed and applied for (1) analyzing State needs which can be met most effectively and efficiently through land and water uses in the coastal zone, and (2) determining the capability and suitability of meeting these needs in specific locations in the coastal zone. In analyzing the States' needs, there should be a determination made of those requirements and uses which have Statewide, as opposed to local, significance. Section 302(h) of the Act states in part that land and water use programs for the coastal zone should include "unified policies, criteria, standards, methods and processes for dealing with land and water use decisions of more than local significance." The inventory and analyses of coastal resources and uses called for in § 923.12 will provide the State with most of the basic data needed to determine the specific locations where coastal resources are capable and suitable for meeting State-

wide needs. In addition, these analyses should permit the State to determine possible constraints on development which may be applied by particular uses. The program should establish special procedures for evaluating land use decisions, such as the siting of regional energy facilities, which may have a substantial impact on the environment. In such cases, the program should make provision for the consideration of available alternative sites which will serve the need with a minimum adverse impact. The identifying and ordering of use priorities in specific coastal areas should lead to the development and adoption of State policies or guidelines on land and water use in the coastal zone. Such policies or guidelines should be part of the management program as submitted by the State and should be consistent with the State's specified management program objectives. Particular attention should be given by the State to applying these guidelines on use priorities within those "areas of particular concern" designated pursuant to § 923.13. In addition, States shall indicate within the management program uses of lowest priority in particular areas, including guidelines associated with such uses.

§ 923.15 National interest in the siting of facilities.

(a) *Requirement.* A management program which integrates (through development of a body of information relating to the national interest involved in such siting through consultation with cognizant Federal and regional bodies, as well as adjacent and nearby States) the siting of facilities meeting requirements which are of greater than local concern into the determination of uses and areas of Statewide concern, will meet the requirements of Section 306(c)(8).

(b) *Comment.* Statutory citation: Section 306(c)(8):

> Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

This policy requirement is intended to assure that national concerns over facility siting are expressed and dealt with in the development and implementation of State coastal zone management programs. The requirement should not be construed as compelling the States to propose a program which accommodates certain types of facilities, but to assure that such national concerns are included at an early stage in the State's planning activities and that such facilities not be arbitrarily excluded or unreasonably restricted in the management program without good and sufficient reasons. It is recognized that there may or may not be a national interest associated with the siting of facilities necessary to meet requirements which are other than local in nature. Requirements which are other than local in nature shall be considered those requirements which, when fulfilled, result in the establishment of facilities designed clearly to serve more than one locality (generally, the lowest unit of local, general-purpose government, excluding situations such as with cities and counties which exercise concurrent jurisdiction for the same geographic areas). In order to provide assistance to the States in completing this requirement, a listing is presented below which identifies those requirements which are both (1) other than local in nature, and (2) possess siting characteristics in which, in the opinion of the Secretary, there may be a clear national interest. For each such need, there is a listing of associated facilities. In addition, the principal cognizant Federal agencies concerned with these facilities are also listed. This list must not be considered inclusive, but the State should consider each requirement and facility type in the development of its management program. Consideration of these requirements and facilities need not be seen as a separate and distinct element of the management program, and the listing is provided to assure that the siting of such facilities is not overlooked or ignored. As part of its determination of permissible uses in the coastal zone (§ 923.12), as well as of priority of uses (§ 923.14), the State will have developed a procedure for inventorying coastal resources and identifying their existing or potential utilization for various purposes based upon capability, suitability and impact analyses. The process for responding to the requirements of Section 306(c)(8) should be identical to, and part of, the same procedure. No separate national interest "test" need be applied and submitted other than evidence that the listed national interest facilities have been considered in a manner similar to all other uses, and that appropriate consultation with the Federal agencies listed has been conducted. As a preliminary to adequate consideration of the national interest, the State must determine the needs for such facilities. Management programs must recognize the need of local as well as regional and national populations for goods and services which can be supplied only through the use of facilities in the coastal zone in order to make reasonable provision for such facilities in light of the size and population of the State, the length and characteristics of its coast and the contribution such State is already making to regional and national needs. This will require the State to enter into discussions with appropriate Federal agencies and agencies of other States in the region, a process which should begin early in the development of the management program so that the full dimensions of the national interest may be considered as the State develops its program (§ 923.31 and §923.32). The management program should make reference to the views of cognizant Federal agencies as to how these national needs may be met in the coastal zone of that particular State. States should actively seek such guidance from these Federal agencies, particularly in view of the fact that all management programs will be reviewed with the opportunity for full comment by all affected Federal agencies prior to approval. It is recognized that Federal agencies will differ markedly in their abilities to articulate policies regarding utilization of individual State's coastal zones. NOAA's Office of Coastal Zone Management will encourage Federal agencies to develop policy statements regarding their perception of the national interest in the coastal zone and make these available to the States. The States should also consult with adjacent and nearby States which share similar or common coastal resources or with regional interstate bodies to determine how regional needs may be met in siting facilities. Specific arrangements of "tradeoffs" of coastal resource utilization should be documented with appropriate supporting evidence. The importance of this type of interstate consultation and cooperation in planning cannot be overemphasized for it offers the States the opportunity of resolving significant national problems on a regional scale without Federal intervention.

Requirements which are other than local in nature and in the siting of which there may be a clear national interest (with associated facilities and cognizant Federal agencies)

Requirements	Associated facilities	Cognizant Federal Agencies
1. Energy production and transmission.	Oil and gas wells; storage and distribution facilities; refineries; nuclear, conventional, and hydroelectric powerplants; deepwater ports.	Federal Energy Administration, Federal Power Commission, Bureau of Land Management, Atomic Energy Commission, Maritime Administration, Geological Survey, Department of Transportation, Corps of Engineers.
2. Recreation (of an interstate nature)	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts; wildlife reserves.	National Park Service, Forest Service, Bureau of Outdoor Recreation.
3. Interstate transportation	Interstate highways, airports, aids to navigation; ports and harbors, railroads.	Federal Highway Administration, Federal Aviation Administration, Coast Guard, Corps of Engineers, Maritime Administration, Interstate Commerce Commission.
4. Production of food and fiber	Prime agricultural land and facilities; forests; mariculture facilities; fisheries.	Soil Conservation Service, Forest Service, Fish and Wildlife Service, National Marine Fisheries Service.
5. Preservation of life and property	Flood and storm protection facilities; disaster warning facilities.	Corps of Engineers, Federal Insurance Administration, NOAA, Soil Conservation Service.
6. National defense and aerospace	Military installations; defense manufacturing facilities; aerospace launching and tracking facilities.	Department of Defense, NASA.
7. Historic, cultural, esthetic and conservation values.	Historic sites; natural areas; areas of unique cultural significance; wildlife refuges; areas of species and habitat preservation.	National Register of Historic Places, National Park Service, Fish and Wildlife Service, National Marine Fisheries Service.
8. Mineral resources	Mineral extraction facilities needed to directly support activity.	Bureau of Mines, Geological Survey.

§ 923.16 Area designation for preservation and restoration.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(c)(9), the management program must show evidence that the State has developed and applied standards and criteria for the designation of areas of conservation, recreational, ecological or esthetic values for the purpose of preserving and restoring them.

(b) *Comment.* Statutory citation: Section 306(c)(9):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreation, ecological or esthetic values.

(1) This requirement is closely linked to that contained in § 923.13, dealing with designation of areas of particular concern. Unless the State can make a compelling case to the contrary, all areas designated according to the methods called for in this part shall also be considered as areas of particular concern.

(2) This requirement is reasonably self-explanatory. The State must develop procedures for the designation of areas with certain characteristics. The State, in doing so, must:

(i) Establish standards and criteria for the possible designation of coastal areas intended for preservation or restoration because of their conservation, recreational, ecological or esthetic values, and

(ii) Apply those standards and criteria to the State's coastal resources. (In this, the inventory associated with the requirement of § 923.13 will be most helpful.)

(3) The requirement of the statute goes to the procedures rather than substance; the fact that a State may be unable to move rapidly ahead with a program of preservation or restoration will not prevent the program from being approved. The State should also rank in order of relative priority areas of its coastal zone which have been designated for the purposes set forth in this section. As funds become available, such a ranking will provide a set of priorities for selecting areas to be preserved or restored.

§ 923.17 Local regulations and uses of regional benefit.

(a) *Requirement.* In order to fulfill the requirement contained in Section 306(e)(2), the management program must show evidence that the State has developed and applied a method for determining uses of regional benefit, and that it has established a method for assuring that local land and water use controls in the coastal zone do not unreasonably or arbitrarily restrict or exclude those uses of regional benefit.

(b) *Comment.* Statutory citation: Section 306(e)(2):

Prior to granting approval, the Secretary shall also find that the program provides * * * for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of [illegible] benefit.

This requirement is intended to prevent local land and water use decisions from arbitrarily excluding certain land and water uses which are deemed of importance to more than a single unit of local government. For the purposes of this requirement, a use of regional benefit will be one which provides services or other benefits to citizens of more than one unit of local, general-purpose government (excluding situations such as in cities and counties which exercise jurisdiction over the same geographic areas). In order to assure that arbitrary exclusion does not occur, the State must first identify those uses which it perceives will affect or produce some regional benefit. This designation would normally be derived from the inventory and analysis of the uses contained in § 923.12. In any event, however, these uses should include those contained in the table of § 923.15. In addition, the State may determine that certain land and water uses may be of regional benefit under certain sets of circumstances. The State should then establish [illegible] criteria for determining when such conditions exist. There should be no blanket exclusion or restrictions of these uses in areas of the coastal zone by local regulation unless it can be shown that the exclusion or restriction is based upon reasonable considerations of the suitability of the area for the uses or the carrying capacity of the area. The requirement of this section does not exclude the possibility that in specific areas certain uses of regional benefit may be prohibited. However, such exclusions may not be capricious. The method by which the management program will assure that such unreasonable restrictions or exclusion not occur in local land and water use decisions will, of course, be up to the State, but it should include the preparation of standards and criteria relating to State interpretation of "unreasonable restriction or exclusion" as well as the establishment of a continuing mechanisms for such determination.

Subpart C—Authorities and Organization

§ 923.20 General.

This subpart deals with requirements that the State possess necessary authorities to control land and water uses and that it be organized to implement the management. It should be emphasized that before final approval of a coastal zone management program can be given by the Secretary of Commerce, the authorities and organizational structure called for in the management program must be in place. Preliminary approval, however, can be given to a proposal which will require subsequent legislative or executive action for implementation and eligibility for administrative grants under Section 306.

§ 923.21 Means of exerting State control over land and water uses.

(a) *Requirement.* In order to fulfill the requirements contained in Sections 305(b)(4) and 306(c)(7), the management program must show evidence that

quisition of such transportation corridors, then the State should have the power to acquire corridors for such purposes through condemnation. It is not necessary that the power to acquire real property be held by any one particular agency involved in implementing the management program. The authority must, however, be held by one or more agencies or local governments with a statutory responsibility to exercise the authority without undue delay when necessary to achieve conformance with the management program.

§ 923.26 Techniques for control of land and water uses.

(a) *Requirement.* The management program must contain documentation by the Governor or his designated legal officer that all existing, projected and potential land and water uses within the coastal zone may be controlled by any one or a combination of the techniques specified in Section 306(e)(1).

(b) *Comment.* Statutory citation: Section 306(e)(1):

Prior to granting approval, the Secretary shall also find that the program provides * * * for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(1) Section 306(e)(1)(A) "State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance." This option requires the State to establish general criteria and standards within the framework of the coastal zone program for implementation by local government. Such criteria and standards would provide for application of criteria and standards to specific local conditions. Implementation by a local unit of government would consist of adoption of a suitable local zoning ordinance or regulation, and enforcement on a continuing basis. Administrative review at the State level requires provision for review of local ordinances and regulations and local enforcement activity for consistency with the criteria and standards as well as programs, not review of specific cases on the merits. In the event of deficiencies either in regulation or local enforcement, State enforcement of compliance would require either appropriate changes in local regulation or enforcement or direct State intervention.

(2) Section 306(e)(1)(B) "Direct State land and water use planning and regulation." Under this option the State would become directly involved in the establishment of detailed land and water use regulations and would apply these regulations to individual cases. Initial determinations regarding land and water use in the coastal zone would be made at the State level. This option preempts the traditional role of local government in the zoning process involving lands or waters within the coastal zone.

(3) Section 306(e)(1)(C) "State administrative review for consistency with the management program of all development plans, projects, or land and water regulations, including exceptions and variances thereto proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings." This option leaves the local unit of government free to adopt zoning ordinances or regulations without State criteria and standards other than the program itself, but subjects certain actions by the local unit of government to automatic State review, including public notice and a hearing when requested by a party. Such actions include:

(i) Adoption of land and water use regulations, ordinarily in the form of a zoning ordinance or regulation.

(ii) Granting of an exception or variance to a zoning ordinance or regulation.

(iii) Approval of a development plan or project proposed by a private developer. This may be defined to exclude approval of minor projects, such as small residences or commercial establishments, or those which do not have a significant impact.

(4) It should be noted that State review is for consistency with the management program, not of the merits or of the facts on which the local decision is based.

(5) The State may choose to utilize only one of the specified techniques, or more than one, or a combination of them in different locations or at different times. Within the parameters set forth in the requirement, there is a large variety of tools which the management program could adopt for controlling land and water uses. The program should identify the techniques for control of land and water uses which it intends to use for existing, projected and potential uses within the coastal zone. This requirement will be reviewed in close conjunction with those contained in §§ 923.21, 923.24 and 923.25, dealing with State authorities to implement the management program.

Subpart D—Coordination

§ 923.30 General.

One of the most critical aspects of the development of State coastal zone management programs will be the ability of the States to deal fully with the network of public, quasi-public and private bodies which can assist in the development process and which may be significantly impacted by the implementation of the program. Each State will have to develop its own methods for accommodating, as appropriate, the varying, often conflicting interests of local governments, water and air pollution control agencies, regional agencies, other State agencies and bodies, interstate organizations, commissions and compacts, the Federal government and interested private bodies. It is the intent of these requirements for coordination with governmental and private bodies to assure that the State, in developing its management program, is aware of the full array of interests represented by such organizations, that opportunity for participation was provided, and that adequate consultation and cooperation with such bodies has taken place and will continue in the future.

§ 923.31 Full participation by relevant bodies in the adoption of management programs.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(1), the management program must show evidence that:

(1) The management program has been formally adopted in accordance with State law or, in its absence, administrative regulations;

(2) The State has notified and provided an opportunity for full participation in the development of its management program to all public and private agencies and organizations which are liable to be affected by, or may have a direct interest in, the management program. The submission of the management program shall be accompanied by a list identifying the agencies and organizations referred to in paragraph (a)(2) of this section, the nature of their interest, and the opportunities afforded such agencies and organizations to participate in the development of the management program. These organizations should include those identified pursuant to § 923.32, which have developed local, areawide or interstate plans applicable to an area within the coastal zone of the State as of January 1 of the year in which the management program is submitted for approval; and

(3) The management program will carry out the policies enumerated in section 303 of the Act.

(b) *Comment.* Statutory citation: Section 306(c)(1):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

This requirement embodies the actual approval by the Secretary of Commerce of a State's coastal zone management program pursuant to all of the terms of the Act, plus associated administrative rules and regulations. As the operative section, it subsumes all of the requirements included in this part, which shall be considered the "rules and regulations promulgated by the Secretary" mentioned in section 306(c)(1). The citation, however, also includes some specific additional requirements, for which guidance and performance criteria are necessary. These additional requirements include:

(1) Adoption of the management program by the State. The management program must demonstrate that it represents the official policy and objectives of the State. In general, this will require

documentation in the management program that the State management entity has formally adopted the management program in accordance with either the rules and procedures established by statute, or in the absence of such law, administrative regulations.

(2) Opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private. A major thrust of the Act is its concern for full participation and cooperation in the development and implementation of management programs by all interested and affected agencies, organizations and individuals. This is specifically included in the statement of national policy in section 303(c). The State must provide evidence that the listed agencies and parties were, in fact, provided with an opportunity for full participation. It will be left to the States to determine the method and form of such evidence, but it should contain at a minimum:

(i) A listing, as comprehensive as possible, of all Federal and State agencies, local governments, regional organizations, port authorities and public and private organizations which are likely to be affected by, or have a direct interest in, the development and implementation of a management program (including those identified in § 923.32), and

(ii) A listing of the specific interests of such organizations in the development of the management program, as well as an identification of the efforts made to involve such bodies in the development process.

(a) "Opportunity for full participation" is interpreted as requiring participation at all appropriate stages of management program development. The assistance which can be provided by these public and private organizations can often be significant, and therefore contact with them should be viewed not only as a requirement for approval, but as an opportunity for tapping available sources of information for program development. Early and continuing contact with these agencies and organizations is both desirable and necessary. In many cases it may be difficult or impossible to identify all interested parties early in the development of the State's program. However, the public hearing requirement of § 923.41 should afford an opportunity to participate to interested persons and organizations whose interest was not initially noted.

(3) Consistency with the policy declared in section 303 of the Act. In order to facilitate this review, the State's management program must indicate specifically how the program will carry out the policies enumerated in section 303.

§ 923.32 Consultation and coordination with other planning.

(a) *Requirement.* In order to fulfill the requirements contained in section 306(c)(2), the management program must include:

(1) An identification of those entities mentioned which have plans in effect on January 1 of the year submitted,

(2) A listing of the specific contacts made with all such entities in order to coordinate the management program with their plans,

(3) An identification of the conflicts with those plans which have not been resolved through coordination, and continuing actions contemplated to attempt to resolve them, and

(4) Indication that a regular consultative mechanism has been established and is active, to undertake coordination between the single State agency designated pursuant to § 923.23, and the entities in paragraph (B) of Section 306(c)(2).

(b) *Comment.* Statutory citation: Section 306(c)(2):

"Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find * * * that the State has:

(A) Coordinated its program with local, areawide and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the State's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) Established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

Relevant background information on this requirement appears in 15 CFR 920.45(f), and is incorporated by reference herein. While the State will exercise its authority over land and water uses of Statewide significance in the coastal zone by one or more of the techniques set forth in § 923.28, the State management program must be coordinated with existing plans applicable to portions of the coastal zone. It should be noted that this section does not demand compliance of the State program with local plans, but the process envisioned should enable a State not only to avoid conflicts and ambiguities among plans and proposals, but to draw upon the planning capabilities of a wide variety of governments and agencies. Coordination implies a high degree of cooperation and consultation among agencies, as well as a mutual willingness on the part of the participants to accommodate their activities to the needs of the others in order to carry out the public interest. Perceptions of the public good will differ and it is recognized that not all real or potential conflicts can be resolved by this process. Nevertheless, it is a necessary step. Effective cooperation and consultation must continue as the management program is put into operation so that local governments, interstate, regional and areawide agencies can continue to participate in the carrying out of the management program. The "plans" referred to in (A) shall be considered those which have been officially adopted by the entity which developed them, or which are commonly recognized by the entity as a guide for action. The list of relevant agencies required under § 923.31 will be of use in meeting this requirement. It will enable the State to identify those entities mentioned in (A) which have such plans and to provide evidence that coordination with them has taken place. The process envisioned should not only enable a State to avoid conflicts between its program and other plans applying within its coastal zone, but to draw upon the planning capabilities of a wide variety of local governments and other agencies. In developing and implementing those portions of the program dealing with power transmission lines, pipelines, interstate transportation facilities and other facilities which will significantly impact on neighboring States of a region, particular attention should be paid to the requirements of this section.

