Washington State Coastal Zone Management Program

State of Washington
Department of Ecology

State of Washington
Daniel J. Evans
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June 1976

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The preparation of this report was financed in part through a Program Development Grant under the Coastal Zone Management Act of 1972, administered by the Office of Coastal Zone Management of the National Oceanic and Atmospheric Administration.

STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

OLYMPIA

DANIEL J. EVANS
GOVERNOR

March 29, 1976

U.S. DEPARTMENT OF COMMERCE NOAA
COASTAL SERVICES CENTER
2234 SOUTH HOBSON AVENUE
CHARLESTON, SC 29405-2413

Dr. Robert M. White, Administrator
National Oceanic and Atmospheric Administration
U. S. Department of Commerce
Washington, D. C. 20240

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Dear Dr. White:

I am pleased to transmit to you several amendments and modifications to the Washington State Coastal Zone Management Program. The original program document was sent to you on December 12, 1975, and since that time, a number of matters have arisen that require clarification and modification in that document.

I have reviewed and approved the attached amendments and modifications and hereby declare them to be part of the Washington State Coastal Zone Management Program.

I believe that the attached material will resolve the questions and concerns raised by the various reviews of the program document, and that you should be in a position to approve Washington State's program with no further difficulty.

The program document will be reprinted soon with the attachments incorporated into it, along with minor clerical and informational corrections that are needed.

I am looking forward to an early approval of the program and to our continuing relationship with your office as the program is administered.

Thank you for your effort and concern on our behalf.

Sincerely,

Daniel J. Evans
Governor

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STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
OLYMPIA

December 12, 1975

DANIEL J. EVANS
GOVERNOR

Dr. Robert M. White, Administrator
National Oceanic and Atmospheric
Administration
U. S. Department of Commerce
Washington, D. C. 20240

Dear Dr. White:

I am pleased to transmit 250 copies of the State of Washington's coastal zone management program. This document reflects the current status of coastal zone management in the State of Washington and projects future endeavors in this field.

We firmly believe that this document represents a process which meets and exceeds the programmatic requirements for states under the Coastal Zone Management Act of 1972. I, therefore, request that you examine this document and grant approval under the terms of section 306 of the Coastal Zone Management Act.

I have reviewed the Washington coastal zone management program, and, as Governor, approve the program and certify to the following:

1. The state has the required authorities and is presently implementing the coastal zone management program;

2. The state has established, and is operating, the necessary organizational structure to implement the coastal zone management program;

3. The Department of Ecology is the single designated agency to receive and administer grants for implementing the coastal zone management program, and further the Department of Ecology is hereby designated as the lead agency for the implementation of the coastal zone management program;

4. The state, in concert with local governments, has the authority to control land and water uses, control development, and resolve conflicts among competing uses;

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Chapter I
Introduction

CHAPTER I. INTRODUCTION

INTRODUCTION

During the late 1960s a series of conflicts over environmental issues erupted in the State of Washington. Many of the most serious related to the use and abuse of the state's invaluable water resources and the adjacent shorelines. The threat of thermal and industrial waste pollution, the depletion of fisheries, offshore oil drilling and oil spills, the loss of beaches to residential and commercial development—all became the focus of intense and often protracted controversies involving a broad range of citizens, private interest groups, and private and public organizations. At first controversies centered on particular projects and specific sites. But as the number and variety of incidents increased, the need for a more comprehensive approach to the protection and enhancement of the environment became obvious. By the end of the decade the state was ready to act.

In 1970 the Legislature created the Department of Ecology in a major reorganization of state government designed to increase the effectiveness of the state's administration of its newly appreciated responsibilities for environmental management. In a remarkably strong statement on the need for the new department, the Legislature declared

> it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state. . . .In recognition of the responsibility of state government to carry out the policies set forth [herinabove] it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. [Revised Code of Washington (RCW) 43.21A.010-.020]

A year later the Legislature went even further, mandating environmental protection and enhancement as an obligation upon every governmental agency under the jurisdiction of the state. The State Environmental Policy Act of 1971 (SEPA) was passed in the first extraordinary session of the 42nd Legislature and became effective August 9, 1971. With some exceptions SEPA is a copy of the "Purpose" section and Title I of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. Section 4321 et seq.), exhibiting extreme similarity in both intent and directive. SEPA is primarily a disclosure statute, requiring environmentally sound planning and the airing of issues involved in governmental decision making by providing for increased public scrutiny of proposed actions. The statute was an important step in re-ordering priorities such that the isolationism and parochialism that tends to characterize governmental entities would be replaced by a more holistic consideration of issues.

SEPA remains the state's most comprehensive statement of environmental policy. The Legislature there declares it to be

> the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
>
> (a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
>
> (b) Assure for all people of Washington safe, healthful, productive, and esthetically and culturally pleasing surroundings;
>
> (c) Attain the widest range of beneficial uses of the environment without degradation, risk

to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources. [RCW 43.21C.020(2)]

And in another strong statement of environmental rights and responsibilities, the Legislature claimed in SEPA *"that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment."* [RCW 43.21C.020(3)]

The chronology of events which led to the passage of SEPA also convinced the Legislature that the newly recognized fundamental and inalienable environmental rights of the people of the state were most seriously jeopardized with respect to the state's invaluable water and shoreline resources. There were two occurrences, however, which may be identified as of special importance in spurring the Legislature to definitive action in accepting state responsibility for shoreline management. First, a state supreme court decision in December of 1969 found a landfill into one of the state's major lakes to be illegal and ordered it to be removed on the basis that "the public has a right to go where the navigable waters go." The court also concluded that judicial decision-making on a case-by-case basis was not the appropriate method of attacking what was a monumental statewide problem and urged the executive and legislative branches to develop a comprehensive shoreline planning and use regulation program for the state. The immediate effect of the decision was to cast a cloud on all shoreline development in the state.

Secondly, the Washington Environmental Council (WEC), discouraged by the Legislature's failure to enact coastal management legislation in previous legislative sessions, circulated a popular petition in a statewide drive and obtained more than sufficient signatures for presentation to the Legislature. Under the Washington State Constitution, upon presentation of an initiative from the people the Legislature may (1) enact it into law during the ensuing legislative session, (2) reject it, in which case it is placed on the ballot at the next general election, or (3) propose an alternative, in which case both the initiative and the alternative appear on the ballot. The Legislature opted for the third course of action and passed the Shoreline Management Act of 1971 (SMA), subject to ratification by the voters of the state. The Act contained an emergency provision which made it effective on June 1, 1971, nearly eighteen months before it was placed on the ballot. The essential difference between the WEC initiative (Initiative 43) and SMA (Alternative Measure 43B) was that the former involved lands from the shoreline 500 feet inland and placed the bulk of the technical administrative responsibility in the hands of the Department of Ecology, while the latter limits the land involved to 200 feet inland from shorelines and associated wetlands and places the bulk of technical administration in the hands of local governments.

In the election of November, 1972, the people had two choices: to accept or reject any form of shoreline regulation; and to choose their preference between measures 43 and 43B. Some kind of shoreline management was accepted 603,167 to 551,132, and the Shoreline Management Act (Measure 43B) was favored over Initiative 43 by 611,748 to 285,721. From the time of its effective date after passage by the Legislature in 1971 to its final ratification in November of 1972, SMA was in force and operating.

The Shoreline Management Act is perhaps the most comprehensive tool for control of shoreline uses to be found in the nation. By designing a use permit system and mandating a solid environmental planning program as its base, the Legislature accepts state responsibility for shoreline quality. It becomes "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." (RCW 90.58.020) The legislative concerns prompting such decisive action are made clear:

> 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 . . .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. [RCW 90.58.020]

The Legislature was particularly careful in its treatment of those shorelines it considered to be of statewide significance declaring "that the interest of all of the people shall be paramount in the[ir] management" and setting forth clear priorities for their use. To avoid confusion, the Legislature defined "shorelines of statewide significance" in exhaustive detail. Though the Shoreline Management Act governs the management of both freshwater and saltwater shorelines in the state, the areas designated as of statewide significance make clear the Legislature's focus on the state's saltwater coastline. SMA resulted in, among other things, a massive state program to manage the state's coastal resources with new attention to the environmental, economic, and social impact of resource utilization.

In 1972 the United States Congress passed the Coastal Zone Management Act (CZMA) (PL 92-583; 86 Stat. 1280) as an expression of strong national interest in the effective management, beneficial use, protection, and development of the nation's coastal resources. The Act is based on several important Congressional findings, but the primary finding reads as follows:

> 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. [Section 302(h)]

The Congress further finds and declares in CZMA

> that it is the national policy. . .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. . .[Section 303(b)]

Three financial assistance grant programs are authorized by the Act. Section 305 authorizes annual grants to assist states in developing coastal zone management programs to be approved by the Secretary of Commerce, who is charged with the responsibility for administering the Act.

Section 306 authorizes annual grants to states for administration of management programs developed under Section 305 and approved by the Secretary of Commerce. The third grant program, Section 312, allows for federal financial assistance to states for the establishment of estuarine sanctuaries for scientific and educational purposes. To give states an added incentive to participate in the coastal zone management program, the Act also stipulated that federal activities within respective state coastal zone boundaries be, to the maximum extent feasible, consistent with approved state CZM programs. This stipulation, known as the federal consistency provision, is contained in Section 307.

Washington State's development of a coastal zone management program under Section 305 has afforded the state two particularly noteworthy opportunities for increasing the effectiveness of coastal resources management. The first is a new incentive to evaluate, shore up, and coordinate

existing state management programs and practices. The second stems from the Act's federal consistency requirement. This provision offers the state a management tool it never could have developed internally under state law. Both achieving internal coordination and the forging of consistent state/federal management relations are long-term goals. The State of Washington has an effective coastal zone management program in effect at the present time which centers on the controls provided in the Shoreline Management Act and which has been augmented over the past year by state activities in response to the Coastal Zone Management Act. The present document is a reflection of that ongoing program.

Chapter II provides a brief look at the state's coastal resources as necessary background for subsequent discussions of resource management. Emphasis is placed on peculiarities of the coastal zone insofar as they present potential management problems. Special attention is devoted to geographical areas of particular concern to the state. For purposes of description and with a view to a more formal treatment in Chapter V, the term "coastal zone" is used in Chapter II and subsequently to refer to the geographical area bounded by the political boundaries of the 15 coastal counties, as shown on the map in Appendix A, page A-1(a).

Chapter III is in some respects the heart of the present document. It embodies an attempt to describe in considerable detail what the state's management system looks like in its formal and informal operation. While the state's coastal zone management program inevitably keys on the Shoreline Management Act, SMA is only one of many important contributors to coastal management.

Chapter IV provides an introductory look at two kinds of governmental entities with massive management responsibilities for the coastal resources in Washington State which do not come under the jurisdiction of state government: federal agencies and Indian tribes. The point is primarily role identification as a base for subsequent coordination.

Chapter V is somewhat more technical. The responsibility for administration of the Coastal Zone Management Act was given to the Secretary of Commerce. Within the Department of Commerce the responsibility was lodged with the Office of Coastal Zone Management (OCZM) located in the National Oceanic and Atmospheric Administration (NOAA). OCZM has adopted regulations amplifying the requirements of the Act relating to coastal zone management program construction. A great many of the specific requirements are satisfied by the state in the natural course of its management practices. But others are more technical and require special attention. Chapter V, then, molds the information contained in Chapters II, III, and IV into a cohesive coastal zone management program satisfying the program requirements of the Act and the OCZM regulations. Particular attention is paid to the significant beginning made toward the goal of state/federal consistency through the establishment of a communications process focusing on informational packets designed to make clear to all parties the noteworthy interfaces between the State of Washington and the federal agencies active in the state's coastal zone.

And finally, Chapter VI is devoted to a brief look at the immediate future of the state's coastal zone management program.

Chapter II

Washington State's Coastal Zone

CHAPTER II. WASHINGTON STATE'S COASTAL ZONE

AN OVERVIEW OF COASTAL RESOURCES

Introduction

The fifteen counties which contain Washington's 2,337 miles of marine shoreline constitute one of the richest resource pools in the nation. The coastal zone contains only 29 percent of the state's land but fully two-thirds of its 3,400,000 residents. Three major national parks (Mt. Rainier, Olympic, and North Cascades), over three million acres of National Forest, and substantial alpine areas set aside in wilderness areas provide a variety of recreational and educational experiences. Nutrient-rich estuaries and streams not only support a local sport and commercial fishery but also serve as propagation waters for salmon of central importance to national and international fisheries. Deep, sheltered harbors located on the Pacific Rim contribute significantly to international trade and commerce as ports for the export of grain and forest products to Asian countries and the import of processed goods. The zone's strategic location for national defense purposes has made it the site of several large military installations and its position in the northwestern corner of the contiguous states makes it the key access route to meet Alaska's transportation needs and to respond to the emerging Alaskan role in providing for national energy needs.

Basic Resources

The coastal zone consists of 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 the Quinault River, was sculptured by glacial activity and is characterized by rugged mountains and glacial valleys. The beaches are narrow and rocky and are backed by high forested bluffs. Rocky outcrops and islands are common offshore. Limited floodplains and deltas associated with the largest rivers provide the only low flatlands and excellent agricultural lands. Although a few fishing villages are located along the northern coast of the Olympic Peninsula, the state's northern Pacific Coast proper is sparsely populated and remains largely unaltered. There are no large estuaries, good harbors, or industrial sites.

The southern part of the coastal zone 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 Chehalis and Willapa Rivers, which drain this area. The dunes are the most attractive recreational beaches in the state.

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 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 to 17 inches per year in the rainshadow lowlands. Precipitation is seasonal, being heaviest from October to March and lightest in July and August. Heavy snowpack in the mountains, however, prolongs the seasonal river discharge into the coastal zone. Abundant freshwater discharge plays a significant role in the great productivity of Puget Sound.

Washington's 2,337 miles of marine shoreline are made up of 157 miles along the Pacific Ocean, 144 miles along the Strait of Juan de Fuca, 89 miles in Grays Harbor, 129 miles in Willapa Bay, 34 miles on the Columbia River, and 1,784 miles bordering Puget Sound and the Strait of Georgia. (These figures include the shorelines of 172 significant islands of the San Juan Archipelago.) 1,847 miles of the shoreline have beaches and the remaining 490 miles consist of rocky headlands, marsh areas, bulkheads, and revetments.

In terms of basic resources, the Washington coast may be conveniently divided into two broad coastal areas: the Puget Sound/San Juan Island/ Strait of Juan de Fuca complex; and the Pacific coastline including the Columbia River.

Puget Sound is a complex system 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 the Sound was formed by glacial action that terminated near Tenino in Thurston County. The 2,700 square miles of Sound water surface under the jurisdiction of the United States is a relatively small part of the complex that also includes the Strait of Georgia and the Strait of Juan de Fuca.

Puget Sound is a deep body of water with depths of 100 to 600 feet found less than one mile offshore. Shoal areas are virtually nonexistent and large tideflats and marshland areas are restricted to mouths of the major rivers—the Skagit Bay, Padilla Bay, and Samish Bay flats on the north and the Nisqually River delta on the south are the most notable. Small tideflats and marshes are found frequently in the numerous inlets in South Puget Sound and Hood Canal.

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 inter-tidal areas difficult. For this reason, the relatively few accreted beaches which are not inundated at high tide are extremely valuable for public recreation purposes. The ubiquitous bluffs are also a serious topographic constraint to development, which has necessitated the filling of tidal estuarine and flatland areas for port and industrial activities. The estuaries that remain largely unaltered are highly valued, in part because of their increasing rarity.

Because of their glacial-till composition, the Puget Sound bluffs are susceptible to fluvial and marine erosion and can be serious slide hazards. Although the Sound is protected from the direct influence of Pacific Ocean weather, storm conditions can create very turbulent and occasionally destructive wave action. Without an awareness of the tremendous energy contained in storm waves, the development of shoreline resources can be hazardous and deleterious to the resource characteristics which make Puget Sound beaches attractive. Miles of physically unsuitable shorelines were committed to residential and recreational subdivisions before the recent upsurge of environmental analysis. Some areas have already experienced slide loss and others are now known to be hazardous to future development.

Ten major rivers, fourteen minor rivers, and a great many small streams flow into Puget Sound. While most of the Sound's waters are usually well mixed, the areas near the mouths of major rivers will approach freshwater conditions during periods of continuous heavy rainfall. While mixing by strong winds occurs in some areas of the South Sound during winter months due to Pacific storm patterns, stratification often occurs in the late summer in sheltered South Sound bays.

Flooding within the coastal zone includes coastal type flooding which results from the high spring tides combined with strong winds from winter storms, riverine overbank flooding and the combination of the two. Storms that produce the surges also bring heavy rains and, therefore, the high river flows are held back by tides producing flooding at river mouths. Major damages occur within the flood plains which have experienced the greatest growth and development, and these are the streams draining westerly into 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 between the North Sound and the South Sound in terms of the flow of tides. A tide change at Olympia, on the southernmost portion of the Sound, will occur approximately one hour and fifteen 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 the north. The tidal currents are variable and strong. Where affected by narrow passages or shallow, they may exceed seven knots.

Flushing of Puget Sound waters occurs annually during the spring and summer, except in the lower South Sound and Hood Canal. Cold, highly saline, low-oxygenated water, upwelling in the Pacific Ocean along the Washington coast, enters and slowly spreads at depth throughout the Sound, displacing the existing water mass and flushing it out along the surface.

The Pacific coastline offers a different kind of panorama. From Cape Flattery on the north to Cape Disappointment on the south, there are approximately 160 miles of beaches, rocky headlands, inlets and estuaries. The shoreline south of Cape Flattery to the Quinault River is generally characterized as rugged and rocky with high bluffs. The remaining shoreline south of the Quinault River is made up of 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 the surface water, resulting in upwelling of water from lower depths. The upwelled water is cold, high in salinity, low in oxygen content and rich in nutrients. It is this last-named 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.

Water Quality

The marine waters of the state, except for population and industrial development concentrations, are generally of excellent quality. Most areas are essentially free from major pollution sources. State-established water quality standards are rarely violated in coastal waters at any time of the year and nutrient values and dissolved oxygen levels are normally above the state standard. However, major water pollution problems exist in the heavily industrialized areas and large population centers of Puget Sound.

There are other areas in Puget Sound where existing or planned activities may seriously affect water quality in the near future. Such activities include: (1) increased land development and recreational potential of the Hood Canal and San Juan Island areas; (2) urban development and the possibly large influx of people to the Kitsap Peninsula associated with the construction and operation of the Trident Nuclear Submarine Base; (3) the heating of water in proposed nuclear electric power plants with once-through cooling, the effects of which on aquatic organisms can be disastrous; (4) the shipping of Alaskan oil through northern Puget Sound to the refineries at Anacortes and the Ferndale-Cherry Point area, and the associated danger of major oil spills; and (5) the continued urban and industrial development in the South Sound area which is already limited in its waste assimilating capacity by a low flushing rate and relatively shallow depth.

While the state's water quality program is successfully implementing control over municipal and industrial point sources of pollution, the non-point sources and accidental spills remain a serious threat to the marine resource. Although the actual contribution of non-point sources (wastes which enter streams and marine waters as runoff, drainage, or seepage) is not known, the contribution from forestry and agricultural activities and urban runoff is thought to be considerable. Any effective approach to the control of non-point source water quality problems will require coordination among all programs and is particularly dependent on local shoreline programs.

The water pollution incidents reported to the Department of Ecology between 1968 and 1973 are shown in the following table:

Year	Oil Spills	Fish Kills	Other
1968	52	3	192
1969	120	16	314
1970	262	25	406
1971	406	31	402
1972	734	31	503
1973	983	38	405

The dramatic increase in the number of oil spills, and to some extent fish kills, can be attributed in part to an increase in public awareness of environmental problems. It is safe to assume that many of the incidents of pollution now being reported to the Department for investigative action previously went unnoticed or were observed but not reported.

Fisheries and Wildlife Resources

Fisheries are a significant coastal resource for both commercial and sport fishing. Estimates indicate that one half of the state's residents fish for sport or commercial use, in addition to thousands of visitors who fish for salmon. Commercial fishermen annually harvest over six million salmon, twenty million pounds of bottom fish, and six million pounds of shellfish. The total value of sport fish catch exceeds that of commercial fishing, but an estimate of total recreational use of Puget Sound and its resources is not available.

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, including chinook, coho, sockeye, pink and chum salmon, steelhead, searun cutthroat and Dolly Varden trout. All these fish spend part of their lives in the saltwaters of Puget Sound and the Pacific Ocean before returning to the streams of their origin to spawn. Their offspring spend varying amounts of time in the shore waters of the area before moving to sea to grow to maturity.

Shellfish abound throughout Puget Sound and on the Pacific Coast. Several varieties of clams, some of which are indigenous to the Pacific Coast like the well known razor clam, and a variety of crabs including the well known Dungeness are found in the state's coastal waters. Other noteworthy shellfish include butter and little neck clams, small Olympia, Japanese, and rock oysters, shrimp and king clam or geoduck. In the Pacific Ocean large numbers of hake, ocean perch, and Columbia River smelt are taken each year. In some years, depending on the ocean currents, albacore tuna catches are significant.

Puget Sound has historically supported substantial fish populations. However, 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 habitat degradation brought about by industrial and domestic wastes and unfavorable land use practices, direct habitat destruction through diking and land fills, construction of upstream water development projects, and poor timber harvesting practices. The effect of dikes and fills on fish populations is not clearly understood, but a substantial loss of nursery and rearing habitat has occurred.

The decline in fisheries is partially balanced by the fact that aquaculture or sea farming is beginning to come into its own in the Puget Sound complex. The mass production of seaweed, clams, geoducks, scallops, shrimp, oysters, small salmon, lobsters and other marine biota looms as an important new industry. Effective shoreline management is particularly crucial to the success of sea farming. Aquaculture on any scale can coexist with maritime shipping and shorelands industrial activities only by careful planning and regulation.

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, ringnecked, and wood duck, widgeon, scaup, goldeneye, green-winged teal, shoveler, Canada, lesser Canada and snow geese, and black brant. Merganser, scoter and American coot will also be found. The most common shorebirds are gulls and terns. Great blue herons are 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.

The development of the Puget Sound area has brought with it a noticeable deterioration of wildlife resources due to habitat disruption, though the loss of wildlife habitat has not been quantified. An important need in obtaining relevant information on habitat loss is the analysis of the impact of incremental fills and small-scale developments. Efforts to obtain such information are now underway.

Population

Census figures for 1974 indicate that about 2.2 million people live in the Puget Sound area as compared with only 80,000 on the state's Pacific Coast. 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 trends reflect the reaction of economic conditions to the aerospace industry. 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 stabilized and at least in terms of unemployment the state is now healthier than the national average.

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 largest metropolitan areas, Seattle and Tacoma. From 1960 to 1970, these counties experienced an overall increase of 28.1% with Snohomish County achieving the fastest rate of growth at 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.

Commerce and Economic Development

Puget Sound is the West Coast's largest deep water protected port and the focus of shipping and industry in the Pacific Northwest. Its primary ports are at Port Angeles, Bellingham, Everett, and Seattle-Tacoma. Its excellent harbors and proximity to Alaska make the area a prime candidate for receiving oil from Alaska. 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 deep-water inland harbors. The use of Puget Sound waters by deep-draft vessels is on the increase due to its proximity to the developing Asian countries. 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. Increasing population can also be expected, ultimately, to tax the Sound's ability to assimilate municipal and industrial wastes.

The Sound is 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 have in recent years meant increasing demands on and conflicts for the area and its resources.

The tourist, recreational and second home industries are among the fastest growing businesses in Puget Sound. Currently ranked behind food, manufacturing and forest products, the tourist industry has been projected in some studies to assume the number one position by the year 2000. The importance of water-related recreation as an industry is indicated by the fact that the resident population has the highest boat ownership per capita in the nation. Because of the recent increase in tourism and recreation and the number of watercraft,

impact. The need to increase recreation boating facilities while maintaining a high quality environment is a serious problem. In fact, the location of new boating facilities which will meet state and federal environmental standards and yet be consistent with local land use desires is one of the major resource management issues confronting Puget Sound.

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 important fish and wildlife habitat as well. The sandy beaches, mudflats, 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 both commercial and recreational value.

Food products (fishing and agriculture) and timber-related industries are the major industrial establishments in the region, although here, too, the tourist and recreation industries are playing an increasingly important role. For example, in 1972, there were 92,716 people employed directly in the commercial fishing industry in the state. Income accruing to Washington residents from fishing totaled $156 million and was projected to reach $325 million by 1974.

Resource Ownership and Use

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 publicly owned 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, consisting primarily of state, county, and city parks. When tidelands (between extreme low tide and 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. Some of the non-federal public land is owned by port districts and utilized for waterborne commerce facilities. In addition, about 40 miles of privately owned shoreline is used for recreational purposes, such as resort areas and privately owned marinas.

Most of the 3,000 square miles of marine beds out to the three mile limit are owned by the state under management by the Washington State Department of Natural Resources, which also owns and administers leases for nearly 40% of the intertidal areas. State-owned inter-tidal areas often abut uplands owned by another land owner. Thus, within the shoreline/tideland interface, there are many miles of marine resources with a private or local port district upland owner and a state bedland or tidal owner. This situation leads to inherent conflicts between the aspirations and desires of the upland owner, as often expressed in local land use planning, and the state's interests as the manager of the bedlands or tidelands.

Each of the fifteen coastal counties and thirty-eight coastal cities is responsible for applying a variety of building, land use, and health codes to shoreline segments. Many localities, supported by separate local taxing port districts, compete for commerce and industry in the coastal zone. In these same areas county and regional efforts are often thwarted by city annexations which promote proposals inconsistent with local regional objectives. And on the other hand, well founded town and city development plans and programs are all too often disregarded or bypassed in favor of physically unsuited county locations where codes may be less stringent. Moreover, some counties and Indian reservations have established working relationships for managing the coastal zone, while others remain at odds over jurisdictional questions.

Washington State's coastal zone has more than one hundred separate institutional organizations which are faced with the awesome task of maximizing the use potential of what amounts to an incredibly rich coastal resource. The primary competing uses to be balanced include timber harvest, industry, commercial fishing, recreation, tourism, second-home development, and agriculture. About 77 miles of shoreline have non-recreational 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.

Quite generally speaking, the legislature has identified the problem of competing uses on the Pacific coastline. RCW 43.51.650 declares:

> The beaches bounding the Pacific Ocean from the Strait 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 particpate 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.

AREAS OF PARTICULAR CONCERN

Though a broad survey of the coastal zone in terms of the Puget Sound area and Washington's Pacific Coast can serve to isolate some important questions, many of the issues which constitute problems for effective management of the state's coastal resources are of unique or at least special significance in much smaller geographical areas. The state has given recognition to areas of particular concern in a great many ways, in response to both state concerns and those identified in the Coastal Zone Management Act. Special problems are frequently the subject of specific legislation or of specific regulatory or administrative action by resource ownership and management agencies.

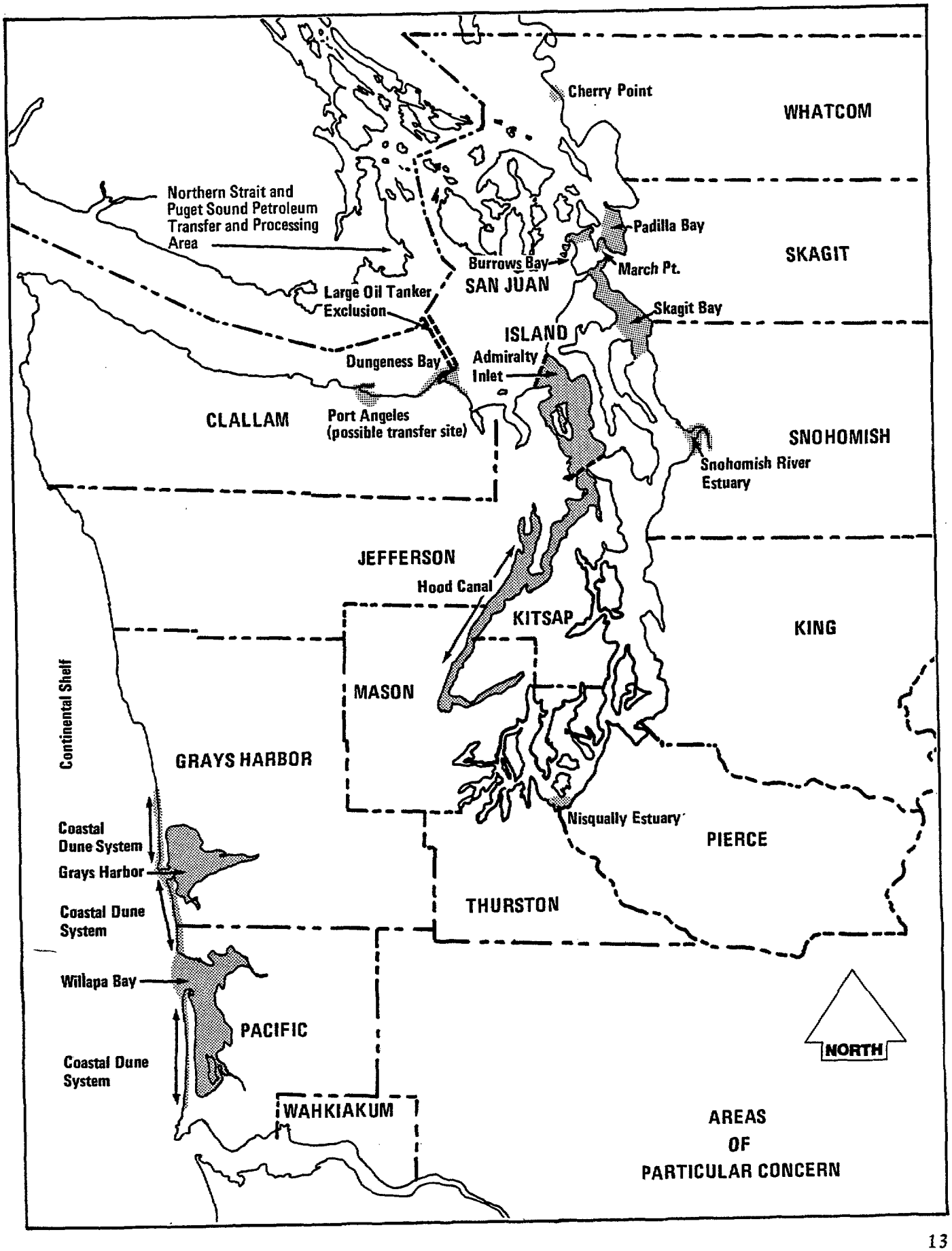
Identified areas of particular concern will receive fresh attention under the Washington coastal zone management program. Because of the controversies surrounding their management and ultimate uses, such areas merit special study and will become foci of attention for the resolution of management problems as the program matures. Areas of particular concern to the state and the nation in terms of coastal zone management include only those problematic shoreline segments and water areas where options and alternative uses of the coastal resource are still open possibilities for action. Areas the fate of which has for all practical purposes already been determined provide no forum for the expression of dynamic concern that might result in more effective management and will not be treated in what follows here. An example of such predetermination is provided by the 50-mile Pacific Ocean Strip of Olympic National Park. The outstanding natural qualities of its rugged shoreline features have been recognized as a national asset and will be managed in their natural state. Though the Strip is an area of particular interest in the State of Washington, it is not an area of particular concern requiring the attention of the state's coastal zone management program.

Nor can the state's major harbor/industrial port areas be usefully identified as areas of particular concern, in spite of the fact that the Port of Seattle (Duwamish Waterway and Elliot Bay) and the Port of Tacoma (Commencement Bay and the Tacoma Tideflats) are of central significance to the economic vitality of the state and the Pacific Northwest. Significant port/harbor areas and their uplands are reserved through state legislation and local zoning for navigation and commerce. Generally speaking, large-scale investments in terms of harbor improvements, channel improvements and deepening, docking facilities, and long-range programs for general port enhancement ensure that uses other than navigation and commerce will not be seriously considered. Such commitments do not formally preclude other public uses within the harbor areas, but non-maritime commercial and industrial uses are considered secondary and usually allowed only when they do not interfere with the primary uses of commerce and navigation. While many interesting issues relating to ports remain to be addressed, the basic issue of primary port uses is already settled.

The fundamental principle used here for the identification of areas of particular concern is that such areas must be of greater than local interest and offer a live issue of competing uses and management options. More specifically, selection of the areas of particular concern discussed below has been guided by the following criteria: (1) the area contains a resource feature of environmental values considered to be of greater than local concern or significance; (2) the area is given recognition as of particular concern by state or federal legislation, administrative and regulatory programs, or land ownership; and (3) the area has the potential for more than one major land or water use or has a resource being sought by ostensibly incompatible users.

These criteria lead to the identification of the following areas as areas of particular concern: (1) the Nisqually Estuary; (2) Hood Canal; (3) the Snohomish River Estuary; (4) Skagit and Padilla Bays; (5) the Northern Strait and Puget Sound Petroleum Transfer and Processing Area; (6) the Dungeness Estuary and Spit Complex; (7) Grays Harbor; (8) the Willapa Bay Estuary; (9) the Pacific Coastal Dune Area; and (10) the Continental Shelf. A map delineating these areas is found on the following page.

One final remark should be made here in passing. Identified areas of particular concern are based on existing authorities, expressions of legislative concern, and current resource management conflicts. They are intended to represent areas which are responsive to the requirements


Cherry Point
WHATCOM
Northern Strait and
Puget Sound Petroleum
Transfer and Processing
Area
Padilla Bay
SKAGIT
Burrows Bay
March Pt.
SAN JUAN
Large Oil Tanker
Exclusion
Skagit Bay
ISLAND
Dungeness Bay
Admiralty
Inlet
CLALLAM
Port Angeles
(possible transfer site)
SNOHOMISH
Snohomish River
Estuary
JEFFERSON
Hood Canal
KITSAP
KING
Continental Shelf
MASON
GRAYS HARBOR
Nisqually Estuary
PIERCE
Coastal
Dune System
Grays Harbor
Coastal Dune
System
THURSTON
Willapa Bay
PACIFIC
NORTH
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of the Coastal Zone Management Act and the state program at the present time. The list presented below is not to be considered exhaustive. Its purpose is simply to highlight special geographical areas. Other areas will be considered for inclusion over time with adjustments in designation criteria.

The Nisqually Estuary

The Nisqually Delta is one of the largest undeveloped estuarine areas in the state, second in size only to the delta of the Skagit River. The estuary serves as an important nursery area for the fisheries of Puget Sound and as the nesting and resting place for some 160 species of migratory waterfowl and marshbirds. Located between the Skagit and Columbia Rivers, the delta region is on the major fly line of the Pacific flyway and is the only place of any size left in southern Puget Sound for migratory birds to rest.

The Nisqually has the potential to provide significant opportunities for recreational activities ranging from wildlife photography, fishing, digging for clams, oysters and geoducks in the summer to waterfowl hunting in the fall. The delta is of historical significance as the site of Fort Nisqually, a fur trading post and one of the earliest settlements in the state. It is also the site of the signing of the Medicine Creek Treaty and the home of the Nisqually Indians.

The Nisqually Delta offers a classic example of values competing for the use of a limited resource. As one of few remaining large, relatively flat tidal areas in Puget Sound, the delta had long been intended by port and industrial interests to be the next major industrial and harbor area on Puget Sound. But the 4,000 acre delta was also recognized by conservationists for its environmental values as one of the few remaining unaltered wetland areas on the west coast. And so the stage was set for what was to become one of the major environmental issues in the state during the late 1960s and early 1970s.

Continuing controversy eventually prompted legislative action. In 1971, the Legislature gave recognition to the delta's importance to the state by designating it a shoreline of statewide significance. During the same legislative session, the House of Representatives passed a resolution requesting the Legislative Council to conduct a study on potential uses of the Nisqually with the aid of two recognized scientists, Doctors Gordon Alcorn and Dixie Lee Ray. Their subsequent report found that the delta could not support industrial and port activities and at the same time serve as a national wildlife preserve and recreation site. As a result, the Governor created a task force to study and recommend a management system to protect the delta's resources, safeguard its potential for recreational uses, and permit orderly development in the Nisqually River Basin.

The ultimate disposition of the Nisqually's resources has not yet been determined. Most of the property west of the river is now within the Nisqually National Wildlife Refuge and the delta's tideflats were recently declared a National Natural Landmark. But the areas east of the river remain in private ownership, and property on the delta's periphery which could impact the whole area has been the subject of several local land use controversies.

Hood Canal

Hood Canal is a glacially carved fiord some sixty miles long which is bounded by the towering Olympic Mountains on the west and the low hills of the Kitsap Peninsula on the east. Its 242 miles of shoreline are owned by large timber companies, numerous private parties with small lots, and public agencies at all three levels of government. Its waters fall within three counties: Mason, Jefferson and Kitsap. Commercial fishing and shellfish production are prominent industrial activities in the Canal, which is also well known for its production of market and seed oysters. The relatively unspoiled nature of the region provides excellent opportunities for education and research on such subjects as oyster culture, water pollution, and bivalve bioassay procedures.

Fragmented ownership gives rise to an obvious problem in the Canal's management. State-owned uplands managed by the State Department of Natural Resources (DNR) are scattered throughout the region with the largest concentrations on the Tahuya Peninsula and near the Hamma Hamma River. Shoreline owned and managed by DNR

totals slightly less than 40 miles. Additional state-controlled shoreline totaling less than 3 1/2 miles is included within seven state parks managed by the State Parks and Recreation Commission.

Most federally controlled land is in Olympic National Park and Olympic National Forest with only one small segment of the National Forest actually extending to the shoreline. Other lands under the jurisdiction of the United States Navy occupy several miles of shoreline between Bangor and Vinland and on the Toandos Peninsula. Navy operations at Bangor involve substantial amounts of uplands and shoreline for munitions handling and shipping. A torpedo test range encompasses much of Dabob Bay. The Navy has recently initiated the establishment of a major Trident submarine base at Bangor.

Canal ownership is further complicated by the presence of two Indian reservations extending to the shoreline. The Skokomish Indian Reservation surrounds much of Annas Bay at the mouth of the Skokomish River, and the Port Gamble Indian Reservation includes approximately one mile of shoreline on the eastern side of the entrance to Port Gamble Bay.

Because of its attractiveness and relatively close proximity to Seattle and Tacoma, the Canal is extremely popular as a recreation destination and as a site for second homes. Its popularity, coupled with the fact that less than 20% of the shoreline is state-owned and available for public use, causes considerable crowding at public recreation sites and gives rise to conflicts between incoming recreational users and second home part-time residents. In order to take advantage of the waterfront locations, many home owners have filled into the intertidal area to create building sites. This in turn has been responsible for the loss of valued tideland and has resulted in crowded conditions and aesthetic losses to waterfront landscape.

Most of the south and west side of the Canal is bordered by extremely steep slopes, which, when coupled with the tideland landfills, render nearly impossible the effective utilization of individual septic drainfields. Widespread drainfield failures pose a threat both to water quality and to the productivity of oyster and clam beds at several locations. At first glance, sanitary sewers would appear to be an adequate long-range solution to the problem. But the population is widely scattered and few areas will ever have population densities necessary to support such a system. Further, state water quality standards make clear that the physical characteristics of Hood Canal make it unusuable as a receiving water without costly advanced municipal waste treatment. Sewage drainage basin studies have examined the alternative of waste discharge to land.

The maintenance of good water quality in the Canal is a complex problem, primarily because of the relatively slow flushing time for the inlet. Nearly six months are required for the change-over of Hood Canal as a whole, which is not conducive to the assimilation of waste from municipal and industrial sources. Concern over the potential effects of pollutants which find their way into the Canal is well justified.

Hood Canal has been the subject of major environmental controversies since the mid-1960s. Concern on the part of local residents has resulted in the rejection of several major development proposals, and individual bulkheads, land fills and docks have been the subject of numerous legal actions and requests for administrative review under the Shoreline Management Act. Statewide interest was formally voiced in 1971 when the Legislature declared the Canal a shoreline of statewide significance.

The Snohomish River Estuary

The Snohomish River system releases the second largest volume of fresh water entering Puget Sound from a single source and has formed an extensive delta and estuarine complex. Lying just to the north of industrial Everett, the state's fifth largest city, the tidal area has accommodated much of Everett's economic development and has often been targeted for additional industrial growth. But the recent maturity of environmental analysis in the state has made clear the sensitivity of the delta complex to development.

The state has taken a strong role in providing for development compatible with the environmentally sensitive nature of the river and associated estuary. The estuarine complex was declared a shoreline of

statewide significance in 1971 and received further attention from a gubernatorial mediation team established for land use planning and flood control for the Snohomish Basin. In 1974 the team recommended that the seaward extensions of the delta and biologically functioning surge plains be maintained in a natural state. The mediation team also gave recognition to the possibility of some of the delta immediately to the north of Everett for industrial purposes and recommended that a feasibility study be undertaken to design an economic development study for the area west of Interstate 5. It was further recommended that the upstream floodplains be maintained for agricultural purposes and that the filling of wetlands be restricted. To implement the recommendations a Snohomish River Basin Coordinating Council was created to design the structure of a permanent council and to prepare the legislation and intergovernmental agreements necessary to complete the recommended tasks. The central problem to be worked through is maintaining a functioning estuary while at the same time allowing for some fill and loss of wetlands for water-dependent industries.

The other issue of particular concern with respect to the Snohomish River estuary is declining water quality. The problem is especially acute to the south in Port Gardner Bay, which is subject to pollution from municipal sewage treatment facilities, regional sanitary landfills, urban runoff, wood products industry wastes, and river water contaminants from the upper Snohomish drainage area.

The wood products industry is the most important cause of water quality degradation in the area, though solid waste disposal and sewage treatment are serious problems. Sulfite pulp mills currently discharge large amounts of wastewater which often result in concentrations of sulfite waste liquor toxic to fish and shellfish in Everett Harbor. Major wastewater improvements are scheduled for the near future.