Subpart E—Miscellaneous

§ 923.40 General.

The requirements in this subpart do not fall readily into any of the above categories but deal with several important elements of an approvable management program. They deal with public hearings in development of the management program, gubernatorial review and approval, segmentation of State programs and applicability of water and air pollution control requirements.

§ 923.41 Public hearings.

(a) *Requirements.* In order to fulfill the requirement contained in section 306(c)(3), the management program must show evidence that the State has held public hearings during the development of the management program following not less than 30 days notification, that all documents associated with the hearings are conveniently available to the public for review and study at least 30 days prior to the hearing, that the hearings are held in places and at times convenient to affected populations, that all citizens of the State have an opportunity to comment on the total management program and that a report on each hearing be prepared and made available to the public within 45 days.

(b) *Comment.* Statutory citation: Section 306(c)(3):

Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * (t)he State has held public hearings on the development of the management program

Extensive discussion and statements of policy regarding this requirement appears in §§ 920.30, 920.31 and 920.32, which is incorporated herein by reference.

§ 923.42 Gubernatorial review and approval.

(a) *Requirement.* In order to fulfill the requirement contained in section 306(c)(4), the management program must contain a certification signed by the Governor of the coastal State to the effect that he has reviewed and approved the management program and any amendments thereto. Certification may be omitted in

the case of a program submitted for preliminary approval.

(b) *Comment.* Statutory citation: Section 306(c)(4):

> Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find that * * * the management program and any changes thereto have been reviewed and approved by the Governor.

This requirement is self-explanatory.

§ 923.43 Segmentation.

(a) *Requirement.* If the State intends to develop and adopt its management program in two or more segments, it shall advise the Secretary as early as practicable stating the reasons why segmentation is appropriate and requesting his approval. Each segment of a management program developed by segments must show evidence (1) that the State will exercise policy control over each of the segmented management programs prior to, and following their integration into a complete State management program, such evidence to include completion of the requirements of § 923.11 (Boundaries of the coastal zone) and § 923.15 (National interest in the siting of facilities) for the State's entire coastal zone, (2) that the segment submitted for approval includes a geographic area on both sides of the coastal land-water interface, and (3) that a timetable and budget have been established for the timely completion of the remaining segments or segment.

(b) *Comment.* Statutory citation: Section 306(h):

> At the discretion of the State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That, the State adequately provides for the ultimate coordination of the various segments of the management program into a single, unified program, and that the unified program will be completed as soon as reasonably practicable.

(1) This section of the Act reflects a recognition that it may be desirable for a State to develop and adopt its management program in segments rather than all at once because of a relatively long coastline, developmental pressures or public support in specific areas, or earlier regional management programs developed and adopted. It is important to note, however, that the ultimate objective of segmentation is completion of a management program for the coastal zone of the entire State in a timely fashion. Segmentation is at the State's option, but requires the approval of the Secretary. States should notify the Secretary at as early a date as possible regarding intention to prepare a management program in segments.

(2) Continuing involvement at the State as well as local level in the development and implementation of segmented programs is essential. This emphasis on State participation and coordination with the program as a whole should be reflected in the individual segments of a management program. Regional agencies and local governments may play a large role in developing and carrying out such segmented programs, but there must be a continuing State voice throughout this process. This State involvement shall be expressed in the first segment of the management program in the form of evidence that (i) the boundaries of the coastal zone for the entire State have been defined (pursuant to § 923.11) and (ii) there has been adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature (pursuant to § 923.15) for the State's entire coastal zone. These requirements are designed to assure that the development of a Statewide coastal zone management program proceeds in an orderly fashion and that segmented programs reflect accurately the needs and capabilities of the State's entire coastal zone which are represented in that particular segment.

(3) The Act's intent of encouraging and assisting State governments to develop a comprehensive program for the control of land and water uses in the coastal zone is clear. This intent should therefore apply to segments as well, and segmented management programs should be comprehensive in nature and deal with the relationship between and among land and water uses. No absolute minimum or maximum geographic size limitations will be established for the area of coverage of a segment. On the one hand, segments should include an area large enough to permit comprehensive analyses of the attributes and limitations of coastal resources within the segment of State needs for the utilization or protection of these resources and of the interrelationships of such utilizations. On the other hand, it is not contemplated that a segmented management program will be developed solely for the purpose of protecting or controlling a single coastal resource or use, however desirable that may be.

(4) One of the distinguishing features of a coastal zone management program is its recognition of the relationship between land uses and their effect upon coastal waters, and vice versa. Segments should likewise recognize this relationship between land and water by including at least the dividing line between them, plus the lands or waters on either side which are mutually affected. In the case of a segment which is predominantly land, the boundaries shall include those waters which are directly and significantly impacted by land uses in the segment. Where the predominant part of the segment is water, the boundaries shall include the adjacent shorelands strongly influenced by the waters, including at least transitional and inter-tidal areas, salt marshes, wetlands and beaches (or similar such areas in Great Lake States).

(5) Segmented management programs submitted for approval will be reviewed and approved in exactly the same manner as programs for complete coastal zones, utilizing the same approval criteria, plus those of this section.

§ 923.44 Applicability of air and water pollution control requirements.

(a) *Requirement.* In order to fulfill the requirements contained in Section 307(f) of the Act the management program must be developed in close coordination with the planning and regulatory systems being implemented under the Federal Water Pollution Control Act and Clean Air Act, as amended, and be consistent with applicable State or Federal water and air pollution control standards in the coastal zone. Documentation by the official or officials responsible for State implementation of air and water pollution control activities that those requirements have been incorporated into the body of the coastal zone management program should accompany submission of the management program.

(b) *Comment:* Statutory citation: Section 307(f):

> Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal government, or any State or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title, and shall be the water pollution control requirements and air pollution control requirements applicable to such program.

(1) The basic purpose of this requirement is to ensure that the management program does not conflict with the national and State policies, plans and regulations mandated by the Federal Water Pollution Control Act, as amended, and the Clean Air Act as amended. The policies and standards adopted pursuant to these Acts should be considered essential baselines against which the overall management program is developed. This is a specific statutory requirement that reflects the overall coastal zone management objective of unified state management of environmental laws, regulations and applicable standards. To this end, management programs should provide for continuing coordination and cooperation with air and water programs during subsequent administration of the approved management program.

(2) There are also significant opportunities for developing working relationships between air and water quality agencies and coastal zone management programs. These opportunities include such activities as joint development of Section 208 areawide waste treatment management planning and coastal zone management programs; consolidation and/or incorporation of various planning and regulatory elements into these closely related programs; coordination of monitoring and evaluation activities; increased management attention being accorded specifically to the coastal waters; consultation concerning the desirability of adjusting state water quality standards and criteria to complement coastal zone management policies; and designation of areas of particular concern or priority uses.

Subpart F—Applications for Administrative Grants

§ 923.50 General.

The primary purpose of administrative grants made under section 306 of the Act is to assist the States to implement coastal zone management programs following their approval by the Secretary of Commerce. The purpose of these guidelines is to define clearly the processes by which grantees apply for and administer grants under the Act. These guidelines shall be used and interpreted in conjunction with the Grants Management Manual for Grants under the Coastal Zone Management Act, hereinafter referred to as the "Manual." This Manual contains procedures and guidelines for the administration of all grants covered under the Coastal Zone Management Act of 1972. It has been designed as a tool for grantees, although it addresses the responsibilities of the National Oceanic and Atmospheric Administration and its Office of Coastal Zone Management, which is responsible for administering programs under the Act. The Manual incorporates a wide range of Federal requirements, including those established by the Office of Management and Budget, the General Services Administration, the Department of the Treasury, the General Accounting Office and the Department of Commerce. In addition to specific policy requirements of these agencies, the Manual includes recommended policies and procedures for grantees to use in submitting a grant application. Inclusion of recommended policies and procedures for grantees does not limit the choice of grantees in selecting those most useful and applicable to local requirements and conditions.

§ 923.51 Administration of the program.

The Congress assigned the responsibility for the administration of the Coastal Zone Management Act of 1972 to the Secretary of Commerce, who has designated the National Oceanic and Atmospheric Administration (NOAA) as the agency in the Department of Commerce to manage the program. NOAA has established the Office of Coastal Zone Management for this purpose. Requests for information on grant applications and the applications themselves should be directed to:

Director, Office of Coastal Zone Management (OCZM)
National Oceanic and Atmospheric Administration,
U.S. Department of Commerce
Rockville, Maryland 20852

§ 923.52 State responsibility.

(a) The application shall contain a designation by the Governor of a coastal State of a single agency to receive and have fiscal and programmatic responsibility for administering grants to implement the approved management program.

(b) A single State application will cover all program management elements, whether carried out by State agencies, areawide/regional agencies, local governments, interstate or other entities.

§ 923.53 Allocation.

Section 306(f) allows a State to allocate a portion of its administrative grant to sub-State or multi-State entities if the work to result from the allocation contributes to the effective implementation of the State's approved coastal zone management program. The requirements for identifying such allocations are set forth in § 923.55(e).

§ 923.54 Geographical segmentation.

Authority is provided in the Act for a State's management program to be developed and adopted in segments. Additional criteria for the approval of a segmented management program are set forth in Subpart E § 923.43. Application procedures for an administrative grant to assist in administering an approved segmented management program will be the same as set forth in this subpart for applications to administer an approved management program for the entire coastal zone of a State.

§ 923.55 Application for the initial administrative grant.

(a) The Form CD–288, Preapplication for Federal Assistance, required only for the initial grant, must be submitted 120 days prior to the beginning date of the requested grant. The preapplication shall include documentation, signed by the Governor, designating the State office, agency or entity to apply for and administer the grant. Copies of the approved management program are not required. The preapplication form may be submitted prior to the Secretary's approval of the applicant's management program provided, after consultation with OCZM, approval is anticipated within 60 days of submittal of the preapplication.

(b) All applications are subject to the provisions of OMB Circular A–95 (revised). The Form CD–288, Preapplication for Federal Assistance, will be transmitted to the appropriate clearinghouses at the time it is submitted to the Office of Coastal Zone Management (OCZM). If the application is determined to be Statewide or broader in nature, a statement to that effect shall be attached to the Preapplication form submitted to OCZM. Such a determination does not preclude the State clearinghouse from involving areawide clearinghouses in the review. In any event, whether the application is considered to be Statewide or not, the Preapplication form shall include an attachment indicating the date copies of the Preapplication form were transmitted to the State clearinghouse and if applicable, the identity of the areawide clearinghouse(s) receiving copies of the Preapplication form and the date(s) transmitted. The Preapplication form may be used to meet the project notification and review requirements of OMB Circular A–95 with the concurrence of the appropriate clearinghouses. In the absence of such concurrence the project notification and review procedures, established State and areawide clearinghouses, should be implemented simultaneously with the distribution of the preapplication form.

(c) Costs claimed as charges to the grant project must be beneficial and necessary to the objectives of the grant project. The allowability of costs will be determined in accordance with the provisions of FMC 74–4. Administrative grants made under section 306(a) of the Act are clearly intended to assist the States in administering their approved management programs. Such intent precludes tasks and related costs for long range research and studies. Nevertheless it is recognized that the coastal zone and its management is a dynamic and evolving process wherein experience may reveal the need for specially focused, short-term studies, leading to improved management processes and techniques. The OCZM will consider such tasks and their costs, based upon demonstrated need and expected contribution to more effective management programs.

(d) The Form CD–292, Application for Federal Assistance (Non-Construction Programs), constitutes the formal application and must be submitted 60 days prior to the desired grant beginning date. The application must be accompanied by evidence of compliance with A–95 requirements including the resolution of any problems raised by the proposed project. The OCZM will not accept applications substantially deficient in adherence to A–95 requirements.

(e) The State's work program implementing the approved management program is to be set forth in Part IV, Program Narrative, of the Form CD–292 and must describe the work to be accomplished during the grant period. The work program should include:

(1) An identification of those elements of the approved management program that are to be supported all or in part by the grant and the matching share, hereinafter called the grant project. In any event, activities related to the establishment and implementation of State responsibilities pursuant to Section 307 (c) (3) and Section 307(d) of the Act, are to be included in the grant project.

(2) A precise statement of the major tasks required to implement each element.

(3) For each task, the following should be specified:

(i) A concise statement of how each task will accomplish all or part of the program element to which it is related. Identify any other State, areawide, regional or interstate agencies or local governments that will be allocated responsibility for carrying out all or portions of the task. Indicate the estimated cost of the subcontract/grant for each allocation.

(ii) For each task indicate the estimated total cost. Also indicate the estimated total man-months, if any, allocated to the task from the applicant's in-house staff.

(iii) For each task, list the estimated cost using the object class categories 6.a. through k., Part III, Section B—Budget Categories of Form CD–292.

(4) The sum of all the task costs in sub-paragraph (3) of this paragraph should equal the total estimated grant project costs.

(5) Using two categories, Professional and Clerical, indicate the total number of personnel in each category on the applicant's in-house staff, that will be assigned to the grant project. Additionally indicate the number assigned full time and the number assigned less than full time in the two categories.

(6) An identification of those management program elements, if any, that will not be supported by the grant project, and how they will be implemented.

§ 923.56 Approval of applications.

(a) The application for an administrative grant of any coastal State with a management program approved by the Secretary of Commerce, which complies with the policies and requirements of the Act and these guidelines, shall be approved by OCZM, assuming available funding.

(b) Should an application be found deficient, OCZM will notify the applicant in writing, setting forth in detail the manner in which the application fails to conform to the requirements of the Act or this subpart. Conferences may be held on these matters. Corrections or adjustments to the application will provide the basis for resubmittal of the application for further consideration and review.

(c) OCZM may, upon finding of extenuating circumstances relating to applications for assistance, waive appropriate administrative requirements contained herein.

§ 923.57 Amendments.

Amendments to an approved application must be submitted to, and approved by, the Secretary prior to initiation of the change contemplated. Requests for substantial changes should be discussed with OCZM well in advance. It is recognized that, while all amendments must be approved by OCZM, most such requests will be relatively minor in scope; therefore, approval may be presumed for minor amendments if the State has not been notified of objections within 30 working days of date of postmark of the request.

§ 923.58 Applications for second and subsequent year grants.

(a) Second and subsequent year applications will follow the procedures set forth in this subpart, with the following exceptions:

(1) The preapplication form may be used at the option of the applicant. If used, the procedures set forth in § 923.55 (b) will be followed and the preapplication is to be submitted 120 days prior to the beginning date of the requested grant. If the preapplication form is not used, the A-95 project notification and review procedures established by State and areawide clearinghouses should be followed.

(2) The application must contain a statement by the Governor of the coastal State or his designee that the management program as approved earlier by the Secretary of Commerce, with any approved amendments, is operative and has not been materially altered. This statement will provide the basis for an annual OCZM certification that the approved management program remains in effect, thus fulfilling, in part, the requirements of section 309(a) for a continuing review of management programs.

(3) The Governor's document designating the applicant agency is not required, unless there has been a change of designation.

(4) Copies of the approved management program or approved amendments thereto are not required.

[FR Doc.75-738 Filed 1-8-75;8:45 am]

APPENDIX 3

WASHINGTON SHORELINE MANAGEMENT ACT OF 1971

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

REVISED CODE OF WASHINGTON (RCW)
SHORELINE MANAGEMENT ACT OF 1971

Chapter 90.58 RCW
Amended effective February 14, 1974

Chapter 61, laws of 1974, amended one section.

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Chapter 90.58 RCW

SHORELINE MANAGEMENT ACT OF 1971
As Amended by Chapter 203 Laws of 1973

RCW 90.58.010 SHORT TITLE. This chapter shall be known and may be cited as the "Shoreline Management Act of 1971." [1971 1st ex.s. c 286 § 1.]

90.58.020 Legislative findings--State policy enunciated---USE PREFERENCE. The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of state-wide significance. The department, in adopting guidelines for shorelines of state-wide significance, and local government, in developing master programs for shorelines of state-wide significance, shall give preference to uses in the following order of preference which:

(1) Recognize and protect the state-wide interest over local interest;
(2) Preserve the natural character of the shoreline;
(3) Result in long term over short term benefit;
(4) Protect the resources and ecology of the shoreline;
(5) Increase public access to publicly owned areas of the shorelines;
(6) Increase recreational opportunities for the public in the shoreline;
(7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy 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 consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

Permitted uses in the shorelines of the state shall be designed and conducted in a manner to minimize, insofar as practical, any resultant damage to the ecology and environment of the shoreline area and any interference with the public's use of the water. [1971 1st ex.s. c286 § 2.]

Reviser's note: In subsection (7), a literal translation of the session law's reference " . . . section 11 of this 1971 act . . ." would read "RCW 90.58.110". The above reference to "RCW 90.58.100" which codifies section 10 of this act is believed proper in that (1) section 10 lists the elements includable within the master programs while section 11 neither defines nor mentions such elements, and (2) in the course of passage of the bill, section 7 was deleted causing old section 11 to be renumbered section 10, but the above reference was not amended in consonance with the renumbering.

90.58.030 DEFINITIONS AND CONCEPTS. As used in this chapter, unless the context otherwise requires, the following definitions and concepts apply:
(1) Administration:
(a) "Department" means the department of ecology;

(b) "Director" means the director of the department of ecology;

(c) "Local government" means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to this chapter;

(d) "Person" means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the state or local governmental unit however designated;

(e) "Hearing board" means the shoreline hearings board established by this chapter.

(2) Geographical:

(a) "Extreme low tide" means the lowest line on the land reached by a receding tide;

(b) "Ordinary high water mark" on all lakes, streams, and tidal water is that mark that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation as that condition exists on June 1, 1971 or as it may naturally change thereafter: Provided, That in any area where the ordinary high water mark cannot be found, the ordinary high water mark adjoining salt water shall be the line of mean higher high tide and the ordinary high water mark adjoining fresh water shall be the line of mean high water;

(c) "Shorelines of the state" are the total of all "shorelines" and "shorelines of state-wide significance" within the state;

(d) "Shorelines" means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them; except (i) shorelines of state-wide significance; (ii) shorelines on segments of steams upstream of a point where the mean annual flow is twenty cubic feet per second or less and the wetlands associated with such upstream segments; and (iii) shorelines on lakes less than twenty acres in size and wetlands associated with such small lakes;

(e) "Shorelines of state-wide significance" means the following shorelines of the state:

(i) The area between the ordinary high water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:

(A) Nisqually Delta--from DeWolf Bight to Tatsolo Point,

(B) Birch Bay--from Point Whitehorn to Birch Point,

(C) Hood Canal--from Tala Point to Foulweather Bluff,

(D) Skagit Bay and adjacent area--from Brown Point to Yokeko Point, and

(E) Padilla Bay--from March Point to William Point;

(iii) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide;

(iv) Those lakes, whether natural, artificial or a combination thereof, with a surface acreage of one thousand acres or more measured at the ordinary high water mark;

(v) Those natural rivers or segments thereof as follows:

(A) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at one thousand cubic feet per second or more,

(B) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at two hundred cubic feet per second or more, or those portions of rivers east of the crest of the Cascade range downstream from the first three hundred square miles of drainage area, whichever is longer;

(vi) Those wetlands associated with (i), (ii), (iv), and (v) of this subsection (2) (e);

(f) "Wetlands" or "wetland areas" means those lands extending landward for two hundred feet in all directions as measured on a horizontal plane from the ordinary high water mark; and all marshes, bogs, swamps, floodways, river deltas, and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of this chapter; the same to be designated as to location by the department of ecology.

(3) Procedural terms:

(a) "Guidelines" means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs;

(b) "Master program" shall mean the comprehensive use plan for a described area, and the use regulations together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in RCW 90.58.020;

(c) "State master program" is the cumulative total of all master programs approved or adopted by the department of ecology;

(d) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to this chapter at any state of water level;

(e) "Substantial development" shall mean any development of which the total cost or fair market value exceeds one thousand dollars, or any development which materially interferes with the normal public use of the water or shorelines of the state; except that the following shall not be considered

substantial developments for the purpose of this chapter:

(i) Normal maintenance or repair of existing structures or developments, including damage by accident, fire or elements;

(ii) Construction of the normal protective bulkhead common to single family residences;

(iii) Emergency construction necessary to protect property from damage by the elements;

(iv) Construction of a barn or similar agricultural structure on wetlands;

(v) Construction or modification of navigational aids such as channel markers and anchor buoys;

(vi) Construction on wetlands by an owner, lessee or contract purchaser of a single family residence for his own use or for the use of his family, which residence does not exceed a height of thirty-five feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof, other than requirements imposed pursuant to this chapter.

(vii) Construction of a dock, designed for pleasure craft only, for the private noncommercial use of the owner, lessee, or contract purchaser of a single family residence, the cost of which does not exceed two thousand five hundred dollars. [1973 c 203 § 1; 1971 1st ex.s. c 286 § 3.1]

90.58.040 PROGRAM APPLICABLE TO THE SHORELINES OF THE STATE The shoreline management program of this chapter shall apply to the shorelines of the state as defined in this chapter. [1971 1st ex.s. c 286 § 4.]

90.58.050 PROGRAM AS COOPERATIVE BETWEEN LOCAL GOVERNMENT AND STATE--RESPONSIBILITIES DIFFERENTIATED. This chapter establishes a cooperative program of shoreline management between local government and the state. Local government shall have the primary responsibility for initiating and administering the regulatory program of this chapter. The department shall act primarily in a supportive and review capacity with primary emphasis on insuring compliance with the policy and provisions of this chapter. [1971 1st ex.s. c 286 § 5.]

90.58.060 TIMETABLE FOR ADOPTION OF INITIAL GUIDELINES--PUBLIC HEARINGS, NOTICE OF. (1) Within one hundred twenty days from June 1, 1971, the department shall submit to all local governments proposed guidelines consistent with RCW 90.58.020 for:

(a) Development of master programs for regulations of the uses of shorelines; and

(b) Development of master programs for regulation of the uses of shorelines of state-wide significance.

(2) Within sixty days from receipt of such proposed guidelines, local governments shall submit to the department in writing proposed changes, if any, and comments upon the proposed guidelines.

(3) Thereafter and within one hundred twenty days from the submission of such proposed guidelines to local governments, the department, after review and consideration of the comments and suggestions submitted to it, shall resubmit final proposed guidelines.

(4) Within sixty days thereafter public hearings shall be held by the department in Olympia and Spokane, at which interested public and private parties shall have the opportunity to present statements and views on the proposed guidelines. Notice of such hearings shall be published at least once in each of the three weeks immediately preceding the hearing in one or more newspapers of general circulation in each county of the state.

(5) Within ninety days following such public hearings, the department at a public hearing to be held in Olympia shall adopt guidelines. [1971 1st ex.s. c 286 § 6.]

90.58.070 LOCAL GOVERNMENTS TO SUBMIT LETTERS OF INTENT --DEPARTMENT TO ACT UPON FAILURE OF LOCAL GOVERNMENT. (1) Local governments are directed with regard to shorelines of the state in their various jurisdictions to submit to the director of the department, within six months from June 1, 1971, letters stating that they propose to complete an inventory and develop master programs for these shorelines as provided for in RCW 90.58.080.

(2) If any local government fails to submit a letter as provided in subsection (1) of this section, or fails to adopt a master program for the shorelines of the state within its jurisdiction in accordance with the time schedule provided in this chapter, the department shall carry out the requirements of RCW 90.58.080 and adopt a master program for the shorelines of the state within the jurisdiction of the local government. [1971 1st ex.s. c 286 § 7.]

90.58.080 TIMETABLE FOR LOCAL GOVERNMENTS TO COMPLETE SHORELINE INVENTORIES AND MASTER PROGRAMS. Local governments are directed with regard to shorelines of the state within their various jurisdictions as follows:

(1) To complete within eighteen months after June 1, 1971, a comprehensive inventory of such shorelines. Such inventory shall include but not be limited to the general ownership patterns of the lands located therein in terms of public and private ownership, a survey of the general natural characteristics thereof, present uses conducted therein and initial projected uses thereof;

(2) To develop, within twenty-four months after the adoption of guidelines as provided in RCW 90.58.060, a master program for regulation of uses of the shorelines of the state consistent with the guidelines adopted. [1974 3rd ex.s. c 61-§1, 1971 1st ex.s. c 286 § 8.]

This 1974 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1974 3rd ex.s. c 61 § 2.]

90.58.090 APPROVAL OF MASTER PROGRAM OR SEGMENTS THEREOF, WHEN--DEPARTMENTAL ALTERNATIVES WHEN SHORELINES OF STATE-WIDE SIGNIFICANCE--LATER ADOPTION OF MASTER PROGRAMS SUPERSEDES DEPARTMENTAL PROGRAM. Master programs or segments thereof shall become effective when adopted or approved by the department as appropriate. Within the time period provided in RCW 90.58.080, each local government shall have submitted a master program, either totally or by segments, for all shorelines of the state within its jurisdiction to the department for review and approval.

(1) As to those segments of the master program relating to shorelines, they shall be approved by the department unless it determines that the submitted segments are not consistent with the policy of RCW 90.58.020 and the applicable guidelines. If approval is denied, the department shall state within ninety days from the date of submission in detail the precise facts upon which that decision is based, and shall submit to the local government suggested modifications to the program to make it consistent with said policy and guidelines. The local government shall have ninety days after it receives recommendations from the department to make modifications designed to eliminate the inconsistencies and to resubmit the program to the department for approval. Any resubmitted program shall take effect when and in such form and content as is approved by the department.

(2) As to those segments of the master program relating to shorelines of state-wide significance the department shall have full authority following review and evaluation of the submission by local government to develop and adopt an alternative to the local government's proposal if in the department's opinion the program submitted does not provide the optimum implementation of the policy of this chapter to satisfy the state-wide interest. If the submission by local government is not approved, the department shall suggest modifications to the local government within ninety days from receipt of the submission. The local government shall have ninety days after it receives said modifications to consider the same and resubmit a master program to the department. Thereafter, the department shall adopt the resubmitted program or, if the department determines that said program does not provide for optimum implementation, it may develop and adopt an alternative as hereinbefore provided.

(3) In the event a local government has not complied with the requirements of RCW 90.58.070 it may thereafter upon written notice to the department elect to adopt a master program for the shorelines within its jurisdiction, in which event it shall comply with provisions established by this chapter for the adoption of a master program for such shorelines.

Upon approval of such master program by the department it shall supersede such master program as may have been adopted by the department for such shorelines. [1971 1st ex.s. c 286 § 9.]

90.58.100 PROGRAMS AS CONSTITUTING USE REGULATIONS--DUTIES WHEN PREPARING PROGRAMS AND AMENDMENTS THERETO--PROGRAM CONTENTS. (1) The master programs provided for in this chapter, when adopted and approved by the department, as appropriate, shall constitute use regulations for the various shorelines of the state. In preparing the master programs, and any amendments thereto, the department and local governments shall to the extent feasible:

(a) Utilize a systematic interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts;

(b) Consult with and obtain the comments of any federal, state, regional, or local agency having any special expertise with respect to any environmental impact;

(c) Consider all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state;

(d) Conduct or support such further research, studies, surveys, and interviews as are deemed necessary;

(e) Utilize all available information regarding hydrology, geography, topography, ecology, economics, and other pertinent data;

(f) Employ, when feasible, all appropriate, modern scientific data processing and computer techniques to store, index, analyze, and manage the information gathered.

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, transportion facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;

(g) An historic, cultural, scientific, and educational element for the protection and restoration of buildings, sites, and areas having historic, cultural, scientific, or educational values; and

(h) Any other element deemed appropriate or necessary to effectuate the policy of this chapter.

(3) The master programs shall include such map or maps, descriptive text, diagrams and charts, or other descriptive material as are necessary to provide for ease of understanding.

(4) Master programs will reflect that state-owned shorelines of the state are particularly adapted to providing wilderness beaches, ecological study areas, and other recreational activities for the public and will give appropriate special consideration to same.

(5) Each master program shall contain provisions to allow for the varying of the application of use regulations of the program, including provisions for permits for conditional uses and variances, to insure that strict implementation of a program will not create unnecessary hardships or thwart the policy enumerated in RCW 90.58.020. Any such varying shall be allowed only if extraordinary circumstances are shown and the public interest suffers no substantial detrimental effect. The concept of this subsection shall be incorporated in the rules adopted by the department relating to the establishment of a permit system as provided in RCW 90.58.140(3). [1971 1st ex.s. c 286 § 10.]

90.58.110 DEVELOPMENT OF PROGRAM WITHIN TWO OR MORE ADJACENT LOCAL GOVERNMENT JURISDICTIONS--DEVELOPMENT OF PROGRAM IN SEGMENTS, WHEN. (1) Whenever it shall appear to the director that a master program should be developed for a region of the shorelines of the state which includes lands and waters located in two or more adjacent local government jurisdictions, the director shall designate such region and notify the appropriate units of local government thereof. It shall be the duty of the notified units to develop cooperatively an inventory and master program in accordance with and within the time provided in RCW 90.58.080.

(2) At the discretion of the department, a local government master program may be adopted in segments applicable to particular areas so that immediate attention may be given to those areas of the shorelines of the state in most need of a use regulation. [1971 1st ex.s. c 286 § 11.]

90.58.120 ADOPTION OF RULES, PROGRAMS, ETC., SUBJECT TO RCW 34.04.025--PUBLIC HEARINGS, NOTICE OF--PUBLIC INSPECTION AFTER APPROVAL OR ADOPTION. All rules and regulations, master programs, designations and guidelines, shall be adopted or approved in accordance with the provisions of RCW 34.04.025 insofar as such provisions are not inconsistent with the provisions of this chapter. In addition:

(1) Prior to the approval or adoption by the department of a master program, or portion thereof, at least one public hearing shall be held in each county affected by a program or portion thereof for the purpose of obtaining the views and comments of the public. Notice of each such hearing shall be published at least once in each of the three weeks immediately preceding the hearing in one or more newpapers of general circulation in the county in which the hearing is to be held.

(2) All guidelines, regulations, designations or master programs adopted or approved under this chapter shall be available for public inspection at the office of the department or the appropriate county auditor and city clerk. The terms "adopt" and "approve" for purposes of this section, shall include modifications and rescission of guidelines. [1971 1st ex.s. c 286 § 12.]

90.58.130 INVOLVEMENT OF ALL PERSONS AND ENTITIES HAVING INTEREST, MEANS. To insure that all persons and entities having an interest in the guidelines and master programs developed under this chapter are provided with a full opportunity for involvement in both their development and implementation, the department and local governments shall:

(1) Make reasonable efforts to inform the people of the state about the shoreline management program of this chapter and in the performance of the responsibilities provided in this chapter, shall not only invite but actively encourage participation by all persons and private groups and entities showing an interest in shoreline management programs of this chapter; and

(2) Invite and encourage participation by all agencies of federal, state, and local government, including municipal and public corporations, having interests or responsibilities relating to the shorelines of the state. State and local agencies are directed to participate fully to insure that their interests are fully considered by the department and local governments. [1971 1st ex.s. c 286 § 13.]

90.58.140 DEVELOPMENT PERMITS--GROUNDS FOR GRANTING--DEPARTMENTAL APPEAL ON ISSUANCE--ADMINISTRATION BY LOCAL GOVERNMENT, CONDITIONS--RESCISSION--WHEN PERMITS NOT REQUIRED--APPROVAL WHEN PERMIT FOR VARIANCE OR CONDITIONAL USE.. (1) No development shall be undertaken on the shorelines of the state except those which are consistent with the policy of this chapter and, after adoption or approval, as appropriate, the applicable guidelines, regulations or master program.

(2) No substantial development shall be undertaken on shorelines of the state without first obtaining a permit from the government entity having administrative jurisdiction under this chapter.

A permit shall be granted:

(a) From June 1, 1971, until such time as an applicable master program has become effective, only when the development proposed is consistent with: (i) The policy of RCW 90.58.020;

and (ii) after their adoption, the guidelines and regulations of the department; and (iii) so far as can be ascertained, the master program being developed for the area. In the event the department is of the opinion that any permit granted under this subsection is inconsistent with the policy declared in RCW 90.58.020 or is otherwise not authorized by this section, the department may appeal the issuance of such permit within thirty days to the hearings board upon written notice to the local government and the permittee;

(b) After adoption or approval, as appropriate, by the department of an applicable master program, only when the development proposed is consistent with the applicable master program and the policy of RCW 90.58.020.

(3) Local government shall establish a program, consistent with rules adopted by the department, for the administration and enforcement of the permit system provided in this section. Any such system shall include a requirement that all applications and permits shall be subject to the same public notice procedures as provided for applications for waste disposal permits for new operations under RCW 90.48.170. The administration of the system so established shall be performed exclusively by local government.

(4) Such system shall include provisions to assure that construction pursuant to a permit will not begin or be authorized until forty-five days from the date of final approval by the local government or, except in the case of any permit issued to the state of Washington, department of highways, for the construction and modification of the SR 90 (I-90) bridges across Lake Washington, until all review proceedings are terminated if such proceedings were initiated within forty-five days from the date of final approval by the local government.

(5) Any ruling on an application for a permit under authority of this section, whether it be an approval or a denial, shall, concurrently with the transmittal of the ruling to the applicant, be filed with the department and the attorney general.

(6) Applicants for permits under this section shall have the burden of proving that a proposed substantial development is consistent with the criteria which must be met before a permit is granted. In any review of the granting or denial of an application for a permit as provided in RCW 90.58.160 (1), the person requesting the review shall have the burden of proof.

(7) Any permit may be rescinded by the issuing authority upon the finding that a permittee has not complied with conditions of a permit. In the event the department is of the opinion that such noncompliance exists, the department may appeal within thirty days to the hearings board for a rescission of such permit upon written notice to the local government and the permittee.

(8) The holder of a certification from the governor pursuant to chapter 80.50 RCW shall not be required to obtain a permit under this section.

(9) No permit shall be required for any development on shorelines of the state included within a preliminary or final plat approved by the applicable state agency or local government prior to April 1, 1971, if:

(a) The final plat was approved after April 13, 1961, or the preliminary plat was approved after April 30, 1969, or

(b) Sales of lots to purchasers with reference to the plat, or substantial development incident to platting or required by the plat, occurred prior to April 1, 1971, and

(c) The development to be made without a permit meets all requirements of the applicable state agency or local government, other than requirements imposed pursuant to this chapter, and

(d) The development does not involve construction of buildings, or involves construction on wetlands of buildings to serve only as community social or recreational facilities for the use of owners of platted lots and the buildings do not exceed a height of thirty-five feet above average grade level, and

(e) The development is completed within two years after the effective date of this chapter.

(10) The applicable state agency or local government is authorized to approve a final plat with respect to shorelines of the state included within a preliminary plat approved after April 30, 1969, and prior to April 1, 1971: Provided, That any substantial development within the platted shorelines of the state is authorized by a permit granted pursuant to this section, or does not require a permit as provided in subsection (9) of this section, or does not require a permit because of substantial development occurred prior to June 1, 1971.

(11) Any permit for a variance or a conditional use by local government under approved master programs must be submitted to the department for its approval or disapproval. [1973 2nd ex.s. c 19 § 1, 1971 1st ex.s. c 286 § 14.]

90.58.150 SELECTIVE COMMERICAL TIMBER CUTTING, WHEN. With respect to timber situated within two hundred feet abutting landward of the ordinary high water mark within shorelines of state-wide significance, the department or local government shall allow only selective commerical timber cutting, so that no more than thirty percent of the merchantable trees may be harvested in any ten year period of time: Provided, That other timber harvesting methods may be permitted in those limited instances where the topography, soil conditions or silviculture practices necessary for regeneration render selective logging ecologically detrimental: Provided further, That clear cutting of timber which is solely incidental to the preparation of land for other uses authorized by this chapter may be permitted. [1971 1st ex.s. c 286 § 15.]

90.58.160 PROHIBITION AGAINST SURFACE DRILLING FOR OIL OR GAS, WHERE. Surface drilling for oil or gas is prohibited in the waters of Puget Sound north to the Canadian boundary and the Strait of Juan de Fuca seaward from the ordinary high water mark and on all lands within one thousand feet landward from said mark. [1971 1st ex.s. c 286 § 16.]

90.58.170 SHORELINES HEARINGS BOARD--ESTABLISHED--MEMBERS--CHAIRMAN--QUORUM FOR DECISION--ADMINISTRATIVE AND

CLERICAL ASSISTANCE--EXPENSES OF MEMBERS. A shorelines hearings board sitting as a quasi judicial body is hereby established which shall be made up of six members: Three members shall be members of the pollution control hearings board; two members, one appointed by the association of Washington cities and one appointed by the association of county commissioners, both to serve at the pleasure of the associations; and the state land commissioner or his designee. The chairman of the pollution control hearings board shall be the chairman of the shorelines hearings board. A decision must be agreed to by at least four members of the board to be final. The pollution control hearings board shall provide the shorelines appeals board such administrative and clerical assistance as the latter may require. The members of the shorelines appeals board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060. [1971 1st ex.s. c 286 § 17.]

90.58.175 The shorelines hearings board may adopt rules and regulations governing the administrative practice and procedure in and before the board. [1973 2nd ex.s. c 203- § 3.]