The immediate area contains two sizable sanitary landfills which are discharging an undetermined quantity of leachate into the Snohomish River near its mouth. A large solid waste disposal area in the delta utilized by the City of Seattle on the Tulalip Indian Reservation has been the subject of recent litigation, and disposal at the site has apparently been terminated. Attempts to relocate the disposal area within the estuary have met with effective resistance. Such relocation is prohibited by Snohomish County's shoreline and solid waste progams.

For the most part, water pollution stemming from inadequate sewage treatment is not a serious problem in the estuary. The Marysville and Everett sewage treatment lagoons on the Snohomish River flats usually provide adequate secondary treatment. Occasionally, however, overloading during high flow periods results in the discharge of inadequately treated sewage to the lower Snohomish and adjacent marine waters.

Skagit and Padilla Bays

The Skagit River system accounts for over 35% of the fresh water entering the Straits and Puget Sound. It has created the largest flat tidal areas in the Puget Sound Basin. While the extensive estuarine area of Skagit and Padilla Bays are plysically separated by the Swinomish Channel, their creation from sediments from the same river system makes it appropriate to treat them together as parts of one natural system. At one time Padilla Bay received water from the Skagit River by channels through the Skagit flood plain and Skagit water still greatly reduces salinity in Padilla Bay during flood periods. Nonetheless, Padilla Bay is more subject to the marine influences common to Samish and Bellingham Bays and the eastern San Juan Islands than is Skagit Bay.

The estuary of the Skagit River is the most diverse, least disturbed, and most biologically productive of all the major estuaries on Puget Sound. Man has thus far had relatively little adverse effect on the estuarine portion of the system or on its water quality.

Because of the diversity of habitats it contains, almost all plant and animal species found in western Washington will be found within the estuarine area. The Skagit Delta is the most important estuary for waterfowl on the Pacific Coast of the United States. Padilla Bay, with its extensive eelgrass beds, hosts some 35,000 black brant.

More than 200 species of birds have been identified on the Skagit delta. Swans and snow geese are among the most noteworthy feathered visitors to the area.

The fisheries resources of the Skagit River system are outstanding in comparison to any other stream entering Puget Sound. Padilla and Skagit Bays are important nursery areas for marine fishes and highly productive of shellfish. Several tidal areas within both bays contain commercially valuable beds of softshell clams. Clam harvesting has been a controversial issue for some time in the estuarine area and in Port Susan Bay to the south. Conservationists and residents claim that the methods used by some of the larger clam harvest operators destroy important wildlife habitat and constitute a source of noise and sediments which have caused serious disruption to the area. The clam harvesters and the State Department of Fisheries which licenses the operations claim that the alleged problems are not serious and most of the legitimate concerns can be accommodated through technical adjustments to the harvesting equipment. The conflict has resulted in litigation. All parties appear to agree that there is a need for additional study analyzing the effects of mechanical clam harvesting by large-scale machinery.

The Skagit Wildlife Recreation Area operated by the State Department of Game contains about 13,000 acres of salt marsh and tide flats. At present, a unit of Game Department land and some private holdings are being considered for acquisition, development and operation as an estuarine sanctuary under a grant request from the Department of Ecology to the Office of Coastal Zone Management under the provisions of Section 312 of the Coastal Zone Management Act. Included in this same application are 5,700 acres of Padilla Bay and another area on Thorndyke Creek in Jefferson County on the Olympic Peninsula.

In 1971 Skagit and Padilla Bays were declared by the Legislature to be shorelines of statewide significance. While there would appear to be few threats to the protection of these valuable wetlands, there remain some concerns. For one thing, Padilla Bay is adjacent to two major oil refineries at March Point and faces the possibility of petroleum spills. And for another, plans have been developed several times for diking the area, first for farming and later for industrial development. In fact, detailed plans that have now been abandoned were even developed for a combined dredge and fill operation to create a Venice-style residential area.

The Northern Strait and Puget Sound Petroleum Transfer and Processing Area

The state's northern marine waters and adjacent upland areas are within a petroleum transfer corridor which includes terminal areas for tanker shipments of crude petroleum. The shipping of petroleum to three major refineries in the area has occurred for some time and will increase correspondingly with a reduction in the Canadian pipeline supply. Prevailing state policy at this time indicates that the state is not interested in becoming a major petroleum processing center or transportation terminus for a major new pipeline to the midwest, though how much additional petroleum traffic would actually be generated is not entirely clear. But the current shipping of over 310,000 barrels daily to seven refineries with a combined capacity of 363,000 barrels has resulted in oil spills in the past and any increase in shipping could be expected to increase the likelihood of a spill in the future. While some spills have been contained or managed, there is widespread disagreement on the effectiveness of the cleanup techniques.

In recognition of the potential impacts of Alaska North Slope Oil on Puget Sound and the Strait of Juan de Fuca, the Washington State Legislature has taken several steps to prepare for spill threats to the state's inland marine waters. Senate Bill 3253 of May, 1974 set aside $427,000 for a study by the Oceanographic Commission of Washington of the feasibility of offshore monobuoy and related petroleum transfer facilities, which resulted in a report to the Legislature entitled "Offshore Petroleum Transfer System for Washington State". Senate Bill 2978 of 1974 requested the Department of Ecology to establish a continuing, comprehensive program of baseline studies for the waters of the state that would aid in the maintenance of water quality standards and address the specific problems associated with oil

contamination of the marine ecosystem. Further, the 1975 Legislature passed House Substitute Bill 527, which provides for safety standards and prohibits tankers larger than 125,000 deadweight tons from entering Puget Sound and the Strait of Juan de Fuca beyond a point east of the Dungeness Lighthouse. The prohibition is currently being appealed as unconstitutional by a major oil company.

The baseline study authorized in Senate Bill 2978 focused attention on waters which run the greatest risk of damage from oil spills including the areas where marine life is being utilized for food production. The first study area chosen was North Puget Sound, where there are existing refineries, crude and refined product transfer points, and tanker routes.

The upland impacts of petroleum transfer and processing could be particularly significant in the existing processing areas at Cherry Point in Whatcom County and March Point in the Anacortes area. Other specific areas which could be impacted significantly depending on the outcome of studies in process and on policy decisions yet to be made, include the Port Angeles area and Burrows Bay west of Anacortes. The Oceanographic report described a preferred alternative which contemplates unloading tankers at or west of Port Angeles and piping crude petroleum to Puget Sound refineries. This alternative would involve a major pipeline crossing of Admiralty Inlet. In February 1975, the Legislature authorized the Oceanographic Commission to conduct another study, a site-specific feasibility analysis of the Admiralty Inlet crossing area. Oil companies have proposed making Burrows Bay a major oil tanker unloading area as another alternative.

The Dungeness Estuary and Spit Complex

Dungeness Spit, on the Olympic Peninsula, is a narrow neck of land extending five-and-a-half miles into the Strait of Juan de Fuca. It is claimed by the U.S. Fish and Wildlife Service to be one of the longest natural sandspits in the world.

The Dungeness estuary and spit complex is a natural area unique within the state and has been recognized nationally for its significance in terms of wildlife and waterfowl. The area encompassing the mouth of the Dungeness River, Cline and Graveyard Spits, and the adjacent submerged lands and uplands is a highly complex geo-hydraulic system. The ecosystem's shoreline landforms have become highly valued public recreation and wildlife habitat areas. For this reason, resource management agencies directly involved with responsibilities in the area, including the Washington State Department of Game and the U.S. Fish and Wildlife Service, have indicated their concern that any major development in the area could have serious environmental consequences. Any development that required extensive filling, dredging, or breakwaters could affect currents and tidal patterns thereby altering deposition and sedimentation and eventually changing the shoreline landforms.

In 1915 when Woodrow Wilson formally established Dungeness Spit as a 556-acre refuge for migratory and resident birds, the primary importance of the area was as a wintering site for black brant. The shallow waters of the harbor provided the proper environment for the growth of eelgrass, and while many waterfowl use the plant for food, the brant is almost totally reliant upon it. Thousands of wintering waterfowl of many different kinds will be found today in New Dungeness Harbor between Dungeness and Graveyard Spit. Varied ecological conditions make the area a valuable habitat for fish and shellfish, too, providing productive shellfish beds on the tidal flats and sport fishing and crabbing in the relatively sheltered waters of New Dungeness Bay.

The Dungeness estuary and spit complex is a good example of resource use conflicts in the coastal zone. Competition is strong among commercial, aquacultural, recreational, and wildlife management interests.

Grays Harbor

Grays Harbor has long been an area of special concern. The shallow estuary of approximately 100 square miles of surface water presents complex management problems in terms of maintaining good water quality while providing a navigation channel for industrial needs. For many years Aberdeen and Hoquiam, located at the mouth of

the Chehalis River, have constituted a major port-industrial harbor. The resultant water quality problems of the harbor have long been recognized and in fact prompted some of the earliest water quality efforts and studies in the state. In recognition of the state's concern, the Bay has been designated a shoreline of statewide significance. The fact that the area contains several Wildlife Recreation Areas managed by the Department of Game is a further indication of the state's interest.

Substandard water quality in Grays Harbor results from pollution from municipal and industrial point sources and non-point sources. The wood products industry is the most important contributor to such water quality problems. Local pulp mills discharge large quantities of toxic wastewaters (largely sulfite waste liquor) into the harbor. Waste treatment before discharge ranges from good to nonexistent. A large amount of mill water is held during critical low flow periods (summer months) for discharge during higher flows. Other wastes are also commonly held for release during outgoing tides.

Grays Harbor bacterial contamination is partly due to inadequate facilities and treatment at the four municipal sewage treatment plants. Other Grays Harbor discharges and those from the upper Chehalis River drainage will continue to cause water quality standards violations. Point source discharges from local fish and shellfish processers, lumber companies, and cranberry processing firms are not considered significant compared with other area dischargers.

Nonpoint source contamination contributes significantly to the poor quality of the water in Grays Harbor. Pollutants include woodwaste landfill, septic tank leachates, urban runoff, dredging, and log storage wastes. Current studies deal with proper disposal of ship channel dredging spoils and the possible consolidation and relocation of woodwaste landfills.

Somewhat isolated from industrialized areas, the harbor is quite productive in terms of marine life and provides important waterfowl habitat. Anadromous fish pass through Grays Harbor to and from the ocean and anadromous fingerlings use the harbor as a feeding ground. Bottom fish, sturgeon, and herring are found in and around South Bay. Oysters, clams and crabs live in the outer bay. To assure continued productivity, a balance between the filling of intertidal areas and the preservation of wetlands must be maintained. Since the filling of lowlands has provided the only flatland available for industry and commerce in the area, pressures to fill are not uncommon.

The fact that Grays Harbor is extremely shallow, shrinking to less than one half of its total surface area at low tide, necessitates substantial dredging requirements to ensure the maintenance of harbor navigation channels. The dredged material in turn becomes a disposal problem. To dispose of it at sea or in deeper waters is likely to cause water quality problems, while to deposit it in intertidal areas causes the loss of valued wetlands. At present, the U.S. Army Corps of Engineers has funded a study to be completed by the State Departments of Game, Fisheries, and Ecology to determine the effects of dredge material on aquatic life and water quality. In the meantime, the Corps plans to undertake a study to determine the feasibility of deepening the navigation channel to forty feet.

Willapa Bay

Willapa Bay, one of the largest relatively natural estuaries on the west coast, is recognized in the Shoreline Management Act as a shoreline of statewide significance. About half of its shoreline is salt marshland containing large fish and shellfish populations.

The shellfish in the estuary support the Willapa Bay oyster industry and the Bay provides extensive feeding and nursery grounds for young fish. The area is an important producer of salmon, cutthroat and steelhead. Harbor seals, sea lions and porpoises will be found in the Bay as well.

Located on the Pacific flyway, the bay is of critical importance to a large number of water-related birds. The protected Bay waters and associated marshlands provide substantial shelter and nesting places, while the Bay's extensive tidal flats are a rich source of food. The Willapa National Wildlife Refuge was established in 1937 to provide protected areas for the Bay's bird populations, especially the Canadian geese and black brant that winter in the area.

The shorelines of Willapa Bay are relatively free of intrusions and modifications. The largest concentration of filled areas is along the Willapa River Channel and at the industrial shipping centers at Raymond and South Bend. This amounts to more than six thousand acres of marsh and tidelands that have been filled for agricultural purposes and a little over 300 acres reclaimed for highway and industry. This intrusion and siltation from other sources pose a threat to the Bay's shellfish industry. Area residents are also concerned about recent intrusions by recreationists into productive shellfish beds. A recent decision by the Corps of Engineers to discontinue maintenance of the Bay as a shipping channel after 1977 can be expected to cause some difficulties leading to readjustments in the local economy.

The Pacific Coastal Dune Area

The Pacific Coastal Dune Area of Grays Harbor and Pacific Counties is one of the most attractive resource features in the state. Located immediately to the north of the Columbia River, it includes three shoreline segments interrupted by the mouths of Grays Harbor and Willapa Bays. In all, the beach areas are some 54 miles in length and vary in width from 500 feet to over 7,000 feet. The region attracts large numbers of visitors to its beaches and to several popular sport salmon fishing areas. The State Parks and Recreation Commission maintains several developed parks and provides numerous access points to the popular beaches, which attracted over three million visitors in 1974.

Management of the area's beaches has a long history of conflicts, most notably between state agencies and local or private upland owners over access to and development in the dune area. The Legislature has given clear indication of the state's concern by declaring the beaches a public highway and a public recreation area and by designating the area a shoreline of statewide significance. In recognition of the area's attractiveness to recreationists, the state's Interagency Committee for Outdoor Recreation and the State Parks and Recreation Commission have made acquisition of these Pacific beaches a high funding priority.

Because the dune system is very complex and delicate, there is considerable concern about its maintenance in the face of significant impacts from human activities. In many areas development has encroached into the dunes causing alteration of landscape and resource features. Developments usually require a drainage system which lowers the water table thereby destroying the vegetation and resulting in barren areas of blowing sand. The same result can be brought about by the removal of sand, the filling of wetlands between dunes, and other requirements of urban development.

The area's management has for many years suffered from conflicts between local interests and state interests. In addition to disputes over the ownership of accreted lands, there has been local resistance to state recreation development and programs to provide additional public access and overnight facilities in the area. The state has been concerned over the apparent lack of local land use restrictions to protect fragile dune areas, which has raised questions relating to the application of the Shoreline Management Act with respect to geographical jurisdiction. The question has already been the subject of some study and will continue to be evaluated under the coastal zone management program. Other conflicts have arisen over the potential dangers associated with allowing automobile traffic on public beaches.

The Continental Shelf

The continental shelf is the submerged land sloping gradually outward from the exposed edge of a continent for a varying distance to the continental slope, where the continental mass drops more abruptly to the ocean floor. State jurisdiction over the continental shelf extends seaward one marine league from the coastline of the state, which comes to three nautical miles or about 3.5 statute or land miles. The boundaries of counties on the ocean coast are coterminous with the boundaries of the state.

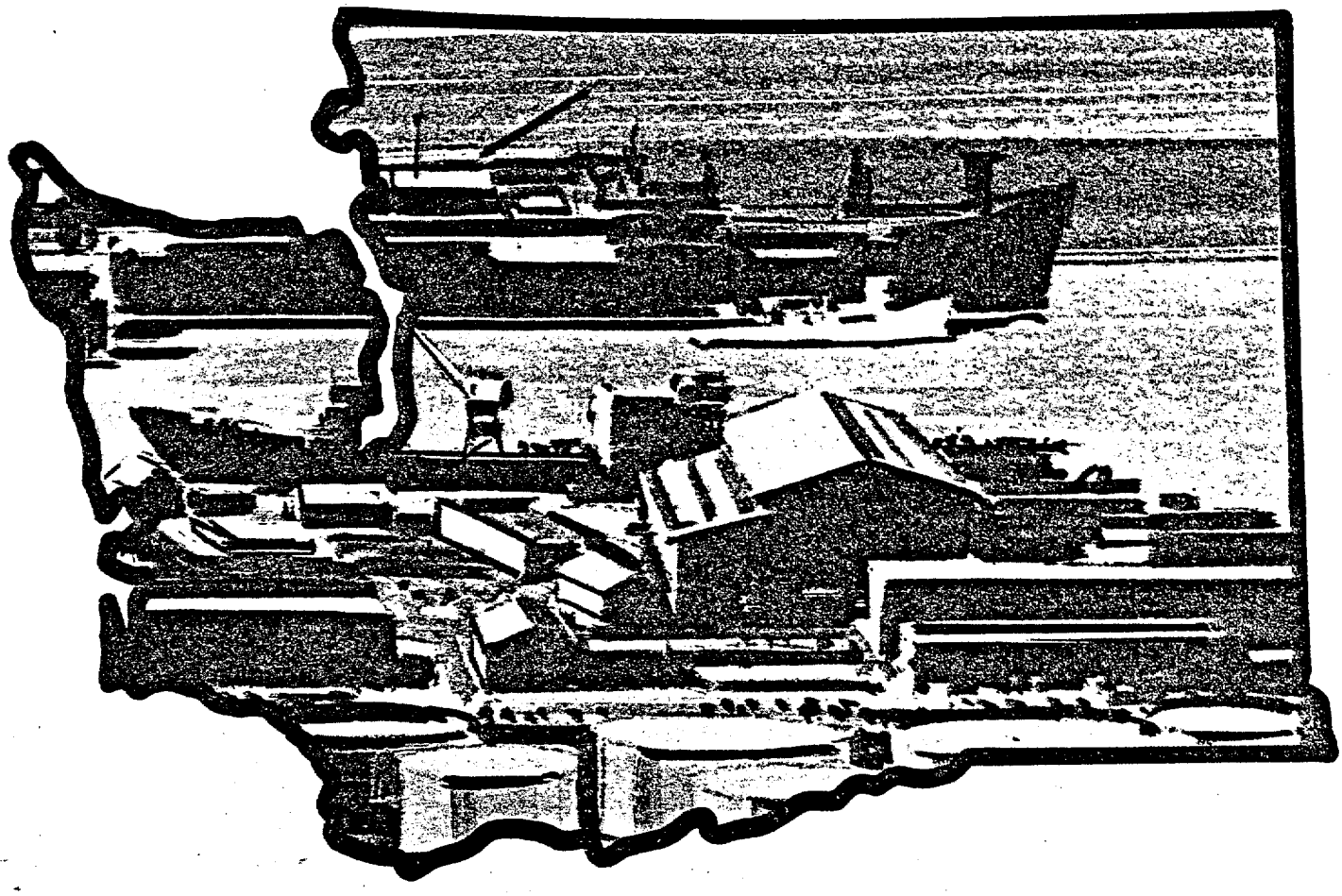
Beyond the state's continental shelf boundary lies the outer continental shelf under the jurisdiction of the federal government. The outer continental shelf is the seaward portion of the continental shelf and has been defined by Congress to include all submerged lands lying seaward and outside of the area of state jurisdiction and of

which the subsoil and sea bed appertain to the United States and are under its jurisdiction and control.

The continental shelf off the coast of Washington varies in width from 10 to 35 miles, averaging about 25 miles. Water depth graduates from mean sea level to about 600 feet at the edge of the continental slope.

Interest in managing the resources of the continental shelf is shared by a great many agencies. The primary federal actors include the Department of Commerce, through the National Oceanic and Atmospheric Administration's Offices of National Ocean Survey, National Marine Fisheries Service, Pacific Oceanographic Laboratories and Coastal Zone Management; the Department of the Interior, particularly through the Fish and Wildlife Service USGS, and the Bureau of Land Management; the Navy; the Army Corps of Engineers; and the Coast Guard. The submerged lands of the shelf that are under state jurisdiction are state lands owned and administered by the Department of Natural Resources. But the State Departments of Ecology, Fisheries, and Game also have managerial roles, and both the University of Washington and the Oceanographic Commission of Washington have been heavily involved in research activities in the area. The complexity of the ownership/management patterns that result from this web of responsibility necessitates a careful coordination among agency programs that may be difficult to achieve.

The need for coordination is dramatized by the increasing national attention given to the shelf as an energy source. The goals of the Ford Administration's Project Independence indicate that the expansion of domestic energy production is necessary to decrease national reliance on foreign energy sources. The outer continental shelf is viewed as a major source which will contribute significantly to national self-sufficiency. At present the development of outer continental shelf oil and gas resources is a very uncertain business, due largely to a lack of information on the available reserves of oil and gas in the shelf, the biological impacts of oil spills on marine ecosystems, and the environmental, economic and social impacts on the coast of offshore drilling operations.



Chapter III

State Coastal Zone Management

CHAPTER III. STATE COASTAL ZONE MANAGEMENT

INTRODUCTION

Effective management of the state's coastal resources is the most challenging task facing Washington State government. The complexity of the environmental, economic, and social resources of the coastal zone gives rise to the need for a management system of sufficient sophistication to respond efficiently and effectively to new needs and changing conditions. The system must be flexible enough to take unusual events in stride.

The Coastal Zone Management Act of 1972 provides the state with a new opportunity to construct a comprehensive program for managing the state's coastal resources. One of the first steps in the process of program construction is to take a close look at the state's management network as it relates to the coastal zone. It is the purpose of the present chapter to address this complex issue.

The discussion in this chapter focuses on the authorities, techniques, and general coordinative mechanisms available to the state which meet the land and water use authority requirements of the Coastal Zone Management Act. The more specific roles, responsibilities, and organizational arrangements for DOE administration of the coastal zone management program are set forth in Chapters V and VI of this document. The present chapter provides the detailed context for that subsequent discussion.

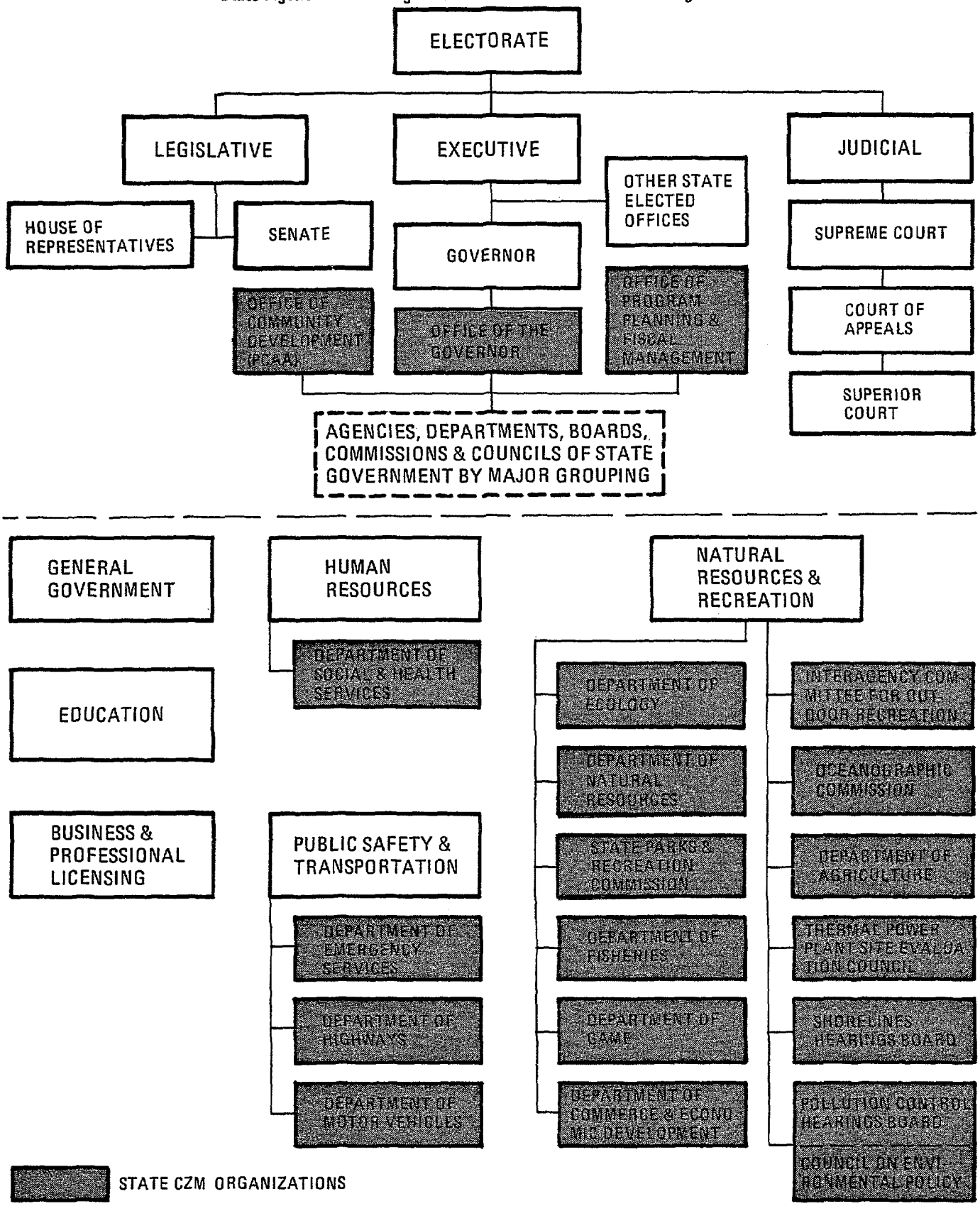
There are many governmental agencies under the jurisdiction of the state which contribute to the management of the Washington coastal zone, ranging in importance from the Governor and State Legislature to the smallest special district. The primary actors, however, can be identified fairly readily. The state agencies which are key coastal zone actors are listed in the abbreviated state organizational chart on the following page. There are a few other primary actors under the state's jurisdiction as well: regional councils of government, air pollution control authorities, cities and counties, and public port districts.

There are a variety of ongoing programs, both state and federal, which formally ensure cooperation among the state's primary coastal zone agencies. There are also a number of bodies which by their make-up or nature force an interagency focus on issues and problems. But most important of all in terms of agency interaction is the informal management coordination which is brought about in the natural course of events each time a proposal of any significance is made in the coastal zone.

Each of the agencies and programs discussed in this chapter, and again in Chapter V, have their own mandates and purposes which include, but are not limited to, concern for the coastal zone. In that provisions of the Shoreline Management Act require uniform application of SMA provisions, and direct that the planning of various agencies be consistent with SMA, it provides the single most comprehensive mandate for managing the coastal zone.

Along with SMA are the State Environmental Policy Act (SEPA) and the Environmental Coordination Procedures Act (ECPA) which in more general terms require uniformity of purpose, planning, and regulation.

WASHINGTON STATE GOVERNMENT
State Agencies with Programs Related to Coastal Zone Management



OVERVIEW OF THE STATE MANAGEMENT NETWORK

The state has an imposing array of formal authorities and informal mechanisms to bring to bear on the development and conservation of its coastal resources. The purpose of this section is to outline the major policies and procedures tying these management tools together.

The heart of Washington State coastal zone management is the comprehensive control program instituted pursuant to the directives of the Shoreline Management Act of 1971. The development of shoreline master programs and the administration of the permit system authorized by the Act have required extensive coordination not only among state and local governmental agencies but among a wide variety of citizen interests as well. The implementation of the Shoreline Management Act demands treatment in great detail in terms of coastal zone management. (See pages 29-43 and the supplementary material constituting Appendix A.)

SMA is strongly supported in the state by the State Environmental Policy Act of 1971 (SEPA) and the Environmental Coordination Procedures Act of 1973 (ECPA). The information generated under SEPA is reviewed by the general public and all agencies with an interest in the proposal in question. Since sound decision making in the coastal zone must begin with a solid informational base, the impact of SEPA on the State of Washington requires detailed discussion. (See pages 44-47.) ECPA provides another kind of inter-agency support for coastal zone management by giving the state a procedural system which ties a great many agency programs together. The coordination of management practices is central to the state's coastal zone management program and ECPA is treated in some detail on pages 47-50.

While these three programs are by no means the only state programs providing for substantive interagency action in the coastal zone, they are far and away the most important in terms of coordinating coastal resource management. A great many other interagency programs deserving discussion will be dealt with as the primary responsibility of individual agencies later in this chapter. (See, for example, the discussion of the state's hydraulic permit process in the discussion of the Department of Fisheries (page 90) and the discussion of the Forest Practices Act in the discussion of the Department of Natural Resources (pages 78-81).

There are also a number of bodies in the State of Washington which by their very make-up or nature ensure the coordination of a number of agencies in the handling of management issues. For example, the Thermal Power Plant Site Evaluation Council (TPPSEC), which is the state's evaluator of energy facilities siting, consists of representatives of the Parks and Recreation Commission, the Utilities and Transportation Commission, the Office of Program Planning and Fiscal Management, the Office of Community Development, the Interagency Committee for Outdoor Recreation, the Departments of Ecology, Fisheries, Game, Social and Health Services, Commerce and Economic Development, Agriculture, Emergency Services, and Natural Resources, and, for each application considered, an appointee from the county within which the project is proposed. It is unlikely that the siting of energy facilities in the coastal zone will receive inadequate consideration. (See pages 92-93 for further discussion of TPPSEC.)

One of the agencies represented on TPPSEC is itself a body made up largely of representatives of other agencies. The Interagency Committee for Outdoor Recreation (IAC) coordinates outdoor recreation planning and allocates outdoor recreation funding for the state. It consists of 12 members including five citizens appointed by the Governor and representatives from the seven state agencies most directly concerned with outdoor recreation: the Parks and Recreation Commission and the Departments of Ecology, Natural Resources, Commerce and Economic Development, Game, Fisheries, and Highways. The Committee's composition ensures a broad perspective in designing the state's program for outdoor recreation. (See pages 84-86 for further discussion of the IAC.)

The composition of the Shorelines Hearings Board, of interest here primarily because of its substantive decision making with respect to the Shoreline Management Act, also provides structurally for a coordination of potentially divergent

agency views. The Board consists of the three members of the Pollution Control Hearings Board, the Commissioner of Public Lands, a representative of the Association of Washington Cities, and a representative of the Washington State Association of Counties. (See pages 41-43 for a detailed treatment of the Shorelines Hearings Board.)

Of particular importance in terms of coordinating the state's coastal zone management agencies in a functional network is the role taken by the Governor himself. The Governor has established five cabinet level advisory groups to consider the longer term implications of state policy and decision making. Each group meets about once every five weeks. Of most importance to the management of the coastal zone is the Natural Resources Cabinet, which is composed of the Commissioner of Public Lands and the directors of the Parks and Recreation Commission, the Interagency Committee for Outdoor Recreation, and the Departments of Ecology, Agriculture, Game, Fisheries, and Commerce and Economic Development. As the need arises the Governor also establishes by executive order ad hoc advisory groups which come together to address a particular subject or problem and then are disbanded. A typical example is the Energy Policy Council which began meeting in 1973 and published its final report on proposals for a state energy policy program in late 1974. The recommendations in that report indirectly led to the establishment by the Governor of a new Energy Office which will soon begin drafting proposed energy legislation and a state government energy conservation policy.

Another important coordinative function performed by the Governor's office involves state planning. Each of the two major branches of the Governor's office has a role to play in the state's overall planning effort: the Office of Program Planning and Fiscal Management (OPP&FM) (see pages 88-90) and the Planning and Community Affairs Agency now operating as the Office of Community Development (OCD) (see pages 93-94). OPP&FM advises the Governor on matters relating to state policy and has recently been administering the Alternatives for Washington program, a massive statewide policy planning effort designed to provide direction for the future development of the state through careful analysis of alternatives by a wide range of interests. (See page 89) OCD, though not directly involved in statewide planning, does provide centralized assistance and coordination to the planning efforts of regional councils, cities, and counties in the state.

In addition to the programs and bodies generated by the state, there are a number of federal programs which automatically trigger interaction among the state's primary coastal zone actors. Aside from the Coastal Zone Management Act itself, the most important sources of such programs are Circular A-95 of the Office of Management and Budget (OMB), the National Environmental Policy Act of 1969 (NEPA), the River and Harbor Act of 1899, and the Federal Water Pollution Control Act amendments of 1972 (FWPCA).

OMB Circular A-95 implements the directives of the Intergovernmental Cooperation Act, requiring states to designate clearinghouses to coordiante extensive interagency review of applications for federal funding under (now) some 300 federal grant-in-aid programs. In the State of Washington the clearinghouse function has been entrusted to the two offices of the Governor, OPP&FM and OCD.

OPP&FM is the state's A-95 clearinghouse for state agency applications, of which it handles about 400 per year. The process works as follows. State agencies seeking funding submit copies of their federal grant applications to OPP&FM, which initiates a 30-day review period (with a possible extension to 60 days). OPP&FM circulates the applications to the appropriate state agencies. Which agencies receive which applications is determined by OPP&FM on the basis of agency expertise and review capability and the nature of the application in question. OPP&FM also conducts its own in-house planning and fiscal review. By the end of the review period OPP&FM has received all written comments from the other review agencies and, if appropriate, drafts a state clearinghouse response coordinating the comments received. Informal contacts between OPP&FM and the other review agencies during the review period usually ensure that the comments received by the clearinghouse will already have some consistency. In any event all agency comments are appended to the

application with the OPP&FM response and the whole package is returned to the applicant, who submits the application and the appended comments to the federal agency from which funding is requested.

In the case of applications for federal funding by local governments, the Office of Community Development is the chief state actor. OCD's role is to make local A-95 clearinghouses operational through meetings, training, and education. In most cases, the state's regional councils of government are the designated local clearinghouses. An executive order of the Governor in April of 1975 promulgated a new statewide policy revising the organization of areawide planning districts and district clearinghouses, focusing on the geographic jurisdiction of the county as the basic regional unit. As a result, there are now 29 local A-95 clearinghouses statewide and 11 covering the coastal counties. (See pages 100-101 for further information on local clearinghouses.) OCD itself reviews the local pre-applications circulated for review, distributes copies to other agencies as appropriate, receives the comments from the other review agencies, and drafts a response summarizing all the comments received. The comments of all agencies are usually appended to the pre-application, and the whole package is returned to the local applicant for submission to the federal agency from which funding is requested. OCD publishes a weekly Public Notification Log listing all the pre-applications (and EISs) it has received. Distribution of the Log includes state agencies that might have an interest in the applications. In the case of applications from local governments which might be of significance to the state, OCD contacts OPP&FM for broad state agency A-95 review.

The review of draft and final environmental impact statements (EISs) under NEPA is also covered by A-95 review. OPP&FM receives copies of draft EISs from the federal agencies required to prepare them and circulates them to all agencies which might have an interest in reviewing them. The initial distribution is completed quickly because the 45-day draft EIS review period leaves little time for review. Comments are requested from the reviewing agency within a month or so in order to leave at least a week for OPP&FM to pull together the comments received and prepare a state response. In some cases the OPP&FM response is a formal state position statement and in others it is simply a letter transmitting the comments of the other agencies. In any case all review comments are transmitted to the federal agency which prepared the statement. Final EISs are sent to OPP&FM for distribution. All state agencies which responded in writing to the draft receives a copy of the final and the remaining copies are circulated as appropriate. Follow-up after a final EIS has been distributed is usually pursued directly by individual agencies in the state as they feel the need, though OPP&FM might remain involved in the case of a large-scale or controversial proposal.

The Army Corps of Engineers is responsible for granting several permits for activities which take place in the waters of the coastal zone. In the case of the processes stemming from Section 10 of the River and Harbor Act of 1899 and Section 404 of the FWPCA, a considerable amount of agency interaction is required. Section 10 prohibits the obstruction or alteration of any navigable water of the United States unless authorized by a Corps permit. This section applies among other things to virtually all construction within coastal waters. Section 404 authorizes the Corps to issue permits for the discharge of dredged or fill material into navigable waters and expands the scope of what counts as navigable waters. Under administrative procedures established by the Corps, applicants must obtain all required state approvals prior to the final granting of Section 10 or Section 404 permits. These approvals include the state water quality certification called for under Section 404 of the FWPCA and will include certification that projects meet requirements of the state's coastal zone management program. The only exceptions are in the case of special national interests or when a state does not act in a timely manner in conducting its review.

The State of Washington has established an internal procedure for review of Corps permits which involves seven state agencies and the local governmental jurisdiction in which the permit is being sought. The Department of Ecology has been designated as the coordinator of the review process. Other agencies participating are the Parks and

Recreation Commission and the Departments of Natural Resources, Fisheries, Game, Highways, and Social and Health Services. Local agencies must review applications for their compatibility with city and county master programs under SMA. The total state review ordinarily takes about 90 days though in some cases it can be accomplished in as few as 30 days and in others it may take as long as six months or even a year.

Though the formal programs and bodies ensuring interaction among the state's primary coastal zone actors contribute invaluably to the coordination of management efforts, there is an important sense in which they miss what is most important about an effective management network. The key to effective coastal zone management is the way in which the state's multifarious authorities combine in their actual application for controlling coastal uses, encouraging sound development in the coastal zone, and protecting the state's coastal environment. The management network must be seen in action to be clearly understood. (See Chapter V for examples of how the network operates.)

THE SHORELINE MANAGEMENT ACT OF 1971

Requirements and Range of Applicability of the Act

The Shoreline Management Act requires and defines a planning program and a regulatory permit system, both of which are initiated at the local level under state guidance. The planning program for each local government consists of a comprehensive shoreline inventory and a master program for the regulation of shoreline uses. The inventory covers existing land and water uses, generalized ownership patterns, and natural shoreline characteristics. The master program utilizes the inventory information and is essentially a comprehensive land use plan with a distinct environmental orientation. The master program includes basic goals and objectives, the designation of all shoreline areas into a categorization system, and specific regulatory language. The entire planning function is conducted in conformance with guidelines prepared and adopted by the Department of Ecology (DOE). The resulting local master programs are subject to state review and approval and are then adopted as state regulations. The regulatory permit system is overseen by a state administrative appellate body created for the purpose by the Act.

The management program established in the Shoreline Management Act applies to all "shorelines of the state," including both "shorelines" and "shorelines of statewide significance." In a nutshell the Act applies to all marine water areas of the state, to streams with a mean annual flow of 20 cubic feet per second or more, and to lakes larger than 20 acres. It also applies to adjacent land areas extending landward 200 feet from the ordinary high water mark and to all marshes, bogs, swamps, floodways, river deltas, and floodplains associated with water bodies subject to the Act. In all, there are 791 lakes, 965 rivers and streams, some 2,400 miles of marine shoreline, and over 3,000 square miles of marine waters subject to the Act.

Special legislative concern was expressed in SMA for those shorelines identified as of statewide concern and special use priorities were established to govern their treatment in operating shoreline programs. The Act defines "shorelines of statewide significance" as follows:

(1) 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;

(2) 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;

(3) 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;

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

(5) 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;

(6) Those wetlands associated with (1), (2), (4), and (5) above.

Two interrelated time schedules were set up in the Act for the Department of Ecology and local governments to establish the framework, guidelines, and plans which will collectively constitute the management system. The Department was directed to undertake and complete the following no later than the dates indicated:

September 28, 1971—initial draft of the guidelines and submission to local governments for comments.

February 26, 1972—completion of a final guideline draft and submission for review.

March 26, 1972—completion of public hearings on final draft.

June 24, 1972—holding of a public hearing to adopt final guidelines.

Local governments were to fulfill their basic responsibilities—the completion of an inventory of their shorelines and the drafting of the master program—on the following schedule:

November 30, 1971—submission of a letter of intent to the Department of Ecology indicating that the governmental unit will undertake and complete the shoreline inventory and the master program.

January 26, 1972—last date for responses to the Department of Ecology initial draft of guidelines.

November 30, 1972—shoreline inventory to be completed.

December 24, 1973—submission of master plan to the Department of Ecology at least eighteen months after the effective date of the guidelines (this was later amended to June 20, 1974).

In general terms, then, the process of creating the system was to be completed within three-and-a-half years. The state was directed to cooperate fully with local governments in meeting their responsibilities. In addition, there is a provision in the Act which authorizes the Department to distribute grant funds appropriated by the Legislature to assist local governments. DOE was also authorized to undertake the completion of inventories and master programs where a local government declined or refused to do so. Only two counties and two small towns refused to complete programs. The Department has completed and adopted programs for all four jurisdictions.

Policy Direction from the Act

Management goals in SMA place a strong emphasis upon a balance between conservation and use of the shorelines. In RCW 90.58.020 the Legislature declares that "unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest," which should be protected through coordinated planning, while "at the same time, recognizing and protecting private property rights consistent with the public interest." The Legislature further declares that it is the policy of the state to provide for the management of the state's shorelines "by planning for and fostering all reasonable and appropriate uses" and that 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; while protecting generally public rights of navigation and corollary rights incidental thereto."

More specific priorities are given for shorelines of statewide significance. DOE and local governments are directed to give preference to uses in the following order of preference which:

(a) Recognize and protect the statewide interest over local interest.

(b) Preserve the natural character of the shoreline.

(c) Result in long-term over short-term benefit.

(d) Protect the resources and ecology of the shoreline.

(e) Increase public access to publicly owned areas of the shorelines.

(f) Increase recreational opportunities for the public in the shoreline.

The Legislature further specifies that where alterations of the natural condition of shorelines are permitted, priority should be given to the following uses: (1) single family residences; (2) ports; (3) shoreline recreational uses; (4) industrial and commercial developments that are particularly dependent upon their location on or use of shorelines; and (5) other developments which will provide an opportunity for substantial numbers of people to enjoy the shorelines.

While the policy citations above are quite general, there are a number of policies in the Act which are considerably more specific. Timber cutting regulations for shorelines of statewide significance were specifically included within the 200 foot zone of these areas; only selective commercial cutting is allowed so that no more than 30 per cent of the saleable trees may be harvested in any ten-year period. Authorization is provided for other harvesting methods when they are necessary for regeneration. 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 1,000 feet from the mark. There is also a height limit on structures. Permits cannot be issued for any new or expanded building or structure of more than thirty-five feet that will obstruct the view of a substantial number of residences on areas adjoining the shoreline except where a master program does not prohibit such a height and only when overriding considerations of the public interest will be served.

The concept of preferred shoreline uses is asserted in both the Shoreline Management Act and the Department of Ecology's final guidelines. The Act states that

> . . .uses shall be preferred which are. . .unique to or dependent upon use of the state's shoreline. Alteration of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for industrial and commercial development which are particularly dependent on their location or use of the shorelines of the state."

Similarly, the final guidelines recommend that "water-dependent industries which require frontage on navigable water should be given priority over other industrial uses."

While it is not the intent of the Act to categorically prohibit all non-water dependent uses, there is clear intent to establish a preference for water-dependent uses. The concept of preference of use is particularly applicable to shorelines under intense development pressures for port- and harbor-related industrial activity where availability of that shoreline resource is limited and the resource is extremely valuable.

The Shorelines Hearings Board (see pages 41-43) has further expanded and refined the concept and policies of water dependency. The Board, in *DOE and Yount vs. Snohomish Co.*, defined water dependency in the following terms:

> A water-dependent commerce or industry, to which priority should be given, is one which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations. A water related industry or commerce is one which is not intrinsically dependent on a waterfront location but whose operation cannot occur economically without a shoreline location.

In light of the fact that the Department of Natural Resources' policies for the leasing of state-owned tidal areas further supports the concept of water dependency, the policy of specifying water dependent uses as priority uses has solidified considerably over the past four years. However, an emerging concept of "water relativity" promises more difficulty in interpretation. Consistent with these concepts, many local master programs have established the following preferences for three classes of uses:

(1) Water-dependent uses are those uses which cannot logically exist in any other location but on the water.

(2) Water-oriented uses are uses which are helped by their location on the shoreline, but it is possible for them to locate away from the waterfront with existing technology.

(3) Non-water oriented uses are all uses which can locate equally well away from the waterfront.

Policy Direction from the DOE Guidelines

Final DOE rules and regulations governing the development of local master programs were adopted on June 20, 1972, as Chapter 173-16 of the Washington Administrative Code (WAC). The rules and regulations constituted strong policy guidelines to local governments on how to construct master programs. Of particular interest here are the parts of the guidelines which set forth state policy relating to the classification of shoreline environments, permissible and priority uses, and the treatment of shorelines of statewide significance.

The guidelines set forth a system of categorizing shoreline areas for local governments to use in their master programs. The system was designed to provide a uniform basis throughout the state for applying policies and use regulations to different shoreline locations. The guidelines suggest categorization into four distinct environmental types—natural, conservancy, rural, and urban—based on the existing development pattern, the biophysical capabilities, and the goals and aspirations of the local citizenry, In actual fact, some local programs have identified more than the basic four environments and others have only three, depending on the character and diversity of conditions along the shoreline in question, but the guidelines did achieve a basic standardization.

The categorization system is designed to encourage uses in each type of environment which enhance the character of that environment and to utilize performance standards which regulate use activities in accordance with the locally defined goals and objectives rather than to simply exclude any use from any one environment. Thus, the particular uses or types of developments allowed in each environment must be designed and located to minimize detrimental effects thereby leading to the achievement of the objectives of the local shoreline development goals for each type of environment. The system results in the superimposition of an overall environment class over local planning and zoning along the shorelines. The determination of which environment designation should be given to any specific area was made as follows:

(1) The resources of the shoreline areas were analyzed for their opportunities and limitations for different uses. Completion of a comprehensive shoreline inventory was a prerequisite for the development of local shoreline master programs.

(2) Each of the plan elements was analyzed for its effect on the various resources in shoreline areas. Since shorelines are only a part of the system of resources within a local jurisdiction, it was particularly important that planning for shorelines be considered an integral part of the area-wide planning. Further plans, policies, and regulations for lands adjacent to the shorelines of the state were reviewed in accordance with RCW 90.58.340.

(3) Public desires were considered through the citizen involvement process to determine how local values and aspirations related to the development of different shoreline areas.

The management objectives and features by which the DOE guidelines characterize each of the environments (WAC 173-16-040(4)(b)(i)-(iv)) are quoted in full in what follows because of their central importance as the basis for environment designations within local jurisdictions.

Natural Environment: 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 would 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 is 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 are to be restricted.

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 are defined, identified, and quantified in the shoreline inventory. The relative value of the resources is based on local citizen opinion and the needs and desires of other people in the rest of the state.

Because of its restrictive regulations, the natural environment has been utilized sparingly throughout the state. Publicly owned fragile and ecologically valuable shorelands are more likely to be designated as natural than privately owned similar shorelands.

Conservancy Environment: 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 nonexploitative 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 also seeks 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.

The conservancy environment is also the most suitable designation for those areas which present too severe biophysical limitations to be designated as rural or urban environments. Such limitations include steep slopes presenting erosion and slide hazards, areas prone to flooding, and areas which cannot provide adequate water supply or sewage disposal.

Rural Environment: 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 also seeks 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 which can be located and designed to minimize conflicts with agricultural activities are recommended for the rural environment. Linear water access which prevents 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 are to 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 encouraged by the master programs.

Urban Environment: 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 is given to development within already developed areas and particularly to water-dependent industrial and commercial uses requiring frontage on navigable waters.

In the master programs, priority is also 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 course of continuous shoreline management. To enhance waterfront and ensure maximum public use, industrial and commercial facilities shall be designed to permit pedestrian waterfront activities. Where practical, various access points are to be linked to nonmotorized transportation routes, such as bicycle and hiking paths.

The counties and cities have varied in their approach to environment designation for the water areas in their jurisdiction. Many counties have extended the shoreline environments over the water areas, others have designated the water differently from the uplands but still using shoreline classes, and a few have added a separate marine or aquatic environment.

Many counties have also identified a fifth shoreline environment which is between the intensively developed urban and the agricultural rural environments. This environment is called either suburban/semirural or rural-residential and is intended to identify those shoreline areas with low-density residential development ususally with individual water and sewage disposal systems. The objective of the designation is to preserve the low-density character.

The DOE guidelines also provided policies for shoreline activities which served as the basis for the development of the local shoreline master programs (WAC 173-16-060). The development guidelines were also used as criteria for the evaluation of proposed shoreline developments at both the local and state levels while local master programs were being developed. The following is a brief summary of DOE's development policies.

Agricultural Practices: Agricultural practices should not lower water quality by causing erosion and permitting chemicals or animal wastes to enter water bodies.

Archaeological Areas and Historic Sites: 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, archaeology or culture. The Washington State Parks and Recreation Commission is responsible for this program.

Shoreline permits should contain provisions which would require developers to notify authorities if any possible archaeological data are uncovered during construction, and the sites should be preserved if possible.

Aquaculture: Aquaculture is a preferred use in suitable water areas but should be conducted with due consideration for navigation rights and visual quality.

Breakwaters: Breakwaters should be constructed in such a way that detrimental effects on the movement of sand, circulation of water, and public use of the water surface are reduced or eliminated.

Bulkheads: Bulkheads and seawalls are to be constructed to protect upland property from imminent erosion and should not cause adverse effects on nearby beaches, damage fish and shellfish habitats, or detract from the aesthetic quality of the shoreline.

Commercial Development: Shoreline-dependent commercial development and developments which will provide shoreline enjoyment for a large number of people should be preferred. New commercial activities should locate in urbanized areas.

Dredging: Dredging should be controlled in order to minimize damage to existing ecological values and natural resources of both the area to be dredged and the area for depositing of dredged materials. Single-purpose dredging to obtain fill material shall be discouraged.

Forest Management Practices: Forest management practices are to guard against siltation, increased water temperature in spawning streams and lakes, pollution due to application of chemicals, and destruction of scenic quality. Only selective timber cutting is permitted within the 200-foot area abutting shorelines of statewide significance. (RCW 90.58.150)

Jetties and Groins: The effects on sand movement from these structures, when proposed, should be carefully evaluated and, when necessary, steps should be taken to investigate negative effects.

Landfill: 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 restrictions, impediment to water flow and circulation, reduction of water quality, and destruction of habitat should be considered. In the limited instances when fill is authorized the fill material should be of such quality that it will not cause problems of water quality.

Marinas: Marinas should be located near high use areas and should be designated in a manner that will reduce damage to fish and shellfish resources and be aesthetically compatible with the adjacent areas.

Mining: Removal of sand and gravel from marine beaches should not be permitted. When authorized, removal of rock, sand, gravel, and minerals from shoreline areas should be conducted in the least sensitive biophysical areas, with adequate protection against siltation and erosion.

Outdoor Advertising: Off-premise outdoor advertising signs are discouraged from shoreline locations. Where permitted, signs should be located on the upland side of transportation routes and should not impair vistas and viewpoints.

Piers: In general, the continued proliferation of single-purpose private docks is to be discouraged and the use of community piers or offshore floating devices for boat moorage is encouraged.

Ports and Water-Related Industry: Industry which requires frontage on navigable waters should be given priority over other industrial uses. Prior to allocating shorelines for port uses, regional and state-wide needs for such uses should be considered.

Recreation: Priority will be given to developments which provide recreational uses and other improvements facilitating public access to shorelines. Water-oriented recreation is a preferred use along the shorelines, but it should be located and conducted in a way which is compatible with the environment.

Residential Development: Residential development should protect the aesthetic quality and natural character of the shoreline by preserving vegetation, controlling density, using a planned unit development approach when practical, and promoting access to the shorelines within a subdivision. Over-water residential structures should not be permitted.

Road and Railroad Design and Construction: Whenever possible, major roads and railroads should be located away from shorelines and shoreline locations should be reserved for slow-moving recreational driving and nonmotorized traffic.

Roads should be designed to fit the topography and to prevent erosion and water pollution from direct runoff.

Shoreline Protection: Bank stabilization measures should be constructed so as to avoid the need for channelization and to protect the natural character of the streamway. Flood protection measures, such as dikes, should be placed landward of the streamway, including associated swamps, marshes, and other related wetlands.

Solid Waste Disposal: Shoreline areas should not be used for garbage dumps or sanitary landfills.

Utilities: Utility pipes and lines should be installed with minimum disturbance to the shoreline. After installation, the sites should be restored to their preconstruction condition and facilities should be placed underground if possible.

One other important contribution of the DOE guidelines to establishing a solid foundation of state policy to underlay the needed diversity of local master programs was the provision of a set of development guidelines for implementing the use preferences established in the Act for shorelines of statewide significance. What follows is a summary of the development guidelines given for each use preference in WAC 173-16-040(5).

(1) Recognize and protect the statewide interest over local interest.

Development Guidelines:

(a) Solicit comments and opinions from groups and individuals representing statewide interests by circulating proposed master programs for review and comment by state agencies, adjacent jurisdictions' citizen advisory committees, and statewide interest groups.

(b) Recognize and take into account state agencies' policies, programs, and recommendations in developing use regulations.

(c) Solicit comments, opinions, and advice from individuals with expertise in ecology, oceanography, geology, limnology, aquaculture, and other scientific fields pertinent to shoreline management.

(2) Preserve the natural character of the shoreline.

Development Guidelines:

(a) Designate environments and use regulations to minimize manmade intrusions on shorelines.

(b) 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.

(c) Ensure that where commercial timber-cutting is allowed as provided in RCW 90.58.150, restoration will be possible and accomplished as soon as practicable.

(3) Result in long-term over short-term benefit.

Development Guidelines:

(a) Prepare master programs on the basis of preserving the shoreline for future generations. For example, actions that would convert resources into irreversible uses or detrimentally alter natural conditions characteristic of shorelines of statewide significance should be severely limited.

(b) Evaluate the short-term economic gain or convenience of developments in relationship to long-term and potentially costly impairments to the natural environment.

(c) Actively promote aesthetic considerations when contemplating new development, redevelopment of existing facilities, or for the general enhancement of shoreline areas.

(4) Protect the resources and ecology of shorelines.

Development Guidelines:

(a) Leave undeveloped those areas which contain a unique or fragile natural resource.

(b) 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.

(c) Restrict or prohibit public access onto areas which cannot be maintained in a natural condition under human uses.

(5) Increase public access to publicly owned areas of the shorelines.

Development Guidelines:

(a) In master programs, give priority to developing paths and trails to shoreline areas, to linear access along the shorelines, and to developing upland parking.

(b) Locate development inland from the ordinary highwater mark so that access is enhanced.

(6) Increase recreational opportunities for the public on the shorelines.

Development Guidelines:

(a) Plan for and encourage development of facilities for recreational use of the shorelines.

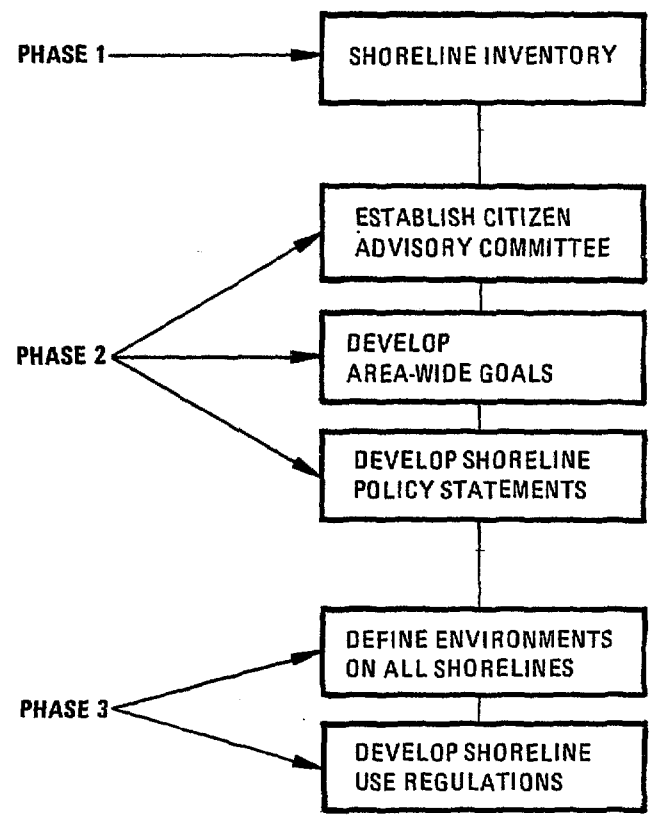
(b) Reserve areas for lodging and related facilities on uplands away from the shorelines with provisions for non-motorized access to the shorelines.

The Planning Process and the Local Master Programs

The formulation of master programs is the most critical task of the shoreline planning process. Each local government has been responsible for formulating a development plan to guide proposed activities along its own shorelines. Within the coastal zone, this includes all 15 counties and 38 incorporated towns. Many counties prepared programs in a cooperative arrangement with the cities which allows one document to apply to several jurisdictions. Fifteen cities used the coastal county programs which reduces the number of separate documents to 38 – 15 county and 23 city programs.

As required by the Act and the final guidelines, master programs are to include goals, policies, a map of generalized shoreline environmental designations, and specific use regulations. Local government preparation of shoreline inventories to provide the data base is the first phase of master program formulation. The second phase involved the formulation of shoreline goals and policies. This is to be established through close cooperation with citizen advisory committees, which worked closely with local planners in establishing the goals and policies of the shoreline. Development of specific shoreline environment designations and use regulations by citizens and planners comprises the third phase of the process.

THE FORMULATION OF LOCAL MASTER PROGRAMS



Local governments were directed by the Act to complete shoreline inventories to provide a data base for effective planning and administration. Inventories were to be compiled by December 1, 1972, for ownership patterns, existing land and water use patterns, and natural shoreline characteristics.

The Department of Ecology issued inventory guidelines suggesting that local inventories contain

> a map or series of maps depicting existing land uses, ownership patterns, topography, and other information which lends itself to presentation in graphic form; and
>
> a series of descriptive analyses of the water characteristics and the natural features of the shorelines. Descriptive analyses should be done on an area-by-area basis and should be keyed to the map element in a clear and direct manner.

The majority of counties used large-scale maps with overlays to present their inventory. Several counties stored information on computer cards and tape. Data was often gathered by volunteer task forces and agency publications rather than by extensive field work. DOE has since compiled this data for the marine shorelines on U.S.G.S. maps on a common base and format.

The procedure of cataloging ownership patterns and existing land and water uses is adequately covered by local government inventories – past data bases and previous studies aided in the completion of this task. But there has been a lack of analysis of use patterns in local inventories. Moreover, the complex task of inventorying natural characteristics was beyond the staff capabilities of most local governments within the limited time frame and available resources. There was a general lack of useful information relating to marine and intertidal areas.

Inventory information has been used primarily in the master program formulation stage of designating environments. Inventories have been too general to use during the issuance of shoreline permits. Site visits currently provide the detailed information necessary for issuance of permits. There is also a continuing need to compile usable information in a useful format over areas larger than individual jurisdictions.

The Act required local governments to provide opportunities for all citizens and governmental agencies with shoreline interests or responsibilities to participate in the development of master programs. The final guidelines gave direction to this broad mandate with the recommendation that citizen advisory committees be formed as a vehicle for citizen participation. Key features of citizen advisory committees delineated in the final guidelines include the following:

1. Members should represent a diverse set of interests ranging from commercial to preservationist.
2. Citizen advisory committees should guide the formulation of the master programs through a series of public meetings.
3. Citizen advisory committees should work in close cooperation with local government.
4. Citizen advisory committees are not intended to substitute for general citizen input.

The guidelines further stipulated that the failure of local governments to encourage and utilize citizen involvement, without proper justification, may be considered as failure to comply with the Act.

Citizen advisory committees were generally appointed by local governments in the summer of 1973. Usually citizen participants were chosen from those who represented a specific interest group and members of the public at large. County committee size in the coastal zone varied from 12 in Mason County to 85 in Pierce County.

Citizen advisory committees worked with local planners during master program formulation. Somewhere between ten and fifty public meetings and hearings were held in each locality, as mandated by the Act and final guidelines. Outside citizen advice was solicited. Frequently citizen advisory committee meetings have included outside comments from statewide groups and federal and state agencies.

Generally the range from economic to environmental interests were well represented by the citizen advisory committees. If the composition of committees was initially unbalanced, committees were usually altered to accommodate the interests

left out in the initial selection process. Both environmental protection and private property rights were well represented. In addition, several counties, such as Whatcom, Snohomish and Kitsap, appointed technical advisory committees composed of agency, industrial, and commercial representatives. Over the past three years, approximately 2,000 persons with various interests have been directly involved in the shoreline management planning process throughout the state.

During the summer of 1973 the state arranged for a workshop to be conducted in each of its four state regions to deal with problems encountered by local governments in implementing the Act. The instruction at the workshops was directed toward resolving basic difficulties in interpreting the requirements of the Act and final guidelines. The Department attempted to be responsive and available to local governments informally, providing substantial information on specific questions.

Consistent with the state's supportive role in implementing SMA, the Department attempted to make adequate funding available for local government to carry out their shoreline management responsibilities. In the early stages of development, this activity was carried out in cooperation with the Office of Community Development, the designated state agency for the distribution of HUD 701 funds. HUD and OCD rated the shoreline management program high priority for receiving HUD monies in 1972, 1973, 1974, and 1975.

The Department was authorized by the Office of Community Development to administer and disperse grant funds for the purpose of assisting local units of government in undertaking an inventory and preparation of their master programs. In excess of $580,000 of HUD and state monies have been made available to local units of government.

In addition, the state received $388,820 through Section 305 of the Coastal Zone Management Act in 1974, of which approximately $65,000 went to local governments in the coastal zone. In June of 1975, $500,000 was awarded the state, of which approximately $215,000 went to coastal zone cities and counties. In all, the state has disbursed approximately $860,000 of state and federal monies to assist local governments to comply with the state Shoreline Management Act of 1971 and the federal Coastal Zone Management Act of 1972.

The Act gave to the Department of Ecology the authority to designate regional planning units to help coordinate local governments in the formulation of master programs and the Department used this authority to designate Lake Washington as a region at the request of its eleven local jurisdictions. The resulting regional goals and policies were adopted as state regulations and have since been incorporated in several local master programs. As such they become the primary policy tool for local, state, and federal actions on Lake Washington.

State review and approval of local master programs is the final and most significant step in implementation of the program. DOE has 90 days to approve or reject proposed local programs. After a local program has been prepared and appropriate public hearings held, it is submitted to the Department for review. The Department then distributes it to a review task force consisting of representatives from interested state and federal agencies. Federal and other state agency comments are often the basis for Department requests for changes in the local program. Within 90 days, based on Ecology staff review findings and the comments received from task force members, the local program is either approved or denied. If denied, it is returned to the local government with suggestions for modifications. The local government then has another 90 days in which to prepare the changes and consider the recommendations. For shorelines of statewide significance, the Act specifically authorizes the Department of Ecology to prepare an alternative if the local program repeatedly fails to be consistent with the Act. Approved programs are then adopted as state regulations under the Washington Administative Code.

At this time, all major jurisdictions which were to prepare a master program within the coastal zone have a functioning local shoreline program. As of October of 1975 seven counties have yet to

submit programs to the Department of Ecology for review, though all seven expressed their intent to submit programs by the end of the year. Most were held up in the final local government proceedings and public hearings. All local programs have been developed and completed for some time – that is, the program documents are complete and the work has been completed by the staff, the citizen advisory committees, and the planning commissions. Those that remain out require final legislative action by the county or city commissioners and councils. During this interim period prior to program approval, the DOE guidelines are in effect for permit administration and planning.

It should be emphasized that the Act provides that the master programs are the basis for permit administration and activities at every stage of their development. SMA states (90.58.140):

> 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.

To provide an overview of some of the substance of the master programs prepared for the coastal zone, shoreline use matrices have been assembled for all fifteen coastal zone counties and are included along with coastal county environment maps in Appendix A to this document. The matrices should help to make clear what kinds of uses are considered permissible in the several shoreline environments, though caution should be exercised in using the matrices for an actual determination of an allowable use. They are intended only as a general citation from the regulations of each master program. Attention should be given to the following considerations before judging a proposal to be permitted in a given environment:

Proposals must conform to the goals, policies, and general regulations which apply to all development.

Seven of the fifteen programs were not approved by the Department of Ecology at the time the matrixes were assembled. There is a possibility that local governments will amend the programs, or that changes will be made at DOE's request between now and the time of adoption.

Many of the policies and regulations allow for some discretion or provide for some judgment on the part of the administrator. Also, many of the performance standards require judgment, and the actual determination of permissibility must be made based on such judgmental factors as the scale of the project, aesthetics, and nondegradation of the environment.

In all cases, the requirements of other programs and regulations must be complied with. While many of these, such as local health, zoning, subdivision, and state and federal regulations are specifically adopted by reference into the master program, the master program does not affect the applicability of other authorities.

The shoreline permit must be viewed as a process to determine permissibility, The project design itself, or the ability to redesign or condition the permit to meet standards can make a given use permissible.

Most programs were written to recognize the natural systems and features found within the broad environment management classification. Thus, a fragile feature, such as a sand spit, with a broader environment classification, may require the application of additional standards.

The Shoreline Regulatory Process

The regulatory phase of the shoreline management program consists of a permit system for all substantial developments and shoreline modifications. The system is administered locally subject to state review. Once a permit application is acted on by local government, and prior to the commencement of development, that decision and the application must be forwarded to the Attorney General and the Department of Ecology for review. The Department does not have approval or denial authority over the local decisions, but it does have a specified period of time in which to appeal the decision to an independent hearings board created by the Act called the Shorelines Hearings Board.

Although all shoreline developments must be consistent with the policy of the Act and the local master program, certain exemptions are provided from the substantial development permit requirement. Substantial developments are those of which the fair market value exceeds $1,000 or which "materially" interfere with normal public use of the water or shorelines of the state. Exemptions are granted for repair and maintenance of existing structures, docks costing no more than $2,500, protective bulkheads for single family residences, certain agricultural and irrigation projects and structures, navigational aids, single family residences built by the owner for his use, and emergency construction. The permit requirement is also waived for construction under a certificate obtained in conformity with the state's Thermal Power Plants Act (RCW Chapter 80.50) (see pages 92-93) and for certain actions under the state's Forest Practices Act (RCW Chapter 76.09) (see pages 78-81).

An applicant must publish two public notices a week apart upon filing for a substantial development permit. Local governments must wait a minimum of 30 days before taking action on the permit. There is no maximum time limit on when a local government decision is to be rendered. After final action is taken, the local jurisdiction must notify the applicant, the Department of Ecology, and the Office of the Attorney General. The Department and the Attorney General have 45 days to determine whether an appeal should be made to the Shorelines Hearings Board. The applicant and all other interested persons have 30 days after a permit decision to request a review of that decision. Appellants must obtain certification of the review request from DOE and the Attorney General before the Shorelines Hearings Board can hear the appeal. Assuming that the permit is approved without an appeal, the applicant may proceed with his proposed activity 45 days after receipt by DOE. Thus, the minimum time possible to complete the permit process is 82 days. For larger or controversial projects the process may take longer depending on such things as whether or not an EIS is required under SEPA or NEPA. The substantial development permit process is presented graphically in the flow chart on the following page.

To aid the courts in the anticipated increase in shoreline litigation resulting from the Act, SMA created the quasi-judicial Shorelines Hearings Board. The Board provides an avenue of review for those aggrieved by a local government permit decision and for local governments which take exception to regulations and guidelines adopted by the Department of Ecology. It has also played a significant role in formulating and articulating policy and in resolving conflicts relating to the implementation of the Shoreline Management Act.

The six-member Shorelines Hearings Board is made up of the three members of the Pollution Control Hearings Board, the Commissioner of Public Lands, a representative of the Association of Washington Cities, and a representative of the Washington State Association of Counties. Terms are not specified. The Chairman of the Pollution Control Hearings Board also acts as the Chairman of the Shorelines Hearings Board.

The Shorelines Hearings Board, together with the Pollution Control Hearings Board, is recognized as one of the nation's most successful administrative appeal bodies. The Board provides a judicial process whereby an impartial body with resource expertise can hear matters without becoming entangled in the costly and time-consuming court system. The Board is intended to, and does in fact, deal with substantive as well as procedural issues. Moreover, the Board has been able to avoid lengthy appeal backlogs. Efficient operating regulations have enabled the Board to handle certified appeals in an average time of seven months now as compared to a nine month average for the appeals certified in 1972.

The Board is widely recognized as a credible body in terms of environmental expertise, which is no doubt at least partially due to the Board's relationship with the Pollution Control Hearings Board (see pages 83-84), which provides a close bond between the state's shoreline management program and its other programs for ensuring environmental protection. By creating the Board, SMA both encourages greater citizen access to the appeal process and provides a substantive environmental foundation for the shoreline management program.

Aggrieved parties seeking Board review of a shoreline permit must file appeals within 30 days after the local decision being appealed. As mentioned above, the Department of Ecology and Attorney General have 45 days upon receiving the shoreline permit to request review. After receiving a request for review, the state has 30 days to exercise one of three options: (1) certify the review request as valid; (2) certify and intervene (on either side) in the request for review; or (3) refuse to certify the review request for procedural or substantive reasons. All certified requests for review and state appeals go to the Shoreline Hearings Board. Any Board decision can be appealed to Superior Court, as can any request for review not certified.

The appeal process is initiated when the Board receives a Department or Attorney General appeal or a properly certified appeal initiated by an aggrieved party. The Act requires that the burden of proof rest with the party seeking review. The first step is the holding of a pre-hearing conference to obtain an agreement as to the issues of law, the facts to be presented, and procedural rules, objections and motions. The pre-hearing conference has served to clear up procedural delays before the formal hearing, and more importantly, this process of clarifying the issues and facts has frequently resulted in a settlement before the formal hearing. The next two steps include the actual formal hearing and the circulation of proposed findings of fact and law to the participants involved. The information obtained by circulating the proposed findings is utilized in the preparation of the final order.

Persons aggrieved by a Shorelines Hearings Board final order may appeal the decision to the State Superior Court. Approximately one Board decision in every five is appealed to the judicial system. Because most appeals are settled prior to final Board orders, those appeals which move on to the judicial system represent only 7% of all certified appeals received by the Board.

The state has taken a lead role in the initiation of shoreline appeals. As of October of 1975, 102 out of 201 requests have been made by the Department and the Attorney General. The vast majority of these appeals concerned development on shorelines of statewide significance. The special statutory attention given to these shorelines by the delineation of use priorities has been a factor in their constituting such a high percentage of state appeals. In 26 other appeals the state joined aggrieved parties or intervened on behalf of the defending local government. These appeals have included a high percentage of non-water-dependent development involving landfills or over-water construction, and most have been on marine shores of statewide significance. While the state had been involved in 102 out of 142 requests for review prior to 1975, citizen appeals are becoming increasingly significant. The table below summarizes appeal activity to date.

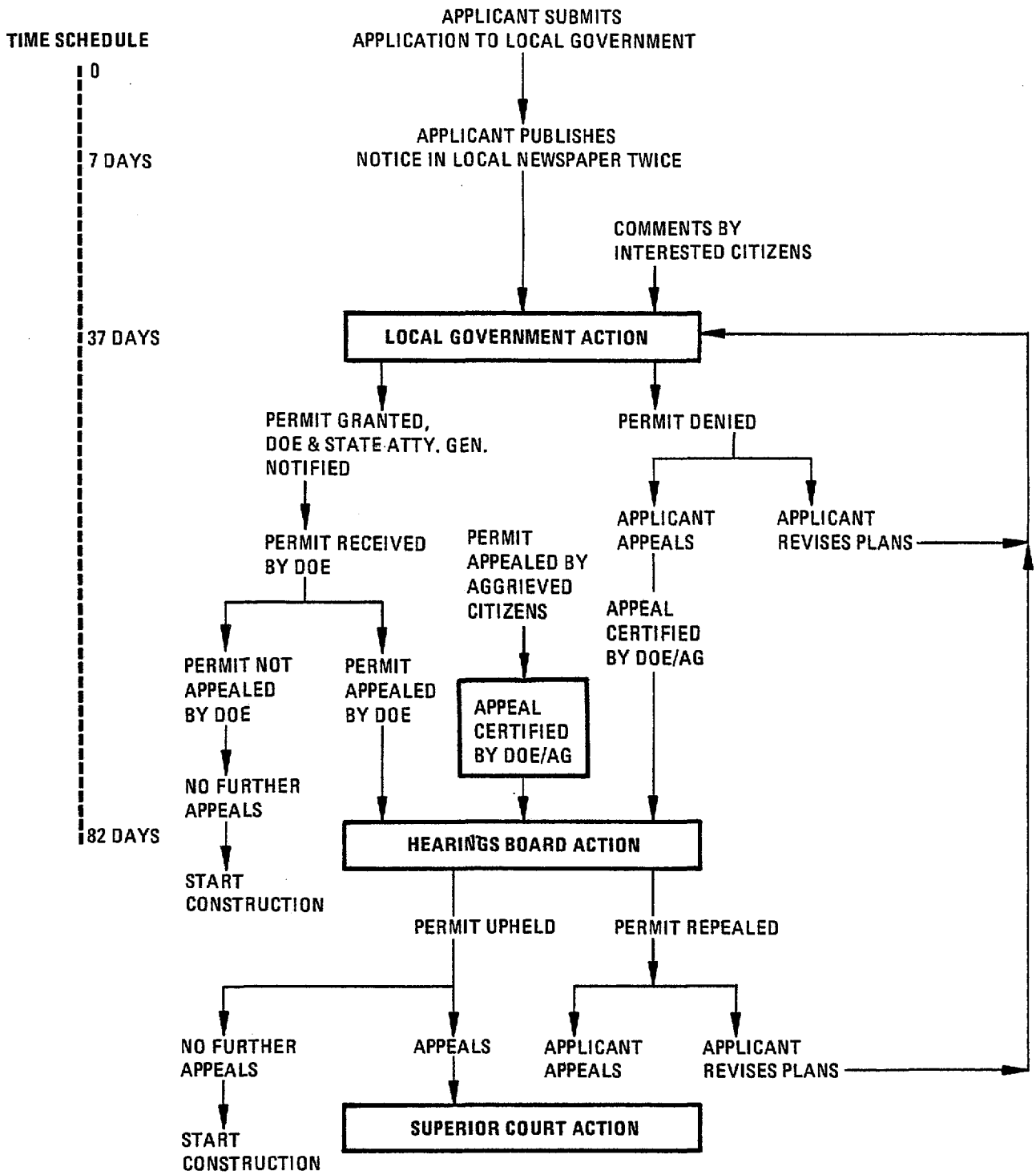
In general, the state has taken an active leadership role in applying the Shoreline Management Act during the review of local permit decisions. Creation of the Shorelines Hearings Board has increased the accessibility of permit review while at the same time substantially reducing shoreline litigation to be dealt with by the courts. The review process has been both reasonable and efficient in handling the increased shoreline litigation brought about by the passage of the Act.

Shorelines Hearings Boards Appeal

	Total Appeals	Certified Appeals	Resolved Prior to SHB Hearing	SHB Decision	Pending SHB Action	Appealed SHB Decisions
Department of Ecology	102	102	65	32	5	7
Private Applicant	26	24	2	18	4	5
Public Applicant	14	13	1	10	2	4
Other Aggrieved Parties	74	57	14	34	9	7
Total	201	196	82	94	20	23

As of October 1975 Total Permits Reviewed by DOE: 3242

SHORELINE PERMIT PROCEDURE



SEPA AND ECPA

The State Environmental Policy Act of 1971

The State Environmental Policy Act of 1971 (SEPA) (RCW Chapter 43.21C) is a sweeping environmental statute containing both substantive policies and procedural directives. SEPA is the state's strongest statement of a comprehensive environmental policy, going so far as to recognize explicitly that "each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment." [RCW 43.21C.020(3)] This proclamation appears at least to give a private citizen standing as broad as to challenge actions and decisions by state and local agencies, alleging violation of the Act, where such activities threaten to have adverse effects upon the environment that will personally affect such complainant. The point is that SEPA's policy statements represent a substantive change in state policy that cannot be taken lightly. (See pages 1-2 for further discussion of the environmental policy enunciated in SEPA.)

The heart of SEPA's procedural requirements is contained in RCW 43.21C.030(2) (c), which states:

> . . . (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:
>
> . . . (c) [i]nclude in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:
>
> (i) the environmental impact of the proposed action;
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;
>
> (iii) alternatives to the proposed action;
>
> (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. . .

The comprehensive effect of this procedural mandate is stated poignantly by the Washington State Court of Appeals in the case of *Juanita Bay Valley Community Association v. City of Kirkland* (9 Wn. App. 59, P.2d (June 4, 1973), at 72-73):

> . . .SEPA requires that an Environmental Impact Statement be prepared prior to the first government authorization of any part of a project or series of projects which, when considered cumulatively, constitute a major action "significantly affecting the quality of the environment. . ."
>
> . . .SEPA requires that a decision <u>not</u> to prepare an Environmental Impact Statement must be based upon a determination that the proposed project is <u>not</u> a major action significantly affecting the quality of the environment. [The court's emphases]

Thus, compliance with SEPA is required before any government authorization of *any* project, whether it is a major action significantly affecting the quality of the environment or not. Furthermore, as SEPA makes clear, its procedural mandate is applicable not only to projects, but to a variety of other kinds of governmental actions as well.

Partial guidance on implementation of SEPA's environmental impact statement (EIS) directive is given in the form of a further directive to "all branches of government of this state, including state agencies, municipal and public corporations, and counties":

> Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statements and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes. . . [RCW 43.21C.030(2) (d)]

The procedural system that has evolved since the original SEPA bill was passed has implemented the consultation and review directive through a two-step process including the production of a draft environmental impact statement which is circulated for review and the subsequent production of a final EIS incorporating review comments.

The original Act left government officials with a variety of thorny problems relating to its implementation. In an attempt to provide some guidance the Department of Ecology prepared "Guidelines for Implementation of the State Environmental Policy Act of 1971," which were distributed in February of 1972; they were re-issued on December 29, 1972. The Guidelines were issued cautiously, ". . . to provide a helpful and consistent overall statewide approach. . ." They were not adopted as regulations (since SEPA contained no such authorization), and their noteworthy tentativeness was surely due, at least in part, to the lack of clarity in SEPA with respect to the role of DOE in the implementation of SEPA.

In 1973 the State Legislature passed into law what has come to be called the single family dwelling amendment to SEPA (Chapter 179, Laws of 1973, 1st Ex. Sess., now codified as RCW 43.21C.070-.090). Section 1 of the amendment (RCW 43.21C.070) directs DOE ". . .to establish classifications and categories of building permits and acts of governmental agencies concerning an individual single family residence, which classification and category shall be exempt from the detailed statement required by RCW 43.21C.030." Pursuant to this legislative mandate, DOE adopted such exemptions in the Washington Administrative Code (WAC 173-34). Section 2 of the single family dwelling amendment (RCW 43.21C.080) was of considerable importance, too, setting out a public notice requirement on major actions significantly affecting the quality of the environment and a statute of limitations on appeal of decisions relating to such actions.

At about the same time as the passage of the single family dwelling amendment, the State of Washington launched a full-scale attack on the complex problems besetting full implementation of the Act by contracting for a pioneering study on implementation of SEPA. The resulting recommendations were translated into bill form as a SEPA amendment and submitted to the House and Senate Ecology Committees before the January, 1974 legislative session. After lengthy consideration and reworking, the bills surfaced from committees during the April legislative session, and a substantial amendment to SEPA was passed unanimously by both houses of the Legislature. With minor item vetoes, the amendment (Substitute Senate Bill No. 3277, Chapter 179, Laws of 1974, 1st Ex. Sess.) was signed into law on May 5, 1974.

The amendment attacks head-on what was thought by most to be the single most important impediment to implementation of SEPA: the lack in the original Act of the establishment of any body to oversee implementation through the adoption and enforcement of guideline regulations. Section 4 of the amendment establishes the Council on Environmental Policy (CEP) (to be composed of the members of the Pollution Control Hearings Board) whose sole responsibility was "[t]o adopt initially and amend thereafter rules of interpretation and implementation of [SEPA] . . . for the purpose of providing guidelines to all branches of government . . ." The rule-making powers granted to the Council were quite broad. The CEP is to be abolished on June 30, 1976, and further amendment of the regulations adopted by the Council is to be entrusted to DOE.

The 1974 amendment was designed to ensure local implementation of SEPA by providing that no later than one hundred and eighty days after the effective date of the rules adopted by the CEP,

> [a]ll public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under section 6 of this 1974 amendatory act, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation.

State agencies are required to adopt rules and guidelines within one hundred and twenty days of the effective date of CEP rules. All challenges with respect to the consistency of the local and state agency rules with the rules and guidelines adopted by the CEP will be heard by the Pollution Control Hearings Board. DOE is charged with the responsibility (in consultation with other bodies) of drafting model ordinances for use by local government.

The 1974 amendment provides a new statute of limitations on challenges of actions on grounds of non-compliance with SEPA, which substantially

revises that that was initially given in the single family dwelling amendment. The triggering of the statute of limitations depends on an optional procedure of public notification of actions taken. Unlike the statute of limitations given in the 1973 amendment, it can be brought into play for all governmental actions and not only for those that are major actions significantly affecting the quality of the environment. The statute reads:

> Any action to set aside, enjoin, review or otherwise challenge any . . . governmental action for which notice is given as provided in subsection (1) of this section on grounds of non-compliance with the provisions of this chapter shall be commenced within sixty days from the date of [notice] or be barred: PROVIDED, HOWEVER, That . . . the time period within which an action shall be commenced shall be ninety days (1) for projects to be performed by governmental agency or to be performed under government contract, or (2) for thermal power plant projects: PROVIDED FURTHER, That any subsequent action of the acting governmental agency for which the regulations of the acting governmental agency permit the same detailed statement to be utilized and as long as there is no substantial change in the project between the time of the action and any such subsequent action, shall not be set aside, enjoined, reviewed, or thereafter challenged on grounds of noncompliance with RCW 43.21C.030 (2)(c).

In an effort to avoid duplication of EIS preparation efforts, the amendment also provided that the detailed statement requirement of SEPA does not apply "when an adequate detailed statement is prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c) . . .", though this does not apply to actions of the Thermal Power Plant Site Evaluation Council or to thermal power plant sites subject to Chapter 80.50 RCW. Finally, the new amendment provides an interesting linking of SEPA with the Environmental Coordination Procedures Act of 1973 (ECPA) (see the discussion on pages 47-50). Considerations relating to SEPA were originally specifically excluded from ECPA, but the 1974 amendment to SEPA provides that DOE is to

> adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participation in the processing of a master application. Whenever the procedures established pursuant to chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030 (2)(c).

The EIS process established in the new rules and regulations can be summarized as follows if detailed qualifications are ignored:

(1) An action is proposed by a public agency or a private person.

(2) If the proposal is not exempt, a lead agency is determined from the guidelines.

(3) The lead agency decides whether or not the proposed action is a major action significantly affecting the quality of the environment. If not, a negative declaration is filed.

(4) If the proposed action is a major action significantly affecting the quality of the environment, a draft EIS is prepared.

(5) The draft EIS is circulated for review to all public agencies with an interest in the proposal and is made available to the general public.

(6) The final EIS is prepared incorporating the comments resulting from the review process and responding thereto.

(7) Public decision makers use the final EIS as a basis for their decisions with respect to the proposed action.

The last point, of course, is pivotal. SEPA makes clear that the environmental information disclosed through the EIS process is to be used to increase the environmental sensitivity of public decision making. There have been many cases in which it is clear that the EIS process has been responsible for significant protection of the environment.

After an extensive process of drafting, public hearings, and redrafting, the Council on Environmental Policy adopted final SEPA rules and regulations (guidelines) on December 12, 1975, which took effect on January 12, 1976. Among other things, the detailed guidelines set forth: (1) a comprehensive exemption system replacing

the limited system adopted by DOE pursuant to the 1973 amendment to SEPA; (2) a process for designating a single (lead) agency for every non-exempted proposal to serve as the agency responsible for processing that proposal under SEPA; (3) procedures for determining whether or not a proposed action is a major action significantly affecting the quality of the environment; (4) requirements for the filing of negative declarations in the event that the responsible official determines that a proposal is not a major action with a significant environmental effect; (5) procedures for and contents of draft environmental impact statements; (6) procedures for review of draft EISs; and (7) requirements relating to the preparation and disposition of final EISs.

Insofar as is consistent with the availability of human resources, the guidelines place the burden of compliance with SEPA's impact statement requirement on the governmental agency with the most comprehensive authority over a given proposal. In the case of proposals by agencies of Washington State government, it is usually clear that the proposing agency is the responsible agency under SEPA. In the case of a private proposal, which may require approval from several agencies, the matter is less clear, but the thrust of the guidelines is to identify the city or county with jurisdiction over the area in which the action is proposed as the lead agency.