90.58.180 APPEALS FROM GRANTING, DENYING OR RESCINDING PERMITS, PROCEDURE--BOARD TO ACT, WHEN--LOCAL GOVERNMENT APPEALS TO BOARD--GROUNDS FOR DECLARING MASTER PROGRAM INVALID--APPEALS TO COURT, PROCEDURE. (1) Any person aggrieved by the granting or denying of a permit on shorelines of the state, or rescinding a permit pursuant to RCW 90.58.150 may seek review from the shorelines hearings board by filing a request for the same within thirty days of receipt of the final order. Concurrently with the filing of any request for review with the board as provided in this section pertaining to a final order of a local government, the requestor shall file a copy of his request with the department and the attorney general. If it appears to the department or the attorney general that the requestor has valid reasons to seek review, either the department or the attorney general may certify the request within thirty days after its receipt to the shorelines hearings board following which the board shall then, but not otherwise, review the matter covered by the requestor: Provided, That the failure to obtain such certification shall not preclude the requestor from obtaining a review in the superior court under any right to review otherwise available to the requestor. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within forty-five days from the date of the filing of said copies by the requestor.

(2) The department or the attorney general may obtain review of any final order granting a permit, or granting or denying an application for a permit issued by a local government by filing a written request with the shorelines appeals board and the appropriate local government within forty-five days from the date the final order was filed as provided in subsection (5) of RCW 90.58.140.

(3) The review proceedings authorized in subsection (1) and (2) of this section are subject to the provisions of chapter 34.04 RCW pertaining to procedures in contested cases. Judicial review of such proceedings of the shorelines hearings board may be had as provided in chapter 34.04 RCW.

(4) Local government may appeal to the shorelines hearings board any rules, regulations, guidelines, designations or master programs for shorelines of the state adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

(a) In an appeal relating to a master program for shorelines, the board, after full consideration of the positions of the local government and the department, shall determine the validity of the master program. If the board determines that said program:

(i) is clearly erroneous in light of the policy of this chapter; or

(ii) constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or

(iii) is arbitrary and capricious; or

(iv) was developed without fully considering and evaluating all proposed master programs submitted to the department by the local government; or

(v) was not adopted in accordance with required procedures; the board shall enter a final decision declaring the program invalid, remanding the master program to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local government, a new master program. Unless the board makes one or more of the determinations as hereinbefore provided, the board shall find the master program to be valid and enter a final decision to that effect.

(b) In an appeal relating to a master program for shorelines of state-wide significance the board shall approve the master program adopted by the department unless a local government shall, by clear and convincing evidence and argument, persuade the board that the master program approved by the department is inconsistent with the policy of RCW 90.58.020 and the applicable guidelines.

(c) In an appeal relating to rules, regulations, guidelines, master programs of state-wide significance and designations, the standard of review provided in RCW 34.04.070 shall apply.

(5) Rules, regulations, designations, master programs and guidelines shall be subject to review in superior court, if authorized pursuant to RCW 34.04.070: Provided, That no review shall be granted by a superior court on petition from a local government unless the local government shall first have obtained review under subsection (4) of this section and the petition for court review is filed within three months after the date of final decision by the shorelines hearings board. [1973 c 203 § 2; 1971 1st ex.s. c 286 § 18.]

90.58.190 REVIEW AND ADJUSTMENTS TO MASTER PROGRAMS. The department and each local government shall periodically review any master programs under its jurisdiction and make such adjustments thereto as are necessary. Each local government shall submit any proposed adjustments, to the department as soon as they are completed. No such adjustment shall become effective until it has been approved by the department. [1971 1st ex.s. c 286 § 19.]

90.58.200 RULES AND REGULATIONS. The department and local governments are authorized to adopt such rules as are necessary and appropriate to carry out the provisions of this chapter. [1971 1st ex.s. c 286 § 20.]

90.58.210 COURT ACTIONS TO INSURE AGAINST CONFLICTING USES AND TO ENFORCE. The attorney general or the attorney for the local government shall bring such injunctive, declaratory, or other actions as are necessary to insure that no uses are made of the shorelines of the state in conflict with the provisions and programs of this chapter, and to otherwise enforce the provisions of this chapter. [1971 1st ex.s. c 286 § 21.]

90.58.220 GENERAL PENALTY. In addition to incurring civil liability under RCW 90.58.210, any person found to have wilfully engaged in activities on the shorelines of the state in violation of the provisions of this chapter or any of the master programs, rules, or regulations adopted pursuant thereto shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than twenty-five nor more than one thousand dollars or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment: Provided, That the fine for the third and all subsequent violations in any five-year period shall be not less than five hundred nor more than ten thousand dollars. [1971 1st ex.s. c 286 § 22.]

90.58.230 VIOLATORS LIABLE FOR DAMAGES RESULTING FROM VIOLATION--ATTORNEY'S FEES AND COSTS. Any person subject to the regulatory program of this chapter who violates any provision of this chapter or permit issued pursuant thereto shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to violation. The attorney general or local government attorney shall bring suit for damages under this section on behalf of the state or local governments. Private persons shall have the right to bring suit for damages under this section on their own behalf and on the behalf of all persons similarly situated. If liability has been established for the cost of restoring an area affected by a violation the court shall make provision to assure that restoration will be accomplished within a reasonable time at the expense of the violator. In addition to such relief, including money damages,

the court in its discretion may award attorney's fees and costs of the suit to the prevailing party. [1971 1st ex.s. c 286 § 23.]

90.58.240 ADDITIONAL AUTHORITY GRANTED DEPARTMENT AND LOCAL GOVERNMENTS. In addition to any other powers granted hereunder, the department and local governments may:

(1) Acquire lands and easements within shorelines of the state by purchase, lease, or gift, either alone or in concert with other governmental entities, when necessary to achieve implementation of master programs adopted hereunder;

(2) Accept grants, contributions, and appropriations from any agency, public or private, or individual for the purposes of this chapter;

(3) Appoint advisory committees to assist in carrying out the purposes of this chapter;

(4) Contract for professional or technical services required by it which cannot be performed by its employees. [1972 1st ex.s. 53 § 1; 1971 ex.s. c 286 § 24.]

90.58.250 DEPARTMENT TO COOPERATE WITH LOCAL GOVERNMENTS --GRANTS FOR DEVELOPMENT OF MASTER PROGRAMS. The department is directed to cooperate fully with local governments in discharging their responsibilities under this chapter. Funds shall be available for distribution to local governments on the basis of applications for preparation of master programs. Such applications shall be submitted in accordance with regulations developed by the department. The department is authorized to make and administer grants within appropriations authorized by the legislature to any local government within the state for the purpose of developing a master shorelines program. No grant shall be made in an amount in excess of the recipient's contribution to the estimated cost of such program. [1971 1st ex.s. c 286 § 25.]

90.58.260 STATE TO REPRESENT ITS INTEREST BEFORE FEDERAL AGENCIES, INTERSTATE AGENCIES AND COURTS. The state, through the department of ecology and the attorney general, shall represent its interest before water resource regulation management, development, and use agencies of the United States, including among others, the federal power commission, environmental protection agency, corps of engineers, department of interior, department of agriculture and the atomic energy commission, before interstate agencies and the courts with regard to activities or uses of shorelines of the state and the program of this chapter. Where federal or interstate agency plans, activities, or procedures conflict with state policies, all reasonable steps available shall be taken by the state to preserve the integrity of its policies. [1971 1st ex.s. c 286 § 26.]

90.58.270 NONAPPLICATION TO CERTAIN STRUCTURES, DOCKS, DEVELOPMENTS, ETC., PLACED IN NAVIGABLE WATERS--NONAPPLICATION TO CERTAIN RIGHTS OF ACTION, AUTHORITY. (1) Nothing in this statute shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: Provided, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) hereof.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights. [1971 1st ex.s. c 286 § 27.]

90.58.280 APPLICATIONS TO ALL STATE AGENCIES, COUNTIES, PUBLIC AND MUNICIPAL CORPORATIONS. The provisions of this chapter shall be applicable to all agencies of state government, counties, and public and municipal corporations and to all shorelines of the state owned or administered by them. [1971 1st ex.s. c 286 § 28.]

90.58.290 RESTRICTIONS AS AFFECTING FAIR MARKET VALUE OF PROPERTY. The restrictions imposed by this chapter shall be considered by the county assessor in establishing the fair market value of the property. [1971 1st ex.s. c 286 § 29.]

90.58.300 DEPARTMENT AS REGULATING STATE AGENCY--SPECIAL AUTHORITY. The department of ecology is designated the state agency responsible for the program of regulation of the shorelines of the state, including coastal shorelines and the shorelines of the inner tidal waters of the state, and is authorized to cooperate with the federal government and sister states and to receive benefits of any statutes of the United States whenever enacted which relate to programs of this chapter. [1971 1st ex.s. c 286 § 30.]

90.58.310 DESIGNATION OF SHORELINES OF STATE-WIDE SIGNIFICANCE BY LEGISLATURE--RECOMMENDATION BY DIRECTOR, PROCEDURE.

Additional shorelines of the state shall be designated shorelines of state-wide significance only by affirmative action of the legislature.

The director of the department may, however, from time to time, recommend to the legislature areas of the shorelines of the state which have state-wide significance relating to special economic, ecological, educational, developmental, recreational, or aesthetic values to be designated as shorelines of state-wide significance.

Prior to making any such recommendation the director shall hold a public hearing in the county or counties where the shoreline under consideration is located. It shall be the duty of the county commissioners of each county where such a hearing is conducted to submit their views with regard to a proposed designation to the director at such date as the director determines but in no event shall the date be later than sixty days after the public hearing in the county. [1971 1st ex.s. 286 § 31.]

90.58.320 HEIGHT LIMITATION RESPECTING PERMITS. No permit shall be issued pursuant to this chapter for any new or expanded building or structure of more than thirty-five feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served. [1971 1st ex.s. c 286 § 32.]

90.58.330 STUDY OF SHORELINES OF CITIES AND TOWNS SUBMITTED TO LEGISLATURE--SCOPE. The department of ecology, the attorney general, and the harbor line commission are directed as a matter of high priority to undertake jointly a study of the locations, uses and activities, both proposed and existing, relating to the shorelines of the cities, and towns of the state and submit a report which shall include but not be limited to the following:

(1) Events leading to the establishment of the various harbor lines pertaining to cities of the state;

(2) The location of all such harbor lines;

(3) The authority for establishment and criteria used in location of the same;

(4) Present activities and uses made within harbors and their relationship to harbor lines;

(5) Legal aspects pertaining to any uncertainty and inconsistency; and

(6) The relationship of federal, state and local governments to regulation of uses and activities pertaining to the area of study.

The report shall be submitted to the legislature not later than December 1, 1972. [1971 1st ex.s c 286 § 33.]

90.58.340 USE POLICIES FOR LAND ADJACENT TO SHORELINES, DEVELOPMENT OF. All state agencies, counties, and public and

municipal corporations shall review administrative and management policies, regulations, plans, and ordinances relative to lands under their respective jurisdictions adjacent to the shorelines of the state so as to achieve a use policy on said land consistent with the policy of this chapter, the guidelines, and the master programs for the shorelines of the state. The department may develop recommendations for land use control for such lands. Local governments shall, in developing use regulations for such areas, take into consideration any recommendations developed by the department as well as any other state agencies or units of local government. [1971 1st ex.s. c 286 § 34.]

90.58.350 NONAPPLICATION TO TREATY RIGHTS. Nothing in this chapter shall affect any rights established by treaty to which the United States is a party. [1971 1st ex.s c 286 § 35.]

90.58.360 EXISTING REQUIREMENTS FOR PERMITS, CERTIFICATES, ETC., NOT OBVIATED. Nothing in this chapter shall obviate any requirement to obtain any permit, certificate, license, or approval from any state agency or local government. [1971 1st ex.s. c 286 § 36.]

90.58.900 LIBERAL CONSTRUCTION--1971 1st ex.s. c 286. This chapter is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. [1971 1st ex.s. c 286 § 37.]

90.58.910 SEVERABILITY--1971 1st ex.s. c 286. If any provision of this chapter, or its application to any person or legal entity or circumstances, is held invalid, the remainder of the act, or the application of the provision to other persons or legal entities or circumstances, shall not be affected. [1971 1st ex.s. c 286 § 40.]

90.58.920 EFFECTIVE DATE--1971 1st ex.s. c 286. This chapter is necessary for the immediate preservation of the public peace, health and safety, the support of the state government, and its existing institutions. This 1971 act shall take effect on June 1, 1971. The director of ecology is authorized to immediately take such steps as are necessary to insure that this 1971 act is implemented on its effective date. [1971 1st ex.s. c 286 § 41.]

90.58.930 REFERENDUM TO THE PEOPLE--1971 ACT--DETERMINING IF ACT CONTINUES IN FORCE AND EFFECT. This 1971 act constitutes an alternative to Initiative 43. The secretary of

state is directed to place this 1971 act on the ballot in conjunction with Initiative 43 at the next ensuing regular election.

This 1971 act shall continue in force and effect until the secretary of state certifies the election results on this 1971 act. If affirmatively approved at the ensuing regular general election, the act shall continue in effect thereafter. [1971 1st ex.s. c 286 § 42.]

APPENDIX 4

FINAL GUIDELINES FOR

THE WASHINGTON SHORELINE

MANAGEMENT ACT OF 1971

State of Washington
Department of Ecology

FINAL GUIDELINES
SHORELINE MANAGEMENT ACT
OF 1971

June 20, 1972

STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

OLYMPIA

DANIEL J. EVANS
GOVERNOR

The State of Washington possesses shoreline areas whose uniqueness and diversity are unequalled in the Nation. We have inherited a treasure of untamed rivers, peaceful lakes, and bountiful marine areas. Such grandeur lured our forefathers here and continues to attract tourists in ever-increasing numbers. We have all had the opportunity to explore these natural areas - to swim and boat in the waters, observe the marine life, and fish in our cold, clear mountain streams.

Experiences in other parts of the Country, however, and increasingly so here in Washington, show that we cannot continue to take our shoreline resources for granted. Our shorelines are a limited asset - we cannot increase them, but we can lose them if we fail to protect them through a sound, comprehensive management program.

The Shoreline Management Act of 1971, which was passed by our Legislature and became effective on June 1, 1971, provides the means for developing the necessary planning and management program between local government and the state. Local governments have the primary responsibility for initiating the planning program and administering the regulatory requirements of the Act, with the Department of Ecology acting in a supportive and review capacity.

Another important feature of the Shoreline Act is the emphasis it places on citizen involvement, for only through an active shoreline program in which the citizens are able to participate from the outset can the objectives of shoreline management be attained.

The need for comprehensive shoreline management is clear - the tools for implementing a management program are available. I urge you to accept these guidelines and use them in moving toward a level of environmental quality in our shoreline areas which we can share with pride.

Sincerely,

Daniel J. Evans

Daniel J. Evans
Governor

June 2, 1972

State of Washington
Department of Ecology

Enclosed is a copy of the Final Guidelines for local government, prepared in accordance with the requirements of the Shoreline Management Act of 1971. As required by the Shoreline Act, these Guidelines will be formally adopted in a public hearing, to be held in the Olympia City Hall on June 20, 1972, at 9:30 A. M.

Following the time table set forth in the Act, the first set of proposed guidelines was distributed to local governments on September 28, 1971. Local governments then had a period of ninety days to review the guidelines and submit comments and suggestions to the Department of Ecology for consideration in the revision of the guidelines. Final proposed guidelines were then submitted to local governments and interested citizens and groups on January 26, 1972. An extensive series of public information meetings were held to discuss the final proposed guidelines and to obtain additional input for their refinement. Two public hearings were held on the final proposed guidelines-one in Spokane on March 21, 1972, and one in Olympia on March 23, 1972. The enclosed Final Guidelines are a result of comments received in those hearings and from the correspondence and comments of concerned individuals, citizen groups and industry.

We feel confident that these Final Guidelines are expressive of the concerns of the citizens of the State for the management of their shorelines and of the intent of the Legislature in framing the Shoreline Act. The primary duty for implementing the planning phase of the shoreline program, based on the direction set by these Guidelines, now rests with the cities and counties of our State.

Sincerely,

John A. Biggs
Director

JAB:gk

State of Washington

DEPARTMENT OF ECOLOGY

ADMINISTRATIVE ORDER NO. DE 72-12

(1) I, John A. Biggs, Director, Department of Ecology of the State of Washington, by virtue of the authority vested in me, after due notice and in a meeting open to the public, held in the City of Olympia Commission Chambers, City Hall, 8th and Plum, Olympia, Washington, on June 20, 1972, do promulgate and adopt the annexed rules and regulations, to wit:

> The adoption of guidelines for the development of master programs for regulation of the uses of shorelines of the state pursuant to the Shoreline Management Act of 1971, Chapter 286, Laws of 1971, First Extraordinary Session, Chapter 90.58 RCW, adopting a new chapter 173-16 WAC.

as permanent rules of this agency.

(2) This order after being first recorded in the order register of this agency, shall be forwarded to the Code Reviser for filing, pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED June 20, 1972.
By JOHN A. BIGGS
Director

PURPOSE

WAC 173-16-010 PURPOSE. This regulation is adopted pursuant to chapter 90.58 RCW, in order to: (1) Serve as standards for implementation of the policy of chapter 90.58 RCW for regulations of uses of the shorelines; and

(2) Provide criteria to local governments and the department of ecology in developing master programs.

WAC 173-16-020 APPLICABILITY. The provisions of this chapter shall apply state-wide to all shorelines and shorelines of state-wide significance as defined in RCW 90.58 and WAC 173-16-030.

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INTRODUCTION

The Shoreline Management Act of 1971 is based on the philosophy that the shorelines of the State are among the most valuable, and fragile, of its natural resources and that there is great concern throughout the State relating to their utilization, protection, restoration, and preservation. Therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the State, while at the same time recognizing and protecting private property rights consistent with public interest. This planning is to be a rational and concerted effort, jointly performed by federal, state and local government. It is further felt that the interest of all of the people shall be paramount in the management of shorelines of statewide significance, and that the public should have the opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the State.

The express purpose of the Shoreline Management Act is to provide for management of Washington's shorelines by planning for and fostering all reasonable and appropriate uses. This policy is directed at enhancement of shorelines rather than restriction of uses.

As required by the Shoreline Management Act of 1971, these guidelines have been written to serve as standards for implementation of the policy of this legislation for regulation of uses of the shorelines, prior to adoption of master programs, while also providing criteria to local governments and the Department of Ecology in developing master programs.

The guidelines have been written in relatively general terms so that they can be used by all local governments, regardless of size or geographical location. The critical point of the entire program is the manner in which local governments interpret and utilize these guidelines in the development of their master programs.

The information in this guideline package has been presented in three parts: The Master Program, which sets forth the procedures required for completion of the master programs; The Natural Systems, which provides a brief look at each of the natural phenomena which is part of the total shoreline environment; and, The Use Activities, which presents the actual standards for the establishment of master programs and provides direction for shoreline development until master programs are completed. Each of the parts is preceded by an explanatory paragraph which relates that part to the others in the program.

These guidelines are the beginning of a program which will become more meaningful as our knowledge of our environment increases. Our knowledge is not yet sophisticated enough to precisely determine the nature of the complex and interrelated chemical, biological, physical and aesthetic factors within our environment.

The guidelines were written with a spirit of optimism, with the hope that our legacy of natural grandeur in Washington will be used more wisely in the brief period of time it is entrusted to us, so that succeeding generations may have it to enjoy and extend our concern into their future.

THE MASTER PROGRAM

(WAC 173-16-040)

The master program is to be developed by local government to provide an objective guide for regulating the use of shorelines. The master program should clearly state local policies for the development of shorelands and indicate how these policies relate to the goals of the local citizens and to specific regulations of uses affecting the physical development of land and water resources throughout the local governments' jurisdiction.

The master program developed by each local government will reflect the unique shoreline conditions and the development requirements which exist and are projected in that area. As part of the process of master program development, local governments can identify problems and seek solutions which best satisfy their needs.

A master program, by its definition, is general, comprehensive and long-range in order to be applicable to the whole area for a reasonable length of time under changing conditions.

"General" means that the policies, proposals and guidelines are not directed towards any specific sites.

"Comprehensive" means that the program is directed towards all land and water uses, their impact on the environment and logical estimates of future growth. It also means that the program shall recognize plans and programs of the other government units, adjacent jurisdictions and private developers.

"Long-range" means that the program is to be directed at least 20 to 30 years into the future, look beyond immediate issues, and follow creative objectives rather than a simple projection of current trends and conditions.

Finally, chapter 90.58 RCW requires that the master program shall constitute use regulations for the various shorelines of the state. Specific guidelines are outlined in RCW 90.58.100(1) for preparing the master programs to accomplish this purpose. It is the intention of these guidelines, especially those related to citizen involvement, and the inventory to aid in carrying out this section of the act.

To facilitate an effective implementation of chapter 90.58 RCW throughout the state, the procedures on the following pages shall be observed while developing master programs for the shorelines. Exceptions to some of the specific provisions of these guidelines may occur where unique circumstances justify such departure. Any departure from these guidelines must, however, be compatible with the intent of the Shoreline Management Act as enunciated in RCW 90.58.020. Further, in all cases, local governments must meet the master program requirements specified in the Shoreline Management Act of 1971.

Citizen Involvement (WAC 173-16-040(1))

While public involvement and notification is required of the master program at the time of adoption by the act, the general public must be involved in the initial planning stage during formulation of the master plan.

The act requires that prior to approval or adoption of a master program, or a portion thereof, by the department, at least one public hearing shall be held in each county affected by the program for the purpose of obtaining the views and comments of the public.

The act charges the state and local government with not only the responsibility of making reasonable efforts to inform the people of the state about the shoreline management program, but also actively encourages participation by all persons, private groups, and entities, which have an interest in shoreline management.

To meet these responsibilities, the local government agencies responsible for the development of the master program should establish a method for obtaining and utilizing citizen involvement. The extent of citizen involvement in the formulation of the master program will be considered by the department in the review of the program. A failure by the local government to encourage and utilize citizen involvement, or to justify not having done so, may be noted as a failure to comply with the act.

Though the department recognizes various forms of citizen involvement as viable approaches for involving the public in the master program, the local government will be encouraged to utilize the method as suggested in these guidelines. If a local government does not follow these guidelines, it should provide an explanation of the method used. The department will be available to explain and help organize the suggested approach to citizen involvement upon request.

The suggested approach to citizen involvement to be utilized by the local government agency responsible for the development of the master program includes the following:

(a) Appoint a citizen advisory committee whose function will be to guide the formulation of the master program through a series of public evening meetings and at least one public hearing. The committee members should represent both commercial interests as well as environmentalists. However, the advisory committee itself is not to be a substitute for general citizen involvement and input. The aim of the committee will be to utilize citizen input in:

(i) Studying existing public policies related to shorelines.

(ii) Defining the needs to satisfy local demands for shorelines.

(iii) Studying the type and condition of local shorelines relative to needs.

(iv) Developing goals and policies for the master program with the local government fulfilling the specifications of the master program, including designation of the environments.

(v) Identifying use conflicts.

(vi) Proposing alternatives for the use of shorelines.

(vii) Examining the effects of the master program on the environment.

(b) The citizen advisory committee should hold at least three public meetings during development of the master program and designation of the environments according to the following guidelines:

(i) Public notice (as stated in subsection 1 below)

must be provided seven days prior to the evening meeting.

(ii) All meetings must be open to the public for free discussion.

(iii) Meetings should be held in the evening at a location accessible to the general public.

(iv) Record of all meetings should be filed with the local government and made available to the public.

(v) Local government should provide resource persons to assist in the preparation, organization and diffusion of information.

(vi) The final evening meeting should be held at least seven days prior to the public hearing.

(c) A newsletter should be published by the advisory committee in cooperation with the local government.

(i) The information sheet should be available to the public at posted locations.

(ii) It should be available after the first evening public meeting and prior to the second.

(iii) The date, time, and location of future meetings and hearings should be stated.

(iv) A phone number should be provided to obtain further information.

(v) Public notice should be made of the availability of the newsletter as stated in subsection (d)

(d) Publicity of the master program should utilize:

(i) Public notice postings as per subsection (i) below.

(ii) Newsletter.

(iii) Radio, T.V. and local news media.

(iv) A local paper of general circulation.

(v) Announcements to community groups.

(e) At least one public hearing should be held by the local government after the three public meetings have been held to discuss the proposed master plan.

(i) Public notice (as stated in subsection (i) below) must be made a minimum of once in each of three weeks immediately preceding the hearing in one or more newspapers of general circulation in the area in which the hearing is to be held.

(ii) The master program should be available for public inspection at the local government office and available upon request at least seven days prior to the public hearing.

(f) Prior to adoption of the master program, all reasonable attempts should have been made to obtain a general concurrence of the public and the advisory committee. The method of obtaining or measuring concurrence must be established by the local government and must provide a clear indication of how citizen input is utilized.

(g) If the level of concurrence on the master program is not considered adequate by the advisory committee at the conclusion of the public hearing, the local government should hold subsequent public meetings and public hearings until such time as adequate concurrence as per subsection (f) above is reached.

(h) Attached to the master program upon its submission to the department of ecology shall be a record of public meetings and citizen involvement. A discussion of the use of citizen involvement and measurement on concurrence should be included.

(i) Public notice shall include:

(i) Reference to the authority under which the rule is proposed.

(ii) A statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved.

(iii) The time, place and manner in which interested persons may present their views thereon (as stated in RCW 30.04.025).

Policy Statements (WAC 173-16-040(2))

Each local government shall submit policy statements, developed through the citizen involvement process, regarding shoreline development as part of its master program. Because goal statements are often too general to be useful to very specific decision problems, the policy statements are to provide a bridge for formulating and relating use regulations to the goals also developed through the citizen involvement process. In summary, the policy statements must reflect the intent of the act, the goals of the local citizens, and specifically relate the shoreline management goals to the master program use regulations.

Clearly stated policies are essential to the viability of the master programs. The policy statements will not only support the environmental designations explained below, but, also being more specific than goal statements, will provide an indication of needed environmental designations and use regulations.

The following methodology for developing policy statements is recommended:

(a) Obtain a broad citizen input in developing policy by involving interested citizens and all private and public entities having interest or responsibilities relating to shorelines. Form a citizen advisory committee and conduct public meetings as outlined in WAC 173-16-040(1) to encourage citizens to become involved in developing a master program.

(b) Analyze existing policies to identify those policies that may be incorporated into the master program and those which conflict with the intent of the act. Further, identify constraints to local planning and policy implementation which are a result of previous government actions, existing land-use patterns, actions of adjacent jurisdictions or other factors not subject to local control or influence.

(c) Formulate goals for the use of shoreline areas and develop policies to guide shoreland activities to achieve these goals.

The policies should be consistent with RCW 90.58.020 and provide guidance and support to local government actions regarding shoreline management. Additionally, the policies should express the desires of local citizens and be based on principles of resource management which reflect the state-wide public interest in all shorelines of state-wide significance.

Master Program Elements (WAC 173-16-040(3))

Consistent with the general nature of master programs, the following land and water use elements are to be dealt with, when appropriate, in the local master programs. By dealing with shoreline uses, systematically as belonging to these generic classes of activities, the policies and goals in the master programs can be clearly applied to different shoreline uses. In

the absence of this kind of specificity in the master programs, the application of policy and use regulations could be inconsistent and arbitrary.

The plan elements are:

(a) **Economic development element** for the location and design of industries, transportation facilities, port facilities, tourist facilities, commercial and other developments that are particularly dependent on shoreland locations.

(b) **Public access elements** for assessing the need for providing public access to shoreline areas.

(c) **Circulation element** for assessing the location and extent of existing and proposed major thoroughfares, transportation routes, terminals and other public facilities and correlating those facilities with the shoreline use elements.

(d) **Recreational element** for the preservation and expansion of recreational opportunities through programs of acquisition, development and various means of less-than-fee acquisition.

(e) **Shoreline use element** for considering:

(i) The pattern of distribution and location requirements of land uses on shorelines and adjacent areas, including, but not limited to, housing, commerce, industry, transportation, public buildings and utilities, agriculture, education and natural resources.

(ii) The pattern of distribution and location requirements of water uses including, but not limited to, aquaculture, recreation and transportation.

(f) **Conservation element** for the preservation of the natural shoreline resources, considering such characteristics as scenic vistas, parkways, estuarine areas for fish and wildlife protection, beaches and other valuable natural or aesthetic features.

(g) **Historical/cultural eelment** for protection and restoration of buildings, sites and areas having historic, cultural, educational or scientific values.

(h) In addition to the above-described elements, local governments are encouraged to include in their master programs, an element concerned with the restoration of areas to a natural useful condition which are blighted by abandoned and dilapidated structures. Local governments are also encouraged to include in their master programs any other elements, which, because of present uses or future needs, are deemed appropriate and necessary to effectuate the Shoreline Management Act.

Environments (WAC 173-16-040(4))

In order to plan and effectively manage shoreline resources, a system of categorizing shoreline areas is required for use by local governments in the preparation of master programs. The system is designed to provide a uniform basis for applying policies and use regulations within distinctively different shoreline areas. To accomplish this, the environmental designation to be given any specific area is to be based on the existing development pattern, the biophysical capabilities and limitations of the shoreline being considered for development and the goals and aspirations of local citizenry.

The recommended system classifies shorelines into four distinct environments (natural, conservancy, rural and urban) which provide the framework for implementing shoreline policies and regulatory measures.

This system is designed to encourage uses in each environment which enhance the character of that environment. At the same time, local government may place reasonable standards and restrictions on development so that such development does not disrupt or destroy the character of the environment.

The basic intent of this system is to utilize performance standards which regulate use activities in accordance with goals and objectives defined locally rather than to exclude any use from any one environment. Thus, the particular uses or type of developments placed in each environment must be designed and located so that there are no effects detrimental to achieving the objectives of the environment designations and local development criteria.

This approach provides an "umbrella" environment class over local planning and zoning on the shorelines. Since every area is endowed with different resources, has different intensity of development and attaches different social values to these physical and economic characteristics, the environment designations should not be regarded as a substitute for local planning and land-use regulations.

The basic concept for using the system is for local governments to designate their shorelines into environment categories that reflect the natural character of the shoreline areas and the goals for use of characteristically different shorelines. The determination as to which designation should be given any specific area should be made in the following manner:

(i) The resources of the shoreline areas should be analyzed for their opportunities and limitations for different uses. Completion of the comprehensive inventory of resources is a requisite to identifying resource attributes which determine these opportunities and limitations.

(ii) Each of the plan elements should be analyzed for their effect on the various resources throughout shoreline areas. Since shorelines are only a part of the system of resources within local jurisdiction, it is particularly important that planning for shorelines be considered an integral part of area-wide planning. Further, plans, policies and regulations for lands adjacent to the shorelines of the state should be reviewed in accordance with RCW 90-.58.340.

(iii) Public desires should be considered through the citizen involvement process to determine which environment designations reflect local values and aspirations for the development of different shoreline areas.

The management objectives and features which characterize each of the environments are given below to provide a basis for environment designation within local jurisdictions.

Natural Environment (WAC 173-16-040(4)(b)(i)) The natural environment is intended to preserve and restore those natural resource systems existing relatively free of human influence. Local policies to achieve this objective should aim to regulate all potential developments degrading or changing the natural characteristics which make these areas unique and valuable.

The main emphasis of regulation in these areas should be on natural systems and resources which require severe restrictions of intensities and types of uses to maintain them in a natural state. Therefore, activities which may degrade the actual or potential value of this environment should be strictly regulated. Any activity which would bring about a change in the existing situation would be desirable only if such a change would contribute to the preservation of the existing character.

The primary determinant for designating an area as a natural environment is the actual presence of some unique natural or cultural features considered valuable in their natural or original condition which are relatively intolerant of intensive human use. Such features should be defined, identified and quantified in the shoreline inventory. The relative value of the resources is to be based on local citizen opinion and the needs and desires of other people in the rest of the state.

Conservancy Environment (WAC 173-16-040(4)(b)(ii)) The objective in designating a conservancy environment is to protect, conserve and manage existing natural resources and valuable historic and cultural areas in order to ensure a continuous flow of recreational benefits to the public and to achieve sustained resource utilization.

The conservancy environment is for those areas which are intended to maintain their existing character. The preferred uses are those which are nonconsumptive of the physical and biological resources of the area. Nonconsumptive uses are those uses which can utilize resources on a sustained yield basis while minimally reducing opportunities for other future uses of the resources in the area. Activities and uses of a nonpermanent nature which do not substantially degrade the existing character of an area are appropriate uses for a conservancy environment. Examples of uses that might be predominant in a conservancy environment include diffuse outdoor recreation activities, timber harvesting on a sustained yield basis, passive agricultural uses such as pasture and range lands, and other related uses and activities.

The designation of conservancy environments should seek to satisfy the needs of the community as to the present and future location of recreational areas proximate to concentrations of population, either existing or projected. For example, a conservancy environment designation can be used to complement city, county or state plans to legally acquire public access to the water.

The conservancy environment would also be the most suitable designation for those areas which present too severe biophysical limitations to be designated as rural or urban environments. Such limitations would include areas of steep slopes presenting erosion and slide hazards, areas prone to flooding, and areas which cannot provide adequate water supply or sewage disposal.

Rural Environment (WAC 173-16-040(4)(b)(iii)) The rural environment is intended to protect agricultural land from urban expansion, restrict intensive development along undeveloped shorelines, function as a buffer between urban areas, and maintain open spaces and opportunities for recreational uses compatible with agricultural activities.

The rural environment is intended for those areas characterized by intensive agricultural and recreational uses and those areas having a high capability to support active agricultural practices and intensive recreational development. Hence, those areas that are already used for agricultural purposes, or which have agricultural potential should be maintained for present and future agricultural needs. Designation of rural environments should also seek to alleviate pressures of urban expansion on prime farming areas.

New developments in a rural environment are to reflect the character of the surrounding area by limiting residential density, providing permanent open space and by maintaining adequate building setbacks from water to prevent shoreline resources from being destroyed for other rural types of uses.

Public recreation facilities for public use which can be located and designed to minimize conflicts with agricultural activities are recommended for the rural environment. Linear water access which will prevent overcrowding in any one area, trail systems for safe nonmotorized traffic along scenic corridors and provisions for recreational viewing of water areas illustrate some of the ways to ensure maximum enjoyment of recreational opportunities along shorelines without conflicting with agricultural uses. In a similar fashion, agricultural activities should be conducted in a manner which will enhance the opportunities for shoreline recreation. Farm management practices which prevent erosion and subsequent siltation of water bodies and minimize the flow of waste material into water courses are to be encouraged by the master program for rural environments.

Urban Environment (WAC 173-16-040(4)(b)(iv)) The objective of the urban environment is to ensure optimum utilization of shorelines within urbanized areas by providing for intensive public use and by managing development so that it enhances and maintains shorelines for a multiplicity of urban uses.

The urban environment is an area of high-intensity land-use including residential, commercial, and industrial development. The environment does not necessarily include all shorelines within an incorporated city, but is particularly suitable to those areas presently subjected to extremely intensive use pressure, as well as areas planned to accommodate urban expansion. Shorelines planned for future urban expansion should present few biophysical limitations for urban activities and not have a high priority for designation as an alternative environment.

Because shorelines suitable for urban uses are a limited resource, emphasis should be given to development within already developed areas and particularly to water-dependent industrial and commercial uses requiring frontage on navigable waters.

In the master program, priority is also to be given to planning for public visual and physical access to water in the urban environment. Identifying needs and planning for the acquisition of urban land for permanent public access to the water in the urban environment should be accomplished in the master program. To enhance waterfront and ensure maximum public use, industrial and commercial facilities should

be designed to permit pedestrian waterfront activities. Where practicable, various access points ought to be linked to nonmotorized transportation routes, such as bicycle and hiking paths.

Shorelines of State-wide Significance (WAC 173-16-040(5))

The act designated certain shorelines as shorelines of state-wide significance. Shorelines thus designated are important to the entire state. Because these shorelines are major resources from which all people in the state derive benefit, the guidelines and master programs must give preference to uses which favor public and long-range goals.

Accordingly, the act established that local master programs shall give preference to uses which meet the principles outlined below in order of preference. Guidelines for ensuring that these principles are incorporated into the master programs and adhered to in implementing the act follow each principle.

(a) **Recognize and protect the state-wide interest over local interest.** Development guidelines:

(i) Solicit comments and opinions from groups and individuals representing state-wide interests by circulating proposed master programs for review and comment by state agencies, adjacent jurisdictions' citizen advisory committees, and state-wide interest groups. (See appendix, Reference No. 32.)

(ii) Recognize and take into account state agencies' policies, programs and recommendations in developing use regulations. Reference to many of these agencies' policies are provided in the appendix. This information can also be obtained by contacting agencies listed in the **Shoreline Inventory Supplement Number One.**

(iii) Solicit comments, opinions and advice from individuals with expertise in ecology, oceanography, geology, limnology, aquaculture and other scientific fields pertinent to shoreline management. Names of organizations and individuals which can provide expert advice can be obtained from the department's resource specialist listing.

(b) **Preserve the natural character of the shoreline.** Development guidelines:

(i) Designate environments and use regulations to minimize man-made intrusions on shorelines.

(ii) Where intensive development already occurs, upgrade and redevelop those areas to reduce their adverse impact on the environment and to accommodate future growth rather than allowing high intensity uses to extend into low intensity use or underdeveloped areas.

(iii) Ensure that where commercial timber-cutting is allowed as provided in RCW 90.58.150, reforestation will be possible and accomplished as soon as practicable.

(c) **Result in long-term over short-term benefit.** Development guidelines:

(i) Prepare master programs on the basis of preserving the shorelines for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of state-wide significance, should be severely limited.

(ii) Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment.