The Department of Ecology, which serves as the state's primary depository of documents resulting from the requirements of SEPA, receives approximately 20 draft EISs and 15 final EISs every month, and informal departmental research suggests that this represents only some 75 percent of the EISs prepared in the state. Based on these figures, it appears that there are some 320 draft EISs and 240 final EISs prepared under SEPA annually. The effect of the new Council on Environmental Policy rules and regulations in this respect is unknown at present, though EIS production is unlikely to decrease as a result.

SEPA is of central importance to all approval processes in the State of Washington, those operative in the coastal zone as elsewhere, and when used as intended provides a solid informational base for public decision making.

The Environmental Coordination Procedures Act of 1973

The purposes of the Environmental Coordination Procedures Act of 1973 (ECPA) (RCW 90.62) are to: (1) provide an optional procedure to assist those who obtain environmental permits from state agencies by establishing a coordinative administrative decision making procedure; (2) provide the members of the public with a better and easier opportunity to present their views on proposed uses of natural resources and related environmental matters; (3) provide to members of the public a greater degree of certainty in terms of permit requirements; (4) provide better coordination and understanding between state and local agencies; and (5) establish the opportunity for members of the public to obtain information pertaining to requirements of state and federal law.

ECPA was signed into law on April 25, 1973. RCW 90.62.110(1) directs the Department of Ecology to adopt rules as appropriate to carry out the provisions of the Act. Such rules were filed on April 30, 1974, and became effective thirty days later.

Under ECPA "[a]ny person proposing a project may submit a master application to the department [of ecology] requesting the issuance of all permits necessary prior to the construction and operation of the project in the state of Washington." (RCW 90.62.040(1)) The master application form and the procedures for processing the master application form have been provided by DOE. The procedures are given in detail in WAC 173-08-040 and -050.

An important point in ECPA, set forth in RCW 90.62.010(2)(a), is that the procedure for filing a master application is totally optional for a potential applicant. Its use is in no way mandatory, but once set into motion by the applicant, it must be carried out by the involved agencies, with the coordination for such handled by the Department of Ecology.

After a blank master application form has been obtained from DOE's central office, one of its regional offices, or a county master application office, the applicant fills it out and returns it to one of the above-named offices. If returned to a DOE regional office or a county office, the form is submitted to the DOE office in Olympia, though "[n] o master application pertaining to a project shall be processed unless it is accompanied by certification from the local government . . ." (Such certification is discussed below.) After DOE receives the application, the form is forwarded to the other state agencies which might have an interest in the proposal and which in turn indicate to DOE whether or not they are interested in the application. They also indicate whether or not a public hearing on such an application would be in the overall public interest. If an agency notified by DOE does not respond with interest, it is prohibited from subsequently requiring a permit of the applicant for the project described. Each agency notified has fifteen days within which to respond to DOE.

"Upon receipt of the above information from participating agencies, the department [of ecology is to] notify the applicant of the requirements of all agencies covered by the Act and provide appropriate blank application forms." (WAC 173-08-050(5)) After receipt of the various permit application forms from the Department of Ecology, the applicant has 90 days to complete the forms and return them to DOE with the appropriate fees. If he does not do so within the 90 days, the master application process is terminated.

After the applicant has completed the appropriate forms and returned them to DOE, the applicant, at his cost, is instructed to prepare and publish a notice of application. Publication must be for three consecutive weeks once a week on the same day of the week in a newspaper of general circulation in the county where the project is proposed. If it has been determined by DOE that a public hearing should be held, the hearing is not to occur until at least 20 days after the date of the last notice publication. If a public hearing is held, it is to be chaired by the Director of the Department of Ecology or a hearing officer appointed by him. Each state agency having an application for a permit before it is to be represented at the public hearing. At such hearing the applicant may submit any relevant information and material in support of his application, and members of the public may submit relevant views and supporting materials pertinent to the applications being considered. If the project is complex of significant magnitude, the hearings's chairman may hold the hearing in two parts; the initial hearing informing the public of the general intent and impact of the project, and the second directed to informing the public of the tentative decisions of the participating agencies.

> Upon completion of the public hearings and after consultation with the state agency representatives, the chairman shall establish the date by which all state agencies will forward their final decisions on applications to the department, provided that this date may be extended by the chairman for reasonable cause. [WAC 173-08-050(9)]

As soon as the decisions are received by DOE, RCW 90.62.060(6) directs the Department to incorporate the decisions and comments without modification into one document and to transmit such to the applicant.

ECPA requires substantive coordination between state agencies and local governments. RCW 90.62.100 states in part that

> [n] o master application pertaining to a project filed under RCW 90.62.040 shall be processed under this chapter unless it is accompanied by a certification from the pertinent local government that the project is in compliance with all zoning ordinances, and associated comprehensive plans, administered by said local government relating to the location of the project: Provided, That if the local government has no such ordinances or plans the certification from local government shall so state and issue. [Emphasis in the law]

An equally significant part of the same section states that "the provisions of the state environment policy act relating to the preparation of detailed impact statements shall not be applicable to the action approving or denying certifications authorized in this section." Certification by local

government is to indicate that the project is consistent with that government's zoning ordinances and comprehensive plans "and does not indicate compliance with specific action permits or requirements, such as the set-back or building requirements." In addition, local governments are to indicate on their certification form whether or not the project falls within the jurisdiction of the Shoreline Management Act. ECPA states clearly that approval of an application for certification does not eliminate any requirements of the Shoreline Management Act or any other statutes administered by local government. Finally, all local governments are directed to accept master applications for certification and to rule on them expeditiously.

ECPA requires all counties in the State of Washington to designate an office or offices to provide the master application form established by the state and assistance in the preparation of such applications to any person requesting it. It is the county's responsibility to see that a master application filed at its office is immediately forwarded to DOE. Filing a master application with a county office constitutes for the applicant a submission to the Department of Ecology.

WAC 173-08-030(4) lists all the permit and other environmental authorization programs covered by ECPA. Such programs are listed here by the agency authorized to administer the program and the statutory authority providing for such issuance. Page references are to the discussions of the agencies in this document where the listed authorization programs are explained insofar as they relate to coastal zone management.

Department of Ecology (pages 51-70)

- Surface water rights permit – RCW 90.03.250
- Dam safety approval – RCW 90.03.350
- Reservoir permit – RCW 90.03.370
- Approval of change of place or purpose of use or point of diversion – RCW 90.03.380 (surface water code); RCW 90.44.100 (ground water code)
- Ground water permit – RCW 90.44.050
- New source construction approval – RCW 90.94.152
- Burning of field and turf grasses grown for seed – RCW 70.94.650
- Flood control zone permit – RCW 86.16.080
- Waste discharge permit – RCW 90.48.180
- NPDES permit – WAC 173-220
- Sewage and industrial waste treatment facilities approval – RCW 90.48.110
- Weather modification permit – RCW 43.37.110

Department of Natural Resources (pages 70-83)

- Burning permits – RCW 76.04.150 and 76.04.170
- Dumping permits on forest lands – RCW 76.04.242
- Operating permit for machinery – RCW 76.04.275
- Cutting permit – RCW 76.08.030
- Surface mine reclamation permit – RCW 78.44.080
- Right of way clearing – RCW 76.04.310
- Drilling permit – RCW 78.52.120
- Log patrol license – RCW 76.04.030

State Parks and Recreation Commission (pages 86-88)

- Park and recreation facilities – RCW 90.08.260
- Safe and adequate facilities and equipment – required of owner and operator – operator not common carrier – RCW 70.88.010
- Permits for improvement of parks – RCW 43.51.130

Department of Fisheries (pages 90-91)

- Hydraulic project approval – RCW 75.20.100
- Salmon aquaculture permit – RCW 75.16.100

Department of Game (pages 91-92)

- Hydraulic project approval – RCW 75.20.100

Department of Social and Health Services (pages 94-96)

- Public sewage – WAC 248-92
- Public water supplies – WAC 248-54

Regional Air Pollution Control Authorities (page 101)

- New source construction approval – RCW 70.94.152
- Burning permit – RCW 70.94.650
- Burning of field and turf grasses grown for seed – RCW 70.94.650

Incorporated Cities and Counties (pages 101-103)

Substantial development permit – RCW 90. 58.140

There can be no doubt that ECPA is a large step in the right direction. The program established by the Act, while sacrificing nothing in terms of effective control through the state's network of approval processes, provides a potentially bewildered private applicant with a single state contact throughout the processing of his proposal. The process is being used increasingly as its availability becomes increasingly well known. Between January 1 of 1974 and June 30 of 1975 the Department of Ecology processed 81 master applications statewide. (For a brief discussion of the internal handling of the ECPA process within DOE, see pages 69-70.)

PRIMARY MANAGEMENT NETWORK AGENCIES

Department of Ecology

The Department of Ecology (DOE) was established through legislative action in the 1970 session and became operative on July 1, 1970. Its purpose at the time of establishment was to provide a consolidation of the responsibilities of the former Department of Water Resources, the Water Pollution Control Commission, the Air Pollution Control Board, and the solid waste program of the Department of Health.

The enabling legislation establishing DOE declared it to be the policy of the State of Washington that it is a fundamental and inalienable right of the people of this state to live in an environment that is not only healthy, but pleasant. This legislation recognized that the state population growth will place increasingly heavy demands on state resources and that there is an urgent necessity for planning and coordinating the conservation, protection, and usage of those resources. The legislation charged that there shall be increasing responsibility to "protect our clean air, our pure and abundant waters, and the natural beauty of the state."

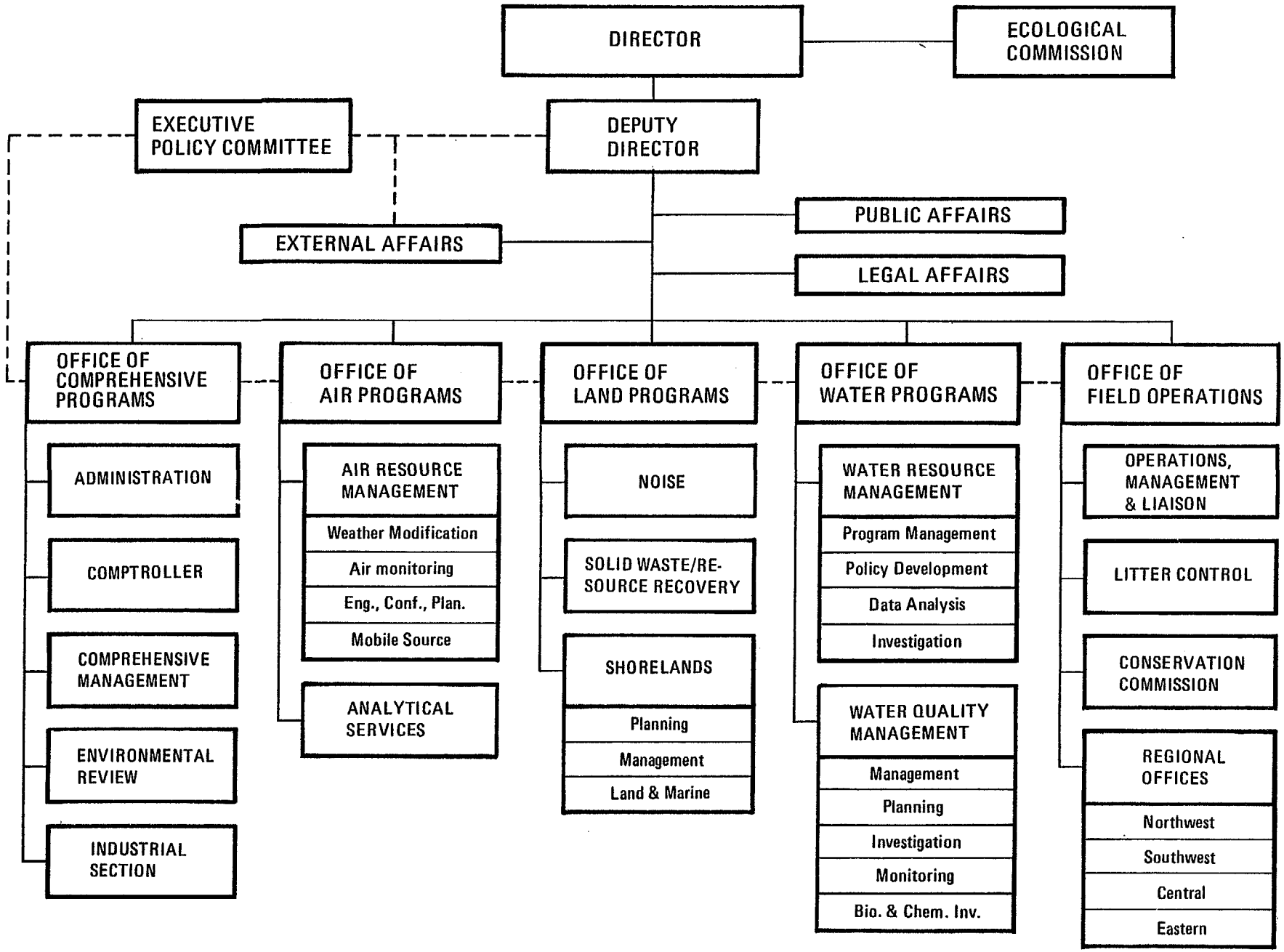
The goals of the Department of Ecology, as set forth in the legislation, are to: (1) identify and determine the abundance and quality of the existing environmental resources and provide for the care, protection, and perpetuation of those resources through the establishment of appropriate standards for air, water, and land; (2) analyze the availability of environmental resources and determine appropriate uses consistent with environmental resource standards for protection of the air, land, and water through issuance of appropriate authorizations; (3) measure the environmental resources and measure the natural and man-caused influences which change or tend to change the environment, particularly with respect to the actual or potential detrimental effect which such change may cause, and require appropriate compliance with standards, rules, and regulations by all entities; and (4) plan for the future conservation, perpetuation, and uses of the environmental resources, develop programs responsive to the needs and problems of the environment, and assign the human and economic resources available to the Department to address these needs.

The Department is administered by a Director who is appointed by the Governor. Under the Director is one Deputy Director and six Assistant Directors, all of whom serve at the pleasure of the Director. The six Assistant Directors head the major program areas for the Department: (1) external affairs; (2) water; (3) air; (4) land; (5) comprehensive programs; and (6) field operations. Each of the last five program areas contains elements which are important to the management of Washington's coastal zone area. The organization of DOE, including the major programs and the elements which make up each program, is summarized in the basic organization chart on the following page. Each of the program elements which affect the management of Washington's coastal zone will be presented in detail in later portions of this section.

The Department of Ecology, which aggregates under one department the majority of the most important environmental regulations in the state, is the single most important agency in the implementation of the Washington coastal zone management program. DOE has been officially designated by the Governor as the official agency of Washington State government to administer and implement the federal Coastal Zone Management Act. In addition to this, it houses the state's basic regulatory authority for air and water resource and quality protection and solid waste management. Its Office of Land Programs administers the Shoreline Management Act on a day-to-day basis. There are over 20 formal state environmental regulatory authorities directly affecting the coastal zone area which are administered by DOE and at least five federal authorities (in air and water quality) which are administered through DOE programs.

The Director of the Department is a member of a number of inter-agency commissions and bodies. Two of the most important functions of the Director which help inject the Department's environmental perspective into major state programs are his participation on the Energy Facility Site Evaluation Council and his membership on the Governor's Natural Resources Cabinet. In

DEPARTMENT OF ECOLOGY
Basic Organization



addition, the Director meets quarterly with the Ecological Commission, which is a citizens' body composed of seven individuals appointed by the Governor to review the DOE programs and to provide advice to the Director concerning general citizen questions and desires in the state.

Another major duty of the Department is the integrated administration of federal funds in air quality, water quality and solid waste management programs. DOE provides a single point of contact and administration for the Environmental Protection Agency, which is the federal agency administering these environmental programs. This type of coordination activity provides not only for more effective implementation within the state but also for more effective communication with federal concerns in these three program areas which form a central part of coastal zone management in Washington.

In the following pages, DOE's regulatory authorities, planning functions, and coordinative programs are presented in considerable detail. Almost all of DOE's activities directly affect the Washington coastal zone, some more so than others, and close attention must be given to the Department's programs to make clear the web of coastal protection mechanisms in the state and the role of the Department of Ecology as the state's primary coastal zone manager.

Water Programs

Within the Department of Ecology, water resource management and water quality management are distinct programs located within the Office of Water Programs. Both water resource control and development and water quality control are long-standing programs in the state even though the most important developments at the state and federal levels have occurred in the last few years. Water rights (resources) legislation in the state was first passed in 1917 and the first waste discharge (quality) program was established in 1955. These programs have been separated in DOE for administrative purposes, though one assistant director is charged with supervisory responsibility with respect to both.

Water Resources: The first water resource program was established in the state in 1891. In 1917, the State Legislature expanded the program when it passed a law which developed a state permit and certification system for the issuance of rights to use surface water. This process has as its premise the "first in time is first in right" doctrine, and the date an application is received by the state establishes its priority. Approval of an application results in the issuance of a permit to develop and put waters to beneficial use consistent with the provisions and limitations of the permit. Once beneficial use has occurred, the final certificate of water right is issued and recorded in state and county offices.

In 1945, this system was expanded to include ground water withdrawals of 5,000 gallons or more per day. At the present time, there are some 20,000 legally recorded rights to water, though the extent to which people are actually using their rights is not known. Recent checks by DOE in several areas suggest that the percentage of actual use compared to that allowed under recorded rights could be as low as 30 percent. Also unknown is the extent of valid pre-1917 surface rights and pre-1945 ground water rights.

In 1967, a water rights relinquishment program was established by law (RCW 90.14.130 et seq.), which states that rights may be relinquished upon evidence of nonuse of water for five consecutive years, but no program to process the relinquishment of rights was implemented. A water registration act was passed in 1967 and reenacted two years later with funding provided for five years of operation. The purpose of this act was to give the state a rough estimate of the claims against the state's water resources. One result of the legislation and associated court interpretations is that in the absence of a recorded right or registered claim a vested water right may not be legally claimed.

The body of water legislation dealing with resource management has increased significantly since the passage of the surface water code of 1917. In addition to the laws mentioned above, significant legislation includes the Flood Control Laws of 1935 and 1937, the Minimum Water Flows and Levels Act of 1969, and the most significant and comprehensive statewide water resources planning and policy act now in existence, the Water Resources Act of 1971.

The Water Resources Act of 1971 resulted from an intensive review of the state's water management program conducted in the late 1960s. This act was a landmark piece of legislation designed to ensure that the state's waters are protected and fully utilized for the greatest benefit of the people of the state. Under the provisions of the act, DOE was directed to develop and implement ". . .a comprehensive state water resources program."

The issuance of both surface and ground water rights permits has been one of the most active and visible regulatory programs in the history of the State of Washington. The permit process is initiated when an applicant indicates a desire to appropriate water for a beneficial use by filing with the Department of Ecology. An applicant may be a person, municipal corporation firm, irrigation district, association, corporation or even a federal agency. Upon receipt of the application, the Department requires the applicant to publish notice of the application for use in the county (or counties) where such use is to be made. Also, upon receipt of the application for a surface water permit or a ground water permit for water located close to a stream, the permit application and pertinent information are forwarded to the directors of the Departments of Fisheries and Game. All three agencies then review the permit application to see, among other things, if the appropriation of water will adversely affect the fish and wildlife of the body of water that serves as the source of the proposed appropriation. The Departments of Game and Fisheries do not have a formal veto power over the application, but they can make a recommendation to the Director of the Department of Ecology who gives their opinion substantial weight when deciding on the issuance of such permits. In many cases, a surface water permit must be accompanied by an hydraulic permit (for the device or action necessary for actual removal of the appropriated water) which would give the Departments of Fisheries and Game a formal veto authority over adverse water appropriations. (See page 90.) If no major problems are discovered and if the application meets the requirements of the surface and ground water codes, the application is generally approved for either the amount of water requested or a smaller amount as may be determined by DOE. All appeals of water right permit decisions which once went to the superior courts now first go to the administrative appellate body known as the Pollution Control Hearings Board. (See pages 83-84.)

In fiscal year 1975, DOE received 5,317 appropriation permit applications.

Another state agency which is involved in the issuance of water rights permits, although very informally, is the Department of Natural Resources (DNR). DOE has in the past provided copies of all permits to DNR in return for DNR's provision of legal description information for the application.

Two other minor permit and licensing programs operated by the Department of Ecology are the programs established by the Water Well Construction Act of 1971 and the Weather Modification Act of 1967. The Water Well Act authorizes two approval processes: the examination and licensing of well drillers in the state and enforcement relating to the actual construction of wells. Both of these operations are now handled in DOE's Office of Field Operations. (See pages 68-69.) However, a third function, the recording of reports on each well constructed in the state, directly involves the Department's Water Resources Section by providing data analysis on wells.

The purpose of the Weather Modification Act is to permit modifications designed to artificially change or control the natural development of cloud or precipitation forms. Under this act, four permits are generally issued each year, with two permits going to the fog dispersal programs at Spokane and Sea-Tac airports. Permits are also issued to increase precipitation in mountainous regions to increase hydroelectric power production, although this is not a common practice. In this instance, the modification permits, essentially handled in the Office of Air Programs, directly involve water resources.

Another major activity of the Water Resources Division is the development of the statewide water management program which was authorized by the Water Resources Act of 1971. The primary objective of the program is to provide clear policy guidance on activities internal to DOE with respect to

water resource management. Such activities include the disposition of additional appropriation or storage permits or action on changes under existing water rights. Another objective is to provide guidance on activities external to DOE with respect to the water resources of the state. External activities include the vigorous interpretation and representation of the state's interests in its water resources before agencies of the federal government and other entities.

In addition to the objectives mentioned above, there were several other provisions set forth in the Act which DOE has actively attempted to implement over the past four years. For example, RCW 90.54.030 mandates the development of a water resources "archive", which is an important directive for developing basin management programs, policies, and project/program position statements. In response, DOE established the Water Resources Information System (WRIS), which indexes, stores, and retrieves information relative to the state's water resources. WRIS publishes and maintains bibliographies referencing existing water resources data and information by basin. It publishes and maintains a listing of potential federal water resources projects for the state. And finally, it operates a reference service for handling inquiries from federal, state, and local agencies and the public.

In response to RCW 90.54.040, which requires DOE to develop and implement the state water resources program, the Department has established a basin management program. A basin management program will take the form of an administrative policy document or a regulation, which will provide major policy on future water allocation, including priorities among competing uses, quantities of water to be reserved for specified uses, flows to be maintained in streams and rivers, and streams closed to further appropriation. In order to implement this program, the state has been divided into 23 river basins plus the main stem of the Columbia River. 12 of the basins are within or directly affect the Washington coastal zone: Nooksack, Skagit, Snohomish-Island-Stillaguamish, Cedar-Green, Puyallup, Nisqually-Deschutes, West Sound, San Juan, North Olympic, Chehalis-Olympic, Willapa, and the Cowlitz-Columbia Estuary. For the purpose of study and program implementation, many of the basins have been broken down into sub-basins. For example, the Chehalis portion of the Chehalis-Olympic basin has a total program from basin bibliography to special studies and draft regulations developed. This is the most complete basin program in the state and has been identified as the number one program priority. All 12 of the basins have completed a basin bibliography, seven have completed preliminary analysis, three have initiated public involvement, two have completed special studies, and two have completed detailed analysis.

It is hoped that the development of the basin management programs will have the effect of making the decision-making process more open to public review and comment than it has been in the past. It also provides a clearer and more consistent basis for decision making, which is beneficial to agency administrators as well as to the public.

Another area of program development under the Water Resources Act of 1971 is the development of statewide water policy. Statewide policies are currently being developed for critical areas where an overall policy is desirable for the consistent management of the resource throughout the state. The statewide policies are intended to supplement the individual basin management programs. Project/program position statements are issued by DOE as appropriate. Such statements are developed within the context of and supplement the basin management programs and the statewide policies.

The major water resource cooperative planning effort is the preparation of a comprehensive joint water resources plan for the Pacific Northwest. This is the responsibility of the Pacific Northwest River Basins Commission and was authorized under the Federal Water Resources Planning Act of 1965. "Level B" studies (reconnaissance level studies of complex problems with a 15 to 25 year time frame) were initiated in 1974 by the Commission in three areas of the State of Washington. These three areas are not located in the coastal zone, although Level B studies will most likely be completed for most of the coastal area river basins or sub-basins over the next few years. The state, through DOE, is chairing the study team composed of representatives of state and federal agencies

with water and related resources management responsibilities.

Under Section 209 of the Federal Water Pollution Control Act Amendments of 1972 (FWPCA), the federal Water Resources Council is directed to prepare a Level B plan for all basins in the country as soon as practicable but not later than by January 1, 1980. Priority in the preparation of such plans is to be given to those basins and portions thereof which are within the areas designated as areawide waste treatment management planning areas under Section 208 of the act. (See page 60 for a discussion of DOE's role with respect to Section 208.) In the State of Washington, additional Level B studies have recently been initiated in designated 208 areas, two of which (Snohomish County and Metro Seattle) are in the state's coastal zone.

Further information to be incorporated in the cooperative planning efforts includes that from Type IV studies conducted by the U. S. Department of Agriculture in cooperation with the state. Type IV studies are of more limited scope than Level B studies. One Type IV study has been completed and another is underway in Washington.

An important requirement of the Water Resources Act is that contained in RCW 90.54.080, which directs the state to represent its interests vigorously before federal agencies and interstate agencies. To satisfy the directive DOE has undertaken a three-part program which includes active representation on regional and interstate commissions, the monitoring of federal activities, and cooperative federal/state planning.

The state is an active member of the Pacific Northwest River Basins Commission, a federal/state commission consisting of representatives from the five northwest states, nine federal departments, and a chairman appointed by the President. The Commission was organized for the purpose of coordinating water and related resources planning in the Pacific Northwest. DOE is also represented on the Pacific Northwest Regional Commission's Water Resources Task Force, a joint federal/state body created to assist the overall economic development of the region through planning, research, technical assistance, and grants.

With respect to monitoring federal activities, the main state involvement is with the federal Water Resources Development Act of 1974 which directed the Corps of Engineers to submit to Congress a list of projects which should no longer be authorized. This is an attempt to reduce the increasing backlog of water resources development projects by removing those which are authorized but which are no longer viable or justified. However, prior to submitting the list to Congress, the Corps is required to obtain the views of the Governor regarding those projects located in Washington. In this state there are 32 projects eligible for deauthorization and it is the responsibility of the Department of Ecology to advise the Governor as to whether or not these deauthorizations should be encouraged.

The DOE Water Resources Division has two other major program areas which are of particular relevance to the coastal area. First, it works quite closely on both a formal and an informal basis with the Department of Social and Health Services (DSHS) relative to community water supply systems. Although it is not required by law, DOE advises DSHS of any community water supply system which is being developed and for which a water rights permit application has been filed. In the case of a water supply system having more than 1,000 services, the system must have a comprehensive plan approved by DSHS. However, the plans for such a system that are submitted to DSHS must be accompanied by a water rights application number. The final plan which is recorded must have a water rights permit number. DOE also provides DSHS with all of their well logs. DSHS, in turn, provides these well log records to their local health district people so that the most comprehensive records concerning wells in a given area can be maintained not only by the body which issued the right to drill the well (DOE) but also by the bodies which must protect the health and safety of the people using the well (DSHS and the local health districts).

The second area of water resources involvement is in the Referendum 27 bond monies issued as part of the Washington Future program (see pages 89-90). Although the referendum designated DOE as the agency responsible for both the disbursement of the $50 million municipal supply

distribution system monies and the $25 million agricultural water supply facilities program, DOE is now actively involved only with the latter. The long-range objective of this section of the referendum is to assist in the irrigation of new lands. So far only a few short-range projects providing for the upgrading and rehabilitation of existing irrigation have been funded, which only amount to a little more than $100,000 of the available $25 million.

In the Water Resources Division, there are two specific problems which have recently surfaced which directly relate to the coastal zone. The first is the problem of saltwater intrusion in wells, particularly those utilized in providing drinking water. DOE is currently trying to work out a program for solving individual problems. The second is the problem of inadequate ground water supply in Kitsap County. DOE in conjunction with the United States Geological Survey, a partner with the Water Resources Division in a number of ground water research efforts, is now completing an analysis of this situation.

Water Quality: Within the Water Quality Division of the Office of Water Programs there are five major program activities: (1) the issuance, renewal, and modification of permits; (2) compliance assurance and enforcement; (3) municipal facilities management; (4) planning and management; and (5) data acquisition (including special studies). The basic legislation to which the water quality program is oriented is the Federal Water Pollution Control Act of 1972 (PL92-500) and the State Water Pollution Control Act of 1973 (RCW Chapter 90.48) which implements the federal act at the state level and expands in certain control and management areas.

The first state water quality permit program was established in Washington in 1955, building on the Water Pollution Control Commission established in 1945. At that time a permit system was set up for state control over certain types of wastewater discharges. Although somewhat modified over the past twenty years, this program is still a part of the controls contained in the State Water Pollution Control Act (at RCW 90.48.160). The major modification of the state law occurred with the passage of the Federal Water Pollution Control Act amendments of 1972 which set forth requirements for a National Pollution Discharge Elimination System and a concomitant permit program. In 1973 the Legislature recognized the duplication in having a state permitting system which did not reflect or directly implement the NPDES system and modified the law (in RCW 90.48.260) to give the state complete authority to ". . .establish and administer a comprehensive state point source waste discharge or pollution discharge elimination permit program which will enable the department [of ecology] to qualify for full participation in any national waste discharge or pollution discharge elimination permit system and will allow the department to be the sole agency issuing permits required by such national system operating in the state. . ."

A major exception to the joint DOE state/federal permit program which was subsequently established concerns waste discharge permits for energy facilities subject to the laws regulating the Energy Facility Site Evaluation Council (EFSEC). EFSEC has the sole authority for the issuance of waste discharge permits and qualifies for full participation in the NPDES system. In order to maximize coordination and avoid duplication between DOE and EFSEC, rules and procedures have been adopted by each to clarify its role.

At the time of enactment of the federal NPDES program, the state administered a state program with permits numbering approximately 1,050 commercial and industrial operations discharging into sanitary sewer systems, surface waters, and the ground. With the implementation of the NPDES program, a large percentage of the state permits were covered by the new program. There are estimated to be 852 commercial and industrial NPDES permits presently issued which cover all point sources covered under the federal law in the state. However, it should be noted that the state still maintains a permit program for those dischargers not covered under an NPDES category. Continued operation of this state system is expected for those industrial discharges of incompatible pollutants to sanitary sewer systems and for significant projects utilizing ground disposal. Approximately 60 percent of the point source NPDES permits are given for the state's twelve

coastal zone basins, including 58 percent of all state municipal permits and 61 percent of all state industrial permits.

Another major part of the state waste discharge program is the ability of DOE to transfer its authority for issuing permits for discharges to municipal sanitary sewer systems to the municipalities or appropriate authorities involved. At the present time, one transfer of authority has taken place. This transfer was to METRO (Seattle area) and approximately 100 discharges will be covered by non-NPDES permits. It should be noted that the NPDES permit authority cannot be delegated. Essentially, the transfer program amounts to a pretreatment permit for the NPDES program and is a useful supplement to what is required by the Environmental Protection Agency (EPA).

Along with the implementation of the NPDES portion of Public Law 92-500 which the State of Washington has been authorized to administer is the added responsibility for the state to ensure that dischargers of water pollutants comply with the conditions of the issued NPDES permits. Consequently, another function of the water quality section in DOE is to work with EPA in a program most commonly referred to as the "Compliance Assurance Program." In late 1974, a joint letter of agreement between DOE and EPA was signed which delineated the respective agencies' policies and responsibilities in establishing and maintaining the program directed to enforcing effluent limitations and compliance schedules for NPDES permits. It basically sets forth the manner and extent to which the program elements of inspections, tracking, enforcement, and evaluation are to be carried out.

Those inspections identified in the agreement as "Routine Compliance Evaluation (Class II)" and "Routine Compliance Inspection (Class I)" are the focal point of the compliance assurance program. The Class II inspections are conducted at least once annually on all principal dischargers (23 municipalities and 37 industries) and other dischargers (Class II) where a water quality problem is suspected, and will consist of a detailed review of the permittee's compliance with specific conditions of the NPDES permits. Class III inspections or surveys and Class IV surveys are also covered under this letter of agreement.

Under the Compliance Assurance Program, DOE has the primary enforcement responsibility and EPA Region X is the secondary enforcer to ensure that the state takes appropriate action within a reasonable period of time (defined as at least 60 days from the first date of apparent violation). Under enforcement action provisions, DOE has available to it (1) warning letters, (2) regulatory orders, (3) civil penalties, and (4) criminal or civil action in court.

Fifteen of the 23 principal municipal dischargers which come under the above agreement are located in the coastal zone area of Washington while 25 of 37 major industrial dischargers fall into the coastal area. Eighteen of the 25 are lumber, kraft, or pulp mill oriented.

Structurally, within DOE, 36 of the 37 industries which fall under the major industries Compliance Assurance Program are not administered in the Water Quality Division of the Office of Water Programs, but rather in the Industrial Section. (See pages 67-68 for discussion of the duties and purpose of the Industrial Section.) This section not only issues the new NPDES permits but also completes the full schedule of the Compliance Assurance Program, including monitoring, inspection and enforcement.

With respect to non-point source permit authorizations which must occur under the NPDES program (essentially fish hatcheries, irrigation return flows and feedlots), all fish hatchery permits have been issued as of December, 1975. Experience in the area of irrigation return flow is lacking and the program has had a slow start. At the present time, a joint irrigation return flow pilot program involving DOE and the Soil Conservation Service is underway in the Sulpher Creek drainage basin (of the Yakima River, a non-coastal zone area). It is anticipated that this study will provide considerable insight on the sources of pollution and problems of water quality in agricultural return waters of all of the state. This program has been expanded to involve other federal agencies such as the Bureau of Reclamation, various conservation districts, irrigation districts, and the users themselves. However, in order to implement the

program once it is established, DOE must rely on the SCS Cooperative—an agreement between the farmers (water users) and the SCS for those farmers eligible for assistance. DOE has helped provide funding for this program through monies from Referendum 27 of the Washington Future program (see pages 89-90).

The third major program element in the Water Quality Division is the administration and program management of municipal sewage treatment facilities. The main duty of DOE in this program is to administer a program which, in Fiscal Year 1976, involves more than 300 active grants funded by $213,176,000 in federal funds and $42,635,000 in state funds. These amounts represent 75 percent federal funding and 15 percent state funding of eligible project costs, with the remaining 10 percent being the local share. The state funding is derived from Referendum 26 of the Washington Future program which authorized bonds totaling $225 million to provide for the planning, acquisition, construction, and improvements of public waste disposal facilities. Waste water treatment facilities comprise only one category of a number of different waste disposal functions to which these funds may be applied.

DOE is involved in the priority ranking of all projects eligible to receive state and federal construction grants for treatment facilities. In addition, the Department is to minimize duplication of efforts and activities, expedite the processing of grant awards, and assure the integrity of the facilities in terms of engineering design and construction. Ongoing duties include conducting operation and maintenance inspections for those plants identified by the DOE regional staff as "problem plants." The basic program of developing a grant application, providing technical assistance, and handling operations and maintenance work is completed by the regional offices while the DOE headquarters staff in water quality coordinate DOE management policy, establish the annual projects list, and certify the grant applications to EPA. Before certification, DOE must approve all facilities planning, design and proposed methods of operation and maintenance.

Another duty undertaken by DOE in the area of management of waste water treatment facilities is the training of treatment facility operators so that they may be certified as required by state law. Essentially, the training program is carried out by the Green River Community College with coordination and technical assistance provided by the DOE Water Quality Division.

The fourth major element in the water quality program administered by DOE is planning and management. A brief delineation of the history of water quality planning in the state is necessary in order to identify the planning programs completed and the direction for future planning which has been identified by DOE. In the middle 1960s, Federal Regulation 18 CFR initiated a program of river basin water quality planning throughout the United States. Soon thereafter, the State of Washington initiated statewide water quality planning under a program called "Jobs Now" which essentially placed the preparation of these plans in the hands of the state's counties. As these early state planning efforts were nearing completion, the federal government in 1972 adopted Section 303(e) of the FWPCA which changed the criteria and requirements for water quality planning. Essentially, this section stated that the state was to have a continuous water quality planning program, including drainage basin plans. Unfortunately, the new regulations for 303(e) plans and the plans nearly completed under the previous state program were not quite the same. Under agreement between DOE and EPA, the administrator of the 303(e) program, a limited number of new 303(e) plans were developed throughout the state, utilizing previous information where possible, with the rest of the plans consisting of the original documents (and addenda) developed under the state program which met the requirements of 18 CFR. A further agreement was reached wherein it was arranged that the 303(e) plans would be completed after the state is completely covered by some type of 303(e)-level plans (i.e., a new 303(e) plan or an 18 CFR addendum plan). The first phase of water quality management planning in the state, consisting for the most part of the documentation in the 23 completed basin-wide 303(e) plans of existing water quality and the identification of point source needs and solutions, had been completed by December of 1975.

Phase two of the 303(e) planning effort began in January of 1976 and is designed to address planning needs in specific program areas and elements and to prepare the state to meet the 1983 national water quality goals. This planning includes the protection and propagation of fish, shellfish and wildlife, and enhancement of recreation in and on all waters. It also allows the state to begin to focus its attention on causes of water quality degradation such as nonpoint sources and to assist in the development of policies and regulations to guide and direct point and nonpoint pollution control programs in the future.

Another major planning effort which is required under the FWPCA, as further clarified in a recent U.S. Supreme Court decision, is Section 208 areawide waste treatment management planning. Essentially, the section states that in areas that have urban and industrial concentrations and complex water quality problems, the state must designate an agency to prepare an areawide waste management treatment plan. At the present time, there are three state-designated 208 planning areas, two of which (those in King and Snohomish counties) are in the coastal zone. In Snohomish County, the county regional planning body has been designated to carry out the planning. In King County, METRO is the officially designated planning organization. These planning programs are just beginning and no results or implementing programs have yet been developed. It is anticipated that other 208 planning areas will soon be designated in the state with the possibility of one or two more areas in the immediate future in the coastal zone.

Major accomplishments of the areawide water quality planning process should result in the coordination of statewide nonpoint planning activities carried out by DOE with those carried out by local planning agencies which have been designated the 208 planning bodies. These programs will emphasize relating specific nonpoint planning elements (case studies) to statewide needs and will give regional or statewide applicability to local results. Of the 91 river basin segments in the state identified for water quality planning purposes as having their water quality limited, 86 segments are so identified because of nonpoint sources, either natural or related to man's activities. The magnitude of the nonpoint problem makes it easy to see the importance of the nonpoint planning orientation of the 208 program. A final element of the 208 planning program and nonpoint pollution analysis will be the study and revision of water quality standards, hopefully by 1978 which is the requirement date set by PL 92-500 for the review and revision of overall standards.

The fifth and final program element found in the Water Quality Section of the Office of Water Programs includes data acquisition, analysis and reporting. One of the major parts of this program is the maintenance of a primary network of fresh and marine water monitoring stations to provide a general statewide assessment of water quality conditions. This program supports the data needs of DOE's many water pollution abatement activities and the general public for water quality trends and status information. Extensive monitoring programs are underway for both surface and ground water, the latter in cooperation with the U.S. Geological Survey.

Another data monitoring program was initiated in 1974. Known as the intensive studies program, it provides for study in great detail of one-third of the Washington State water basins each year. Under this program, ambient water monitoring for the whole state is accomplished every three years.

Finally, in the Biological and Chemical Investigation Section of the Water Quality Division, special study emphasis is placed on the investigation of oil spills, fish kills and other significant projects or problems. In response to the increasing number of oil spills in state waters (more than 1200 were reported in 1974), DOE has established programs for oil pollution prevention, assessment of resource damages resulting from spills, and levying of penalties where appropriate. Fish kills reported to DOE approximate 30 per year. Resource damage assessments are conducted for significant kills and appropriate enforcement actions are taken. Special studies underway in this section include a study for the use of Fenitrothion, a potential DDT substitute, the DDT/Tussock Moth Aerial Spray Project, an Ecological Baseline and Monitoring Study for Port Gardner, which is ongoing and designed to assess the effect of wastewater treatment programs

being initiated at the pulp and paper mills in the Everett area, and a study to identify the best forest management practices so that the adverse effects on water quality may be minimized. The forest practices study is oriented to assisting in the implementation of the new Forest Practices Act, a law administered by the Department of Natural Resources. (See pages 78-81.)

Air Quality

The program of air quality and pollution control in the State of Washington is administered at three governmental levels: (1) the state itself (through the Office of Air Programs in DOE); (2) local units of government (through Air Pollution Control Authorities (APCAs)); and (3) the federal government (through the Environmental Protection Agency). It is through DOE that many of the mandates of the Federal Clean Air Act of 1972 are implemented, that all of the state air laws are implemented, controlled or coordinated, that specific direction and coordinative authority is provided to the APCAs, and that all federal funds dealing in air quality maintenance, protection, and enhancement are channeled for both state and local use.

The basic program of statewide air pollution control began in the State of Washington in 1967 with the passage of the Washington Clean Air Act (RCW 70.94), with major amendments coming in 1969, 1970, and 1971. There had been some control prior to that time, particularly in the controls for the cities of Tacoma and Seattle. The stated policy for Washington's air quality as put forth in the act is

> . . .to secure and maintain such levels of air quality as will protect human health and safety and comply with the Federal Clean Air Act and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of its inhabitants, promote the economic and social development of the State and facilitate the enjoyment of the natural attractions of the State."

The Clean Air Act makes it illegal for any person to knowingly cause or permit to be caused air pollution in violation of regulations under the Act. Air pollution is defined as the presence in the outdoor atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as are, or are likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with the enjoyment of life and property. Under the Clean Air Act, air quality regulations can be adopted by the Department of Ecology or a locally established APCA. These regulations implement the Act by delineating the specific requirements which must be met with regard to the emission of air contaminants. Regulations adopted by the Department are intended for use in areas where no local APCA has adopted regulations and can be enforced either by DOE or by a local agency. In all cases, local regulations must be at least as stringent as those adopted by DOE.

At the time of the passage of the Clean Air Act, the air pollution control program was placed under the general administration statewide of the State Air Pollution Control Board and the State Department of Health. However, with the creation of DOE in 1970, all duties and functions relating to air quality control which had been under the jurisdiction of these other two agencies were transferred to DOE.

Essentially, the Washington Clean Air Act and the air pollution control program establish a cooperative effort in terms of both implementation and control between the DOE Office of Air Programs (and, in some cases the Industrial Section in the Office of Comprehensive Programs of DOE) and the local APCAs which were authorized under the 1967 Act. The DOE Office of Air Programs is organized to provide coordinative and technical advice to the local agencies as well as to help in their financing through both state and federal sources and assist them in program planning and implementation. The state office has been directed to set ambient air standards for certain contaminants on a statewide basis. The state office has also been granted the authority to set standards and assume jurisdiction for certain source categories if it is determined that these should be controlled on a uniform statewide basis. At the present time, the state has assumed jurisdiction for kraft pulp mills, aluminum reduction plants, sulfite pulp

mills, and motor vehicle sources. The program for administering, implementing, and enforcing the air regulations in the first three of these four categories is actually handled by the Industrial Section in DOE and not in the Office of Air Programs. (See the discussion on pages 67-68.)

The first of the local agencies to be established was the Puget Sound Air Pollution Control Agency, formed in 1967. By the end of 1968, six agencies had been activated and a control officer hired for each. These six agencies covered 85 percent of the population of the state and 50 percent of the state's geography. The first regulation was adopted in 1968 and by the spring of 1970 all of the six agencies activated at that time had adopted general regulations. In 1971, three new local agencies were activated, two of which were oriented to single counties while the third was a three-county area. With the addition of these, some 93 percent of the population and over 55 percent of the state's geography is now within the jurisdiction of a local Air Pollution Control Authority.

The general regulations adopted by the local agencies contain provisions requiring the registration of sources and the notification of the local agency in the case of any new construction which will have an impact on air quality. The agencies have the authority to deny construction upon finding that the new facility will result in a violation of the standards they have adopted. Other provisions include that acceptable good practices be followed for control of odor and fugitive dust, that limits be set on visible emissions, that open burning be controlled, that emission standards for the sulfur concentration of exhaust gases be set, and that particulate concentration in the exhaust gas be controlled. The staffs of the local agencies range from 3 to 54 people, with a total of 84 in all of the local agencies combined. Staffs include engineers, chemists, administrators, technicians, meteorologists, inspectors and clerical help.

Fourteen of the 15 Washington coastal counties fall entirely within the jurisdiction of three APCAs while the fifteenth county, Wahkiakum, falls within the jurisdiction of the Southwest Air Pollution Control Authority, which also includes the non-coastal counties of Clark, Cowlitz, Lewis and Skamania. The other three APCAs are the Puget Sound Air Pollution Control Agency (King, Kitsap, Pierce, and Snohomish Counties), the Northwest Air Pollution Authority (Whatcom, Skagit, San Juan and Island Counties), and the Olympic Air Pollution Control Authority (Clallam, Grays Harbor, Jefferson, Mason, Pacific and Thurston Counties). Major sources of contaminants in the coastal area which are under control programs are as follows:

Puget Sound APCA:	Steel plants, a copper smelter, flour mills, cement plants, a Ferro-silicon plant, sawmills, pulp and paper mills, grain elevators and veneer dryers.
Northwest APCA:	Oil refineries, pulp and paper mills, sawmills, a cement plant, and a sulfuric acid plant.
Olympic APCA:	Lumber mills, veneer dryers, and sand and gravel companies.

The majority of significant control activities within the local APCA programs are related to stationary sources of pollution which produce contaminants such as particulates, sulfur oxides, fluorides, and hydrocarbons. But another important local program is the control of open burning. The burning of some materials is entirely prohibited. Also, because of air quality standards actually or in danger of being exceeded, some areas have been designated as "no burn" locations where open burning is entirely prohibited. There are other areas and materials, though, where exceptions can be granted by the order of a duly authorized health officer in case burning will stop an infestation. Permits can also be granted for agricultural and commercial open burning when there are no reasonable alternatives available. And finally, in locations which are not designated as "no burn", small fires are permitted on the premises of one- and two-family dwellings for the purpose of burning natural vegetation, wood waste and papers in accordance with procedures of fire control authorities.

With respect to stationary source pollution, all new industries must meet the provisions of the Clean Air Act and its implementing regulations. Compliance schedules were required and established for sources existing at the time of regulation adoption by the state and local authorities. DOE or the local authority issued regulatory orders for incremental regulation and required progress reports to verify that intermediate goals were being met. All existing sources in the coastal areas of Washington appear either to meet the standards or to be under an acceptable compliance program at the present time. In the case of violations of the regulations, DOE or the local authority has enforcement authority encompassing written notices of violations, the assessment of civil penalties, the acceptance of an assurance of discontinuance of any act deemed to violate regulations, and the petitioning of the courts for restraining orders, injunctions, and other appropriate relief. Any decision or order of DOE or a local APCA in air quality cases can be appealed to the Pollution Control Hearings Board by an aggrieved party to the action.

The DOE Office of Air Programs centralizes all major functions of air quality control in the State. In addition to the regulatory functions of standards setting and permit issuance, which they share with the local APCAs where locals exist and which they implement directly in those areas where no local APCA exists or where the APCA is inoperative, the office is also involved in monitoring programs which include data collection and reporting, laboratory analysis, grant management, management of the statewide motor vehicle program, and general program evaluation and planning.

The monitoring program falls under two major sections of the Office of Air Programs called the Air Monitoring Section and the Mobile Source and Data Control Section. One of the most important parts of the program is the Washington State surveillance network, which is based on the establishment of primary air mass stations in major population density areas of the state. These stations monitor air quality contaminants and are complemented by other single or multiple parameter stations operated by a local control agency or operated jointly by DOE and the local agency. The siting of the stations is based on the need for the provision of long-term trend analysis and the best possible informational reference to pending or established state and federal environmental standards.

Coupling the surveillance network with meteorological data, DOE has established an air pollution episode plan. DOE has developed plans to avoid the build-up of high contaminant concentrations even under meteorological conditions such that the contaminants of the area pose a possible danger to public health and safety and with all air contaminant sources operating normally. In the DOE episode avoidance plan, five stages are delineated: forecast, alert, warning, emergency and termination.

Further, air monitoring is coordinated to provide state and local control agencies with pertinent information on the conformity of individual sources to applicable air quality standards. Included under this program is the requirement that the owners and operators of such sources, in addition to DOE and the local control agency, must monitor and keep records of their source contaminants and periodically report the information to DOE. In regard to individual sources, then, DOE's role is overseeing and testing the individual source programs to assure conformity to DOE and local APCA standards.

Another program which falls under the general heading of monitoring is the administration of the Smoke Management Plan jointly managed by DOE and the Department of Natural Resources. The purpose of this program is to regulate the burning of natural vegetation debris resulting from logging operations on lands protected by DNR. Slash burning control under this program is imperative to help protect the major coastal population centers from adverse smoke and particulate conditions. (For further information on this program, see page 81.)

The Office of Air Programs handles laboratory analysis through the operation of three regional laboratories the main function of which is to analyze air pollution samples. A source test team provides analytical services for the central DOE program as well as for local APCAs as time and need allow.

Grant management under the air program is of paramount importance. In the present fiscal year, the Environmental Protection Agency is providing approximately one million dollars to DOE for the operation of the state and local air quality control program. All of the monies are forwarded to the Office of Air Programs which allocates nearly two-thirds of it to the local APCAs to assist in the operation of their programs. The Office of Air Programs is also responsible for the funds which the state itself provides for the local APCAs.

The statewide motor vehicle program in Washington, which has remained under the direct control of DOE, is coupled to the implementation of a transportation control plan and a voluntary vehicle emission testing program. The transportation plan is being developed to help enable the state to meet the vehicle-related air quality standards on schedule. At the present time the carbon monoxide standard is being exceeded in the coastal community of downtown Seattle with occasional eight-hour violations recently noted in the City of Bellevue. A mandatory statewide vehicle emission testing program has been considered as a mechanism for plan implementation and discussions between the state and EPA are continuing.

Recent regulatory enactments by EPA have required the implementation of two new programs falling under the general heading of air quality evaluation and planning: the Air Quality Maintenance Plan (AQMP) program and the Prevention of Significant Deterioration program. Under the AQMP program, the states must not only prepare plans to clean up the air to meet federal standards, but they must also have plans to maintain those standards once they are achieved. AQMPs must be submitted for each area of the state in which a federal air quality standard may be violated within the next ten years. Within the coastal area of Washington, the Everett-Seattle-Tacoma area has been designated an Air Quality Maintenance Area (AQMA) requiring the development of an AQMP. The AQMP must ensure that growth and development within the planning area will be compatible with the maintenance of national air quality standards. The laundry list of implementation techniques to be considered in formulating the plan consists of an equal number of land use and more traditional emission control techniques. Because of the land use orientation of the program, DOE has requested regional councils of government (the Puget Sound Council of Governments in the Seattle area) to serve as coordinators of the AQMA planning program within their areas. The planning program is currently in the first phase of development, which includes data development to help interrelate land use, zoning practices, and air quality.

The most recent air planning program, Prevention of Significant Deterioration, is applicable statewide. Essentially this program places all lands of the state in three classes which will allow or disallow certain industries to develop in the state according to the land classification and the potential for adverse air quality intrusion. All lands are initially delineated as Class II, with the state, federal land managers, and Indian governing bodies given the right to reclassify those lands under their jurisdiction. At the present time, the State of Washington is not actively implementing a reclassification program.

Finally, a third EPA-required planning effort, which was recently completed, is the state Air Quality Implementation Plan, a general program for implementing state and federal air quality standards. The plan has been approved by EPA and is updated annually.

Land Programs

The Office of Land Programs in DOE was also created under a recent reorganization of the Department. Five major programs have been placed in the new office: shoreline and coastal zone planning and management, solid waste and resource recovery, flood insurance, and noise abatement. Obviously, the two most important programs in terms of their immediate impact on Washington's coastal zone are the shoreline management and coastal zone management programs.

The Shoreline Management Act of 1971 has already been examined in detail (pages 29-43). Particular attention was given to the development

of the shorelines planning process, local master program development and adoption, and the appellate process. But little attention was given to the internal operations and permit procedures within DOE. For more detailed discussion, see Chapter V, pages 124-134.

The other major program administered by the Office of Land Programs which is directly related to the Washington coastal zone is adminstration of the federal Coastal Zone Management Act (CZMA) itself. The CZMA was passed by Congress in 1972 and is oriented to facilitating the development of policies, standards, and processes for coastal resource management by the coastal states and territories of the U. S. In order to carry out the broad policy dictates of the federal law, Congress set up a funding program to help the state governments develop and implement a comprehensive management program. Under the 305 planning section of CZMA, the State of Washington has received two grants for the development of the CZM program. These monies have been utilized for the development of coastal area information bases, further development of the SMA program, coordination and analysis of federal governmental agencies and Washington coastal Indian lands and programs, staffing for CZM planning, and development of the present document.

In the developmental stages of the program, DOE staff has worked actively with other state agencies to help identify their authorities, programs, and management responsibilities in the coastal area of Washington. There is a broad interest in the federal CZM program in the state as evidenced by the replies from and meetings with the state agencies. DOE, as the officially designated CZM administering agency in Washington, is taking the lead to help assure the necessary coordination. The preparation of this document is the culmination of the 305 planning stages and will, for the first time, present the state's coastal zone management program for further development, implementation, and refinement.

A third major program found in this office is the solid waste/resource recovery program. With the passage of the Solid Waste Management Act (RCW Chapter 70.95) in 1971 Washington recognized the need to control the state's increasing solid waste flow. The law divides the responsibilities of solid waste management between the state and local governments. The purpose of the solid waste program is four-fold: (1) to assign the primary responsibility for adequate solid waste handling to local government, reserving to the state those functions necessary to assure effective programs throughout the state; (2) to provide for adequate planning for solid waste handling by local government; (3) to provide for adoption and enforcement of basic minimum performance standards for solid waste handling; and (4) to provide technical and financial assistance to local governments in the planning, development, and operation of solid waste handling programs.

DOE has approached these objectives by means of a five-part strategy. First, it was found that there was a need for the establishment of local solid waste management plans. A massive county/regional planning program was undertaken and at the present time 32 of the state's 39 counties have approved and implemented plans. 12 of the counties with approved plans are in the state's coastal zone. In conjunction with this planning effort DOE began a statewide inventory of disposal sites in 1972.

A secondary major development in the solid waste program occurred in late 1972 with the adoption of "Regulations Relating to Minimum Functional Standards for Solid Waste Handling." In these regulations DOE required that county and regional health departments adopt the state standards or standards of their own at least as stringent. The adoption of these regulations was a milestone in development of the local/state/federal solid waste management program. Before that time, the program was basically an effort in planning, education and technical assistance without effective tools for enforcement. With the adoption of the 1972 standards the basic framework for a strong program was in place in Washington. Within this regulatory program, DOE initiated a permit system under which more than 90 proposed or operational systems are certified. Enforcement is the direct responsibility, though, of the jurisdictional health departments. Other laws, such as the water

pollution control laws and the Clean Air Act, are utilized in the enforcement of this program, also.

A third problem area in solid waste management is the control of hazardous and industrial wastes. An initial survey of the extent of the hazardous and industrial waste problem has been completed in a study of hazardous waste recovery and disposal at over 50 sites, seven in considerable depth. Legislation that is still pending was introduced in 1975 to provide DOE with the administrative and regulatory authority to handle this complex and potentially dangerous problem.

The fourth program responsibility of the Office of Land Programs with respect to solid waste management is the implementation of local/regional solid waste systems by providing support through two mechanisms: Washington Future (Referendum 26) funding, and technical assistance and training to local solid waste managers and operators. The Referendum 26 funding program has been broadened (as of March 1, 1975) to include grants for dump closures. In addition to the 50% state/local grants for capital equipment and construction of facilities previously available, monies can now also be allocated on a 50-50 match for such things as the costs of signing, gating, fencing, and covering.

The fifth major area of solid waste concern is the need for recovering materials and energy from the solid waste stream. Legislation concerning resource recovery programs was introduced in the last legislative session but was not acted upon. Substantial legislative action is anticipated in 1976 or 1977. In addition to the legislative efforts, technical and financial assistance has been made available to local governments for use in their efforts to establish recovery facilities. Funds for resource recovery projects are available through Referendum 26 and at the present time $5 million has been expended or allocated to the counties and cities of Washington, with $741,000 directly related to resource recovery projects.

Three other programs which fall under the Office of Land Management must be mentioned since they have direct impact in the coastal zone. The first relates to data studies and surveys coordinated or actually completed by this office. Those data programs having a direct impact on the coastal zone include the Baseline Study Program which was established by the Legislature in RCW 43.21A.405, which directs DOE to establish ". . .a continuing, comprehensive program of systematic baseline studies for the waters of the state. . ." that aid in the maintenance of water quality standards as well as address the specific problems associated with oil contamination of the marine ecosystem. The basic goals of the "Baseline Program" were to determine the economic value of natural resources, human structures, and human activities that would be damaged by an oil spill, to identify specific areas of marine waters of Washington which exhibit a high risk of being damaged by an oil spill or oil pollution, and to suggest criteria for the siting of oil facilities and oil transport activities. This baseline effort has been underway for one and one-half years in the northern Puget Sound area. In 1976, the study is expected to be extended into the Strait of Juan de Fuca. Other major data studies are the Grays Harbor Dredging Impact Study, being completed by the Corps of Engineers and coordinated with DOE; the Endangered Species Survey, undertaken by the Department of Game on a statewide basis but assisted by DOE to extend the study into the coastal zone; and the Wetlands Study Program begun in Washington by DOE through a contracted study and coordinated with the National Wetlands Inventory, now in the planning stages, by the U.S. Fish and Wildlife Service. More details concerning these and other data management programs coordinated or undertaken by offices in DOE and other state agencies can be found in Appendix E.

The second program includes portions of an overall flood plain management program. Those portions, which are statutory requirements, include a very minimal attention toward maintenance of flood control works pursuant to Ch. 86.26 RCW, and the administration of the State Flood Coastal Zone permit program pursuant to Ch. 86.16 RCW. Since the permit program can only be administered within the riverine flood plains of established flood control zones, it only applies to the fourteen major streams in the coastal zone. Zone permits are required within the zones for any works, structures and improvements which adversely influence the

regimen of the stream or might adversely affect the security of life, health and property against damage by flood waters. Current Department of Ecology policy is to establish new zones only at the request of local governments. The Department of Ecology has been designated by the Governor to coordinate the National Flood Insurance Program (NFIP) (PL 93-234) in Washington. Flood plain management regulations in the coastal and all riverine flood plains of the coastal zone counties are the responsibility of local governments under the National Flood Insurance Program standards and criteria as set forth in 24 CFR 1910.3. Failure to meet those requirements and purchase flood insurance might result in the loss of federal aid to communities and individuals associated with construction or acquisition of building in the special flood hazard areas.

The third and final program deserving attention is the noise abatement program in the state. In 1974 the State Legislature passed the Noise Control Act (RCW Chapter 70.107) in order to establish maximum noise levels permissible in identified environments and thereby to provide use standards relating to the reception of noise within such environments. Amended regulations were adopted for implementation of this program on September 1, 1975, and limited program experience has been reported to date. It is important to note that the environmental designations and concomitant noise level designations for sources and receptors are stringent, and the new law provides enforcement provisions through the use of civil penalties. Implementation of the law, including enforcement, is designed to be carried out by local governments, with DOE remaining in a coordinative role for planning, program analysis, regulation modification, and review and approved of local ordinances.

Comprehensive Programs

The fourth major office in DOE operations is the Office of Comprehensive Programs. Although the main emphasis of this office is fiscal control, personnel and general internal administration, two sections which have an immediate and important effect on Washington's coastal zone area are housed here. They are the Environmental Review Section and the Industrial Section.

Within the Environmental Review Section, there are two main activities which have a direct impact in the coastal zone. The first is this section's involvement with the State Environmental Policy Act. Work under SEPA involves providing assistance to other sections in the Department in the writing of environmental assessments and impact statements, development and distribution of materials concerning EISs and SEPA, and special coordinative work on impact statements relating to highway projects. In addition, a major EIS function concerns the review of both NEPA and SEPA EISs for the Department and providing to the state as a whole specific assistance on major environmental questions where EISs are involved.

This section has recently taken the lead responsibility given to DOE by the Legislature in assisting the cities and counties of the state in the implementation of SEPA guidelines and regulations presently being developed and adopted by the Council on Environmental Policy (see pages 45-46). This latter function should greatly assist the localities in Washington's coastal area in better applying the mandates of SEPA in their jurisdictions.

Finally, when DOE receives the powers and duties now assigned to the Council on Environmental Policy on July 1, 1976, the overall coordinative and rule-making role of the Environmental Review Section with respect to environmental policy in the state will be greatly expanded. SEPA may well be the cornerstone for future environmental planning and regulatory coordination and integration, and if this occurs, this section will play a key role in providing the direction and implementation which will be involved. Since SEPA crosscuts all other environmental regulatory and planning programs in the state and particularly in the coastal zone, this section's role in coastal area planning and control will be significant.

The Industrial Section, which has been mentioned in the previous discussions concerning both air quality programs and water quality programs, is unique since it crosscuts other functional areas of responsibility within the Department. It is chiefly responsible for administering, implementing, and enforcing air regulations, water quality regulations, and solid waste regulations on a statewide basis pertaining to the pulp and paper industry,

aluminum industry, and petrochemical industry (water regulations only). It is also responsible for administering and implementing the State Industrial Tax Credit Program, the Federal Tax Credit Program, and the Local Pollution Bonding Program on a statewide basis for DOE.

Thirty-six specific industries fall under the control of the Industrial Section and for each industry the section develops and issues regulatory orders and waste discharge permits, reviews engineering reports, develops monitoring schedules, inspects pollution control facilities, and instigates enforcement action where necessary. These specific industries have been taken from each of the other programmatic areas in DOE and placed in this section for overall coordination because of the industries' potentially massive and complex impact on the environment. This program has been quite successful in providing a control mechanism for these major potential environmental pollutant sources in the state and has been instrumental in particular in providing a coordinated protective mechanism for the coastal areas.

Field Operations

Although the responsibility for the whole litter control program is lodged in the Office of Field Operations, the chief duties of that office relate to the operation of four DOE field offices, located in southwestern, northwestern, central, and eastern Washington. Field operations and regional office activities are coordinated out of the central headquarters office. Within the central office, the main duties which directly affect the Washington coastal area include initial ECPA coordination and implementation, the coordination and state operation of the Army Corps of Engineers permit review, both Section 10 and Section 404 responsibilities, and a major input into the review and coordination of substantial development permits.

The main duties and chief impact of the Field Operations Office lies in the individual regional programs. Each of the regional offices is divided into two major sections, resource management and environmental quality. The resource management sections handle the daily operations dealing with water resources (e.g., water rights permits), shoreline management (e.g., local permit review), flood control coordination, and coastal zone management (in the southwestern and northwestern offices only). The environmental quality sections deal with the application of the air, water, and solid waste programs delineated in the previous subsections of this report. Most major permit issuing and review activities for DOE programs are initiated and carried through at the regional level, with the exception of the shoreline management permitting process, in which review and coordination occur in conjunction with the program staff for shorelines management located in the Office of Land Programs. Legal Counsel in the review and appeal process is provided by the State Attorney General.

The regional operations in the southwest and northwest regional offices most directly impact the Washington coastal zone areas as they encompass all of the state's 15 coastal counties. Coastal zone management positions for the state have been assigned to these offices and at the present time the coastal zone coordinative activities are being carried out by the general regional staffs within each office, which are set up to operate not according to program but rather for effective daily contact with the public and industries within the region for all DOE programs.

The Army Corps of Engineers Section 10 and FWPCA Section 404 permit activities (see page 27) are coordinated for the state in the Operations Management and Liaison Division (headquarters) of Field Operations. After an application for either a Section 10 or a Section 404 permit is received by the Army Corps office, the Corps distributes the permits for review. In order to provide a coordinated response from the State of Washington, all permits are forwarded first to DOE, which in turn coordinates the state response to the Corps. These permits are held by DOE until all problems are resolved or until a favorable statewide response can be returned to the Corps. If the Shoreline Management Act comes into play, the Department will not clear the Corps permit until 45 days after final approval of the substantial development permit.

The role of Field Operations in the implementation of the Environmental Coordination Procedures Act of 1973 is outlined in the next section.

It should be noted, however, that initial contact for ECPA implementation by an applicant usually occurs either with a county ECPA office which is in direct contact with the DOE regional office or in the regional office itself. Consequently, Field Operations plays an important initial role in the ECPA process as well as an implementation role in following through on minor ECPA master permits, as will be described.

The litter control activity of this office is basically oriented to conducting a permanent and continuous program to control and remove litter from the state. The legislation establishing this program is the Model Litter Control Act. This program involves public awareness of the litter problem and advising other governmental entities concerning techniques to improve litter prevention, collection, and disposal. Ongoing activities include clean-up programs, including special programs oriented to Washington's coastal area beaches and direct contact programs with businesses, the public, and other governmental units, particularly local governments.

Other DOE Activities

Two other program activities which crosscut various offices in DOE and which have been briefly mentioned in the context of those offices but not fully developed include DOE's ECPA role and the Department's involvement in the Washington Future program.

The Environmental Coordination Procedures Act of 1973, which became effective on January 1, 1974, has been described in detail on pages 47-50. The Department of Ecology has been designated as the state agency to coordinate the implementation of the Act, including the establishment of operating rules and regulations, the development of master permit application forms, and the coordination of ongoing activities occurring in the program, including the actual operation of the master application process.

Within DOE ECPA has surfaced in two ways. First, under the responsibility outlined above, DOE has two offices in which ECPA master permits are processed. Field Operations and the Environmental Review section of Comprehensive Programs. As mentioned previously, the master application procedure is initiated at the option of the applicant. However, the initial contact of the applicant may be one of three offices: the county's master permit office in the county where the application originated, the appropriate DOE regional office, or the DOE central headquarters office. Regardless of the original point of contact, that master application is forwarded to the Field Operations staff in central headquarters for further processing. At that point, a decision is made as to whether or not the proposed project that is the subject of the master application is likely to be environmentally significant and consequently require the preparation of an environmental impact statement under SEPA. This determination is made jointly by the Field Operations staff and Environmental Review Section. If it is decided that the project is environmentally significant, it is then considered a *major* ECPA project and is transferred to the Environmental Review Section for further processing through completion or termination. If it is not, it is considered a *minor* ECPA project and kept in the Field Operations Office and all normal ECPA processing procedures are carried out in Field Operations "master application center."

From the effective date of ECPA (January 1, 1974) to July 1 of 1975, there have been a total of 81 master applications, 68 of which were considered minor ECPA applications and 13 of which were transferred to the Environmental Review Section as major proposals. Three of the 13 major ECPA projects have been proposed in the state's coastal zone.

The second way in which ECPA surfaces in DOE is through an internal procedure recently completed and just now being implemented in the Department. It has been identified as the ECPA permit simplification process, or more succinctly, the DOE mini-ECPA. The major purpose of this program is to provide to an applicant who has two or more DOE-administered permits a single application form, a combined public notice and hearing, standardized timing and procedures, a single contact point for questions when they arise, a better knowledge of when a decision will be made, a single authorization on the application, and a guarantee that all requirements have been met. This program has just been initiated as of November, 1975, and there is no experience of its

operation to date. It has not been assigned to any existing office for implementation, although the majority of coordinative activity will occur in conjunction with the already established ECPA procedures utilizing as the basic arena for operations the DOE regional offices.

The Washington Future program (see pages 89-90) involves DOE through the Referendums 26 and 27 funds. DOE has administrative responsibility over each of these with Referendum 26 oriented to waste disposal projects and Referendum 27 to water supply.

Referendum 26 authorized bonds totaling $225 million to provide for the planning, acquisition, construction, and improvement of public waste disposal facilities. Waste water treatment, agricultural pollution, lake rehabilitation, and solid waste management projects are funded through this program. It also provides financial and technical assistance to state and local entities to help eliminate the problems of solid waste disposal.

Referendum 27 authorized $75 million in bonds to provide for the planning, acquisition, construction, and improvement of water supply facilities. Of the $75 million, $25 million is directed toward agricultural water supply projects and $50 million is earmarked for municipal and industrial supply projects. The municipal and industrial project funding is administered jointly by DOE and the Department of Social and Health Services. DOE's duty is essentially to maintain the fiscal administration.

Department of Natural Resources

The Department of Natural Resources (DNR) is the State of Washington's major proprietor and manager of marine and upland property. DNR has the management responsibility under state law for 1,300 miles of tidelands, 6,700 acres of constitutionally established harbor areas, and 2,000 square miles of marine beds of navigable waters. Of the more than 1.1 million acres of DNR-managed uplands within the coastal zone, nearly 80 percent is classified as productive timber land.

In both cases — marine and upland — the properties are managed as a public trust. In the case of uplands, there are some 10 classifications of state ownership ranging from schools to counties. Uplands are managed under a multiple use policy but with an emphasis on providing the maximum revenues possible for the trust property ownership. Revenues derived from timber sales and leases accrue to those ownerships after deduction of a 25 percent DNR management fee.

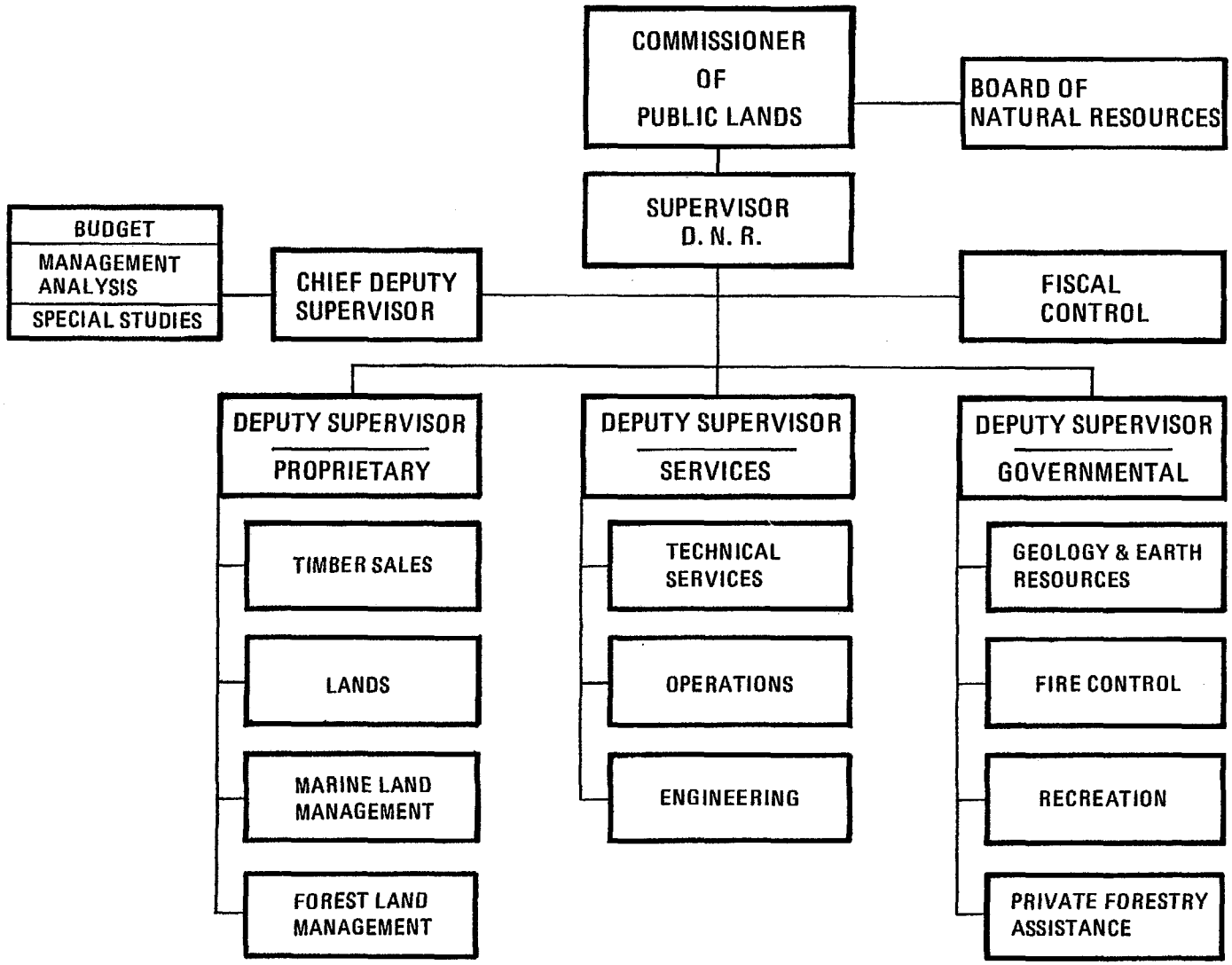
Marine lands are managed under a somewhat different concept. They are under general state ownership and are considered a public trust to be managed for the maximum public benefit. Revenue is not necessarily the prime management goal.

Besides these two proprietary functions, the Department is also involved in certain regulatory activities including administering such state laws as the Forest Practices Act, the Surface Mine Land Reclamation Act, and the Oil and Gas Conservation Act; the control, prevention and suppression of fires in forest areas; and the operation of a log collection and patrol program in coastal waters. In addition, DNR provides a number of services as support for its own internal operations, as assistance to other local, state, and federal agencies, and as information and research background for private industry and individuals. Examples of these services include resource inventories (i.e., cartographics, remote sensing maps, sustainable harvest calculations, geology and mineral data, etc.), road engineering and design, and providing seedlings for reforestation of both public and private lands. Finally, the Department operates and maintains a number of public recreational facilities including primitive campgrounds, all-terrain-vehicle trails, tideland beach sites, and natural preserves.

All of these responsibilities are carried out through an administrative structure headed by an elective official, the Commissioner of Public Lands. The Department itself was first organized in 1957 when the Legislature acted to combine nine different agencies and divisions of state government into one operating unit in an effort to bring about more efficient and cohesive management of the state's natural resources. While the Commissioner is designated as the administrator of the Department, overall policy is established by the Board of Natural Resources. This Board is made up of five members: the Governor, the Superintendent of

DEPARTMENT OF NATURAL RESOURCES

Basic Organization



Public Instruction, the Commissioner of Public Lands, the Dean of the College of Forestry of the University of Washington, and the Director of the Institute of Agricultural Sciences of Washington State University. The Board also constitutes the state Commission on Harbor Lines and the Board of Appraisers for state properties.

The legislative mandate for the Department is contained within several sections of state law the two most important of which are RCW Chapter 43.30, which creates the Department, and RCW Titlé 79, the Public Lands Act, which includes sections on the multiple use concept; tidelands, shorelands, and harbor areas; other specialized lands; and sales and leases of state properties.

Administratively, the Department has recently been reorganized into three broad categories of management functions, each headed by a deputy supervisor. The three are: Proprietary, Governmental, and Services. Divisions within each of these categories include:

Proprietary
- Marine Land Management
- Forest Land Management
- Lands (other than marine or forest)
- Timber Sales

Governmental
- Recreation
- Fire Control
- Geology and Earth Resources
- Private Forestry Assistance

Services
- Engineering
- Operations
- Technical Services

Policy making and administrative functions of DNR are generally located in the Department's several offices in the state capital or immediate vicinity. However, the Department also has established seven area districts (five relevant to the coastal zone) which provide much of its operational capability. Field employees and crews are considered generalists and may be called upon to fight fires, enforce laws and regulations on state lands, maintain facilities such as recreation sites, and investigate improper or illegal uses of state lands.

In assessing DNR's influence within and upon Washington State's coastal zone management network it is obvious that certain inherent conflicts and problems exist. For example, while the Department holds management responsibility for hundreds of miles of state-owned tidelands, it frequently has little authority or jurisdiction over the abutting uplands. This situation requires a great deal of formal and informal cooperation with private property owners and other governmental agencies including cities and port districts in harbor areas; federal agencies such as the Navy, Army Corps of Engineers, and Bureau of Indian Affairs; counties, particularly with respect to SMA; and numerous state departments including the Departments of Ecology, Game, Fisheries, and Social and Health Services. Another example is the DNR practice related to management of its uplands, more than a third of which are within the coastal zone. The Department must, according to its legislative mandate, manage these lands to provide the maximum amount of revenues possible for the trust owners. Yet, at the same time, the Department is pledged to practice and enforce enlightened environmental and conservation techniques.

Yet notwithstanding the complexity of these and other problems, the Department successfully carries out a wide variety of important management functions within the coastal zone, especially with respect to marine lands and forest lands.

Marine Lands

At the time of the adoption of the State Constitution in 1889 and upon entering statehood, Washington, following traditional land use precedents dating back to the founding of the country, asserted its ownership in the beds and shores of all navigable waters up to and including the line of ordinary high water. In the coastal zone this ownership included all non-federal ocean tidelands from the mouth of the Columbia River north to the Strait of Juan de Fuca and the inward tidelands encompassing Puget Sound.

Following statehood, all of the tidelands were publicly owned. However, since the new state's constitution contained no provision allowing upland property owners access rights to saltwater for shipping, fish and shellfish propagation or other

water-oriented industry, the Legislature as a remedy for the situation authorized the sale of public tidelands to private individuals. In the ensuing years, approximately 60 percent of all state-owned beaches were sold to private owners. That practice was restricted in 1968 by policy and discontinued in 1971 by law. DNR continues to lease some tidelands for purposes of aquaculture and for various marine-related uses but has designated nearly 75 percent of its remaining beaches for public use.

Today approximately 1,160 miles of saltwater beach remain in state ownership. Some 400 miles of these tidelands, including all state-owned Pacific coastal beaches, are managed by the Parks and Recreation Commission or the Departments of Game and Fisheries. The remainder are managed by DNR.

The principal characteristic of the DNR management policy is to emphasize multiple use. Every effort is made to avoid permanent single purpose uses on lands that have a multiple use potential. In most cases, the policy requires identification of the land's primary use and, in addition, compatible secondary uses.

Marine Land Management. The Department has published a statement of policies and guidelines which constitutes a land management plan for marine lands. The plan applies to all DNR-managed tidelands, harbor areas and beds of navigable waters. It does not, however, apply to other government agencies managing or administering programs on marine lands. The plan is broken down into six multiple use categories. (1) Navigation and Commerce; (2) Public Use; (3) Food, Mineral and Chemical Production; (4) Protection of the Natural Marine Environment; (5) Uses by Abutting Upland Owners; and (6) Revenue Production.

Leasing. As mentioned previously, the state had authority to sell tidelands and shorelands to private individuals and firms prior to 1971. However, in the 1971 legislative session that authority was rescinded and the state now is prohibited from selling aquatic lands except to public agencies. However, tidelands and shorelands may be leased for general purpose for terms of up to 55 years. DNR currently has more than 1,400 leases on state-owned harbor areas, beds of navigable waters, tidelands and shorelands. These leases amounted to nearly $1 million in revenues to the state in 1974.

Guidelines have been established for several categories of leases including those for first class tide and shorelands (generally the beds and shores of navigable waters lying within or in front of cities), and second class tide and shorelands and beds of navigable waters (outside of and more than two miles from the corporate limits of any city or town). DNR administers harbor leases which provide for the leasing of the right to build and maintain wharves, docks, and other structures on harbor areas for the convenience of navigation and commerce. (Harbor boundaries are defined by the State Harbor Line Commission.) Lease terms are limited to not more than 30 years and rental rates are based on a percentage of the full and true value of the harbor area. If the harbor area is within a port district, the application for lease must be referred to the port commissioner for review.

Tidelands Marking. DNR also has embarked on an extensive program of marking of state-owned public beaches. In many cases this program has met with resistance from abutting upland private property owners. Upland access constitutes a continuing problem hindering full public utilization of saltwater beaches available for public use. Of DNR's 425 marine beaches allocated for recreational purposes, nearly all are accessible only by boat. The Department is marking many of those areas so that they can at least be recognized from the seaward side and also to discourage trespassing on neighboring private property. The average cost of marking a beach is $300.

Recreation. The DNR Recreation Division has authority to acquire public access routes to managed tidelands. According to the division's recreation plan priority will be given to acquiring access from mainland tideland sites to public road systems. Where tideland recreation sites exist on islands without a central or public road system, no upland access will be attempted. The plan calls for the following uses either alone or in combination as desirable for public beach recreation: (1) beach walking and beach-combing; (2) camping

and picnicking; (3) boat launching; (4) boat destination; and (5) interpretive areas.

DNR works on a cooperative basis with the State Parks and Recreation Commission in the development of upland parks adjacent to tideland areas. In addition to the ocean beaches which are 100 percent withdrawals in favor of the Commission, there are five state parks on Puget Sound. In each case the tidelands management has been turned over to the Parks and Recreation Commission by DNR. If revenues are derived from the park operation then an appropriate lease agreement is worked out.

Aquaculture. In keeping with a key marine land use objective, increasing the production of food, minerals and chemicals, DNR carries on active programs supporting various aquaculture activities. Beds of navigable waters below the extreme low tide and along second class tidelands may be leased for purposes of planting and cultivating oysters, clams or other edible shellfish. These leases are not to exceed ten years. Where such lands are used for cultivation of oysters, the leased parcels may not be larger than forty acres. All lease applications are reviewed by the Department of Fisheries to ensure protection and adequate seeding of existing oyster beds.

Several research and study projects are also being undertaken by the Department in the field of aquaculture. An economic analysis and field and laboratory research aimed at the eventual commercial harvest of seaweed has been underway in Puget Sound for several years. The Department also is currently investigating methods for increasing the amount of space available for growing shellfish, both by rehabilitating existing beach areas and by growing shellfish on structures suspended in deeper waters.

Other Marine Land Responsibilities. There are several other DNR responsibilities and activities related to marine lands.

DNR is responsible for the leasing of bed lands for small boat moorage buoys adjacent to tidelands residential property. This program has run into difficulty primarily because of the complexity of the permit system for owners of small boats. DNR presently is attempting to bring together the regulatory agencies involved – Army Corps of Engineers (Section 10 permits) and U.S. Coast Guard (buoy lighting and placement) – and the interested user groups – for example, the Tugboat Association and community clubs – in an effort to develop a set of acceptable standards for installation of moorages. Once standards are agreed upon, DNR will obtain master permits for sections of state-owned shoreland involving several upland property owners.

Dredging permits must be obtained from DNR for the removal of rock, gravel, sand and silt from state-owned beds of navigable waters, tidelands and shorelands. A royalty fee is charged in all cases except those involving public agencies or where the project involves a public contract for channel or harbor improvements.

Easements for rights of way for electric power transmission lines, telephone lines, pipelines, etc., upon, over and across state-owned aquatic lands are granted upon application to and approval by DNR.

A review of all state-owned tideland and harbor area occupancy has been undertaken by the Department. Unauthorized uses such as docks, houseboats, or other private structures are being brought under lease or discontinued.

Two natural area preserves are currently managed by DNR and several more are under study. One is located on the Sand and Goose Islands of Grays Harbor, a major nesting area for a colony of caspian terns. The other was the result of a cooperative effort on the part of nine public and private agencies to have portions of Protection Island in the Strait of Juan de Fuca declared a natural preserve. This island is the principal Pacific Northwest nesting site for the rhinoceros auklet, a small sea bird. The Natural Areas Advisory Committee acts as an advisor to DNR in the selection and management of natural preserves. The program is administered by the Department's Recreation Division. A major problem to date has been the lack of earmarked funds for either acquisition or management of such conservation areas.

DNR administers the Log Control Act and licenses a number of log patrolmen (private contractors) who patrol coastal waters collecting

stray logs. Most logs are traced through brands and are recovered and returned to owners if possible. Otherwise, stray logs, both branded and non-branded, are sold at auction by the Department. The Legislature also recently authorized the collection of non-merchandisable logs and wood debris as an aid to navigation and for aesthetic purposes.