(iii) Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities or for the general enhancement of shoreline areas.

(d) **Protect the resources and ecology of shorelines.** Development guidelines:

(i) Leave undeveloped those areas which contain a unique or fragile natural resource.

(ii) Prevent erosion and sedimentation that would alter the natural function of the water system. In areas where erosion and sediment control practices will not be effective, excavations or other activities which increase erosion are to be severely limited.

(iii) Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.

(e) **Increase public access to publicly owned areas of the shorelines.** Development guidelines:

(i) In master programs, give priority to developing paths and trails to shoreline areas, linear access along the shorelines, and to developing upland parking.

(ii) Locate development inland from the ordinary highwater mark so that access is enhanced.

(f) **Increase recreational opportunities for the public on the shorelines.** Development guidelines:

(i) Plan for and encourage development of facilities for recreational use of the shorelines.

(ii) Reserve areas for lodging and related facilities on uplands well away from the shorelines with provisions for nonmotorized access to the shorelines.

THE NATURAL SYSTEMS

(WAC 173-16-050)

This section contains brief and general descriptions of the natural geographic systems around which the shoreline management program is designed. The intent of this section is to define those natural systems to which the Shoreline Management Act applies, to highlight some of the features of those systems which are susceptible to damage from human activity, and to provide a basis for the guidelines pertaining to human-use activities contained in WAC 173-16-060.

It is intended that this section will provide criteria to local governments in the development of their master programs, as required in RCW 90.58.030(a).

(1) **Marine Beaches**—Beaches are relatively level land areas which are contiguous with the sea and are directly affected by the sea even to the point of origination. The most common types of beaches in Washington marine waters are:

Sandy beaches: Waves, wind, tide and geological material are the principal factors involved in the formation of beaches. The beach material can usually be traced to one of four possible sources: The cliffs behind the beach; from the land via rivers; offshore wind; and finally from longshore drifting of material. Longshore-drifting material must have been derived initially from the first three sources. Most beach material

in Puget Sound is eroded from the adjacent bluffs composed of glacial till.

The effect of wave action on the movement and deposition of beach material varies depending upon the size of the material. Hence, in most cases, beaches composed of different sized material are usually characterized by different slopes and profiles. The entire process of beach formation is a dynamic process resulting from the effect of wave action on material transport and deposition. Initially, wave action will establish currents which transport and deposit material in various patterns. However, once a particular beach form and profile is established it begins to modify the effects of waves thus altering the initial patterns of material transport and deposition. Hence, in building beach structures such as groins, bulkheads or jetties, it is particularly important to recognize that subsequent changes in wave and current patterns will result in a series of changes in beach formation over time. [See WAC 173-16-060(6), (11), (12) and (13)].

In the process of beach formation, sand particles are transported up the beach by breaking waves that wash onto the beach in a diagonal direction and retreat in a vertical direction. At the same time, longshore currents are created in the submerged intertidal area by the force of diagonally approaching waves. Beach material suspended by the force of the breaking waves is transported in one direction or another by the longshore current. Longshore drifting of material often results in the net transportation of beach material in one direction causing the loss of material in some areas and gains in others.

The profile of a beach at any time will be determined by the wave conditions during the preceding period. Severe storms will erode or scour much material away from the beaches due to the force of retreating waves. During calm weather, however, the waves will constructively move material back onto the beach. This destructive and constructive action, called cut and fill, is evidenced by the presence of beach ridges or berms. New ridges are built up in front of those that survive storm conditions as sand is supplied to the beach in succeeding phases of calmer weather. In time, the more stable landward ridges are colonized by successional stages of vegetation. The vegetation stabilizes the ridges, protects them from erosion and promotes the development of soil.

Rocky beaches: Rocky beaches, composed of cobbles, boulders and/or exposed bedrock are usually steeper and more stable than sandy shores. Coarse material is very permeable which allows attacking waves to sink into the beach causing the backwash to be reduced correspondingly. On sandy shores a strong backwash distributes sand more evenly, thus creating a flatter slope.

On rocky shores a zonal pattern in the distribution of plants and animals is more evident than on muddy or sandy shores. The upper beach zone is frequently very dry, limiting inhabitants to species which can tolerate a dry environment. The intertidal zone is a narrow area between mean low tide and mean high tide that experiences uninterrupted covering and uncovering by tidal action. One of the major characteristics of this zone is the occurrence of tidal pools which harbor separate communities which can be considered subzones within the intertidal zone. The subtidal zone is characterized by less stressful tidal influences but is subject to the forces of waves and currents which affect the distribution and kinds of organisms in this zone.

Muddy shores: Muddy shores occur where the energy of coastal currents and wave action is minimal, allowing fine particles of silt to settle to the bottom. The result is an accumulation of mud on the shores of protected bays and mouths of coastal streams and rivers. Most muddy beaches occur in estuarine areas. However, some muddy shore areas may be found in coastal inlets and embayments where salinity is about the same as the adjacent sea.

Few plants have adapted to living on muddy shores. Their growth is restricted by turbidity which reduces light penetration into the water and thereby inhibits photosynthesis. In addition, the lack of solid structures to which algae may attach itself and siltation which smothers plants effectively prevents much plant colonization of muddy shores. While the lack of oxygen in mud makes life for fauna in muddy shores difficult, the abundance of food as organic detritus provides nutrition for a large number of detritus feeders.

(2) **Spits and Bars**—Spits and bars are natural formations composed of sand and gravel and shaped by wind and water currents and littoral drifting. Generally a spit is formed from a headland beach (tall cliff with a curved beach at the foot) and extends out into the water (hooks are simply hookshaped spits). While spits usually have one end free in open water, bars generally are attached to land at both ends. These natural forms enclose an area which is protected from wave action, allowing life forms such as shellfish, to reproduce and live protected from the violence of the open coast. [See WAC 173-16-060(16)].

(3) **Dunes**—Dunes are mounds or hills of sand which have been heaped up by wind action. Typically, dunes exhibit four distinct features:

Primary dunes: The first system of dunes shoreward of the water, having little or no vegetation, which are intolerant of unnatural disturbances.

Secondary dunes: The second system of dunes shoreward from the water, with some vegetative cover.

Back dunes: The system of dunes behind the secondary dunes, generally having vegetation and some top soil, and being more tolerant of development than the primary and secondary systems.

Troughs: The valleys between the dune systems.

Dunes are a natural levee and a final protection line against the sea. The destructive leveling of, or interference with the primary dune system (such as cutting through the dunes for access) can endanger upland areas by subjecting them to flooding from heavy wave action during severe storms and destroy a distinct and disappearing natural feature. Removal of sand from the beach and shore in dune areas starves dunes of their natural supply of sand and may cause their destruction from lack of sand. [See WAC 173-16-060(16)]. Appropriate vegation can and should be encouraged throughout the entire system for stabilization. [See WAC 173-16-060(21)].

(4) **Islands**—An island, broadly defined, is a land mass surrounded by water. Islands are particularly important to the state of Washington since two entire counties are made up of islands and parts of several other counties are islands. A fairly small island, such as those in our Puget Sound and north coast area, is an intriguing ecosystem, in that no problem or area of study can be isolated. Every living and nonliving thing is an integral part of the functioning system. Each island, along with the mystique afforded it by man, is a world of its own, with a biological chain, fragile and delicately balanced. Obviously it does not take as much to upset this balance as it would the mainland system. Because of this, projects should be planned with a more critical eye toward preserving the very qualities which make island environments viable systems as well as aesthetically captivating to humans.

(5) **Estuaries**—An estuary is that portion of a coastal stream influenced by the tide of the marine waters into which it flows and within which the sea water is measurably diluted with freshwater derived from land drainage.

Estuaries are zones of ecological transition between fresh and saltwater. The coastal brackish water areas are rich in aquatic life, some species of which are important food organisms for anadromous fish species which use these areas for feeding, rearing and migration. An estuarine area left untouched by man is rare since historically they have been the sites for major cities and port developments. Because of their importance in the food production chain and their natural beauty, the limited estuarial areas require careful attention in the planning function. Close scrutiny should be given to all plans for development in estuaries which reduce the area of the estuary and interfere with water flow. [See WAC 173-16-060(14)]. Special attention should be given to plans for upstream projects which could deplete the freshwater supply of the estuary.

(6) **Marshes, Bogs and Swamps**—Marshes, bogs and swamps are areas which have a water table very close to the surface of the ground. They are areas which were formerly shallow water areas that gradually filled through nature's processes of sedimentation (often accelerated by man's activities) and the decay of shallow water vegetation.

Although considered abysmal wastelands by many, these wet areas are extremely important to the food chain. Many species of both animal and plant life depend on this wet environment for existence. Birds and waterfowl choose these locations for nesting places. Wet areas are important as ground water recharge areas and have tremendous flood control value.

The high-water table and poor foundation support provided by the organic soils in these areas usually prevent development on them. The extraction of peat from bogs is possible when it is accomplished in such a manner that the surrounding vegetation and wildlife is left undisturbed and the access roads and shorelines are returned to a natural state upon completion of the operation.

The potential of marshes, bogs and swamps to provide permanent open space in urbanizing regions is high because of the costs involved in making these areas suitable for use. Unlimited public access into them, however, may cause damage to the fragile plant and animal life residing there.

(7) **Lakes**—A lake can be defined broadly as a body of standing water located inland. Lakes originate in several ways. Many lakes are created each year by man, either by digging a lake basin or by damming a natural valley. Natural lakes can be formed in several ways: by glaciers gouging basins and melting and depositing materials in such a way as to form natural dams; by landslides which close off open ends of valleys; extinct craters which fill with water; changes in the earth's crust, as can happen during earthquakes, forming basins which fill with water; or by changes in a river or stream course which isolate parts of the old course forming lakes, called oxbow lakes.

A lake, like its inhabitants, has a life span. This lifetime may be thousands of years for a large lake or just a few years for a pond. This process of a lake aging is known generally as eutrophication. It is a natural process which is usually accelerated by man's activities. Human sewage, industrial waste, and the drainage from agricultural lands increases the nutrients in a lake which in turn increases the growth of algae and other plants. As plants die, the chemical process of decomposition depletes the water's supply of oxygen necessary for fish and other animal life. These life forms then disappear from the lake, and the lake becomes a marsh or swamp.

Shallow lakes are extremely susceptible to increases in the rate of eutrophication resulting from discharges of waste and nutrient-laden-runoff waters. Temperature stratification does not normally occur in shallow lakes. Efficient bottom-to-surface circulation of water in these shallow lakes moves nutrients to the surface photosynthetic zone encouraging increased biotic productivity. Large quantities of organic matter are produced under these conditions. Upon decomposition, heavy demands are made on the dissolved oxygen content of shallow lakes. Eventually, the oxygen level drops and some fish and other life forms die.

The entire ecosystem of a lake can be altered by man. By removing the surrounding forest for lumber or to provide a building site or farm land, erosion into the lake is accelerated. Fertilizers, whether agricultural or those used by homeowners, can enter the lake either from runoff or leaching along with other chemicals that interfere with the intricate balance of living organisms. The construction of bulkheads to control erosion and filling behind them to enlarge individual properties can rob small fish and amphibians of their habitats. The indiscriminate construction of piers, docks and boathouses, can deprive all of the waterfront owners and the general public of a serene natural view and reduce the lake's surface. [See WAC 173-16-060(5), (8), (11), (12), (13)].

(8) **Rivers, Streams and Creeks**—Generally, rivers, streams and creeks can be defined as surface-water runoff flowing in a natural or modified channel. Runoff results either from excessive precipitation which cannot infiltrate the soil, or from ground water where the water table intersects the surface of the ground. Drawn by gravity to progressively lower levels and eventually to the sea, the surface runoff organizes into

a system of channels which drain a particular geographic area.

The drainage system serves as a transportation network for nature's leveling process, selectively eroding materials from the higher altitudes and transporting the materials to lower elevations where they are deposited. A portion of these materials eventually reaches the sea where they may form beaches, dunes or spits.

Typically, a river exhibits several distinct stages as it flows from the headwaters to the mouth. In the upper reaches where the gradient is steepest, the hydraulic action of the flowing water results in a net erosion of the stream bed and a V-shaped cross section, with the stream occupying all or most of the valley floor.

Proceeding downstream, the gradient decreases and the valley walls become gentler in slope. A point is eventually reached where erosion and deposition equalize and the action of the stream changes from vertical cutting to lateral meandering. As the lateral movement continues, a flood plain is formed, over which the river meanders and upon which materials are deposited during floods. Finally, when the river enters a body of standing water, the remaining sediment load is deposited.

Extensive human use is made of rivers, including transportation, recreation, waste and sewage dumping and for drinking water. Rivers are dammed for the production of electric power, diked for flood control and withdrawn for the irrigation of crops. Many of these activities directly affect the natural hydraulic functioning of the streams and rivers as well as the biology of the water courses. [See WAC 173-16-060 (17)].

(9) **Flood Plains**—A flood plain is a shoreland area which has been or is subject to flooding. It is a natural corridor for water which has accumulated from snow melt or from heavy rainfall in a short period. Flood plains are usually flat areas with rich soil because they have been formed by deposits from flood waters. As such they are attractive places for man to build and farm until the next flood passes across the plain. In certain areas, these plains can be "flood proofed" by diking or building levees along the adjacent river or stream, but always with provisions for tremendous amounts of water that will sooner or later be generated by weather conditions. Streamway modifications can be placed in such a way to cause channelization. Channelization tends to destroy the vital and fragile flood plain shoreline habitats and increase the velocity of waters in times of extreme flow. [See WAC 173-16-060(17)]. This may cause considerable damage downstream even in areas already given some flood protection. In unprotected flood plains, land-use regulations must be applied to provide an adequate open corridor within which the effects of bank erosion, channel shifts and increased runoff may be contained. Obviously, structures which must be built on a flood plain should be of a design to allow the passage of water and, wherever possible, permanent vegetation should be preserved to prevent erosion, retard runoff, and contribute to the natural beauty of the flood plain.

(10) **Puget Sound**—Puget Sound is a complex of interconnected inlets, bays and channels with tidal sea water entering from the west and freshwater streams entering at many points throughout the system. Most of what is known as Puget Sound was formed by glacial action that terminated near Tenino in Thurston County. The entire system, of which Puget Sound is actually a small portion, also includes the Strait of Georgia and the Strait of Juan de Fuca. The large complex may be divided into nine oceanographic areas which are interrelated: Strait of Juan de Fuca, Admiralty Inlet, Puget Sound Basin, Southern Puget Sound, Hood Canal, Possession Sound, Bellingham Bay, San Juan Archipelago, and Georgia Strait (from **Puget Sound and Adjacent Waters, Appendix XV, Plan Formulation**).

The economic development of the central Puget Sound Basin has been stimulated by the fact that the sound is one of the few areas in the world which provides several deepwater inland harbors. The use of Puget Sound waters by deep-draft vessels is on the increase due to its proximity to the developing Asian counties. This increased trade will attract more industry and more people which will put more use pressure on the Sound in the forms of recreation (sport fishing, boating and other water-related sports) and the requirements for increased food supply.

Puget Sound waters are rich in nutrients and support a wide variety of marine fish and shellfish species. An estimated 2,820 miles of stream are utilized by anadromous fish for spawning and rearing throughout the area. Some of these fish are chinook, coho, sockeye, pink and chum salmon, steelhead, sea-run cutthroat and Dolly Varden trout. All these fish spend a portion of their lives in the saltwaters of Puget Sound and the Pacific Ocean before returning to streams of origin to spawn. The juveniles of these fish spend varying amounts of time in the shore waters of the area before moving to sea to grow to maturity. Aquaculture or sea farming is now in the process of becoming reality in the Puget Sound complex. The mass production of seaweed, clams, geoducks, scallops, shrimp, oysters, small salmon, lobsters and other possibilities looms as an important new industry. Shoreline management is particularly crucial to the success of sea farming. Aquaculture on any scale can be compatible and coexist with maritime shipping and shoreland industrial activities only by careful planning and regulation.

The shoreline resources of Puget Sound include few beach areas which are not covered at high tide. Bluffs ranging from 10 to 500 feet in height rim nearly the entire extent of the Sound making access to beach and intertidal areas difficult. Because of the glacial-till composition of these bluffs, they are susceptible to fluvial and marine erosion and present constant slide hazards. Although Puget Sound is protected from the direct influence of Pacific Ocean weather, storm conditions can create very turbulent and sometimes destructive wave action. Without recognizing the tremendous energy contained in storm waves, development of shoreline resources can be hazardous and deleterious to the resource characteristics which make Puget Sound beaches attractive. [WAC 173-16-060(11), (12), (13)].

(11) **Pacific Ocean**—From Cape Flattery on the north to Cape Disappointment on the south, there are ap-

proximately 160 miles of beaches, rocky headlands, inlets and estuaries on Washington's Pacific Coast. The shoreline south of Cape Flattery to the Quinault River is generally characterized as being rugged and rocky, with high bluffs. The remaining shoreline south of the Quinault River is predominantly flat sandy beaches with low banks and dunes.

During the winter, Pacific currents set toward the north, while during summer months they set to the south. Associated with the summer currents is a general offshore movement of surface water, resulting in upwelling of water from lower depths. This upwelled water is cold, high in salinity, low in oxygen content and rich in nutrients. It is this latter characteristic which causes upwelled water to be extremely significant in biological terms, since it often triggers "blooms" of marine plant life.

Directions of wave action and littoral drift of sediments shift seasonally with Pacific Ocean storms. Although very little data are available on the net direction of littoral transport, the University of Washington has offshore data which indicate a northerly offshore flow. RCW 43.51.650 declares:

> "The beaches bounding the Pacific Ocean from the Straits of Juan de Fuca to Cape Disappointment at the mouth of the Columbia River constitute some of the last unspoiled seashore remaining in the United States. They provide the public with almost unlimited opportunities for recreational activities, like swimming, surfing and hiking; for outdoor sports, like hunting, fishing, clamming, and boating; for the observation of nature as it existed for hundreds of years before the arrival of white men and for relaxation away from the pressures and tensions of modern life. In past years, these recreational activities have been enjoyed by countless Washington citizens, as well as by tourists from other states and countries. The number of people wishing to participate in such recreational activities grow annually. This increasing public pressure makes it necessary that the state dedicate the use of the ocean beaches to public recreation and to provide certain recreational and sanitary facilities. Nonrecreational use of the beach must be strictly limited. Even recreational uses must be regulated in order that Washington's unrivaled seashore may be saved for our children in much the same form as we know it today." (See Appendix Reference Nos. 30 and 31).

THE USE ACTIVITIES

(WAC 173-16-060)

This section contains guidelines for the local regulation of use activities proposed for shorelines. Each topic, representing a specific use or group of uses, is broadly defined and followed by several guidelines. These guidelines represent the criteria upon which judgments for proposed shoreline developments will be based until master programs are completed. In addition, these guidelines are intended to provide the basis for the development of that portion of the master program concerned with the regulation of such uses.