The Department, through its Division of Geology and Earth Resources, is cooperating with a number of coastal zone counties in preparation of maps and data relating to potential geologic hazards such as landslides along bluffs overlooking beaches, slope stability, solid waste disposal site suitability, settling of lands and location of construction materials.

The Department publishes a number of public documents relating to marine lands and maintains a resource inventory utilizing maps, aerial photography and remote sensing data. Key documents produced by the Marine Lands Management Division include the Washington Marine Atlas, brochures on public beaches including maps and rules and regulations, and various plans such as the land use allocation plan for marine lands and the river management policy plan.

A Marine Resource Advisory Committee, composed of representatives from a number of agencies, has been established to advise the Commissioner of Public Lands and the Department on matters of particular complexity involving management of marine lands. Subjects addressed by the committee have included the marine resource allocation plan, deep water disposal sites, oil tanker lay-up moorage in Budd Inlet, Columbia River maintenance dredge disposal plan, sewer outfalls in Totten and Eld Inlets, and general problems of buoys and floats. Membership on the committee includes the Departments of Ecology, Fisheries, and Game, the Washington Public Ports Association, the Washington State Association of Counties, the Office of Program Planning and Fiscal Management, the Office of Community Development, the Oceanographic Commission of Washington, the Parks and Recreation Commission, the University of Washington, the Army Corps of Engineers, the Pacific Northwest River Basins Commission, and the U.S. Coast Guard.

DNR is working with the Legislature in reviewing the 225 state laws pertaining to aquatic land use and management. The Legislature is considering updating and redrafting the laws to bring them more in line with present policies and practices.

The Commissioner of Public Lands or his designated representative sits on a number of public agency committees and advisory groups. Two of the most important in their relationship to the coastal zone are the Interagency Committee for Outdoor Recreation and the Thermal Power Plant Site Evaluation Council. In addition, while DNR has little operational involvement with the Shoreline Management Act (aside from holding more substantial development permits than any other state agency), the Commissioner or his representative does sit on the Shorelines Hearings Board and participates in all appeal decisions.

Marine Land Exceptions. Besides the state-owned tidelands which were sold outright or withdrawn for other public uses, certain other tidelands and shorelands within the coastal zone are exempt from DNR management. These are primarily marine lands owned by the federal government or lands associated with Indian reservations.

Lands used for defense purposes such as naval bases, missile sites, army installations, military hospitals and similar facilities preempt state management of abutting tidelands. However, the exact limits of where state ownership ends and federal ownership begins is unclear in some cases. The use of state waters by U.S. naval vessels was mandated at statehood under the right of "navigational servitude" and is not questioned by state authorities. However, the definition of what is a "defense" use of federal lands has been questioned. For example, is a military housing installation considered a defense use thus closing adjacent tidelands to public access? In this regard, DNR has been discussing possible land exchanges with the Navy. These land swaps would involve, for example, trades of federal marine lands with good public or multiple use potential for state lands adjacent to naval installations.

Ownership of marine lands adjacent to Indian reservations depends to a great extent upon interpretation of individual treaties between the U.S. and respective tribes. Both federal and Indian authorities apparently agree that state ownership of marine lands does, in fact, exist at some point off Indian reservations. But, again, the exact ownership boundaries are unclear or in dispute. As a matter of actual practice DNR tends to work cooperatively on an informal basis with federal and Indian representatives and up to this point has not pushed the question.

Forest Lands

There are some 11 million acres of state and private forest land in the State of Washington which annually generate more than $1 billion in total income and provide through harvesting and processing of wood products some 65,000 man-years of direct employment. DNR has a direct involvement in a number of regulatory activities related to all forest lands as well as management authority for three million acres of uplands. More than one third (1.1 million acres) of these lands are contained within the coastal zone. Most of these acreages (more than 80 percent) are highly productive forest lands situated within the Olympic Peninsula or along the western slope of the Cascade mountain range. Forest land management is a very important part of the state's coastal zone management program, not only because of its economic and general environmental implications, but also because the pollution potential of forest management practices with respect to Washington's marine water and coastline is staggering. Extreme care is an absolute necessity and the matter will be treated in some detail here.

The Department's management functions for state forest lands include development of logging plans (which cover roads, stream protection, fire prevention methods, etc.) sale of timber, replanting following logging operations, and maintenance (thinning, fertilization, etc.) during timber growth periods. Other DNR activities which involve all forest lands within the coastal zone (with the exception of those federally owned) include administration of the state's new Forest Practices Act (RCW Chapter 76.09); administration of forest protection relating to fire control and insect and disease control (RCW Chapters 76.06 and 76.04, respectively); acquisition of property for reforestation purposes (RCW Chapter 76.12); providing resource inventory data and marketing analysis including sustained yield projections for both state and other public and private forest land owners; providing special forestry assistance to the 46,000 small (less than 500 acres) private woodlot owners; providing design and engineering for roads within state-owned forest lands; and operating recreation facilities including primitive campgrounds and trails.

Timber Sales. The sale of timber from state lands constitutes the Department's largest income-producing activity. DNR itself owns little of the forest uplands but, instead, manages these properties in trust for a number of other owners, which include state common schools, counties, the University of Washington, Washington State University, the State Capitol Committee, and the normal school trust. Revenues go to the owners with DNR retaining 25 percent for management.

Timber sales are planned on the basis of providing a statewide sustained yield harvest of approximately 774 million board feet per year. These calculations are worked out by the Department's Timber Sales, Forest Land Management, and Technical Services Division. Factors which go into the calculations include the age of the timber growth (older growths usually are cut first); characteristics of soil and topographic conditions, accessibility, and market conditions.

The timber sales process follows the following pattern:

1. General area logging plans are prepared and kept on file.
2. Specific action plans are prepared for all sales scheduled within a given fiscal year.
3. Action plans are reviewed by several agencies.
4. Final approval of plans is given.
5. Sales are held at public auctions.
6. Timber purchase contracts are let.

7. Logging is completed under DNR supervision.

8. DNR reenters land to proceed with reforestation.

While it is the goal of the Department to develop logging plans for all state forest lands, in actual practice this has not been accomplished. However, no timber is sold from any state tract unless a logging plan has been completed for that tract. Foresters working in area offices develop general logging plans in cooperation with the Department's Engineering Division for state tracts. Taken into consideration are the need and routing of roads, soils conditions, the presence of streams or lakes, slope and other characteristics of the ground which lead to a determination of the type of logging system to be used. Some areas may be logged with crawler tractors, some with articulated rubber tire or track skidders, and others by skyline, balloon or helicopter techniques.

Typical of the problems encountered in the planning operation are accessibility to the logging site (often either DNR or the logging contractor or both must acquire access by easement or permit through adjacent private property in order to get to the site); soil types (vulnerability to erosion, slides, etc.); steepness of slopes (logging trucks cannot operate on grades of more than 15 to 18 percent); and number of stream or creek crossings.

Road engineering and design specifications are done in Olympia by the Engineering Department. Again, utilizing the multiple-use concept, road design standards are based on several priorities including timber haul, fire control, future recreation use and eventual access for reforestation. Timber purchase contractors may sometimes do the actual design following specifications prepared by the Engineering Division. In virtually all cases, actual road construction is done by the contractor.

Once area foresters have determined the amount of sales necessary within their districts to satisfy sustained yield projections for a given fiscal year, they then prepare an action plan for each sale. Included in the plan is determination of sale boundaries, any necessary engineering, a check timber cruise, calculation of the cruise, and appraisal of value. The plans are usually reviewed by DNR in Olympia in March with sales to begin in July of each fiscal year. Copies of all action plans are also reviewed by the Departments of Fisheries, Game, and Ecology and by the involved counties. All timber sales are duly advertised prior to public auction. The Department publishes a monthly pamphlet listing all auction sales for that month.

In terms of its effect on the coastal zone management network, the methods by which DNR regulates logging activities on its managed lands and ensures sound environmental and conservation practices are of critical importance. These methods, which apply to all contract logging operations, include the granting of permits and other approvals, environmental impact assessments, and meeting the requirements of DNR's Resource Management Operating Specifications.

The timber purchaser is required to apply for all necessary permits with the exception in some cases of hydraulic permits. In the case of forest practice permits (see below), DNR works with the purchaser in filling out required forms but permits are obtained in the purchaser's name. Permanent easements and other approvals which would have an effect on the property after logging operations have been completed are taken out in the name of DNR as the trust manager. Logging is not considered a substantial development under SMA. However, road construction of more than 500 feet in length does fall under the provisions of SMA and permits are required and obtained in the name of DNR. The Department has entered into a formal interagency agreement with the Departments of Fisheries and Game which spells out operating procedures related to hydraulic permits. After jointly reviewing proposed logging action plans for the ensuing fiscal year, the Fisheries and Game departments indicate to DNR which projects (usually those involving major work in stream beds) will require individual permits. Otherwise, logging activity is carried out according to specifications which are part of the interagency agreement and project-by-project permits are not necessary.

Area foresters prepare an environmental matrix for every sale. If a significant impact appears to be

a strong possibility, then an environmental study team is sent out from Olympia to prepare a report for review by the DNR Supervisor. A full environmental impact statement under SEPA has not yet been prepared for any timber sale. However, on several occasions departmental "environmental analysis" reports have been made which follow the same format as an EIS and are public documents, but no public hearings are required.

The Department has published specifications for contractors and others operating on all state lands. Among the most important policies enunciated are: (1) "DNR is dedicated to a total effort to manage natural resources under its jurisdiction for maximum economic returns obtainable, consistent with protection of soils, air, fisheries, wildlife, and public use of water"; and (2) "[i] t is the policy of the department to reasonably protect all surface resources subject to disruption through authorized operations on state land and to rehabilitate or re-establish on a continuing basis the vegetative cover, soil suitability, and water condition appropriate to intended subsequent use of the area." The standards outline acceptable practices related to soils (chemical disposal, sloping, revegetation, etc.), water (compliance with state water quality regulations, construction affecting streams and stream quality, culvert installation in anadromous fish-use waters, the falling of trees into or across streams, protection of domestic watersheds, etc.), air (compliance with the DNR smoke management plan, fire permits, etc.), and aesthetics (screening of roads, posting of signs and billboards, control of litter, cables, worn-out equipment, etc.).

Forest Management. Two important activities – immediate reforestation and intensive forest stand management – have made it possible for DNR to maintain its rate of sustained yield harvest. Area crews under the direction of the Forest Land Management Division move in as soon as possible after logging operations have been completed to begin the replanting process. Usually the logging contractor's final responsibility is to dispose of slash. Often a key part of site preparation is the application of herbicides and pesticides. (Annual timber losses from disease and insects are much greater than from fire.) These applications are coordinated with the State Department of Agriculture, which (under the Pesticide Control Act) approves the products to be applied, with the Departments of Fisheries and Game, which monitor potential detriments to fish and wildlife, and with DOE if streams or bodies of water are involved.

The Forest Land Management Division works closely on an informal basis with many other forest land owners. It supplies trees and occasionally advice and research to Indian tribes for reservation timber activities, works closely with the U.S. Forest Service on research projects and on a number of cooperative forest practice advisory groups, and often serves in an advisory capacity with private groups.

Of growing concern to forest owners within the coastal zone is the possibility of a spruce bud worm infestation which some authorities feel could be as devasting as the recent inland tussock moth epidemic. If an epidemic is declared then pesticides (again under approval of the State Pesticide Control Board) could be applied to all forest lands.

Research plays an important role in forest management with DNR cooperating in several current projects. The Clearwater research project is a joint undertaking between DNR and the University of Washington to determine the effect of various forest management practices on stream sedimentation and the resulting impact on the fisheries resource. The study was begun in 1971 and is expected to be completed in 1977. Another study was undertaken jointly by DNR and DOE focusing on the impact forest fertilization, particularly through the use of ammonium nitrate, has on stream water quality. Preliminary results indicate that nitrate levels resulting from fertilization were minimal and of short duration in stream waters. A key result of the study may be to show that ammonium nitrate can be substituted for urea, the standard forest fertilizer.

Forest Practices Act. While environmental and conservation practices have been followed for some time by DNR in the management of state-owned forest lands, there has been a growing concern that such considerations were not adequately addressed for other forest lands in the state. As an effort to remedy this situation the Legislature in 1974

passed the Forest Practices Act (FPA) (RCW Chapter 76.09), which it amended substantially in 1975. The Act, which designates DNR as its primary administrator, declares that it is in the public interest for public and private commercial forest lands to be managed consistent with sound policies of natural resource protection and that coincident with the maintenance of a viable forest products industry, it is important to afford protection to forest soils, fisheries, wildlife, water quantity and quality, air quality, recreation, and scenic beauty.

The Act created the Forest Practices Board to adopt rules and regulations governing the details of forest practices management consistent with the provisions of the Act. The Board currently includes six citizen members appointed by the Governor, one of whom must be an owner of not more than 500 acres of forest land and one of whom must be an independent logging contractor; the Commissioner of Public Lands; the directors of the Departments of Ecology, Agriculture, and Commerce and Economic Development; and an elected member of a county legislature appointed by the Governor.

The promulgation of rules and regulations has proved a formidable task. In anticipation of both complexity and controversiality in the adoption of permanent rules, the Legislature created the Forest Practices Advisory Committee to assist the Forest Practices Board in its work and directed DNR to adopt emergency rules and regulations in the event the Board was unable to complete its task by January 1, 1975. The Advisory Committee is made up of representatives from the College of Forestry at the University of Washington, the Department of Forestry and Range Management at Washington State University, the Departments of Game and Fisheries, two timber company officials, two environmentalists, the Association of Conservation Districts, and a small timber company owner. The chairman of the Advisory Committee in turn appointed two regional advisory committees to recommend region-specific rules and regulations. Several working committees have also been necessary to iron out technical details. For example, one of the big problems faced by the Board was the mapping of water bodies by type. The typing has now been completed and mapping will be finished in a few weeks — the results of extensive efforts by a committee composed of representatives of the Departments of Game, Fisheries, Ecology, and Natural Resources, the University of Washington, the Washington Steelheaders Association, and Washington industries. As a result of such complexities, the Board has produced many drafts of proposed rules and regulations (the eighth most recently). The target date for final rules adoption is now mid-winter of 1976. Legislative foresight in empowering DNR to adopt emergency rules and regulations at the beginning of 1975 made it possible to operate the program without the final rules, and the experience gained in operating the program over the last eleven months should contribute significantly to the adequacy of the rules and regulations once they are adopted by the Board.

The Forest Practices Act establishes a permit process governing forest practices on forest lands in the state, both private and public except for federal lands. Forest lands include all private and non-federal public land capable of supporting merchantable timber and not being actively used for a purpose incompatible with timber growing. The Act defines "forest practices" as

> any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to: (a) Road and trail construction; (b) Harvesting, final and intermediate; (c) Precommerical thinning; (d) Reforestation; (e) Fertilization; (f) Prevention and suppression of diseases and insects; (g) Salvage of trees; and (h) Brush control.

The rules and regulations to be adopted by the Forest Practices Board are to be designed to cover four classes of forest practices:

Class I: minimal or specific forest practices that have "no direct potential for damaging a public resource." Practices under this class may be conducted without submitting an application or notification.

Class II: practices which have a less than ordinary potential for damaging a public resource, but excluding forest practices on lands (a) platted after January 1, 1960 or being converted to another use, (b) which require

approvals under the provisions of the Hydraulics Act (RCW Chapter 75.20), (c) within the shorelines of the state as defined in the Shoreline Management Act (at RCW 90.58.030), or (d) excluded from Class II by the Board. Practices under this class may be conducted without submitting an application and may begin five calendar days or such lesser time as DNR may determine after written notification from the practice proposer.

Class III: practices other than those contained in Class I, II, or IV. Such practices must be approved or disapproved by DNR within fourteen calendar days from the receipt of an application from the practice proposer.

Class IV: practices other than those contained in Class I or II: (a) on lands platted after January 1, 1960, (b) on lands being converted to another use, (c) on lands which are not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by DNR as to whether or not an EIS must be prepared under SEPA. Such practices must be approved or disapproved by DNR within thirty days of the receipt of an application from the practice proposer unless DNR determines that an EIS is required, in which case the application must be processed within sixty days unless the Commissioner of Public Lands by formal order declares that the process cannot be completed within such period.

Since January 1, 1975, the Department of Natural Resources has handled some 9,000 applications for forest practices on private lands. It is hoped that the 1975 amendment to FPA, which introduced the notification system for Class II forest practices, will substantially reduce the number of permit applications to be handled for relatively minor forest practices.

The Forest Practices Act gave counties in which forest practices are proposed a significant role in the process. DNR is not permitted to approve portions of applications concerning conversion to another use to which counties object, though the Department may appeal the county's objection to the Forest Practices Appeals Board which was created by FPA to hear such disputes (see below). Thus far seven counties in the coastal zone have waived their right to review forest practices not involving conversion to another use under the Forest Practices Act in an effort to streamline the process: Pacific, Clallam, Mason, Jefferson, King, Wahkiakum, and Grays Harbor. DNR does send copies of all applications to the appropriate county regardless of the county's exercise of the waiver option. Copies of all applications are also sent as a matter of course to the Departments of Ecology, Game, and Fisheries, and to the DNR local area office.

In terms of coastal zone management, one of the most interesting aspects of the Forest Practices Act as amended in 1975 is that in some cases it actually supersedes the Shoreline Management Act. FPA specifies that in relation to "shorelines" as defined in RCW 90.58.030 the forest practice regulations to be adopted by the Forest Practices Board ". . . shall be the sole rules applicable to the performance of forest practices, and enforcement thereof shall be solely as provided. . ." in the Forest Practices Act. It is further stipulated that no substantial development permit ". . .shall be required under chapter 90.58 RCW for the construction of up to five hundred feet of one and only one road or segment of a road provided such road does not enter the shoreline more than once," and except under unusual conditions. And finally, FPA provides that "[a] ny powers granted by chapter 90.58 RCW pertaining to forest practices. . . are expressly limited to lands located within 'shorelines of the state' as defined in RCW 90.58.030."

Reforestation ensuring continued long-term forest supply is also a chief concern of the Forest Practices Act. After a logging operation, satisfactory reforestation must be completed within three years, though five years will be allowed when approved by DNR. DNR and DOE are empowered to make an inspection after any forest practice — DOE for water quality. With respect to reforestation, the regulations of the Forest Practices Board may identify areas of forest land that have the likelihood of future conversion to urban development within a ten-year period. Reforestation

requirements may be modified or eliminated on such lands provided that such conversions to urban development are consistent with local and regional land use planning.

To provide for ready access and quick disposition of contested cases the Forest Practices Appeals Board was created by FPA. The Appeals Board is a three-member group appointed by the Governor to hear appeals from any person aggrieved by the approval or disapproval of an application to conduct forest practices. Though the Appeals Board has been operating for eleven months, only three appeals have been filed to date, two of which have been settled without a formal hearing. The third is currently pending the outcome of a court case relating to an ownership conflict.

Water quality protection from forest practices is handled jointly by DOE and DNR. If DOE determines that any person has failed to comply with forest practices regulations relating to water quality protection, it must notify DNR. If DNR does not issue a stop-work order or a notice to comply or fails to take authorized enforcement action within 24 hours of notice by DOE, then the Department of Ecology may petition the Appeals Board, which must act within 48 hours either to deny the petition or to direct DNR to take remedial action.

DNR may issue a stop-work order if there is a deviation from any prescribed forest practices procedures or if a critical problem arises. Remedies for a violation of FPA include a fine of $500 a day as long as the violation continues or an injunction or declaratory or other action for enforcement of the Act. Action can be brought against any party including the state.

Fire Prevention and Control. One of the prime responsibilities of DNR is the protection of forest lands, both state and private, from fire. Crews in all DNR areas are trained to fight forest fires and are generally responsible for fire suppression on all forest lands. In some cases contracts for fire protection have been entered into with local fire districts.

The Washington Clean Air Act (RCW Chapter 70.94) designates DNR as the responsible agency for issuing and regulating burning permits for abating forest fire hazards, prevention of fire hazards, instruction in methods of forest fire fighting and for any silvicultural operation (such as slash burning) to improve the forest lands of the state. For the effective exercise of this authority the Department has developed a cooperative smoke management program with DOE, the U.S. Forest Service, the Bureau of Indian Affairs, and the Washington Forest Protection Association representing private forest industry. The program prescribes daily fire reporting procedures and requires that burning permits comply with DOE air quality standards. It also establishes smoke dispersal objectives designed to minimize air pollution.

The DNR air quality coordinator within the Fire Control Division works on a day-to-day basis during the fire season with DOE and Weather Bureau meteorologists and meets regularly with local air pollution control authorities. Daily reports of slash burning are received at DNR from the Forest Service, DNR area offices, and the Bureau of Indian Affairs. Slash disposal methods are being tested and evaluated to find alternatives to open burning while still maintaining forest land productivity and environmental quality. A cooperative project with the University of Washington is studying the effects of buried slash on water quality.

Recreation. DNR's Recreational Division operates a number of recreation sites and all-terrain-vehicle trails in Department-managed coastal zone forest uplands. Under its legislative mandate, DNR is authorized to establish "primitive" campgrounds, picnic grounds and trails. Usually campgrounds are designed to accommodate not more than 15 camp sites and provide limited facilities such as potable water and rest rooms. The Department has a master agreement with the Department of Social and Health Services which establishes minimum health standards acceptable in recreation areas. These standards are developed on a state-wide basis and override local health agency regulations. Such standards also apply to recreation facilities operated by the State

Parks and Recreation Commission and the Department of Game. Funding of DNR recreation projects comes primarily from the State Interagency Committee for Outdoor Recreation and all-terrain-vehicle tax revenues. The capital funding budget for the current biennium amounts to approximately $1 million.

A typical example of how the Recreation Division operates under the Department's multiple use concept is shown in the Capitol Forest, a DNR-managed upland property of some 72,000 acres near Olympia. Seven camp and picnic sites are maintained within the forest as well as miles of trails, a self-guided auto tour route on logging roads which makes use of an interpretive signing program, access for sportsmen, and an overlook from the forest's highest point, 2,667-foot Capitol Peak. At the same time the property is being logged and reforested under the Department's forest management program.

Other Lands Management

Besides the miles of tidelands and acres of forest land, DNR also has responsibility for managing non-forest lands. Nearly one-third of the Department's three million acres of uplands are leased for grazing and agricultural purposes, though most of these lands are inland and outside of the coastal zone. Where leases are made on state land in the coastal areas they are primarily for the growing of cranberries and truck garden crops and for pastureland.

The greatest impact on the coastal zone from the non-forest land program comes from leases granted for oil, gas and mineral exploration. The Lands Management Division has responsibility for all such leases whether on uplands or on beds of state-owned navigable waters. While actual oil and gas exploratory drilling is quite modest in the state (not more than 15 wells a year), some 100,000 acres have been leased for mineral exploration.

The possibility of a major mineral deposit on state-owned land in the upper Sultan Basin east of Everett may have strong implications for both the environment and the state's economy. The Bren-Mac mine feasibility study was conducted for the Department by a private consulting firm. It confirmed the presence of a minimum of 40 million tons of high-grade ore containing copper, molybdenum, tungsten, and minor amounts of silver and gold. The property is managed by DNR for the common school strust. Two environmental impact statements are being prepared – one by DNR and a second by the U.S. Forest Service – for minable property adjacent to state-owned lands.

Technical Services

The DNR Technical Services Division is responsible for maintaining resource inventories, conducting operations research studies, developing the private forest land grading program, and providing internal data processing services.

Resource Inventory. DNR has the responsibility for keeping a current inventory of the state-owned uplands and tidelands. These inventories take the form of maps and aerial photography. All of the coastal zone is photographed once every two years. DNR also has a legislative mandate to develop statewide base maps but as yet no funds have been appropriated for that purpose.

Orthophotography, a process for making distortion-free maps from aerial photographs, was introduced in 1974 to expand the Department's 15-year-old aerial photography program. At a scale of 1" to 2,000', an orthophoto map encompasses an entire township, showing standard map information as well as such physical features as contours and roads. Because there is virtually no image displacement common to other high altitude land photography, orthophotos permit greater accuracy in measuring direction and distances and in delineating and measuring areas directly from photos. Costs of the program are being shared by a number of agencies – the Departments of Ecology, Highways, Agriculture, and Game, counties and private industries. As the maps are produced they will be made available to the public at nominal cost. In the coastal zone, orthophoto mapping has been completed for the Olympic Peninsula and the Puget Sound Basin.

Another interesting activity within the resource inventory category is a demonstration project

being conducted in remote sensing in DNR in cooperation with the Office of Community Development and the National Aeronautics and Space Administration. Through NASA's LANDSAT program, DNR is assessing satellite data by computer and creating resource inventory maps for all of Western Washington. Of particular interest in the project is the ability to spot trends in growth of urban areas and slowly changing geological features.

Operations Research. This function of the Technical Services Division prepares calculations in support of DNR's sustained yield program, conducts mill surveys every two years to assess where wood products are marketed, and publishes quarterly timber product market analyses and market projections for agriculture and aquaculture activities. The Washington forest resource evaluation study currently underway is an effort to determine the extent of the state's timber supply over the next 70 years. Cooperating with DNR on this project are virtually all forest land owners in the state. Another study relates to wood fiber consumption trends. Funded by the U.S. Forest Service, the project will evaluate the present and potential quantities of usable logging residue and will promote methods for its removal and use by the pulp industry. Utilization of more non-grade material for pulp would increase regional wood supplies, reduce the amount of slash left after logging, and reduce reforestation costs.

Private Forest Land Grading Program. Authorized by the 1974 Legislature, the purpose of this program is to classify all private forest land in the state as to its productivity potential. DNR, in consultation with the Department of Revenue, the Soil Conservation Service, and other governmental and private forest land owners, is responsible for identifying which private lands are forest lands and for grading them on the basis of their timber producing potential. Another purpose of the study is to provide more accurate information for county assessors in the preparation of tax rolls. The study is expected to be completed by 1980.

Geothermal Energy. As a potential alternative to current energy sources, DNR's geologists are accelerating the mapping of geologic features or phenomena that might indicate the presence of geothermal energy in Washington State. The 1974 Geothermal Resources Act (RCW 79.76) requires permits from DNR for drilling geothermal wells in the state.

Surface Mine Reclamation. The Geology and Earth Resources Division has the responsibility for administering and enforcing provisions of the Surface Mining Reclamation Act (RCW 78.44 and WAC 322-18). The Act requires that the land be reclaimed following any surface mining operation (including sand and gravel pits) of more than two acres in area or from which more than 10,000 tons of material have been removed within a 12-month period. Operators of surface mining operations, both public and private, must submit and have approved a reclamation plan prior to issuance of a surface mining permit.

Shorelines Hearings Board

The Shorelines Hearings Board plays a key role in the Washington State coastal zone management program as the final administrative arbiter relative to decisions made under the state's primary coastal zone control mechanism, the Shoreline Management Act of 1971. The Board was created by SMA and consists of the three members of the Pollution Control Hearings Board, the Commissioner of Public Lands, a representative of the Association of Washington Cities, and a representative of the Washington State Association of Counties. The Shorelines Hearings Board is treated in considerable detail on pages 41-42.

Pollution Control Hearings Board

In 1970, the year of the creation of the Department of Ecology, the Legislature created another agency of state government called the Pollution Control Hearings Board (PCHB). The PCHB consists of three members appointed by the Governor and was created primarily to hear appeals from regulatory decisions of the Department of Ecology and local air pollution control boards. The Board's authority is, however, fairly broad and includes the hearing of appeals relating to smoke, particulate, and odor emission penalties, oil spill penalties, water rights permits, flood

plain construction permits, pollution control equipment tax credit disputes, noise abatement questions, ECPA master permit decisions, and, most recently, waste discharge permits under the National Pollutant Discharge Elimination System.

The Pollution Control Hearings Board has been operating on a full-time basis only since January of 1973, though by October 31, 1975, 934 appeals had already been filed. The Board is a quasi-judicial, administrative appellate body designed to provide ready access to parties aggrieved by decisions relating to pollution control without necessitating the long delay and costly procedure frequently encountered in court appeal. To provide easy access the Board has made it a fairly simple matter for an aggrieved party to file an appeal and for this reason undoubtedly receives more appeals than would go directly to the courts if the Board did not exist. It is equally obvious, however, that the administrative appeal system operated by the Board has in fact reduced the number of appeals that do get taken to court. The Board's credibility is impressive. As of October 31, 1975, only 25 of the 746 orders issued by the PCHB have been appealed in court.

Appeals filed with the Board are frequently not decided in an official hearing. The PCHB has been very successful in resolving many of the appeals by means of an informal conference process. In fact, by 1974, 44 percent of all PCHB appeals were settled without going to hearing, 13 percent were dismissed, and only 43 percent went to a full hearing.

The contribution of the Pollution Control Hearings Board to the Washington coastal zone management program is significant. Many of the most important management tools available for control in the coastal zone are environmental regulatory activities, such as granting or refusing to grant air contaminant and water discharge permits. The Board, by providing an administrative adjudication of such environmental issues, becomes the final administrative decision maker in all appealed cases. Due to the broad range of appeals that the Board hears, its members are well qualified to render final judgment by bringing to each case a broad environmental expertise invaluable for resolving conflict relating to environmental matters throughout the state. The Board members' expertise is augmented by their activities as members of the Shorelines Hearings Board (see page 83) and the Council on Environmental Policy (see below).

Council on Environmental Policy

The Council on Environmental Policy was created by the 1974 amendment to the State Environmental Policy Act and consists of the three members of the Pollution Control Hearings Board. The Council was established with the single purpose of adopting and amending thereafter rules of interpretation implementing SEPA. After lengthy drafting and hearing processes the Council has now adopted final rules and regulations pursuant to the legislative directive. It will be abolished on June 30, 1976, and amendment of the regulations after that time is entrusted to the Department of Ecology. The Council's contribution to coastal zone management is discussed in some detail on pages 45-47.

Interagency Committee for Outdoor Recreation

The Interagency Committee for Outdoor Recreation (IAC) was created in 1964 with the passage by the voters of the state of Initiative 215, the Marine Recreation Land Act (RCW Chapter 43.99). Initially the Committee's responsibilities consisted of administering a grant-in-aid program for state and local governmental agencies through distribution of funds from the state Outdoor Recreation (OR) account. Its authority was later expanded to include preparation and maintenance of a comprehensive plan for development of the outdoor recreation resources of the state. This plan is called the Washington Statewide Comprehensive Outdoor Recreation and Open Space Plan, or SCORP for short.

The IAC consists of twelve members including five citizens appointed by the Governor and representatives from the seven state agencies most directly concerned with outdoor recreation: the Parks and Recreation Commission and the Departments of Ecology, Natural Resources, Commerce and Economic Development, Game, Fisheries, and Highways. The Committee has a full-time staff of eighteen including twelve professionals.

Funds which are credited to the OR account come from both state and federal sources. State monies include proceeds from three outdoor recreation bond issues – Referendums 11, 18, and 28 – and Initiative 215. The money from both Referendum 11 ($10 million) and Referendum 18 ($40 million) has already been committed for specific projects. Referendum 28 ($40 million) was part of a statewide capital investment program known as the Washington Future program (see pages 89-90). $12 million of the Referendum 28 monies was earmarked specifically for use by the State Parks and Recreation Commission for improvement and development of existing state parks. The remainder is administered by IAC through the OR account. Initiative 215 provides for unclaimed pleasure boat marine fuel taxes to be placed in the OR account. Approximately $1.5 million is made available from this source each biennium for IAC distribution. Federal funds come from the state's share of the Land and Water Conservation Fund established in PL 88-578. The state has annually received some $3 million from this source.

Agencies eligible to receive grants-in-aid include most units of local government—counties, cities, port districts, and other municipal corporations authorized to provide outdoor recreation services—and all Indian tribes within the state recognized by the federal government for participation in the land and water conservation program. Four state agencies currently receive funds: the Departments of Game, Fisheries and Natural Resources and the State Parks and Recreation Commission. In order to qualify for funding, eligible local agencies must first adopt an IAC-approved park and recreation plan or include a park and recreation element in their comprehensive plan. They must also file an action plan, which includes a six-year capital improvement plan, with the IAC. State agencies must submit to the IAC a capital improvement program and a long-range statement of outdoor recreation acquisition and development goals. Agencies may request funds for property acquisition and the development of outdoor recreation facilities. Among other things, each application must include an environmental impact assessment, which must follow the criteria established for full environmental impact statements under SEPA.

The IAC has established a policy of distributing funds from the OR account on the basis of a 50/50 split between local and state agencies. The local agency funding pattern requires 25 percent of the cost of each individual project as a local share, and 50 percent from various federal funds where applcable. The OR account generally supplies 25 percent of the local project cost but the IAC may direct that as much as 75 percent come from that account, depending on the availability of federal funds. In the case of state agencies, 100 percent of project costs may come from the OR account.

Among the general priorities established by the IAC for local agency funding are several that directly affect the coastal zone, including the acquisition and development of fresh and saltwater shorelands to provide facilities for multiple-use water-related activities. Special emphasis is placed on the acquisition of shorelands in urbanized areas where the resource is in danger of being lost or converted to other uses and on the development of swimming facilities, water-related upland uses, boating access, destination areas, and upland parking.

State agency priorities include the acquisition of critical, scenic, and unique lands with special recreation or conservation values; the development of outdoor recreation facilities for such activities as boating, camping, fishing, and picnicking; and providing public access to existing state-owned or -controlled uplands, tidelands, and beaches. The IAC has given an extremely high priority to the acquisition of saltwater shoreland, particularly emphasizing access to public beaches.

The annual updating of SCORP and the accretion beach inventory recently completed by the IAC are significant contributions to the state's management of its coastal resources. SCORP includes extensive data on recreational demand, need and inventory. The accretion beach inventory identifies significant undeveloped Class I accretion beaches in the San Juan Islands and the Strait of Juan de Fuca, Hood Canal, and Puget Sound areas. Class I beaches are beaches recognized as having great recreational potential but which are threatened as a resource.

Other relevant activities undertaken by the IAC include the preparation of a state trails plan pursuant to the directives of the State Recreation

Trails System Act (RCW Chapter 67.32), administration of funds generated by the All-Terrain Vehicle Act (RCW Chapter 46.09), and developing the methodology and guidelines for the identification and classification of the state's wild, scenic, and recreational rivers. In fact, the Department of Ecology used a rivers classification program developed by the IAC as the pattern to be followed by local governments in preparing their master programs under the Shoreline Management Act.

Parks and Recreation Commission

The primary purpose of the State Parks and Recreation Commission is to acquire, develop, operate, and maintain recreation areas throughout the state for the enjoyment of the general public. The Commission consists of seven citizen members appointed by the Governor and confirmed by the Senate and usually meets on the third Monday of each month. Commission programs are administered by a permanent staff of over 325 persons headed by a director appointed by the Commission. Though staff recommendations are usually followed, the Commission takes an active role in managing the state park system. The term "State Parks" will be used here to refer to the agency constituted by the Commission and its full staff.

By virtue of a recent effort to clarify the language of management in the state, it may now be said that State Parks manages all and only state parks. The simplicity of the statement is misleading, however. The Commission has defined and set policies for seven different kinds of state parks: (a) state park (pure and simple); (b) state park/conservation area; (c) state park/heritage area; (d) state park/launch area; (e) state park/natural area; (f) state park/recreation area; and (g) state park/ocean beach access area.

The management of state parks is a complex combination of ownership and micro-management patterns. Until recently, it was a fairly common practice for State Parks to lease land to be developed into a park from the Department of Natural Resources. Because of DNR's legal responsibility to manage timber lands for maximum public profit, such leasing required the payment from State Parks to DNR of a substantial sum for removing from public sale whatever timber was on the leased land.

As a matter of Commission policy, land is no longer leased from DNR in this way. The practice now is for the Commission to buy property outright for development into a state park, using money earmarked for that purpose in the state General Fund, but there are many other ownership/management combinations. For example, there are state parks in the coastal zone on land leased by State Parks from the federal Bureau of Land Management, the Army Corps of Engineers, the Coast Guard, and the Navy. In many instances there are county-owned roads running through state parks. The timber on land now being bought by State Parks which was previously leased fron DNR is still owned by DNR. Complete joint ownership of a park is a much rarer phenomenon, but two cases are currently emerging. State Parks will soon build and begin managing a park to be owned jointly with Thurston County, and the City of Bellevue and State Parks will soon jointly build and begin managing a park.

There is one other ownership/management pattern which provides a particularly interesting example of agency coordination for effective management of the state's coastal resources. As mentioned previously (see page 73), DNR is no longer able to sell the shore, tide, and marine lands which it owns, but it can withdraw such lands in favor of the upland owner if in DNR's judgment such withdrawal will be to the benefit of the general public. When the upland owner is the Parks and Recreation Commission, DNR almost always withdraws the abutting shorelands, tidelands, or underwater beds (usually out to about one-quarter mile) in favor of the Commission in order to provide for single-agency planning and development of contiguous state-owned lands as a unified parcel.

The main planning function in State Parks (aside from site planning) is the determination of which lands should be acquired. The agency has prepared a statewide plan for parks development, much of which has appeared as part of the Statewide Comprehensive Outdoor Recreation and Open Space Plan (SCORP) prepared and

annually updated by the Interagency Committee for Outdoor Recreation (IAC) (see pages 84-86). SCORP provides a rather powerful inter-agency check on the acquisition and development of parks since almost all of the funding for State Parks for land acquisition and/or new park development or major expansion is allocated by the IAC and any significant deviation from SCORP must be explained to the satisfaction of the IAC before funds will be made available. In fact, an application for funding for each specific park project is presented to the IAC, which approves or denies the application as a whole.

Funding applications to the IAC constitute only one of many kinds of approvals required during the process of park acquisition and development. Like any private developer, State Parks must satisfy the regulatory requirements of all branches of government in order to build and operate, including obtaining a substantial development permit when a project triggers SMA regulation. The agency's most serious general problem is obtaining all of the right approvals with the right conditions at the right time within a biennium.

In previous years, the Commission occasionally acquired or was given real property that could not be developed into a state park for any number of reasons. Disposal of such property by sale or, what is more common, by trade for private inholdings within existing parks or for property with greater potential for park development is one of the most controversial things the Commission does. Land disposal is unique in the respect that it takes a unanimous vote of all seven commissioners.

There are 65 state parks of one sort or another in Washington's coastal zone, ranging in size from .50 acres to 4,934 acres and together totaling 24,000 acres. Among the most interesting of the state park parcels in terms of coastal zone management are the Seashore Conservation Area established in RCW 43.51.655 and "the accreted nontrust lands in which the state has an interest along the ocean" and which are transferred from DNR to the Parks and Recreation Commission in RCW 43.51.685.

The Seashore Conservation Area includes the tidelands between Cape Disappointment and Leadbetter Point, between Toke Point and the South jetty on Point Chehalis, and between Damon Point and the Makah Indian Reservation. Clear guidelines on the use of this extensive area are given by the Legislature itself.

> Where feasible, the area shall be preserved in its present state; everywhere it shall be maintained in the best possible condition for public use. All forms of public outdoor recreation shall be permitted and encouraged in the area, unless specifically excluded or limited by the [state parks and recreation] commission. While the primary purpose in the establishment of the area is to preserve the coastal beaches for public reaction, other uses shall be allowed as provided in RCW 43.51.650 through 43.51.685, or when found not inconsistent with public recreational use by the Washington state parks and recreation commission. [RCW 43.51.665].

Management authority over the nontrust accretion beaches and Seashore Conservation Area lands in which the state has an interest provides State Parks with some specific regulatory tools: the sale of accreted sand to cranberry growers; mining leases for "black sands"; permits for the removal of sand for construction purposes; and permits to cut firewood. DNR is empowered in the same legislation granting these regulatory powers to State Parks (RCW 43.51.685) to lease accreted lands along the ocean for the exploration and production of oil and gas, provided that oil drilling rigs and equipment are not permitted to be placed on the Seashore Conservation Area or accreted lands. As it happens, all four of these minor approval processes have been temporarily suspended because of complications arising from the state's recently instituted environmental protection programs. The only other permit-like activity engaged in by State Parks is the small-scale leasing for grazing or agricultural purposes of undeveloped land or buffer land not being used as parks.

State Parks also has the authority to review plans for all recreational developments of port districts; to make provisions for public access along Park-owned shores; and to manage with the Department of Highways the state's Scenic and Recreational Highway system.

One of the most controversial managerial functions performed by State Parks is controlling traffic on the state's ocean beach highways. RCW 43.51.680 directs that ". . .the Washington state parks and recreation commission, after agreement with the Washington state highway commission, shall establish reasonable regulations for the use and control of vehicular traffic on and along the ocean beach highway. . ." as designated elsewhere in law. There are three stretches of designated ocean beach highways: (1) the tidelands, with minor exceptions, from the mouth of the Queets River north to Cape Flattery; (2) the tidelands from the southerly point of Damon Point on the north side of the entrance to Grays Harbor to the mouth of the Queets River; and (3) the tidelands from the Columbia River or Cape Disappointment on the south to a point 300 feet southerly from the south line of the government jetty on Peterson's Point. The law goes on to stipulate that ". . .automobile driving shall be permitted on the beaches subject to the authority of the department of fisheries to prohibit driving over clam beds." In response to this legislative directive, the Parks and Recreation Commission has established a program for traffic control which includes the posting of traffic control signs and enforcement. By virtue of formal arrangements among the several interested parties, the responsibility for enforcement now rests jointly with State Parks and the sheriffs of the counties containing ocean beach highways, with the State Patrol assisting as the need arises. The pattern of controlled traffic flow varies seasonally and is coordinated with the Department of Fisheries to ensure that trafffic does not damage the clam beds referred to in law. The necessary interdepartmental coordination is not difficult to achieve and the whole matter can usually be handled with a phone call to the Department of Fisheries whenever the Parks and Recreation Commission contemplates a change in posted controls. As a long-term goal, the Commission would like to further regulate automobile traffic on the state's ocean beach highways for safety purposes, but the achievement of this objective depends on the development of adequate upland access to the state's ocean beaches. However, upland access is still relatively incomplete.