In addition to application of the guidelines in this section, the local government should identify the type or types of natural systems (as described in WAC 173-16-050) within which a use is proposed and should impose regulations on those developments and uses which would tend to affect adversely the natural characteristics needed to preserve the integrity of the system. Examples would include but would not be limited to proposed uses that would threaten the character of fragile dune areas, reduce water tables in marshes, impede water flow in estuaries, or threaten the stability of spits and bars.

These guidelines have been prepared in recognition of the flexibility needed to carry out effective local planning of shorelines. Therefore, the interpretation and application of the guidelines may vary relative to different local conditions. Exceptions to specific provisions of these guidelines may occur where local circumstances justify such departure. Any departure from these guidelines must, however, be compatible with the intent of the act as enunciated in RCW 90.58.020.

It should be noted that there are several guidelines for certain activities which are not explicitly defined in the shoreline act as developments for which substantial development permits are not required (for example, the suggestion that a buffer of permanent vegetation be maintained along water bodies in agriculture areas). While such activities generally cannot be regulated through the permit system, it is intended that they be dealt with in the comprehensive master program in a manner consistent with policy and intent of the Shoreline Act. To effectively provide for the management of the shorelines of the state, master programs should plan for and foster all reasonable and appropriate uses as provided in RCW 90.58.020.

Finally, most of the guidelines are intentionally written in general terms to allow some latitude for local government to expand and elaborate on them as local conditions warrant. The guidelines are adopted state regulations, however, and must be complied with both in permit application review and in master program development.

Agricultural Practices

(WAC 173-16-060(1))

Agricultural practices are those methods used in vegetation and soil management, such as tilling of soil, control of weeds, control of plant diseases and insect pests, soil maintenance and fertilization. Many of these practices require the use of agricultural chemicals, most of which are water soluble and may wash into contiguous land or water areas causing significant alteration and damage to plant and animal habitats, especially those in the fragile shoreline areas. Also, large quantities of mineral and organic sediments enter water bodies through surface erosion when proper land management techniques are not utilized. Guidelines:

(a) Local governments should encourage the maintenance of a buffer of permanent vegetation between tilled areas and associated water bodies which will retard surface runoff and reduce siltation.

(b) Master programs should establish criteria for

the location of confined animal feeding operations, retention and storage ponds for feed lot wastes, and stock piles of manure solids in shorelines of the state so that water areas will not be polluted. Control guidelines prepared by the U.S. Environmental Protection Agency should be followed. (Also see Reference Nos. 3, 4, 5, 6, 7 and 8.)

(c) Local governments should encourage the use of erosion control measures, such as crop rotation, mulching, strip cropping and contour cultivation in conformance with guidelines and standards established by the Soil Conservation Service, U.S. Department of Agriculture.

Aquaculture

(WAC 173-16-060(2))

Aquaculture (popularly known as fish farming) is the culture or farming of food fish, shellfish, or other aquatic plants and animals. Potential locations for aquacultural enterprises are relatively restricted due to specific requirements for water quality, temperature, flows, oxygen content, and, in marine waters, salinity. The technology associated with present-day aquaculture is still in its formative stages and experimental. Guidelines for aquaculture should therefore recognize the necessity for some latitude in the development of this emerging economic water use as well as its potential impact on existing uses and natural systems. Guidelines:

(a) Aquacultural enterprises should be located in areas where the navigational access of upland owners and commercial traffic is not significantly restricted.

(b) Recognition should be given to the possible detrimental impact aquacultural development might have on the visual access of upland owners and on the general aesthetic quality of the shoreline area.

(c) As aquaculture technology expands with increasing knowledge and experience, emphasis should be placed on underwater structures which do not interfere with navigation or impair the aesthetic quality of Washington shorelines.

Forest Management Practices

(WAC 173-16-060(3))

Forest management practices are those methods used for the protection, production and harvesting of timber. Trees along a body of water provide shade which insulate the waters from detrimental temperature change and dissolved oxygen release. A stable water temperature and dissolved oxygen level provide a healthy environment for fish and other more delicate forms of aquatic life. Poor logging practices on shorelines alter this balance as well as result in slash and debris accumulation and may increase the suspended sediment load and the turbidity of the water. Guidelines:

(a) Seeding, mulching, matting and replanting should be accomplished where necessary to provide stability on areas of steep slope which have been logged. Replanted vegetation should be of a similar type and concentration as existing in the general vicinity of the logged area.

(b) Special attention should be directed in logging and thinning operations to prevent the accumulation of slash and other debris in contiguous waterways.

(c) Shoreline areas having scenic qualities, such as those providing a diversity of views, unique landscape contrasts, or landscape panoramas should be maintained as scenic views in timber harvesting areas. Timber harvesting practices, including road construction and debris removal, should be closely regulated so that the quality of the view and viewpoints in shoreline areas of the state are not degraded.

(d) Proper road and bridge design, location and construction and maintenance practices should be used to prevent development of roads and structures which would adversely affect shoreline resources.

(e) Timber harvesting practices in shorelines of the state should be conducted to maintain the state board of health standards for public water supplies. (See Reference No. 34).

(f) Logging should be avoided on shorelines with slopes of such grade that large sediment runoff will be precipitated, unless adequate restoration and erosion control can be expeditiously accomplished.

(g) Local governments should ensure that timber harvesting on shorelines of state-wide significance does not exceed the limitations established in RCW 90.58.150 except as provided in cases where selective logging is rendered ecologically detrimental or is inadequate for preparation of land for other uses.

(h) Logging within shoreline areas should be conducted to ensure the maintenance of buffer strips of ground vegetation, brush, alder and conifers to prevent temperature increases adverse to fish populations and erosion of stream banks.

Commercial Development

(WAC 173-16-060(4))

Commercial developments are those uses which are involved in wholesale and retail trade or business activities. Commercial developments range from small businesses within residences, to high-rise office buildings. Commercial developments are intensive users of space because of extensive floor areas and because of facilities, such as parking, necessary to service them. Guidelines:

(a) Although many commercial developments benefit by a shoreline location, priority should be

given to those commercial developments which are particularly dependent on their location and/or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state.

(b) New commercial developments on shorelines should be encouraged to locate in those areas where current commercial uses exist.

(c) An assessment should be made of the effect a commercial structure will have on a scenic view significant to a given area or enjoyed by a significant number of people.

(d) Parking facilities should be placed inland away from the immediate water's edge and recreational beaches.

Marinas

(WAC 173-16-060(5))

Marinas are facilities which provide boat launching, storage, supplies and services for small pleasure craft. There are two basic types of marinas: the open-type construction (floating breakwater and/or open-pile work) and solid-type construction (bulkhead and/or landfill). Depending upon the type of construction, marinas affect fish and shellfish habitats. Guidelines:

(a) In locating marinas, special plans should be made to protect the fish and shellfish resources that may be harmed by construction and operation of the facility.

(b) Marinas should be designed in a manner that will reduce damage to fish and shellfish resources and be aesthetically compatible with adjacent areas.

(c) Master programs should identify locations that are near high-use or potentially high-use areas for proposed marina sites. Local as well as regional "need" data should be considered as input in location selection.

(d) Special attention should be given to the design and development of operational procedures for fuel handling and storage in order to minimize accidental spillage and provide satisfactory means for handling those spills that do occur.

(e) Shallow-water embayments with poor flushing action should not be considered for overnight and long-term moorage facilities.

(f) The Washington state department of fisheries has prepared guidelines concerning the construction of marinas. These guidelines should be consulted in planning for marinas. (See Reference No. 16).

(g) State and local health agencies have standards and guidelines for the development of marinas which shall be consulted by local agencies. (See Reference No. 18).

Mining

(WAC 173-16-060(6))

Mining is the removal of naturally occurring materials from the earth for economic use. The removal of sand and gravel from shoreline areas of Washington usually results in erosion of land and silting of water. These operations can create silt and kill bottom-living animals. The removal of sand from marine beaches can deplete a limited resource which may not be restored through natural processes. Guidelines:

(a) When rock, sand, gravel and minerals are removed from shoreline areas, adequate protection against sediment and silt production should be provided.

(b) Excavations for the production of sand, gravel and minerals should be done in conformance with the Washington State Surface Mining Act. (See Reference No. 20).

(c) Local governments should strictly control or prohibit the removal of sand and gravel from marine beaches.

(d) When removal of sand and gravel from marine beaches is permitted by existing legislation, it should be taken from the least sensitive biophysical areas of the beach.

Outdoor Advertising, Signs and Billboards

(WAC 173-16-060(7))

Signs are publicly displayed boards whose purpose is to provide information, direction, or advertising. Signs may be pleasing or distracting, depending upon their design and location. A sign, in order to be effective, must attract attention; however, a message can be clear and distinct without being offensive. There are areas where signs are not desirable, but generally it is the design that is undesirable, not the sign itself. Guidelines:

(a) Off-premise outdoor advertising signs should be limited to areas of high-intensity land use, such as commercial and industrial areas.

(b) Master programs should establish size, height, density, and lighting limitations for signs.

(c) Vistas and viewpoints should not be degraded and visual access to the water from such vistas should not be impaired by the placement of signs.

(d) Outdoor advertising signs (where permitted under local regulations) should be located on the upland side of public transportation routes which parallel and are adjacent to rivers and water bodies (unless it can be demonstrated that views will not be substantially obstructed).

(e) When feasible, signs should be constructed against existing buildings to minimize visual obstructions of the shoreline and water bodies.

Residential Development

(WAC 173-16-060(8))

The following guidelines should be recognized in the development of any subdivision on the shorelines of the state. To the extent possible, planned unit developments (sometimes called cluster developments) should be encouraged within the shoreline area. Within planned unit developments, substantial portions of land are reserved as open space or recreational areas for the joint use of the occupants of the development. This land may be provided by allowing houses to be placed on lots smaller than the legal minimum size for normal subdivisions, as long as the total number of dwellings in the planned unit development does not exceed the total allowable in a regular subdivision. Guidelines:

(a) Subdivisions should be designed at a level of density of site coverage and of occupancy compatible with the physical capabilities of the shoreline and water.

(b) Subdivisions should be designed so as to adequately protect the water and shoreline aesthetic characteristics.

(c) Subdividers should be encouraged to provide public pedestrian access to the shorelines within the subdivision.

(d) Residential development over water should not be permitted.

(e) Floating homes are to be located as moorage slips approved in accordance with the guidelines dealing with marinas, piers, and docks. In planning for floating homes, local governments should ensure that waste disposal practices meet local and state health regulations, that the homes are not located over highly productive fish food areas, and that the homes are located to be compatible with the intent of the designated environments.

(f) Residential developers should be required to indicate how they plan to preserve shore vegetation and control erosion during construction.

(g) Sewage disposal facilities, as well as water supply facilities, must be provided in accordance with appropriate state and local health regulations. Storm drainage facilities should be separate, not combined with sewage disposal systems.

(h) Adequate water supplies should be available so that the ground water quality will not be endangered by overpumping.

Utilities

(WAC 173-16-060(9))

Utilities are services which produce and carry electric power, gas, sewage, communications and oil. At this time the most feasible methods of transmission are the lineal ones of pipes and wires. The installation of this apparatus necessarily disturbs the landscape but can usually be planned to have minimal visual and physical effect on the environment. Guidelines:

(a) Upon completion of installation/maintenance projects on shorelines, banks should be restored to pre-project configuration, replanted with native species and provided maintenance care until the newly planted vegetation is established.

(b) Whenever these facilities must be placed in a shoreline area, the location should be chosen so as not to obstruct or destroy scenic views. Whenever feasible, these facilities should be placed underground, or designed to do minimal damage to the aesthetic qualities of the shoreline area.

(c) To the extent feasible, local government should attempt to incorporate major transmission line rights of way on shorelines into their program for public access to and along water bodies.

(d) Utilities should be located to meet the needs of future populations in areas planned to accommodate this growth.

The Washington State Thermal Power Plant Siting Law (chapter RCW 80.50) regulates the location of electrical generating and distribution facilities. Under this law, the state preempts the certification and regulation of thermal power plant sites and thermal power plants. (See Reference No. 28).

Ports and Water-Related Industry

(WAC 173-16-060(10))

Ports are centers for water-borne traffic and as such have become gravitational points for industrial/manufacturing firms. Heavy industry may not specifically require a waterfront location, but is attracted to port areas because of the variety of transportation available. Guidelines:

(a) Water-dependent industries which require frontage on navigable water should be given priority over other industrial uses.

(b) Port facilities should be designed to permit viewing of harbor areas from viewpoints, waterfront restaurants and similar public facilities which would not interfere with port operations or endanger public health and safety.

(c) Sewage treatment, water reclamation, desalinization and power plants should be located where they do not interfere with and are compatible with recreational, residential or other public uses of the water and shorelands. Waste treatment ponds for water-related industry should occupy as little shoreline as possible.

(d) The cooperative use of docking, parking, cargo handling and storage facilities should be strongly encouraged in waterfront industrial areas.

(e) Land transportation and utility corridors serving ports and water-related industry should follow the guidelines provided under the sections dealing with utilities and road and railroad design and construction. Where feasible, transportation and utility corridors should be located upland to reduce pressures for the use of waterfront sites.

(f) Master program planning should be based on a recognition of the regional nature of port services. Prior to allocating shorelands for port uses, local governments should consider statewide needs and coordinate planning with other jurisdictions to avoid wasteful duplication of port services within port-service regions.

(g) Since industrial docks and piers are often longer and greater in bulk than recreational or residential piers, careful planning must be undertaken to reduce the adverse impact of such facilities on other water-dependent uses and shoreline resources. Because heavy industrial activities are associated with industrial piers and docks, the location of these facilities must be considered a major factor determining the environmental compatibility of such facilities.

Bulkheads

(WAC 173-16-060(11))

Bulkheads or seawalls are structures erected parallel to and near the high-water mark for the purpose of protecting adjacent uplands from the action of waves or currents. Bulkheads are constructed of steel, timber or concrete piling, and may be either of solid or open-piling construction. For ocean-exposed locations, bulkheads do not provide a long-lived permanent solution, because eventually a more substantial wall is required as the beach continues to recede and layer waves reach the structure.

While bulkheads and seawalls may protect the uplands, they do not protect the adjacent beaches, and in many cases are actually detrimental to the beaches by speeding up the erosion of the sand in front of the structures.

The following guidelines apply to the construction of bulkheads and seawalls designed to protect the immediate upland area. Proposals for landfill must comply with the guidelines for that specific activity. Guidelines:

(a) Bulkheads and seawalls should be located and constructed in such a manner which will not result in adverse effects on nearby beaches and will minimize alterations of the natural shoreline.

(b) Bulkheads and seawalls should be constructed in such a way as to minimize damage to fish and shellfish habitats. Open-piling construction is preferable in lieu of the solid type.

(c) Consider the effect of a proposed bulkhead on public access to publicly owned shorelines.

(d) Bulkheads and seawalls should be designed to blend in with the surroundings and not to detract from the aesthetic qualities of the shoreline.

(e) The construction of bulkheads should be permitted only where they provide protection to upland areas or facilities, not for the indirect purpose of creating land by filling behind the bulkhead. Landfill operations should satisfy the guidelines under WAC 173-16-060(14).

Breakwaters

(WAC 173-16-060(12))

Breakwaters are another protective structure usually built offshore to protect beaches, bluffs, dunes or harbor areas from wave action. However, because offshore breakwaters are costly to build, they are seldom constructed to protect the natural features alone, but are generally constructed for navigational purposes also. Breakwaters can be either rigid in construction or floating. The rigid breakwaters, which are usually constructed of riprap or rock, have both beneficial and detrimental effects on the shore. All breakwaters eliminate wave action and thus protect the shore immediately behind them. They also obstruct the free flow of sand along the coast and starve the downstream beaches. Floating breakwaters do not have the negative effect on sand movement, but cannot withstand extensive wave action and thus are impractical with present construction methods in many areas. Guidelines:

(a) Floating breakwaters are preferred to solid landfill types in order to maintain sand movement and fish habitat.

(b) Solid breakwaters should be constructed only where design modifications can eliminate potentially detrimental effects on the movement of sand and circulation of water.

(c) The restriction of the public use of the water surface as a result of breakwater construction must be recognized in the master program and must be considered in granting shoreline permits for their construction.

Jetties and Groins

(WAC 173-16-060(13))

Jetties and groins are structures designed to modify or control sand movement. A jetty is generally employed at inlets for the purpose of navigation improvements. When sand being transported along the coast by waves and currents arrives at an inlet, it flows inward on the flood tide to form an inner bar, and outward on ebb tide to form an outer bar. Both formations are harmful to navigation through the inlet.

A jetty is usually constructed of steel, concrete or rock. The type depends on foundation conditions and wave, climate and economic considerations. To be of maximum aid in maintaining the navigation channel, the jetty must be high enough to completely obstruct the sand stream. The adverse effect of a jetty is that sand is impounded at the updrift jetty and the supply of sand to the shore downdrift from the inlet is reduced, thus causing erosion.

Groins are barrier-type structures extending from the backshore seaward across the beach. The basic purpose of a groin is to interrupt the sand movement along a shore.

Groins can be constructed in many ways using timber, steel, concrete or rock, but can be classified

into basic physical categories as high or low, long or short, and permeable or impermeable.

Trapping of sand by a groin is done at the expense of the adjacent downdrift shore, unless the groin system is filled with sand to its entrapment capacity. Guidelines:

(a) Master programs must consider sand movement and the effect of proposed jetties or groins on that sand movement. Provisions can be made to compensate for the adverse effects of the structures either by artificially transporting sand to the downdrift side of an inlet with jetties, or by artificially feeding the beaches in case of groins.

(b) Special attention should be given to the effect these structures will have on wildlife propagation and movement, and to the design of these structures which will not detract from the aesthetic quality of the shoreline.

Landfill

(WAC 173-16-060(14))

Landfill is the creation of dry upland area by the filling or depositing of sand, soil or gravel into a wetland area. Landfills also occur to replace shoreland areas removed by wave action or the normal erosive processes of nature. However, most landfills destroy the natural character of land, create unnatural heavy erosion and silting problems and diminish the existing water surface. Guidelines:

(a) Shoreline fills or cuts should be designed and located so that significant damage to existing ecological values or natural resources, or alteration of local currents will not occur, creating a hazard to adjacent life, property, and natural resources systems.

(b) All perimeters of fills should be provided with vegetation, retaining walls, or other mechanisms for erosion prevention.

(c) Fill materials should be of such quality that it will not cause problems of water quality. Shoreline areas are not to be considered for sanitary landfills or the disposal of solid waste.

(d) Priority should be given to landfills for water-dependent uses and for public uses. In evaluating fill projects and in designating areas appropriate for fill, such factors as total water surface reduction, navigation restriction, impediment to water flow and circulation, reduction of water quality and destruction of habitat should be considered.