One interesting feature of the organizational structure of State Parks is that the agency houses the State Conservator and the state's Historic Preservation unit, though its functions seldom relate to park properties. The Historic Preservation unit has essentially three functions. (1) It reviews all EISs, Army Corps permit applications, and federally funded projects. If any proposed project is expected to impact significantly an archaeological or historic site, the Historic Preservation people have an active part as established by 36 CFR 800. Their role is both advisory and regulatory. Their comments on projects involving the federal government are required by federal law. (2) It advises groups on the merits of historic and archaeological properties. And (3) it maintains the federal historic preservation program as established by PL 89-665. The Historic Preservation unit fits well with the responsibility of the State Parks and Recreation Commission to interpret the state's heritage. The agency's program for interpretation includes the development of individual interpretive park brochures, the development of interpretive markers within state parks, the accession, cataloging, and maintenance of artifacts and historic items, and the recommendation and servicing of a program for park historic structures and properties. A great many historic and archaeological sites are located in close proximity to marine waters.

Two other State Parks programs contribute to coastal zone management in the State of Washington. First, the state boating safety program was given to the Parks and Recreation Commission to administer by Governor's Order in the late 1960s. In December of 1971 State Parks became the administering agency for all federal funds relating to recreational boating. And second, the Commission is authorized to establish landing and other facilities for small pleasure boats at places on Puget Sound where such facilities will be of greatest advantage.

Office of Program Planning and Fiscal Management

In 1969 the Legislature created a new division of the office of the Governor in order that the short-range planning represented by the biennial budget could be made consistent with the longer-range plans and goals of the state. The Office of Program

Planning and Fiscal Management (OPP&FM) functions as advisory and coordinative staff to the Governor with respect to a wide variety of gubernatorial functions. Though OPP&FM clearly has a significant impact on management of the coastal zone, it does not itself manage coastal resources.

OPP&FM's primary source of influence in the coastal zone is its central role in the state's planning and budgeting process. The State of Washington operates under a decentralized process in which each state agency is expected to prepare its own plans and budget internally. The Governor, under the Budget Accounting Act of 1959 (RCW Chapter 43.88), is responsible for submitting a balanced budget to the Legislature and for keeping the budget balanced once it is passed. This does include the control of allotment and the authority to cut agency appropriations if revenues fall short. All requests for funds, including requests from the Legislature itself, go through OPP&FM.

The other primary function of OPP&FM with respect to coastal zone management is statewide planning, including both advanced planning and more immediate policy planning. In early 1974 the office initiated the Alternatives for Washington program, a comprehensive effort to involve citizens in public decision making. Goals and policy options for the future were developed by citizen task forces and presented for public consideration through community meetings and a major communications effort involving printed media, radio, and television. OPP&FM is now in the process of analyzing the results of the Alternatives for Washington program for the purpose of constructing for the Governor's consideration a set of policy alternatives. The goal is the establishment of policy guidelines which will guide the budget process. The key issues that have surfaced for analysis to date are education, energy, transportation, growth management, employment, and the decentralization of social services.

In addition to its primary responsibilities relating to planning and fiscal management, OPP&FM has a variety of program review and coordination functions which contribute indirectly to the state's management of its coastal resources. The role of OPP&FM with respect to the NEPA process and A-95 review has been explained previously (see pages 26-27). The office also analyzes all proposed state legislation for policy implications and coordinates the Governor's comments on proposed federal legislation. Another checkpoint ensuring some measure of management coordination is OPP&FM's review of federal grants to units of Washington government as the state's designated A-98 central reception agency. (Federal Office of Management and Budget Circular A-98 requires that a single state agency be designated to receive information on all federal grants in the state.)

One other program responsibility of the Office of Program Planning and Fiscal Management should be mentioned here in passing. In the fall of 1972 the voters of the state were presented with a package of six bonding referendums which were loosely tied together for purposes of promotion as the Washington Future program. The passage of five of the six proposals instituted a massive funding process for extensive capital improvements including facilities for waste disposal, water supply, recreation, social services, and community colleges. About $125,000,000 of the $415,000,000 worth of bonds to be sold by 1980 have already been committed. The specific capital improvements programs covered under the Washington Future umbrella are administered by the Department of Ecology, the Department of Social and Health Services, the Interagency Committee for Outdoor Recreation, the Parks and Recreation Commission, and the Community College Board. Administration of the Washington Future program, insofar as the multifarious capital improvements programs that were generated by the five approved referendums constitute a macro-program, is the responsibility of OPP&FM. As the Washington Future program has evolved, the role of OPP&FM has come to be a fairly straightforward matter of fiscal management—that is, fiscal review and allotment. No master plan has been prepared tying individual programs together for the simple reason that there appears to be no need for such a plan. OPP&FM does review agency approval requests and works with requesting agencies to modify requests as review suggests the need. In two cases approval was denied. The office also has the authority to refuse to allot money in the case of a bad project, but the power has not been exercised except as a lever to encourage the improvement of project proposals. The

Washington Future program began as a loose collection of large-scale capital improvements programs. It is affecting and will continue to affect the coastal zone in very significant ways even though it remains for the most part a collection of largely independent line-agency programs.

Department of Fisheries

The Department of Fisheries has the statutory responsibility for management of the state's food and shellfish resources. This mandate is carried out via enforcement of the Fisheries Code, adoption and enforcement of regulations related to types of gear, fishing location and the timing of sport and commercial fishing activities, fish habitat management and enhancement, maintenance of hatcheries and fishways, and approval of applications for marine construction and hydraulic projects.

The food fish and shellfish industry is of large-scale importance to the State of Washington. Commercial landings of marine and other fin fish (exclusive of salmon) in state coastal zone waters have ranged from 60 to 100 million pounds annually during the last twenty years. The commercial salmon harvest amounts to 55 million pounds annually. Commercial shellfish harvests have averaged 21 million pounds annually with an additional recreational harvest estimated at 51 million pounds. The regulation of commercial fishing is generally accomplished through development of plans and regulations which are modified on a day-to-day basis by emergency regulations issued as required by the Department's Director — the Director, however, is not empowered to allocate fish resources. The regulations are enforced by the Department's 36-officer Fisheries Patrol unit, which made 1,293 arrests for various fisheries violations in fiscal year 1973.

A 1974 federal court case commonly called the Boldt Decision drastically affected the Department's regulation of food fish, particularly salmon and herring, in the state's waters. The Boldt Decision resulted in clarifying the status of the Steelhead trout, a very popular game fish under the jurisdiction of the Department of Game. The species can now be taken as a commercial fish by Indians. The decision has caused confusion and problems for both sport fishing and commercial fishing interests. In effect, it also guaranteed the Indian people up to 50 per cent of the catch of anadromous and salt water fish in off-reservation state waters and authorized the tribes to manage their own fisheries. The Departments of Fisheries and Game have spent considerable time working with all affected parties including Indian officials in efforts to carry out properly the mandate of the court. But the Department of Fisheries feels that the Boldt Decision has created a new complexity in the Department's management responsibility to maintain a full harvest and full utilization of spawning grounds and the Department of Game has stated that management of the same resource by two autonomous authorities (the state and Indian tribes) for different purposes is nearly impossible.

The relationship between the Department of Fisheries and the Department of Game is particularly close as it relates to environmental matters. The division of responsibility between the two is specifically spelled out in state statutes. According to law the Department of Fisheries is responsible for food fish and shellfish and the Department of Game is responsible (among other things) for sport fish. This somewhat artificial distinction requires close interdepartmental cooperation as an operating necessity.

Interdepartmental cooperation is nowhere better exhibited than in the administration of the state law (RCW 75.20.100) requiring approval by both departments of hydraulic projects which divert the natural flow or utilize the waters of any stream of the state. By means of an informal operating procedure, hydraulic project approvals are reviewed jointly by the two departments. The signature of both departments is formally required on all applications. Hydraulic permit applications have increased ten-fold in recent years. Some 4,000 were processed in fiscal year 1973.

The Department undertakes environmental review under the Forest Practices Act, SEPA, NEPA, ECPA, A-95, NPDES, SMA, and Army

Corps of Engineers permits and is frequently funded for special studies and tests. With an eye to the protection of fishery resources and as a corollary to its environmental review activities, the Department has recently issued a set of criteria governing the design of bulkheads, landfills, and marinas in the state's coastal zone. In cooperation with the U.S. Geological Survey it has been conducting salmon hydrology studies to determine a formula for predicting desirable minimum stream flows to assure adequate fish habitat. These studies will in turn assist the Department in its review of DOE water rights applications. Another important activity involving state and federal interaction is an ongoing effort to resolve conflict in the management of coastal crab stocks between Washington and Oregon. The federal government through the National Marine Fisheries Service is funding the program. One other kind of research should be mentioned in passing as well. The Director of the Department is authorized under the Fisheries Code to conduct test fishing operations for the purpose of evaluating management effectiveness of food fish programs, particularly those relating to salmon. Catches taken in such testing may be and usually are sold to offset costs of the program.

The Department of Fisheries owns some modest landholdings in the state and holds several leases on other land including some tidelands. Nearly all the land under its direct control is used for facilities (hatcheries, oyster reserves, rearing ponds, etc.) and other fish propagation installations.

The Fisheries Director or his representative sits on several key international and inter-state fish regulatory and advisory agencies, including the International Pacific Salmon Fisheries Commission, which regulates the management of sockeye and pink salmon between the U.S. and Canada; the Pacific Marine Fisheries Commission, an advisory group which includes membership from Washington, Oregon and California; and technical committees of the Northwest River Basins Commission.

Department of Game

Management of game fish and wildlife within the coastal zone rests primarily within the jurisdiction of the Department of Game. Management activities fall into the broad categories of hydraulic approval; habitat evaluation and development; population enumeration and the evaluation of production; harvest and survival of numerous species; the regulation of hunting and fishing seasons; enforcement or assistance in enforcement of the Game Code, the Fisheries Code, Game Commission regulations, and such federal laws as the Migratory Bird Act and the Endangered Species Act of 1966; land acquisition and operation; environmental review; public education; and operation of fish rearing facilities and game farms. As previously mentioned, the Department maintains close working ties with the Department of Fisheries, particularly with respect to its responsibility for approval of hydraulic permits and, more recently, in carrying out joint responsibilities stemming from the Boldt Decision. (See page 90.)

Environmental review is pursued more vigorously by the Department of Game than by most other state agencies primarily for the reason that, while the Department has extensive regulatory authority over wildlife and human aspects of game and non-game resources, it has little direct control over the preservation and maintenance of fish or wildlife habitat except on lands which it owns. For example, survival of fish produced at thirty-two of the Department's many hatcheries and rearing ponds is dependent upon the conditions found in coastal waters, but the Department has no direct control over those conditions. Another reason why the Department of Game actively pursues environmental review is its concern about pollution, development and construction on tideland marshes and other factors which affect the survival of fish and wildlife. Reviews are made under appropriate provisions of such federal and state acts as NEPA, the Fish and Wildlife Coordination Act, the River and Harbor Act (Army Corps permits), the Forest Practices Act, SMA, and SEPA.

The Department conducts educational programs and other studies on fish, wildlife, and their habitat for students, teachers, and public service organizations. For example, a cooperative agreement has been reached with Evergreen

State College for an Environmental Studies Interpretive Center at its Luhr Beach access on the Nisqually Delta. The Department has actively participated in the Puget Sound and Adjacent Waters Study and the Southwest Washington River Basin Study. It has also supported and assisted studies, for example, on the distribution, habitat, life history and food habits of rhinoceros auklet, tufted puffin, and black oyster catcher on Destruction and Protection Islands.

The Department of Game owns more than 20,000 acres of natural habitat and public access areas within the coastal zone. There are four major Wildlife Recreation Areas in the zone: the Oyhut, Johns River, Skagit, and Nisqually. In addition, the Department operates five waterfowl and six saltwater access areas and holds the title to several thousand acres of second class tidelands in Skagit Bay. A major departmental concern is maintaining habitat preservation in the face of continuing development. When funds are available, the most desirable pieces of habitat frequently are not.

The State Department of Game also acts as a partner with the federal government, through cooperative agreements and contracts, in the management of marine mammals such as killer whales, sea otters, and an estimated 1,800 harbor seals in the Puget Sound area. The Department has a contract with the National Marine Fisheries Service to enforce provisions of the Marine Mammals Act of 1973 which superseded what was formerly primarily state jurisdiction.

The Department has just embarked on an active program of non-game animal management as well, funded by the state's recently authorized personalized license plate program.

State Energy Office

The increasing importance of energy related matters was recognized by the 44th legislature in Substitute Senate Bill 3172. That bill, which went into effect in March, 1976, declared it the policy of the state "to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality."

To coordinate energy related activities, that bill established the State Energy Office.

The State Energy Office is charged with collecting and maintaining data on energy resources; preparing analyses of data as well as analyses of projections and/or forecasts of energy supply and demand; developing and disseminating guidelines for energy conservation plans for use by the governor, industries and private individuals; preparing contingency plans for emergencies; and representing the state's interest on energy matters.

Significantly, the legislature also gave the Office the power to obtain certain otherwise privileged information from energy producers, suppliers or consumers.

The State Energy Office is headed by a director appointed by the governor with the consent of the legislature. The director also serves as the nonvoting chairman of the Energy Facility Site Evaluation Council.

In April, 1981, the State Energy Office will automatically dissolve unless the legislature acts to continue its existence.

Energy Facility Site Evaluation Council

The same legislation which created the State Energy Office also addressed energy facility siting.

Formerly, the only state energy facility siting group was the Thermal Power Plant Site Evaluation Council (TPPSEC). TPPSEC was established in 1970 in an effort to maximize environmental protection in the siting and construction of thermal electrical power generating facilities while at the same time establishing a "one-stop" review and evaluation process for utilities.

In Substitute Senate Bill 3172, the legislature changed the name of the Council to Energy Facility Site Evaluation Council to illustrate the broadening of its powers to all forms of energy facilities.

It also added the Department of Highways to the existing membership: Parks and Recreation Commission, the Utilities and Transportation Commission, the Office of Program Planning and Fiscal Management, the Office of Community Development, the Interagency Committee for Outdoor Recreation, the Departments of Ecology, Fisheries, Game, Social and Health Services, Commerce and Economic Development, Agriculture, Emergency Services, and Natural Resources.

Also, the legislature added a port district representative should a port be involved in a proposal.

The Council must evaluate applications for the following types of energy plants and their associated facilities: stationary thermal power plant with a generating capacity of 250,000 kilowatts or more; floating thermal power plants of 50,000 kilowatts or more; facilities which will receive liquid natural gas in the equivalent of more than 100 million standard cubic feet of natural gas per day, which has been transported over marine waters; facilities which will result in receipt of more than an average of 50,000 barrels per day of crude or refined petroleum which has been or will be transported over marine waters; any underground reservoir for receipt and storage of natural gas capable of delivering an average of more than 100 million standard cubic feet of natural gas per day; and facilities which will result in the processing of more than 25,000 barrels per day of petroleum into refined products.

Transmission facilities—such as pipelines for crude or refined petroleum or for various types of gas—also come under the jurisdiction of the Council.

The chairman of the Council is the director of the State Energy Office or his designee, and is a non-voting member.

The Council must within 12 months of receiving an application submit its recommendation to the Governor. The Governor has 60 days in which to accept or reject that recommendation. Once approved, the application specifies in contractural form all the environmental regulations and safeguards by which the applicant must abide in constructing and operating the proposed energy facility.

The primary goals of the Council are to: (1) assure citizens of the state that, where applicable, operational safeguards are at least as stringent as the criteria established by the federal government and are technically sufficient for the citizens' safety and welfare; (2) preserve and protect the quality of the environment and enhance the public opportunity to enjoy the esthetic and recreational benefits of water and land resources; (3) promote clean air; (4) pursue beneficial changes in the environment; and (5) provide abundant low-cost energy.

In its activities, the Council is to integrate its site evaluation activities with federal agencies to avoid duplication. It also will represent the state to other states, regional organizations or the federal government regarding any energy facility which may affect the environment, health or safety of Washington citizens.

There are two important aspects of the legislation which related to TPPSEC and now relate to the EFSEC. First, after the Council has received a site application, the attorney general is required to appoint a lawyer to act, in effect, as a "people's advocate" in terms of ensuring that the public interest as it relates to environmental protection is represented. The counsel is to serve in this capacity through the term of the certification procedure. Second, the certification issued is in lieu of any permit or similar document required by any arm of the state. (The original legislation was interpreted to refer only to those agencies represented on the Council. However, in SB 3172, this point was clarified to refer to all agencies, departments, etc., whether or not they are represented on the Council.)

TPPSEC has already played an important role in proposals for two thermal power projects in coastal counties—one by the Puget Sound Power and Light Company for a nuclear plant in Skagit County, and the other for a nuclear plant in Grays Harbor County by Washington Public Power

Supply Systems. As EFSEC, the Council may play an important role in current proposals relating to a major petroleum receiving and transfer facility for the state.

Office of Community Development

In 1967 the Legislature created the Planning and Community Affairs Agency (PCAA) as an Office of the Governor to ". . .aid in providing financial and technical assistance to the communities of the state and to otherwise assist in such community planning and development in order to promote health and living standards and conditions that the welfare of the people of the state require." (RCW 43.63A.010) Six years later in an administrative restructuring the Governor issued an executive order merging PCAA with the State Office of Economic Opportunity and the State Employment Development Planning Unit. All the functions previously performed by these three bodies are now under the jurisdiction of PCAA operating since the restructuring as the Governor's Office of Community Development (OCD).

Like its counterpart OPP&FM, the general function of OCD is integration and coordination. In addition to numerous categorical planning responsibilities, OCD has two major tasks. The first addresses community interest in state planning and budgetary development by giving local government a stronger voice in the development of state programs. And the second is to provide funds, technical assistance, and planning resources to local governments, including cities, counties, city/county units, and regional councils, in a timely and responsive manner.

In order to carry out its responsibilities, three operating divisions have been established in OCD: the Administrative and Support Services Division (for intra-agency support); the Community Planning Program Division (for local assistance), and the Human Resources Planning Program Division. The Human Resources Planning Program is an attempt to bring together the numerous social and health planning programs found in the state into a coordinated state program. It includes such program activities as comprehensive health planning, drug abuse prevention, employment development planning, law and justice planning, and voluntary action.

The Community Planning Program, often referred to as the Local Assistance Program, provides the agency's most direct involvement in coastal zone management, especially in terms of planning coordination and assistance. One major section of the Community Planning Program Division is Field Services. Field Services contains twelve people who not only have specific program responsibilities (such as the coordination of the state's A-95 review of local and regional comprehensive plans) but are also assigned to local areas to assist cities and counties with both technical and financial aid in carrying out their individual community planning and development programs. Six of the twelve local assistance planners work directly in the coastal counties and cities. Since the planning enabling laws of Washington are oriented to planning and planning implementation at the local level (see page 103), OCD's local planning assistance program provides a needed mechanism to tie potentially disparate local planning efforts to state policies while at the same time developing individual local expertise in comprehensive planning, zoning, and subdivision control, which are important aspects of the protection and coordinated development of Washington's coastal zone.

In addition to Field Services, there are a number of specific planning program areas which are being developed in OCD which may have a future impact in the coastal zone, including energy research, transportation, tax study, economic development, land use and environment, and housing. One of the most significant research projects being developed in the state is being coordinated by OCD's land use and environment program. The "Land Resource Inventory Demonstration Project" has been funded by the Pacific Northwest Regional Commission and includes not only the State of Washington but the States of Idaho and Oregon as well. The National Aeronautics and Space Administration and the U.S. Department of the Interior are also participants in this cooperative program. Briefly, the program

aims at providing users from a variety of resource planning and management agencies within the three states with experience in extracting and using information derived primarily from LANDSAT multispectral data and, to a lesser extent, from other remote sensing data sources such as high-altitude aircraft. When fully developed, the program should provide invaluable land and water use information on a continuing updated basis for the coastal area of Washington.

In the past a major function of OCD has been the coordination and placement of HUD 701 comprehensive planning monies in agencies throughout the state. However, 701 monies are being phased out by HUD, and the planning assistance for coastal area communities that is available through this program is minimal. Another program which should be mentioned in passing is the agency's (non-statutory) role in the Washington Future Program (see pages 89-90). Before OPP&FM signs off on project funding for a specific project being applied for by a unit of local government under one of the Washington Future programs, OCD signs off that the jurisdiction in which the monies are to be used has or is beginning to develop a comprehensive planning process.

The Office of Community Development has two other roles in the coastal zone including handling of A-95 review for local Coastal Zone Management grants as discussed earlier. Also, the Office of Community Development administers HUD 701 grants, some of which may be used for Coastal Zone Management-related endeavors. As a part of this activity, the Office of Community Development maintains a library of local comprehensive plans and zoning regulations, and assists locals in such planning endeavors.

Department of Social and Health Services

The Department of Social and Health Services (DSHS) has been given broad authority, both regulatory and non-regulatory, in four major areas of state government responsibility: adult corrections, community services, vocational rehabilitation, and health services. It is the Department's Health Services Division which has the most direct relevance to coastal zone resource management and the Office of Environmental Programs within that division which carries out most of the Department's managerial responsibilities that are of interest here. The primary DSHS coastal zone management activities fall into six categories: protecting public water supplies, controlling solid and liquid waste disposal, monitoring radiation, ensuring protection from pesticide poisoning, preventing public health hazards related to recreaational facilities, and providing sanitary control of shellfish taken for human consumption.

Water supply protection is based primarily upon regulations established by the State Board of Health under the general legislative mandate for DSHS which is contained in RCW 43.20. The Department conducts field surveys of water system facilities, reviews proposals for construction or improvements, coordinates training programs for waterworks operators, provides technical assistance relating to utilities, reviews the results of bacteriological and chemical analyses, offers consultation and assistance for local health department water supply programs, and conducts regional water system coordination programs for area-wide efficiency. At present, the water program is essentially state and locally oriented although the federal government is considering some state surveillance and program grants pursuant to the federal Safe Drinking Water Act of 1974. The water program is closely related to the Department's administration of the state's Referendum 27 grant and loan program for public water utility improvements which is a part of the Washington Future program. (See pages 89-90.)

In many cases water supply protection in the state is the joint responsibility of DSHS and DOE. All public water supplies having more than 1,000 services are required to have a comprehensive plan approved by DSHS prior to the issuance by DOE of a water appropriation permit. (See page 56.) The comprehensive plan must be consistent with regional water supply plans for those geographical areas where such plans have been reviewed and approved by DSHS.

Concern for public health considerations is further exhibited in DSHS management of the state's waste disposal program. The Department

conducts continuous studies assessing operating waste programs, including both the Department's own programs and those that are the direct administrative responsibility of other agencies such as DOE or the U.S. Environmental Protection Agency. Significant interagency cooperation is required for the disinfection of treated sewage effluent, the identification of sewage overflows, and responding to failures of treatment facilities, especially where they affect water supply sources.

DSHS joins with DOE and local health agencies in regulating the design, construction and maintenance of on-site sewage disposal systems. This program is one of the Department's most controversial activities in that it raises the issue of septic tanks versus package systems. The controversy is particularly intense in the coastal zone because of the environmental fragility of the state's shoreline areas.

The Department is also responsible for licensing the uses of radioactive materials, registering the use of radioactive devices, and conducting limited environmental monitoring for radioactivity pursuant to RCW Chapter 70.98. Of particular importance here is the prospect of the construction of several nuclear power plants in the coastal zone. The Department's director is a member of the Energy Facility Site Evaluation Council. (See pages 92-93.)

Pesticide control is an important DSHS activity involving coordination with the State Departments of Agriculture, Natural Resources, and Ecology, the U.S. Forest Service, and the Bureau of Reclamation. While these other agencies generally regulate either the materials (Department of Agriculture) or their applications (DNR and the U.S. Forest Service), DSHS investigates all pesticide poisonings and incidents such as spills and fires, monitors the levels of pesticide storage in humans, and analyzes the major routes of potential pesticide exposure (air, water, and food). An emergency response system has been put together which gives the Department the capability of reacting quickly in the event of a pesticide accident.

Major recreation-oriented activities conducted by the Department include site appraisal, review of plans, and inspections. Local health agencies in many cases are delegated the regulatory responsibility. Coordination with local, state, and federal agencies operating recreational facilities is a frequent necessity. Major problems in the coastal zone include inadequate sanitation facilities for marinas and pleasure boats; overcrowding of camping areas with the resulting use by recreational vehicles of areas with no sanitation facilities; sanitation facilities in group youth camps; and lack of consideration of environmental health requirements in planning for new facilities. Of critical concern are deaths and illness caused by chemical and physical hazards such as carbon monoxide poisonings in boats and recreational vehicles.

Shellfish present public health authorities with a difficult problem. Shellfish feed by filtering large volumes of water, which results in concentrating poisons and disease transmitting organisms. As shellfish are often eaten raw or only partially cooked, there is a high potential for disease. DSHS is required by law to administer a health control program over commerical mollusk shellfish. The Department certifies commercial shellfish growing areas and packing plants; monitors the potential pollution of growing areas stemming from domestic, municipal, industrial and recreational sources; identifies areas that are approved for harvest or subject to closure; monitors for the presence of paralytic shellfish poisons and closes areas where they are found; and inspects and enforces sanitary standards in the seventy shellfish processing plants in the coastal zone.

The Department coordinates activities in the shellfish program with the federal Food and Drug Administration since a considerable quantity of shellfish from Washington is shipped to other states. In addition, because many shellfish are harvested independently by recreationists and sportsmen from areas not adequately monitored or controlled, the Department has entered into an agreement with DNR to provide for health approval of sport shellfish taken from lands under DNR control and has initiated surveillance over public sport shellfish areas designated by the Parks and Recreation Commission.

DSHS pursues an active program of review and analysis of a variety of activities of other agencies having possible health implications, including for 1974 the review of more than 650 Corps of Engineers permit applications, 300 EISs, 250 A-95 pre-project notifications, and 100 land development registration applications. The review of land development registration applications is one of the Department's most effective control techniques. Perhaps, as many as one out of every three applications reviewed are found to be inadequate with respect to satisfaction of the requirements of DSHS rules and regulations, most frequently because of inadequate on-site sewage systems. Through the active cooperation of the Real Estate Division of the Department of Motor Vehicles, DSHS has been able to effect the necessary improvements in all cases prior to the required registration of land sales. (See Pages 100-101.)

Department of Highways

The Department of Highways has little or no regulatory or direct policy influence in managing coastal resources, but as one of the state's major public developers the Department is in a position to affect the coastal zone in very significant ways. The Department of Highways not only constructs and maintains land highways in the state but is responsible for the Lake Washington and Hood Canal floating bridges, the Tacoma Narrows suspension bridge, and the state's elaborate ferry system as well.

The Department has produced about 125 EISs since 1971 under the requirements of NEPA and SEPA. In addition to the environmental disclosure provided by such documents generally, highway EISs typically single out coastal zone issues directly. The Department of Highways prepares its environmental documents under guidelines established by the Federal Highway Program Manual which, among other things, requires consideration of "wetlands and coastal zone impacts" and any inconsistencies of the proposed project with existing or planned wetland or coastal zone management programs. Through its response to the impact statement requirements of NEPA and SEPA the Department of Highways makes its plans and programs accessible to all interested federal, state, and local agencies as well as the interested general public and public interest groups.

The Department has also filed some 200 substantial development permit applications, none of which has been rejected to date. Though some half dozen have been appealed to the Shorelines Hearings Board, the Board has upheld the Department in every case. The Department of Highways has developed an informal procedure with the Department of Ecology to provide DOE with early information on proposed highway projects in order to avoid undue procedural delays and unnecessary appeals when substantial development permits are actually filed. This procedure has resulted in a number of highway projects proceeding more or less on schedule (particularly with respect to bidding) which would otherwise have been set back.

North America's largest waterway transportation system is also operated by the Department of Highways. The Washington State ferry system is considered an integral part of the state's total transportation network. The system's 18 ferries daily ply the waters of Puget Sound over nine routes carrying passengers, vehicles, and cargo. That it contributes significantly in support of state coastal zone commerce and tourism can be seen from the system's annual operating statistics: 13 million passengers and five million vehicles carried, 700,000 miles logged, and 180,000 dockings. The smallest vessel in the fleet is the 40-car Hiyu and the largest are the 206-car, 2,000-passenger super-ferries called the Spokane and the Walla Walla. Grants from the federal government under the Urban Mass Transportation Act have been used to help offset the costs of constructing new ferries. Additional federal involvement is supplied by the Coast Guard's certification of the system's vessels and crews. Because of increased operating costs brought on by inflation and the energy emergency, the Department of Highways is currently studying the possibility of supplementing the ferry system by adding all-passenger 45-knot hydrofoils and, for existing ferries, detachable auto barges.

Department of Commerce and Economic Development

The Department of Commerce and Economic Development (DCED) was established by the Legislature in 1957 to foster the most desirable growth and diversification of industry and commerce possible. After early emphasis on tourism and attracting new industry, priorities in recent years have shifted toward contributing to the development of a state economic policy, improving the lines of communication between the business community and governmental agencies, and decentralizing the delivery of departmental services. Though DCED is not a regulatory agency, several of its activities contribute to effective management of the coastal zone.

The Department acts as a liaison between state and local regulatory agencies and businesses wishing to locate or expand in the coastal zone. Typically DCED provides assistance through briefings on permit requirements, providing personal contacts with the agencies involved, and generally attempting to create a climate of good faith. The ECPA procedures described on pages 47-50 above have proved a valuable aid to the Department in making the regulatory requirements clear and the Department has walked business applicants through the entire ECPA process. DCED's liaison role in coastal zone management is well exemplified by its coordinative work with business concerns engaging in aquaculture, mineral exploration and mining on the ocean floor, and the development of deep water port facilities. The Department's liaison work has been effective but not highly visible to date. Department officials estimate that 90% to 95% of the businesses in Washington State are unaware of the coordinative services available to them.

A second aspect of DCED's role in managing the coastal zone is its distribution of State Economic Assistance Act (EAA) funds for the development of facilities (e.g., sewer mains, water lines, and streets) that are needed to encourage industrial development. Limited to public agencies in areas of high unemployment, EAA beneficiaries include local governments and Indian reservations in the coastal zone. The 11-member Economic Assistance Authority, which is made up of representatives of local governments, state agencies, and the private sector and which determines the allocation of funds, is chaired by the Director of DCED and is supported by Department staff.

An important part of the Department's responsibilities for promoting commercial activity and economic growth is the promotion of nuclear energy development and the attraction of related industries. Though DCED's Nuclear Energy Development Division currently plays no significant role in managing the Washington coastal zone, its activities are of immediate interest in a developing coastal zone management program insofar as decisions relating to the siting of nuclear energy facilities in the coastal zone are in the process of being made. (See page 92.)

Department of Emergency Services

The Department of Emergency Services (DES) was created by the Legislature in 1972 in a reorganization designed to give a precise delineation of activities and responsibilities that came to be undertaken by DES's predecessor, the Department of Civil Defense. The agency's role is primarily coordinative, requiring close work with other state agencies and local governments to ensure the provision of comprehensive disaster and emergency services. The potentially broad range of Department activities is well illustrated by the fact that DES currently houses the state's Fuel Allocation Office and the Energy Information and Conservation Center which were created in response to the energy emergency of 1973-74.

Specific DES activities which contribute to the state's management of its coastal zone are: (1) the provision of disaster relief services needed as a result of flooding, earthquakes, severe storms, and other emergencies; (2) the coordination of search and rescue missions in the waterways and mountrains of the coastal zone; and (3) diaster preparedness planning.

Disaster preparedness planning and ensuring that operational capabilities are adequate for effective response to an emergency are important aspects of sound coastal zone management. The Disaster Preparedness Section of DES is currently preparing a statewide disaster plan due to be completed

in mid-1977 and is already working with local governments on plan implementation. The planning program includes hazard prevention, emergency operations, and recovery and is designed to prepare the state to respond to catastrophic events by: (a) identifying hazard agents; (b) outlining the nature, location, and occurrence interval for each hazard agent; (c) analyzing and synthesizing existing hazard data in the form, for example, of mitigation reports, maps, publications, and legislation; (d) defining the respective roles including the degree, level, and scope of involvement of state and federal agencies in preparedness plans and programs; (e) developing an organizational structure that will manage all state hazard mitigation programs and plans; (f) developing preparedness plans and programs at the state level; and (g) developing an organizational training program for state and local governmental staff personnel.

Uniform implementation of the state's disaster planning efforts in the coastal zone is not anticipated to be a serious problem. All fifteen coastal counties (and several of the larger cities) have designated emergency services departments. Local programs receive their funding from the U.S. Department of Defense Civil Preparedness Agency (CPA) and DES allocates 50% of the CPA funds upon CPA concurrence with the allocation plan.

Department of Agriculture

The State Department of Agriculture plays only a limited role in the state's coastal zone management network. The primary reason for this is that while agriculture is rapidly approaching the $2 billion mark in annual value in the state, most of the major producing areas are outside the coastal zone. Much of the significant work the Department does do in the coastal zone consists of routine inspections and control of food products, plants, and animals.

The Department's Division of Agricultural Development plays an indirect role in land use and water resource planning in rural areas of the coastal zone. This activity is generally limited to the compilation and publication of agricultural statistics through such mechanisms as joint federal/state crop and livestock reporting services. A much more direct management involvement of the division is its responsibility for administration of the state's Noxious Weed Control Act. The Department provides information, organizational assistance and some funding to various county weed control boards. In the last biennium the Department of Agriculture distributed more than $94,000 in state funds to a number of counties, including six in the coastal zone, to help in the eradication of Tansy Ragwort, Western Washington's most troublesome noxious weed.

Responsibility for controlling herbicides and pesticides within the coastal zone rests primarily with the Department's Grain and Chemicals Division. This division is authorized to enforce provisions of the state's far-reaching Pesticide Control Act (RCW Chapter 15.58), including the registration of pesticides and the licensing of their use, distribution, and sale. Because the state's act is very comprehensive, the Environmental Protection Agency in 1974 contracted with the Department of Agriculture to be the enforcing agency in the state for the new federal Pesticide Act. The Grain and Chemicals Division also has regulatory responsibilities in relation to the feed, fertilizer, and seed industries.

Besides the activities already mentioned, the Department of Agriculture plays an active, though usually informal, role in attempting to ensure the preservation and protection of prime farm land in the state. Within the coastal zone this land is primarily lowland truck farms and pasture for dairy and beef cattle. The Department testifies before legislative and congressional committees on the impact on agriculture of proposed legislation, assists in the development of agricultural legislation, reviews environmental impact statements under SEPA, and occasionally directly intervenes through attendance at hearings or the preparation of studies when it appears that development such as highways or power lines might have a major effect on agricultural production. For example, the Department recently presented the results of a study to the Bonneville Power Administration on the agricultural implications of power line siting. The Director of the Department of Agriculture is a member of the Energy Facility Site Evaluation Council.

Oceanographic Commission of Washington

The Oceanographic Commission of Washington (OCW) is a non-regulatory agency which was created in 1967 to study, advise, and inform relative to matters of marine science. The Commission and its non-profit research and educational corporation, the Oceanographic Institute of Washington (OIW), perform marine research in response to legislative and agency needs and serve as a source of public information on oceanographic affairs. The Commission itself consists of 11 part-time commissioners supported by a staff of four. OIW is a non-profit research corporation which is entirely self-supporting through grants and contracts. Most of its 14-member staff are scientists or engineers.

Virtually all the activities of OCW/OIW relate in some way to the state's coastal zone. Functions of particular relevance include: (a) researching proposed legislation affecting marine waters for the Legislature; (b) managing the Northwest Regional Calibration Center for oceanographic data collecting instruments under contract with the National Oceanic and Atmospheric Administration; and (c) maintaining a news bureau and publishing a quarterly magazine, *Pacific Northwest Sea.*

Though OCW is non-regulatory, its studies frequently play a significant role in the development of regulatory legislation. Much recent research has been devoted to problems stemming from petroleum transportation, particularly as it relates to preventing oil spills in the fragile environment of Puget Sound. Specific recent studies worthy of note include a feasibility analysis of offshore petroleum transfer systems, an examination of the performance of bridge personnel on maritime vessels, a risk analysis of the oil transportation system, and a study of alternative sites for liquified natural gas facilities in the Cook Inlet/Kenai Peninsula area of Alaska. OIW's recently published compendium entitled "Current Environmental Studies of Puget Sound and Northwest Estuarine Waters" is expected to be an invaluable source of information for agencies with more direct managerial responsibility in the state's coastal zone.

Department of Motor Vehicles

The Department of Motor Vehicles (DMV) is responsible for a variety of licensing and regulatory functions related to motor vehicles and aircraft, administration of the State Securities Act, and consumer protection. Administration of the Land Development Registration Act (RCW Chapter 58.19) is a significant part of the Department's consumer protection services and plays an important role in land use regulation within the coastal zone. The primary purpose of the Act is to ensure that truthful information about the lots promoted in a development is made available to prospective purchasers before sale or to actual purchasers at the time of sale. Upon receiving a property report prepared by the developer and registered by DMV, a purchaser has 48 hours under the Act to withdraw from a sale. The registration process, administered by DMV's Real Estate Division, provides for considerable informal review of applications by the Departments of Highways, Ecology, and Social and Health Services. Under the SEPA rules and regulations recently adopted by the Council on Environmental Policy, land developers may also have to prepare EISs in connection with the registration procedure.

Though the Land Development Registration Act is, strictly speaking, a disclosure statute for consumer protection, it results in fact in coordinating regulatory controls. If a development ought to be registered under the Act and no approved property report is made available, the purchaser has an indefinite time in which to rescind the sale. It is "presumed" by DMV that an adequate property report will show, among other things, that:

> (a) [t]here is or will be an adequate government approved potable water supply available[;] (b) [e]ach lot can be approved for installation of septic tanks or that each lot can have access to an approved sewage disposal system[; and] (c) [t]he individual homesites or building lots are accessible by automobile over an existing right-of-way without additional expense to the purchaser. [WAC 308-126-340]

With minor exceptions, a land development in the State of Washington must be registered if ten

or more lots are offered for sale in a 12-month period. The Act also requires registration of lot developments outside the state if the land is offered to Washington residents by advertisement within the state or if any part of the agreement is made in the state. Sales exempted from the registration requirement of the Act include those with respect to which all the lots are sold in a single sale to a single purchaser; all the lots are larger than five acres; there is a building on each lot or a contract to build a building within two years of sale; and the development lies entirely inside city limits. A waiver requiring only a short-form registration is available for developers offering 25 lots or less when there appears to be little problem for purchasers. Developers required to register with the federal Office of Interstate Land Sales Registration must also register with the state through the short-form process.

Regional Councils of Government

Thirteen of the fifteen counties and most of the cities and towns in the coastal zone belong to regional councils of government. The functions of these regional planning agencies in the State of Washington are to provide planning coordination among local units of government, to develop regional plans, to provide specific planning assistance to member governments, and to meet the objectives of various federal laws and regulations relating to interlocal planning and coordination.

A statewide policy revising the organization of areawide planning districts and district clearinghouses was promulgated by executive order of the Governor in April of 1975. That policy contemplates a statewide system which will: (a) aid in building strong planning capabilities at the local level of government; (b) facilitate effective cooperation among local, state, and federal governmental agencies; (c) recognize the geographic area of the county as the basic building block for areawide planning; and (d) encourage multi-county areawide planning where appropriate. The new policy is designed to meet the objectives of Section 204 of the Demonstration Cities and Metropolitan Development Act; Section 201 and Title IV of the Intergovernmental Cooperation Act; and the A-95 review procedures implementing the Intergovernmental Cooperation Act. Several federal/state planning relationships were affected by the executive order.

Besides participating actively in the A-95 review process (see pages 26-27), regional councils also provide the framework for the development of comprehensive regional plans as well as areawide plans for such things as water and waste management, parks and recreation, and transportation.

The regional councils of government in the coastal zone and their membership are as follows:

Clallam County Governmental Conference: Clallam County; the cities of Port Angeles, Sequim, and Forks; the Clallam County Public Utility District (PUD); the Port of Port Angeles; and the Clallam-Jefferson County Action Council.

Jefferson-Port Townsend Regional Council: Jefferson County; and the City of Port Townsend.

Grays Harbor Regional Planning Commission: Grays Harbor County; the cities of Aberdeen, Cosmopolis, Elma, Hoquiam, Ocean Shores, McCleary, Oakville, Westport, and Montesano; the Grays Harbor PUD; the Grays Harbor Chamber of Commerce; the Port of Grays Harbor; the Grays Harbor-Pacific Health District, and the Quinault Indian Reservation.

Pacific County Regional Planning Council: Pacific County; the cities of Long Beach, South Bend, Ilwaco, and Raymond; the ports of Ilwaco, Chinook, Wallapa Harbor, and Peninsula; the Pacific County PUD; and the Grays Harbor-Pacific Health District.

Whatcom County Council of Governments: Whatcom County; the cities of Bellingham, Lynden, Blaine, Ferndale, Sumas, Everson, and Nooksack; the Port of Bellingham; the Lummi and Nooksack Tribal Councils; the Whatcom County Soil and Water Conservation District; and the Whatcom County Board of School Directors.

Skagit Regional Planning Council: Skagit County; the cities of Anacortes, Burlington, LaConner, Mount Vernon, and Sedro Woolley; the Skagit County PUD; and the ports of Skagit and Anacortes.

Mason Regional Planning Council: Mason County; the City of Shelton; the Port of Allyn; the Fire Commissioners Association; and the Shelton School District.

Thurston Regional Planning Council: Thurston County; the cities of Olympia, Lacey, Tumwater, Yelm, Tenino, Bucoda, and Rainier; the Port of Olympia; School Districts 111, 3 and 2; the Capitol Committee; and The Evergreen State College.

Cowlitz-Wahkiakum Governmental Conference: Wahkiakum County; the City of Cathlamet; and the Wahkiakum County PUD. (Only members within the coastal zone are listed.)

Puget Sound Council of Governments: King County; Pierce County; Snohomish County; Kitsap County; the cities of Bremerton, Bothell, Kent, Seattle, Clyde Hill, Milton, Auburn, Bellevue, Mountlake Terrace, Kirkland, Bonney Lake, Snohomish, North Bend, Mercer Island, Winslow, Everett, Des Moines, Medina, Renton, Hunts Point, Sumner, Fife, Edmonds, Tacoma, Puyallup, Stanwood, Tukwila, Port Orchard, and Poulsbo; the Muckleshoot Indian Tribe; and the Tulalip Tribes of Washington.