Solid Waste Disposal

(WAC 173-16-060(15))

Generally, all solid waste is a possible source of much nuisance. Rapid, safe and nuisance-free storage, collection, transportation and disposal are of vital concern to all persons and communities. If the disposal of solid waste material is not carefully planned and regulated, it can become not only a nuisance but a severe threat to the health and safety of human beings, livestock, wildlife and other biota. Guidelines:

(a) Local master programs and use regulations must be consistent with approved county or multicounty comprehensive solid waste management plans and regulations of jurisdictional health agencies.

(b) Local governments must regulate sanitary landfills and solid waste handling in accordance with regulations for solid waste handling when adopted by the department of ecology. New regulations restricting sanitary landfills within any water course and within flood plains of any water course have been proposed for adoption by the department.

Dredging

(WAC 173-16-060(16))

Dredging is the removal of earth from the bottom of a stream, river, lake, bay or other water body for the purposes of deepening a navigational channel or to obtain use of the bottom materials for landfill. A significant portion of all dredged materials are deposited either in the water or immediately adjacent to it, often resulting in problems of water quality. Guidelines:

(a) Local governments should control dredging to minimize damage to existing ecological values and natural resources of both the area to be dredged and the area for deposit of dredged materials.

(b) Local master programs must include long-range plans for the deposit and use of spoils on land. Spoil deposit sites in water areas should also be identified by local government in cooperation with the state departments of natural resources, game and fisheries. Depositing of dredge material in water areas should be allowed only for habitat improvement, to correct problems of material distribution affecting adversely fish and shellfish resources, or where the alternatives of depositing material on land is more detrimental to shoreline resources than depositing it in water areas.

(c) Dredging of bottom materials for the single purpose of obtaining fill material should be discouraged.

Shoreline Protection

(WAC 173-16-060(17))

Flood protection and streamway modifications are those activities occurring within the streamway and wetland areas which are designed to reduce overbank flow of high waters and stabilize eroding stream-

banks. Reduction of flood damage, bank stabilization to reduce sedimentation, and protection of property from erosion are normally achieved through watershed and flood plain management and by structural works. Such measures are often complementary to one another and several measures together may be necessary to achieve the desired end. Guidelines:

(a) Riprapping and other bank stabilization measures should be located, designed and constructed so as to avoid the need for channelization and to protect the natural character of the streamway.

(b) Where flood protection measures such as dikes are planned, they should be placed landward of the streamway, including associated swamps and marshes and other wetlands directly interrelated and interdependent with the stream proper.

(c) Flood protection measures which result in channelization should be avoided.

Road and Railroad Design and Construction

(WAC 173-16-060(18))

A road is a linear passageway, usually for motor vehicles, and a railroad is a surface linear passageway with tracks for train traffic. Their construction can limit access to shorelines, impair the visual qualities of water-oriented vistas, expose soils to erosion and retard the runoff of flood waters. Guidelines:

(a) Whenever feasible, major highways, freeways and railways should be located away from shorelands, except in port and heavy industrial areas, so that shoreland roads may be reserved for slow-moving recreational traffic.

(b) Roads located in wetland areas should be designed and maintained to prevent erosion and to permit a natural movement of ground water.

(c) All debris, overburden, and other waste materials from construction should be disposed of in such a way as to prevent their entry by erosion from drainage, high water, or other means into any water body.

(d) Road locations should be planned to fit the topography so that minimum alterations of natural conditions will be necessary.

(e) Scenic corridors with public roadways should have provision for safe pedestrian and other nonmotorized travel. Also, provision should be made for sufficient view points, rest areas and picnic areas in public shorelines.

(f) Extensive loops or spurs of old highways with high aesthetic quality should be kept in service as pleasure bypass routes, especially where main highways, paralleling the old highway, must carry large traffic volumes at high speeds.

(g) Since land-use and transportation facilities are so highly interrelated, the plans for each should be coordinated. The designation of potential high-use areas in master programs should be done after the environmental impact of the transportation facilities needed to serve those areas have been assessed.

Piers

(WAC 173-16-060(19))

A pier or dock is a structure built over or floating upon the water, used as a landing place for marine transport or for recreational purposes. While floating docks generally create less of a visual impact than those on piling, they constitute an impediment to boat traffic and shoreline trolling. Floating docks can also alter beach sand patterns in areas where tides and littoral drift are significant. On lakes, a proliferation of piers along the shore can have the effect of substantially reducing the usable water surface. Guidelines:

(a) The use of floating docks should be encouraged in those areas where scenic values are high and where conflicts with recreational boaters and fishermen will not be created.

(b) Open-pile piers should be encouraged where shore trolling is important, where there is significant littoral drift and where scenic values will not be impaired.

(c) Priority should be given to the use of community piers and docks in all new major waterfront subdivisions. In general, encouragement should be given to the cooperative use of piers and docks.

(d) Master programs should address the problem of the proliferation of single-purpose private piers and should establish criteria for their location, spacing, and length. The master programs should also delimit geographical areas where pile piers will have priority over floating docks.

(e) In providing for boat docking facilities in the master program, local governments should consider the capacity of the shoreline sites to absorb the impact of waste discharges from boats including gas and oil spillage.

Archeological Areas and Historic Sites

(WAC 173-16-060(20))

Archeological areas, ancient villages, military forts, old settlers homes, ghost towns, and trails were often located on shorelines because of the proximity of food resources and because water provided an important means of transportation. These sites are nonrenewable resources and many are in danger of being lost through present day changes in land use and urbanization. Because of their rarity and the educational link they provide to our past, these locations should be preserved. Guidelines:

(a) In preparing shoreline master programs, local governments should consult with professional

archeologists to identify areas containing potentially valuable archeological data, and to establish procedures for salvaging the data.

(b) Where possible, sites should be permanently preserved for scientific study and public observation. In areas known to contain archeological data, local governments should attach a special condition to a shoreline permit providing for a site inspection and evaluation by an archeologist to ensure that possible archeological data are properly salvaged. Such a condition might also require approval by local government before work can resume on the project following such an examination.

(c) Shoreline permits, in general, should contain special provisions which require developers to notify local governments if any possible archeological data are uncovered during excavations.

(d) The National Historic Preservation Act of 1966 and chapter 43.51 RCW provide for the protection, rehabilitation, restoration and reconstruction of districts, sites, buildings, structures and objects significant in American and Washington history, architecture, archeology or culture. The state legislation names the director of the Washington state parks and recreation commission as the person responsible for this program.

Recreation

(WAC 173-16-060(21))

Recreation is the refreshment of body and mind through forms of play, amusement or relaxation. Water-related recreation accounts for a very high proportion of all recreational activity in the Pacific Northwest. The recreational experience may be either an active one involving boating, swimming, fishing or hunting or the experience may be passive such as enjoying the natural beauty of a vista of a lake, river or saltwater area. Guidelines:

(a) Priority will be given to developments, other than single-family residences which are exempt from the permit requirements of the act, which provide recreational uses and other improvements facilitating public access to shorelines.

(b) Access to recreational locations such as fishing streams and hunting areas should be a combination of areas and linear access (parking areas and easements, for example) to prevent concentrations of use pressure at a few points.

(c) Master programs should encourage the linkage of shoreline parks and public access points through the use of linear access. Many types of connections can be used such as hiking paths, bicycle trails and/or scenic drives.

(d) Attention should be directed toward the effect the development of a recreational site will have on the environmental quality and natural resources of an area.

(e) Master programs should develop standards for the preservation and enhancement of scenic views and vistas.

(f) To avoid wasteful use of the limited supply of recreational shoreland, parking areas should be located inland away from the immediate edge of the water and recreational beaches. Access should be provided by walkways or other methods. Automobile traffic on beaches, dunes and fragile shoreland resources should be discouraged.

(g) Recreational developments should be of such variety as to satisfy the diversity of demands from groups in nearby population centers.

(h) The supply of recreation facilities should be directly proportional to the proximity of population and compatible with the environment designations.

(i) Facilities for intensive recreational activities should be provided where sewage disposal and vector control can be accomplished to meet public health standards without adversely altering the natural features attractive for recreational uses. (See Reference No. 35).

(j) In locating proposed recreational facilities such as playing fields and golf courses and other open areas which use large quantities of fertilizers and pesticides in their turf maintenance programs, provisions must be made to prevent these chemicals from entering water. If this type of facility is approved on a shoreline location, provision should be made for protection of water areas from drainage and surface runoff.

(k) State and local health agencies have broad regulations which apply to recreation facilities, recreation watercraft and ocean beaches which should be consulted by local governments in preparing use regulations and issuing permits. (See Reference Nos. 30, 31, 35, 36, 37).

VARIANCES AND CONDITIONAL USES

(WAC 173-16-070)

The act states that each local master program shall contain provisions covering conditional uses and variances. Any permit for a variance or a conditional use granted by the local government under approved master programs must be submitted to the department for approval or disapproval.

This provision of the act should be utilized in a manner which, while protecting the environment, will assure that a person will be able to utilize his property in a fair and equitable manner.

(1) **Conditional uses.** The objective of a conditional use provision is to provide more control and flexibility for implementing the regulations of the master program. With provisions to control undesirable effects, the scope of uses within each of the four environments can be expanded to include many uses.

Uses classified as conditional uses can be permitted only after consideration by the local government and by meeting such performance standards that

make the use compatible with other permitted uses within that area.

Conditional use permits will be granted only after the applicant can demonstrate all of the following:

(a) The use will cause no unreasonably adverse effects on the environment or other uses.

(b) The use will not interfere with public use of public shorelines.

(c) Design of the site will be compatible with the surroundings and the Master Program.

(d) The proposed use will not be contrary to the general intent of the master program.

(2) **Variances.** Variance deals with specific requirements of the master program and its objective is to grant relief when there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of the master program. The property owner must show that if he complies with the provisions he cannot make any reasonable use of his property. The fact that he might make a greater profit by using his property in a manner contrary to the intent of the program is not a sufficient reason for variance. A variance will be granted only after the applicant can demonstrate the following:

(a) The hardship which serves as basis for granting of variance is specifically related to the property of the applicant.

(b) The hardship results from the application of the requirements of the act and master program and not from, for example, deed restrictions or the applicant's own actions.

(c) The variance granted will be in harmony with the general purpose and intent of the master program.

(d) Public welfare and interest will be preserved; if more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance will be denied.

GLOSSARY

(WAC 173-16-030)

DEFINITIONS. As used herein, the following words and phrases shall have the following meanings:

(1) **"Act"** means Shoreline Management Act of 1971, chapter 90.58 RCW.

(2) **"Department"** means state of Washington, department of ecology.

(3) **"Development"** means a use, consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any state of water level.

(4) **"Director"** means the director of the department of ecology.

(5) **"Extreme low tide"** means the lowest line on the land reached by a receding tide.

(6) **"Guidelines"** means those standards adopted to implement the policy of this chapter for regulation of use of the shorelines of the state prior to adoption of master programs. Such standards shall also provide criteria to local governments and the department in developing master programs.

(7) **"Hearings board"** means the shorelines hearings board established by the act.

(8) **"Local government"** means any county, incorporated city, or town which contains within its boundaries any lands or waters subject to the Shoreline Act of 1971.

(9) **"Master program"** means the comprehensive use plan for a described area, and the use regulations, together with maps, diagrams, charts or other descriptive material and text, a statement of desired goals and standards developed in accordance with the policies enunciated in section 2 of the act.

(10) **"Ordinary high-water mark"** means the mark on all lakes, streams, and tidal waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter: PROVIDED, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean higher high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high water.

(11) **"Permit"** means that required by the act for substantial development on shorelines, to be issued by the local government entity having administrative jurisdiction and subject to review by the department of ecology and the attorney general.

(12) **"Shorelines"** means all of the water areas of the state, including reservoirs, and their associated wetlands, together with the lands underlying them, except:

(a) Shorelines of state-wide significance;

(b) Shorelines on segments of streams upstream of a point where the mean annual flow is 20 cubic feet per second or less, and the wetlands associated with such upstream segments; and

(c) Shorelines on lakes less than 20 acres in size and wetlands associated with such small lakes.

(13) **"Shorelines of state-wide significance"** means the following shorelines of the state:

(a) The area between the ordinary high-water mark and the western boundary of the state from Cape Disappointment on the south to Cape Flattery on the north, including harbors, bays, estuaries, and inlets;

(b) Those areas of Puget Sound and adjacent salt-waters and the Strait of Juan de Fuca between the ordinary high-water mark and the line of extreme low tide as follows:

(i) Nisqually Delta—from DeWolf Bight to Tatsolo Point;

(ii) Birch Bay—from Point Whitehorn to Birch Point;

(iii) Hood Canal—from Tala Point to Foulweather Bluff;

(iv) Skagit Bay and adjacent area—from Brown Point to Yokeko Point; and

(v) Padilla Bay—from March Point to William Point.

(c) Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent saltwaters north to the Canadian line and lying seaward from the line of extreme low tide;

(d) Those lakes, whether natural, artificial or a combination thereof, with a surface acreage of 1,000 acres, or more, measured at the ordinary high-water mark;

(e) Those natural rivers or segments thereof, as follows:

(i) Any west of the crest of the Cascade range downstream of a point where the mean annual flow is measured at 1,000 cubic feet per second, or more;

(ii) Any east of the crest of the Cascade range downstream of a point where the annual flow is measured at 200 cubic feet per second, or more, or those portions of rivers east of the crest of the Cascade range downstream from the first 300 square miles of drainage area, whichever is longer;

(f) Those wetlands associated with (a) through (e) above.

(14) **"Shorelines of the state"** means the total of all "shorelines" and "shorelines of state-wide significance" within the state.

(15) **"State master program"** means the cumulative total of all master programs approved or adopted by the department of ecology.

(16) **"Substantial development"** means any development of which the total cost, or fair market value, exceeds $1,000, or any development which materially interferes with normal public use of the water or shorelines of the state except that the following shall not be considered substantial developments:

(a) Normal maintenance or repair of existing structures or developments, including damage by fire, accident, or elements;

(b) Construction of the normal protective bulkhead, common to single-family residences;

(c) Emergency construction necessary to protect property from damage by the elements;

(d) Construction of a barn or similar agricultural structure on wetlands;

(e) Construction or modification of navigational aids, such as channel markers and anchor buoys;

(f) Construction on wetlands by an owner, lessee, or contract purchaser, of a single-family residence, for his own use or for the use of his family, which residence does not exceed a height of 35 feet above average grade level and which meets all requirements of the state agency or local government having jurisdiction thereof.

(17) **"Wetlands"** or **"Wetland areas"** means those lands extending landward for 200 feet in all directions, as measured on a horizontal plane from the ordinary high-water mark and all marshes, bogs, swamps, floodways, river deltas, and flood plains associated with the streams, lakes and tidal waters which are subject to the provisions of the act.

APPENDIX "A"

(WAC 173-16-200)

Agricultural Practices

1. Chapter 15.57 RCW, Washington Pesticide Act. Formulation, distribution and sale of agricultural pesticides.
2. Chapter 17.21 RCW, Washington Pesticide Application Act. Application equipment, licensing, records, handling of and enforcement.
3. Agricultural Extension Service, Washington State University, Pullman, June 1964, **Cattle Manure Handling and Disposal.**
4. Cooperative Extension Service, College of Agriculture, Washington State University, Pullman, October 1965, **Guideline for Sanitary Handling of Animal Manure.**
5. Cooperative Extension Service, College of Agriculture, Washington State University, Pullman, June 1969, **Guidelines for Handling Animal Wastes as Related to Water and Air Pollution Control.**
6. Cooperative Extension Service, College of Agriculture, Washington State University, Pullman, June 1971, **The Stockman's Role in Water Pollution Control.**
7. Eric B. Wilson, University of Idaho, A Pacific Northwest Cooperative Extension Publication, PNW Bulletin 53, January 1963, **Your Feedlot —Build It—Mechanize It.**
8. Cooperative Extension Service, College of Agriculture, Washington State University, Pullman, June 1971, **Livestock Waste Management Guidelines.**

Forest Management Practices

9. Chapter 76.04 RCW, Forest protection, fire and burning control, permits and enforcement.
10. Anonymous, Pacific Northwest Cooperative Extension Publication, March 1971, **Building Woodland Roads,** distributed by Washington State University Cooperative Extension Service, College of Agriculture.
11. State of Washington Departments of Fisheries, Game and Natural Resources, **Agreement,** related to management of projects affecting land and fisheries resources.
12. Pacific Northwest Pollution Control Council, Task Force Report, August 1971, **Log Storage and Rafting in Public Waters.**

Aquaculture

13. Chapter 75.16 RCW, Food fish and shellfish conservation and propagation.
14. Chapter 248.58 WAC, State Board of Health, Shellfish.

Archeological Areas and Historic Sites

15. RCW 43.51.750-820, Preservation of sites and funding requirements.

Bulkheads and Breakwaters

16. Washington State Department of Fisheries, Criteria governing the design of bulkheads, landfills and marinas.

Landfill

17. **Wilbour v. Gallagher** 77 Wn.2d 306, 462 P. 2d 232 (1969). See Bulkheads, this page.

Marinas

See Bulkheads, this page.

18. Chapter 248.148 WAC, Marinas (to be adopted).

Mining

19. RCW 43.51.685, *Accreted lands, sale of sand* and lease and removal permits.
20. Chapter 78.44 RCW, Surface Mining Act. Reclamation requirements, site inspection and permits.

Outdoor Advertising

21. Chapter 47.42 RCW, Highway Advertising Control Act. Sign locations, scenic areas and permits.

Residential Development

22. **Bach v. Sarich.** 74 Wn.2d 575, 445 P. 2d 648 (1968).
23. Washington State Department of Social and Health Services, Health Services Division, **Standards for Individual Sewage Waste Disposal Systems.**
24. U.S. Department of Agriculture, Soil Conservation Service, June 1967, **Know the Soil You Build On**, Bulletin No. 320.
25. U.S. Department of Agriculture, Soil Conservation Service, (September 1968) **Soil Conservation,** "Soil and Water Conservation in Suburbia" reprints available.
26. WAC 248.50.100 State Board of Health Regulation, Disposal of Human Excreta.
27. Chapter 248.96 WAC, State Board of Health Regulation, Individual Sewage Disposal (to be adopted).

Utilities

28. Chapter 80.50 RCW, Thermal Power Plants—Site Locations.
29. Ports and Water Related Industries, Washington Department of Natural Resources, Proposed Harbor Area Guidelines.

Pacific Ocean Beaches

30. RCW 79.16.160 Declared a Public Highway.
31. RCW 79.16.172 Declared a Public Recreation Area.

Environmental Impacts

32. Chapter 43.21C RCW, Washington State Environmental Policy Act of 1971 requires all branches of government to include in every recommendation or report on proposals for legislation and other major actions significantly affecting the environment, a detailed statement by the responsible official on the environmental impact of the proposed action.

Public Health, State Board of Health

33. WAC 248.50.140 Stagnant Water.
34. Chapter 248.54 WAC, Public Water Supplies.
35. Chapter 248.72 WAC, Camps and Parks.
36. Chapter 248.92 WAC, Public Sewage Disposal.
37. Chapter 248.98 WAC, Swimming Pools, Bathing Beaches and Wading Pools.