The planning departments of Island and San Juan counties serve as the regional district planning clearinghouses for those two counties.

Air Pollution Control Authorities

Air pollution control in the State of Washington is implemented through regulations and operations at two levels of government. State direction is provided by the Department of Ecology's Office of Air Programs and Industrial Section and local administration is handled by Air Pollution Control Authorities (APCAs) created by the Washington State Clean Air Act of 1967 (RCW Chapter 70.94). APCAs are governed by boards of directors which consist of a combination of city and county representatives and private citizens. The exact composition depends on the number of counties constituting the APCA jurisdiction. Nine APCAs have been established statewide to date covering twenty-one counties. Four are single-county jurisdictions and five are multi-county jurisdictions. Air Pollution Control Authorities are treated in some detail on pages 61-64.

Cities and Counties

As political subdivisions of the State of Washington, the 100 cities and towns and the 15 counties within the coastal zone are empowered to act only under broad authorities granted by the Legislature. All incorporated coastal zone cities have adopted home-rule municipal charters, but only one county—King—has adopted a charter. Counties without charters lack home-rule authority and, generally speaking, may perform only those functions which have been given to them by specific legislative action.

Both counties and cities are general-purpose units of government and carry out the duties usually associated with such public corporations, including activities related to public safety, public transportation, utilities (water, sewer, solid waste control, and in some cases electricity), parks and recreation, public works (roads, streets, and bridges), enforcement of building regulations, and planning. In addition, counties operate jails, house the state's district and superior courts systems, administer the property tax system, conduct elections, and serve as a principal depository for a wide variety of records.

The Legislature has given local units of government a fairly broad range of powers having profound impact on the management of the coastal zone. The responsibilities and authorities of cities and counties under the Shoreline Management Act, the State Environmental Policy Act, the Environmental Coordination Procedures Act, and the Forest Practices Act have been discussed previously. (See pages 29-43, 44-47, 47-50, and 78-81 respectively.) There are several other local responsibilities, however, relating to land use planning and regulation, building code enforcement, and health regulations which merit further discussion here.

The state's Planning Enabling Act (RCW Chapter 36.70) grants counties broad powers for jurisdictional planning with a goal, among other things, of "assuring the highest standards of environment for living." The Act provides for the appointment of county planning commissions and boards of adjustment and sets forth requirements and grant authority for long-range planning and environmental controls. Planning commissions, once created, are required to prepare a comprehensive plan consisting of at least a land use element and a circulation element, with appropriate supporting documents, which is to be submitted to the county legislative body, the board of county commissioners, for approval. All actions of planning commissions are strictly advisory to the legislative body by law, though in most counties commission recommendations are accepted in about 90 percent of the cases. The Planning Enabling Act also authorizes counties to establish certain land use controls, the most important of which are zoning ordinances. 11 of the 15 coastal counties have adopted zoning ordinances to date.

Cities are empowered to undertake planning activities including the establishment of zoning regulations through their general police powers under the state constitution, RCW Chapter 35.63 relating to municipal planning commissions, and provisions within individual city charters. Cities are also allowed to join regional planning organizations and may establish boards of adjustment.

Under the plats and subdivision authority granted to counties and cities in RCW Chapter 58.17, local governments are required to adopt regulations and procedures governing preliminary and final plats and subdivisions and, under a recent amendment, short plats and subdivisions as well. The provisions of the law do not apply to cemeteries, divisions of land into lots or tracts five acres or larger (unless the local government has adopted an ordinance to the contrary), divisions made through wills or the law of descent, and divisions made for the purpose of lease when no permanent structures are allowed other than mobile homes and the local government has approved a building site plan for use of the land. City and county legislative bodies are required to inquire into the public interest to be served by the proposed subdivisions. Provisions are to be made for but are not limited to open spaces, drainage ways, streets, and other public ways, water supplies, sanitary wastes, parks, sites for schools, and dedication of land to any public body. Any such provision may become a condition of approval. The subdivision may be denied by the local government if the provisions of state law and local regulations are not satisfied.

The State Building Code Act (RCW Chapter 70.92) provides for a uniform state building code and charges the cities, towns, and counties of the state with its administration and enforcement. Local governments are authorized to modify the state building code to fit local conditions as long as the modifications do not provide for weaker control than the minimum standards and objectives called for in the Act. Some matters relating to buildings are left entirely in the hands of cities and counties, including local land use and zoning requirements, building setbacks, side and rear yard requirements, site development, property line requirements, subdivision requirements, and local fire zoning.

In many instances the public health functions of state government are administered through county health districts or regional districts made up of cities and counties. All of the major urban areas within the coastal zone have established area health units in one form or another to carry out public health responsibilities given them directly by state law or delegated to them by the Department of Social and Health Services. Included among the many health services provided by local governments are water and sewage approval for preliminary plats (usually required before building permits are authorized); control of Class II water districts (those with fewer than 100 water services); and permitting and licensing relating to mobile home parks, recreational vehicle parks, sewage disposal facility installers, designers, and pumpers, solid waste management, food handling establishments, and the production and distribution of milk.

The state's 39 counties are officially represented by the Washington State Association of Counties (WSAC). Financed by county funds and recognized by state law, WSAC provides a wide variety of services to county government including research on legislation affecting counties, providing a forum through district and statewide workshops and meetings for discussion of problems of mutual interest to counties, and representing the counties' interests in hearings and meetings with state agencies and other organizations. Planning assistance to counties relating to such things as SMA and Solid Waste Management Act administration and coastal zone management is an important part of the services provided by the Association. WSAC has adopted a number of model forms and procedures for use by counties statewide.

The Association of Washington Cities (AWC) is the official organization of cities and towns in the state. AWC is recognized in RCW Chapter 83.44, which also establishes the Municipal Research Council (formerly the Bureau of Governmental Research). The role of AWC is to provide information and technical assistance to cities on many things including environmental management in the coastal zone. The Association conducts management workshops and conferences through its field service acitivities. It has also established a position on its nine-member staff to conduct ongoing field studies monitoring problems cities are having in meeting their responsibilities under such laws as SMA, SEPA, and the Coastal Zone Management Act of 1972.

The state-financed Municipal Research Council, which is composed of nine city officials, four state senators, four state representatives, and one appointee of the Governor, provides a wide variety of services for cities and towns through a private, non-profit corporation, the Municipal Research Center. The Center responds to inquiries from city governments and publishes a variety of documents on topics of interest to cities.

Public Port Districts

Public port districts were originally authorized by the Washington State Legislature in 1911 in an effort to further the flow of maritime commerce in support of the economies of the regions served. The Public Port District Act (RCW Chapter 53.08) was directed at the establishment of seaports—Grays Harbor and Seattle were the first such districts in the state—but as the years passed responsibilities have been increased to include activities ranging from industrial development to marinas for recreational boating to airports. There are currently 79 active port districts in the state and more than half of them are located in the coastal zone.

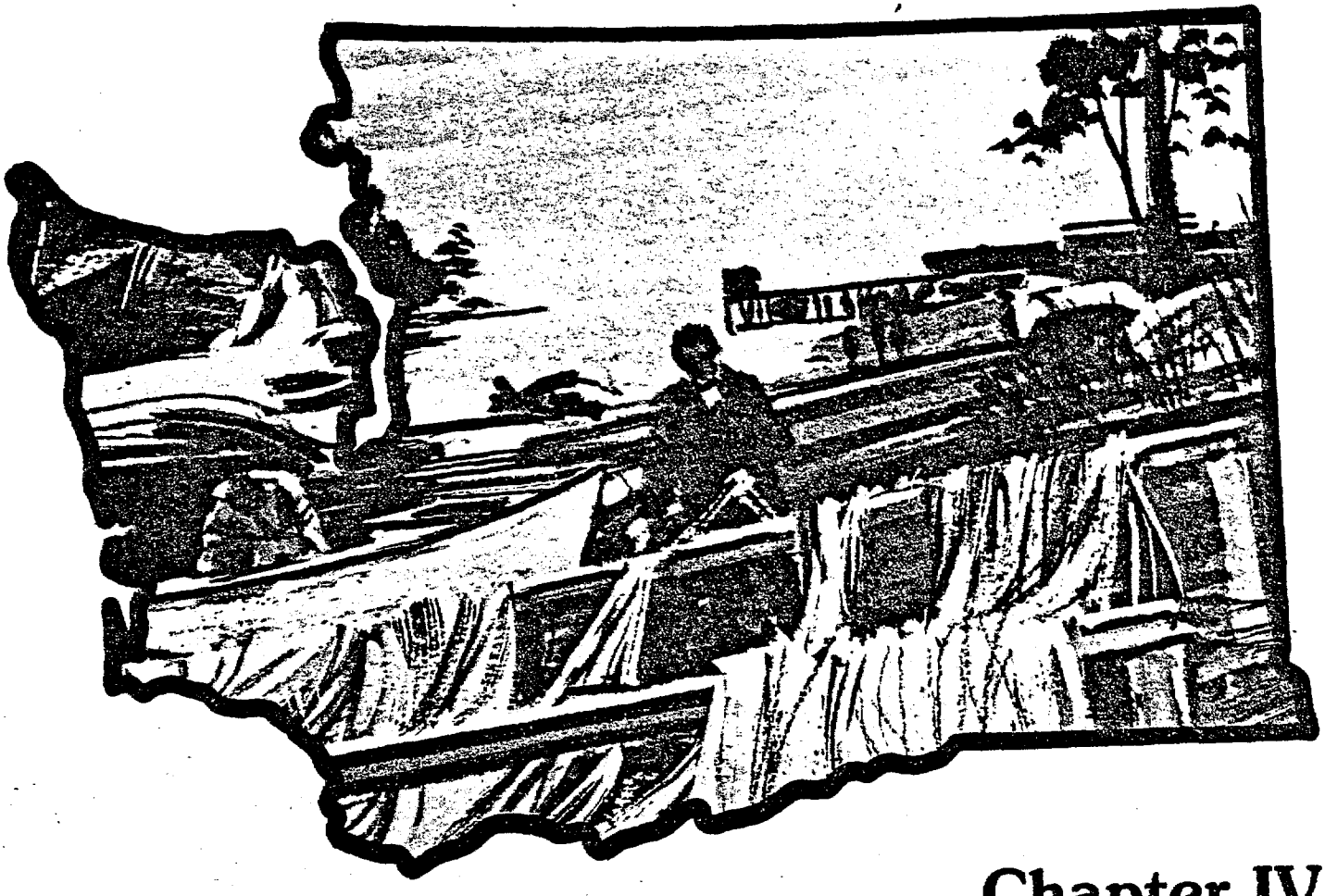
A port district is an autonomous unit of local government (defined as a municipal corporation by statute) governed by a board of commissioners usually numbering three who are elected by the people of the district to six-year terms. One port district, the Port of Seattle, has a five-member commission. The commission is the policy-making body for the district and is empowered to hire a staff to administer the policies it establishes. Port districts are created by a vote of the people in the area to be served.

The operation of public ports is big business in the coastal zone. For example, the annual budget of the Port of Seattle for 1975 was in excess of $100 million. Other budgets ranged from $7 million for the Port of Bellingham to $135,000 for the small Port of Willapa Harbor. Funds to support activities are derived from operating revenues (leases, tariff fees, landing fees, docking charges, etc.), property taxes (up to .45 mills), and general obligation and revenue bonds.

The interaction among port districts, other units of local government, and federal and state agencies is a key part of the state's coastal zone management network. Ports must obtain permits and other approvals for all construction activity within harbor areas or along shorelines from such agencies as the Army Corps of Engineers, the Coast Guard, the Department of Natural Resources, the Department of Ecology, the Department of Social and Health Services, and individual counties and cities under SMA. Ports or their lessees are also required to file EISs under SEPA and NEPA as appropriate. Port districts generally abide by county and city zoning ordinances and building code regulations, although the legal status of whether they are actually required to do so is

currently unclear. No activity can be undertaken by a port district unless it has a comprehensive plant. Port districts may own property but in many coastal zone harbors the tidelands and marine beds are leased from the Department of Natural Resources and in turn sublet to individual tenants by the port.

In recent years port districts in the state have come under some fire for a lack of regional coordination of proposed projects. Under a 1972 amendment to the Port District Act the boundaries of any new districts must be at least county-wide. The port districts themselves, through the Washington Public Ports Association, are currently considering a program which would establish a Cooperative Port Development Committee to review all major port district projects.



Chapter IV

Synopsis of Federal Agency and Indian Involvement in Washington's Coastal Zone

CHAPTER IV. SYNOPSIS OF FEDERAL AGENCY AND INDIAN INVOLVEMENT IN WASHINGTON'S COASTAL ZONE

INTRODUCTION

One of the most exciting aspects of the Coastal Zone Management Act of 1972 is the creation of the realistic possibility of molding the activities of all the major contributors to the management of coastal resources into a comprehensive management program exhibiting internal consistency. Coordinating the multifarious programs affecting the coastal zone that are under the immediate control of the State of Washington is a sufficiently complex task in itself, as should be clear from the previous chapter. The complexity increases significantly, however, when the management program encompasses not only agencies of the state but agencies of the federal government and Indian tribes as well. A prerequisite of the establishment of a comprehensive coastal zone management program is the identification of the roles played by federal and Indian agencies in the state's coastal zone. The state must also provide the opportunity for agencies to participate, acknowledge their views and consider the national interest, and provide a means for continuing coordination and consultation.

FEDERAL INVOLVEMENT IN THE COASTAL ZONE

Forty-seven federal agencies have been identified which contribute to the management of coastal resources in Washington State. While state/federal cooperation has been an ongoing concern throughout the history of the state, the Coastal Zone Management Act created new incentives for management coordination. The results of the state and federal efforts responding to the requirements of the Act are dealt with in detail in Chapter V (pages 130-133) and projections for the immediate future of the new coordination process are set forth in Chapter VI (pages 139-140). What follows here is a brief introduction of the federal agencies involved and an initial glance at the nature of the contribution of each to coastal zone management.

Agencies of the Executive Branch

There are four agencies representing the executive branch of the federal government which contribute significantly to the management of the state's coastal zone.

The Office of Management and Budget (OMB): The OMB has increased in stature in recent administrations through the development of efficiency coordinating mechanisms to implement the will of the President. One of the primary tools used is OMB Circular A-95, which provides for a review and comment process among agencies affected by federal proposals. The A-95 process in the State of Washington has been discussed previously. See page 26.

The Council on Environmental Quality (CEQ). The CEQ was created by the National Environmental Policy Act of 1969 to formulate and recommend national policies to promote the improvement of the quality of the environment. The Council consists of three members appointed by the President with the advice and consent of the Senate. One of the appointees is designated by the President as chairman. The Office of Environmental Quality, which provides staff for the Council, was created by Title II of the Environmental Quality Improvement Act of 1970 (84 Stat. 114; 42 U.S.C. 4372). In addition to its duties as custodian of NEPA, the CEQ develops and recommends to the President national policies which promote environmental quality, performs ongoing analysis of changes or trends in the national environment, and assists the President in the preparation of the annual environmental quality report to the Congress. (For discussion of the handling of NEPA in the State of Washington, see page 27.)

The Federal Property Council. The Federal Property Council was created by Executive Order 11724 of June 25, 1973, to foster the develop-

ment of more effective national policies with respect to the use of federal properties. The Council is specifically charged with reviewing all federal real property policies with respect to their consistency with the overall objectives of the federal government and recommending to the President necessary reforms, modifications, or initiatives. The Council is also charged with the responsibility for resolving conflicting federal claims for use of certain federal properties. Excluded from this responsibility are conflicts over use of the public domain; lands withdrawn or reserved from the public domain which are used by federal agencies for national forests, national parks, or wildlife reserves; and all other lands reserved or dedicated for national forest or national park purposes. In addition, the Council oversees the Legacy of Parks program.

Departments of the Federal Government

Seven of the eleven departments of the federal government have important responsibilities for the management of coastal areas in the State of Washington. Some control fairly extensive land holdings such as the Department of the Interior and the Department of Defense. Others assist the private sector in performing land use functions, such as the Departments of Agriculture and Housing and Urban Development. The Departments of Commerce, HEW (Health, Education and Welfare) and Transportation have a host of sub-agencies contributing in a wide variety of ways to management of coastal resources. Only the Departments of Justice, Labor, State and the Treasury have no direct involvement in coastal zone management in Washington State at the present time.

Department of Agriculture. All of the functions statutorily assigned to the Department of Agriculture (research, education, conservation, marketing, regulatory work, agricultural adjustment, surplus disposal, and rural development) affect the Washington State coastal zone, but five of the program areas have special significance.

The Farmers Home Administration. (FHA) administers 13 kinds of loans that encourage development in the coastal zone: (1) operating, (2) youth projects, (3) emergency, (4) ownership, (5) conservation, (6) recreation, (7) Indian, (8) associations, (9) housing, (10) watershed, (11) resource development, (12) facilities, and (13) industrialization.

The Rural Electrification Administration. (REA) finances loans for electrical and telephone service, preferentially, to non-profit, cooperative or public bodies that may desire to service rural areas in the coastal zone.

The Agricultural Stabilization and Conservation Service. (ASCS) through its resource conservation programs affects how land use change may occur in the coastal area by cropland adjustments (emphasizing recreation and wildlife habitat) and "Water Bank" payments for preventing serious loss of wetlands and preserving, restoring, and improving designated water areas.

The Forest Service. (FS) has objectives to assure the fiber self-sufficiency of the nation. Its practices have both beneficial and adverse effects upon the coastal lands of the State of Washington in terms of management on its own lands and encouraging private production elsewhere.

The Soil Conservation Service. (SCS) has five major programs for cooperation with the private sector all of which affect the state's coastal zone: (1) conservation operations, (2) basin surveys, (3) watershed and flood prevention, (4) resource development, and (5) planning.

Department of Commerce: This Department has as a mission to foster, serve, and promote the economic development and technological advancement of the nation. Its heterogenous functions have a pronounced effect upon the Washington coastline.

The Pacific Northwest Regional Commission fosters long-range, comprehensive economic development. It is co-chaired by a federal designee of the Secretary of Commerce and one of the governors of the three northwest states, who fill the position by rotation. The Commission's research and training programs can have a profound effect on coastal zone resource utilization and its long-range development plan contains indicators of administrative policy on the utilization of, among other things, the coastal resources.

The Economic Development Administration. (EDA) aids in the development of public facilities and private enterprises that create jobs in coastal areas having severe unemployment and low income problems. The grants, loans, guarantees and technical assistance may either enhance or conflict with coastal management.

The Maritime Administration. (MA) administers programs that aid in the development, promotion, and operation of the merchant marine. Subsidies to shipping, the construction industries and ports may have substantial impact upon coastal zone conditions. MA also has responsibility for pollution abatement aimed primarily at protecting water quality to control vessel-generated pollution. In addition to vessel design modification, MA has also studied the feasibility of shoreside port reception facilities for the collection, treatment, and disposal of oily wastes from vessels.

The National Oceanic and Atmospheric Administration. (NOAA) has a mission to inventory coastal conditions with a view toward the beneficial management, use, and conservation of coastal resources. Its National Marine Fisheries Service, National Ocean Survey, Sea Grant, and OCZM functions have a profound impact upon actors in the coastal zone.

National Marine Fisheries Service. (NMFS) is the NOAA agency charged with protecting and managing renewable living coastal resources for wise and sustained use.

Department of Defense. The Department of Defense impacts Washington's coastal zone in a number of important ways. Its permitting activities provide a significant check on water-related development and its bases, construction activities, and military maneuvers generally exclude direct state control.

The U.S. Army Corps of Engineers. Activities undertaken by the Corps of Engineers can be broadly classified as (a) engineering responsibilities like construction, operation, maintenance of levees, harbors, and waterways, and the removal of sunken vessels and floating debris endangering navigation; (b) regulatory functions; and (c) research and planning activities such as conducting flood plain information studies, predicting flood occurrences, and planning for regional water resources management. The Corps serves as the federal government's primary regulatory agency in the use and development of the navigable waters of the United States. It issues permits to private parties and public agencies to fill, dredge, or build in, on, over, or beneath navigable waters. Corps approval is also required for the transport of dredged material for the purpose of dumping into ocean waters. The Corps is a focal point of long standing for significant coastal zone regulatory control. (See page 27 for further discussion on Army Corps permitting activity.)

The U.S. Navy. The primary mission of the U.S. Navy is national defense, which gives it high priority in competing for the land and water resources of the state's coastal zone. The Navy has widespread developments in the coastal zone, especially operating areas and test ranges, and is a significant user of coastal property and offshore public lands due to the fact that most of its activities require a shoreline location. Navy programs with significance to coastal zone management include activities related to oil spills, navigation and communication, shipping, residential development, solid waste disposal, and research related to water resources, ocean movement dynamics, air resources, marine research, weather, and climate.

The U.S. Army. The Department of the Army is charged with the responsibility for providing support for national and international policy and the security of the United States by planning, directing, and reviewing both military and civil operations, including the organization, training, and equipping of land forces to ensure the capability for prompt and sustained combat operations on land in accordance with plans for national security. Bases like Fort Lewis have training programs operating in the Puget Sound area which may have an effect on state coastal zone management.

The U.S. Air Force. The Department of the Air Force is responsible for providing an Air Force that is capable, in conjunction with the other armed forces, of preserving the peace and security of the United States. Location of Air Force facilities (including appurtenant navigational and radar devices) may have some impact on the coastal areas of the State of Washington.

Department of Health, Education, and Welfare (HEW). The mission of HEW includes providing incentives to establish facilities and development projects of health or educational benefit, in addition to the agency's social services programs. Functions with immediate coastal zone implications include assistance to Indian tribes along the Washington coastline and transfers of property for local public health and educational purposes. HEW activities may also result in construction on the coastal plain.

Department of Housing and Urban Development (HUD). HUD is the steward of a safe, sanitary, and decent housing stock for the nation. HUD's impact on the coastal zone is profound in terms of planning, grants, loans, regulation, and insurance practices.

The Federal Insurance Administration (FIA). Responsibility for administering the National Flood Insurance Program rests with the Federal Insurance Administration. The Flood Disaster Protection Act of 1973 (PL 93-234) is designed to call a halt to the all too prevalent practice in many of the flood prone communities of building indiscriminately in flood hazard areas. Local governments must adopt, administer and enforce land use control measures in their building codes, zoning ordinances, subdivision regulations, health regulations and construction specifications in order to meet this objective. This program and the Act will also improve the federal post-disaster assistance program by substituting the insurance indemnification for the current system of disaster loans. Of the 114 flood prone communities within the coastal zone counties, 96 are currently participating in the emergency program and meeting the program requirements. Flood insurance studies are currently under contract by HUD-FIA and underway for the nine counties in the coastal zone which are the most subject to flood damages. These will provide base flood elevations and delineation of the flood hazard and coastal high hazard areas for local communities to meet their flood plain management regulation requirements. The Department of Ecology will encourage and assist all communities toward conjunctive administration of the building, shoreline, and flood plain management efforts into a single permit system in the interests of economy and efficiency.

Department of the Interior (DOI). The mission of the Department of the Interior is basically stewardship of the public domain of the nation. Some contribution to the management of coastal resources is provided by at least ten of the Department's sub-agencies under (a) the Assistant Secretary for Fish, Wildlife and Parks, (b) the Assistant Secretary for Energy and Minerals, (c) the Assistant Secretary for Land and Water Resources, and (d) the Commissioner of Indian Affairs.

The Bureau of Indian Affairs (BIA). A key mission of BIA is to help manage tribal lands for the benefit of Indians within their treaty rights. Good conservation practices are encouraged within the regulations that cover coastal zone practices.

The Bonneville Power Administration (BPA). The mission of BPA is to market energy produced by the Federal Columbia River Power System for the economic betterment of the region. Precedent for good conservation practices appears in the interagency agreements (e.g., Forest Service and Bureau of Land Management) and the annual environmental impact statement which subscribe to standards and practices important for sound management.

The Bureau of Land Management (BLM). The mission of the BLM is to manage the public resources of the nation under its charge to provide maximum benefit to the people consistent with a high-quality environment through application of the concepts of multiple use and sustained yield. The Bureau administers the mineral resources connected with acquired lands and the submerged lands of the outer continental shelf and is responsible for the management

of 450 million acres of national resource lands most of which is located in the Far West. The Bureau is also responsible for subsurface resource management of an additional 310 million acres where mineral rights have been reserved for the federal government.

The Bureau of Outdoor Recreation (BOR). The mission of the BOR is to assure coordinated action at all levels in serving the recreational needs of the nation. Under the Land and Water Conservation Act of 1965, the Bureau administers a program of financial assistance grants to states and their political subdivisions for comprehensive planning, land acquisition, and facility development. The fund also helps finance the acquisition of federal lands and water areas for recreational purposes. The Bureau participates directly in the planning, coordination, and establishment of uniform policies relating to recreation and fish and wildlife benefits and the costs of federal multipurpose water resource projects. The BOR has responsibility for formulating and implementing a comprehensive Nationwide Outdoor Recreation Plan that covers the needs and demands of the public for outdoor recreation, the current and foreseeable availability of outdoor recreation resources to meet those needs, critical outdoor recreation problems, and recommended actions to be taken at each level of government.

The Fish and Wildlife Service (FWS). The objective of the United States Fish and Wildlife Service, which is responsible for wild birds, mammals (except certain marine mammals), inland sport fisheries, and specific fishery research activities, is to maximize the opportunity of the people of the nation to benefit from fish and wildlife resources in their natural environment. The FWS guides the conservation, development, and management of the nation's fish and wildlife resources and administers a national program which provides opportunities to the American public to understand, appreciate, and wisely use these resources. Extensive coastal zone involvement is required of the FWS in order to manage wildlife refuges in the coastal zone and process Corps of Engineers and related permits.

The Bureau of Reclamation. The basic objectives of the federal reclamation program are to assist the states, local governments, and other federal agencies to stabilize and stimulate local and regional economies, enhance and protect the environment, and improve the quality of life through development of water and related land resources. Reclamation projects, through a multiple-purpose concept, provide for some or all of the following purposes: municipal and industrial water supply, hydroelectric power generation and transmission, irrigation water service, water quality improvement, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, and related uses. Through contractual agreements with project beneficiaries, the Bureau arranges for repayment to the government of reimbursable project construction, operation, and maintenance costs.

The National Park Service (NPS). The National Park Service administers an extensive system of national parks, monuments, historic sites, and recreation areas. The objectives of NPS are to administer the properties under its jurisdiction for the enjoyment and education of the American people, to protect the natural environment of the park areas, and to assist states, local governments, and citizen groups in the development of park areas, the protection of the natural environment, and the preservation of historic properties. Olympic National Park and parts of the San Juan Islands are under the jurisdiction of the National Park Service.

The Bureau of Mines. Coastal shelf mineral utilization comes under the purview of the Bureau of Mines. The Bureau is primarily a research and factfinding agency. Its goal is to stimulate private industry to produce a substantial share of the nation's mineral needs in ways that best protect the public interest. Research is conducted by the Bureau to develop the technology for the extraction, processing, use and recycling of the nation's mineral resources.

The U.S. Geological Survey (USGS). Coastal responsibilities of the U.S. Geological Survey are significant in the State of Washington. The

broad objectives of the Survey are to perform surveys and conduct research covering topography, geology, and the mineral and water resources of the United States; classify land with respect to mineral character and water and power resources; enforce departmental regulations applicable to oil, gas, and other mining leases, permits, licenses, development contracts, and gas storage contracts; and publish and disseminate data relative to the foregoing activities.

Department of Transportation (DOT). The mission to assure a coordinated, effective administration of transportation programs of the federal government is entrusted to DOT. Competing modes on shore, on the water, and in the air have a profound impact on coastal resource management in the State of Washington. DOT forges policies and programs conducive to the provision of fast, safe, efficient, economic, and convenient systems serving the Northwest region. Seven sub-agencies have impact on the coastal zone insofar as the means of access trigger development.

The U.S. Coast Guard (CG). The Coast Guard is part of the Department of Transportation but is also a branch of the Armed Forces and operates as a part of the Navy in time of war or when the President directs. The Coast Guard enforces or assists in the enforcement of all federal laws upon the high seas and waters subject to U.S. jurisdiction; promulgates and enforces regulations for the promotion of water safety; licenses and regulates deep-water ports; assists in the enforcement of water pollution and oil spill regulations; develops, maintains and operates aids to maritime navigation, ice-breaking facilities, and rescue facilities; and maintains a readiness to function as a specialized service in the Navy in time of war. Virtually all the activities and developments of the Coast Guard are in the coastal zone or have as an objective public benefits relating directly to the coastal zone.
Much of the Coast Guard's activity is directed by, and authorized by, the Navigational Servitude Act and the Commerce clause of the U.S. Constitution, which, among other things, require provisions for the safety of vessel traffic. In the pursuit of these duties, the Coast Guard has acquired some form of control over hundreds of small parcels of land and bedland in the state for navigational aids and has a constant program of maintenance and alteration of these aids to account for the changing needs of vessel traffic safety.

The Federal Aviation Administration (FAA). The purpose of FAA is to foster air commerce, safety, and a national system of airports, including controls and navigation aids. In the State of Washington many existing facilities are located, reconstructed, or expanded upon estuarine plains.

The Federal Highway Administration (FHWA). Generally speaking, the mission of FHWA is the programming of financial incentives to the states for highway construction. The national interest in terms of access for defense purposes includes special standards and criteria for the sensitive placement of routes and facilities in the coastal area.

The Federal Railroad Administration (FRA). The purpose of FRA is to consolidate government support of rail transportation activities, safety, and the financing of new facilities. Some rail routes use the shoreline of Puget Sound and other saltwater reaches where the rebuilding of facilities must be sensitively accomplished to serve coastal zone management mandates.

The National Highway Traffic Safety Administration (NHTSA). The NHTSA carries out programs related to highway traffic safety programs.

Materials Transportation Bureau. One of the Bureau's responsibilities is to establish and enforce standards necessary to ensure safe construction and operation of offshore pipelines used to transport hazardous materials such as natural gas, petroleum, and petroleum products to shore facilities. The coastal zone implications are clear. This Bureau took over the functions of the Office of Pipeline Safety Operations in March 1976.

The Urban Mass Transportation Administration (UMTA). The mission of UMTA is to assist in the provision of adequate mass transportation in

urban areas, including planning, operating, facilities, equipment, techniques and methods. The Puget Sound Council of Governments, the Municipality of Metropolitan Seattle and the Washington State Ferry System are the main recipients of UMTA financial support located within the coastal zone. In approving support to the programs and projects of these and other area grantees, UMTA must be sensitive to the coastal zone management program's goals and objectives.

Independent Federal Agencies

In addition to the sub-agencies of the seven major departments of the federal government discussed above, there are another 12 independent agencies which have coastal functions affecting the State of Washington. These agencies vary from special, single-function institutions like regulatory commissions to governmental units administering executive level authority.

Energy Research and Development Administration (ERDA). The purpose of ERDA is to develop national self-sufficiency in energy while ensuring adequate safety and environmental protection. ERDA's Assistant Administrator with environmental and safety expertise is charged with the chief responsibility for anticipating significant adverse impacts in the coastal zone.

Environmental Protection Agency (EPA). EPA has a broad mandate to preserve and protect the physical environment through the imposition of standards, criteria, procedures, incentives and research to minimize harmful environmental effects. The pervasiveness of the NEPA review system and coordination with CEQ at the national and regional level help to guarantee the systematic control of all types of pollution.

Federal Energy Administration (FEA). The general purpose of FEA is to administer emergency programs for energy conservation, production and distribution. How and where the siting of facilities may occur along the saltwater coast of the State of Washington is of immense concern. The Energy Supply and Environmental Coordination Act (1974) provides for federal collaboration in environmental requirements to satisfy emergency concerns.

Federal Maritime Commission (FMC). The mission of FMC is to protect the public interest through regulation of shipping relating to off-shore commerce, both domestic and foreign. FMC regulatory control over services and shipping practices may interface with significant environmental concerns in the coastal zone. At the present time, coordination of regulatory practice is a one-way process subject to FMC veto in favor of shipping interests, except for public health, consular, and Coast Guard missions.

Federal Power Commission (FPC). The purpose of the FPC is to achieve and assure an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources. The coastal zone implications of, for example, the siting of thermo-nuclear plants highlight the need for mechanisms to reconcile the competing national interests for the best utilization of coastal areas.

General Services Administration (GSA). GSA has authority over the transfer and disposal of surplus federal lands to other governmental entities and sales to the private sector. Of most significance for coastal zone management are the provisions for Department of the Interior (through the BOR) aid to park and recreation interests in obtaining coastal lands through disposal processes.

Nuclear Regulatory Commission (NRC). This Commission has assumed the regulatory role of the former Atomic Energy Commission including control of the location and operation of power plants such as that proposed for Satsop. Thermal plants have a profound effect upon water quality and temperature and the biota dependent thereon.

Small Business Administration (SBA). This agency has been empowered among other things to make loans to small business concerns for facilities such as food processing plants that are characteristically located on the coastal flood plains to handle oysters, fish, and related production. Development loans should be sensitive to the fragile nature of the estuarial lowlands or saltwater frontage.

Advisory Council on Historic Preservation. The Council is charged with advising the President and Congress with respect to matters of historic preservation and commenting on federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in the National Register of Historic Places. Coordination between the Council and the State of Washington is important because of the many historic sites and areas of cultural significance that are found along the Washington coast. The State Parks and Recreation Commission has been designated as the regional contact for the Council.

Pacific Marine Fisheries Commission. The Commission develops and recommends policies to promote the management, development, and utilization of marine and anadromous fisheries which are of mutual concern to the member states — Washington, Oregon, Idaho, California, and Alaska.

Federal Regional Council (FRC). The coordination of several federal agencies active in the coastal zone that is achieved by the FRC is a significant step in the direction of making the actions of governmental agencies consistent with each other. The Council has functioned particularly successfully with respect to urban and human resource problems. The FRC relies on the authority of the Joint Funding Simplification Act of 1975 and the A-95 grant review process to attain coordination among the numerous programs in which the constituent agencies are involved.

Pacific Northwest River Basins Commission (PNWRBC). The PNWRBC was established by the Water Resources Council, an independent federal agency with broad responsibilities for water resources development. Since 1967, the state's resource agencies have relied on this vehicle of coordination. PNWRBC institutionalizes planning at all technical levels among principal state and federal agencies. Planning once focused on the upstream area, but is now adaptable to the offshore coastal area.

THE MANAGEMENT OF COASTAL ZONE INDIAN LANDS

Introduction

In recognition of the immense complexity of the management of Indian lands in Washington State's coastal zone, the Department of Ecology authorized a detailed study to provide an overview of the current status of Indian management of coastal resources, an identification of the central problems hindering efficient management, and recommendations for change. The study was completed in June of 1975. Entitled "Coastal Zone Management Study of Indian Trust Lands in Western Washington," the complete report is available from DOE. The essential findings of the report provide the foundation for the analysis that follows here.

The history of Indian lands in Washington State is extremely complicated. Based on treaties signed in the 1850s, there are now fourteen reservations and one recognized Indian community in the state's coastal zone. By treaty area they are as follows:

Treaty Area	Reservation or Community
Neah Bay:	Makah-Ozette
Quinault River:	Quinault Quileute Hoh
Point-No-Point:	Lower Elwah Skokomish Port Gamble Jamestown Community
Medicine Creek:	Puyallup Squaxin Island
Point Elliot:	Lummi Swinomish Tulalip Port Madison (Suquamish)
Shoalwater:	Shoalwater

The map on the following page shows the general location of the above-named reservations and communities.

There are seven other tribes that were signatories to the treaties and have been guaranteed fishing rights under a recent federal court decision: The Muckleshoot, Yakima, Nisqually, Suak-Suiattle, Upper Skagit, Stillaguamish, and Nooksack. All seven tribes are landless or located on reservations that do not fall within the coastal zone.

Within the boundaries of Indian lands in the coastal zone can be found every type of natural system and shoreline that occurs elsewhere in Western Washington. Several major rivers enter the salt water through reservations: the Hoh, Quinault, Quillyute, Skokomish, Nooksack and Puyallup. There are sand and rock beaches, dunes, spits, bars, estuaries, marshes, creeks, flood plains, and cliffs. The full range of land and water use activities, from wilderness to intensive residential and industrial development, is also found in tribal coast lands.

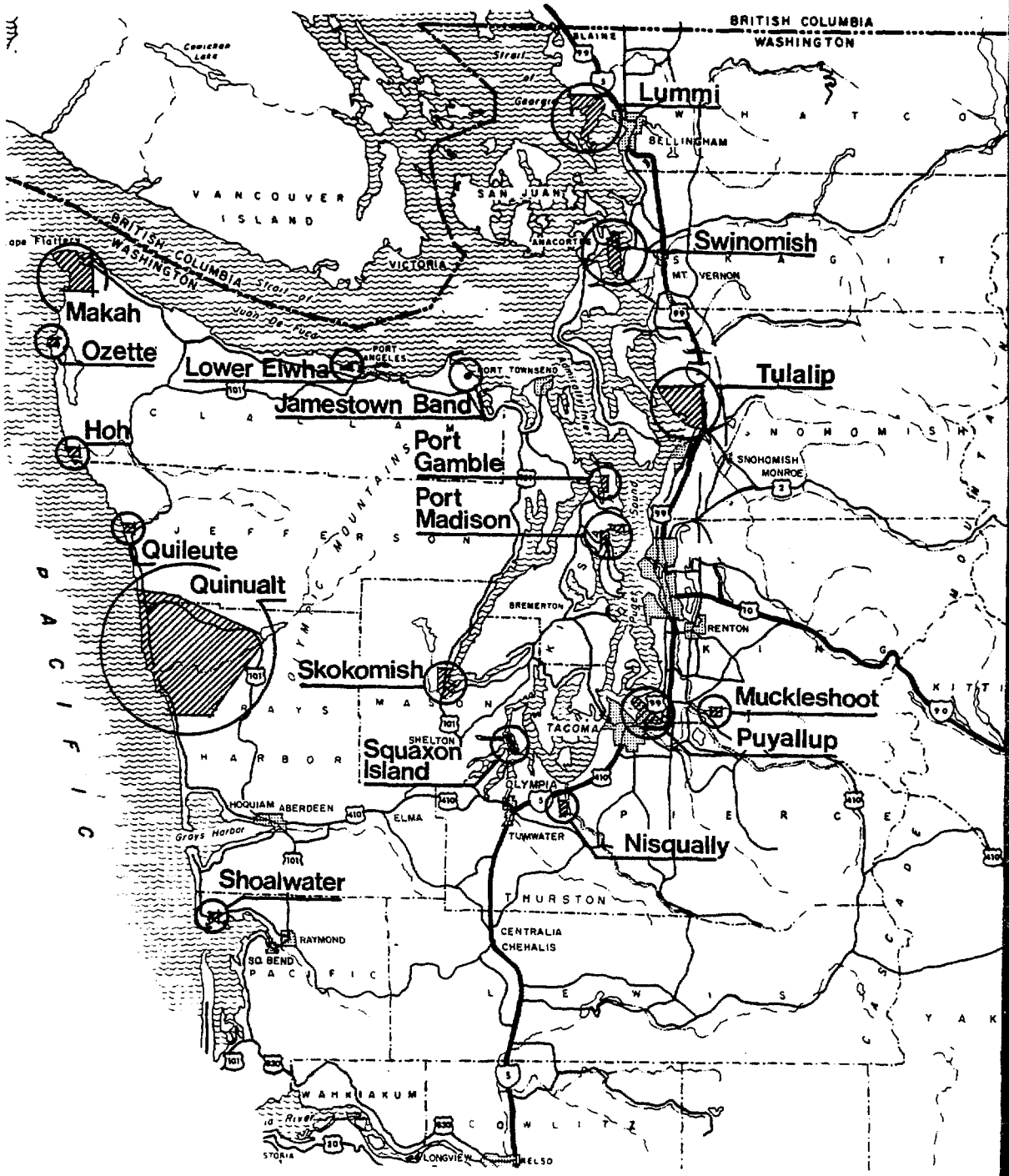
Not all of the land on reservations is in a federal trust status. Typically, the land ownership within each reservation is made up of a myriad of ownership types in a checkerboard pattern. Ownership types fall into three general classes:

Trust Lands: Tribal trust lands are the lands which are owned in the name of the tribe, over which the federal government has trust responsibility, and the title for which is held by the Secretary of the Interior.

Allotted Lands: Allotted lands are those properties that were allotted to Indian families and individuals and over which the federal government has trust responsibility. The title to these lands is also held by the Secretary of Interior.

Alienated Lands: Alienated lands include fee or fee patent lands and partial fee lands. Fee or fee patent lands are lands within the boundaries of a reservation that have been removed from trust status and for which a patent has been issued to the owner. Partial fee lands are properties which are in trust but have several beneficiaries, some of whom are not Indians and for whom the federal government has no trust responsibility. The status of these lands is unclear.

It should be noted that the amount of actual trust land on the various reservations varies greatly, from almost the entire reservation at Makah to almost none on the Puyallup Reservation. With the notable exceptions of the Skokomish and Puyallup Reservations, the tidelands associated with coastal reservations are held by the tribes.



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Indian Management of Coastal Zone Resources

The allocation of authority for the management of Indian lands in the coastal zone is a complicated legal issue. Each Indian tribe has full internal governmental powers over its members except where those powers have been specifically abrogated or limited by an act of Congress, which maintains plenary authority through legislation. This authority is exclusive and prohibits state jurisdiction except as specifically and expressly allowed and delegated to the state. General powers of self-government provide the intratribal basis for tribal management of coastal zone areas.

Tribal governmental structure has been formalized by written constitutions and charters most of which were approved by the Secretary of the Interior pursuant to authority vested in his office under the Indian Reorganization Act of 1934 and the rest of which were modeled on those approved. Though there remain some differences among the governments thus formally set forth, it is safe to say that today, regardless of the form of basic organic law a tribe operates under, all tribes are in fact given about the same degree of autonomy through the operating administrative policy of the United States. All are bodies politic with express proprietary and governmental power and function under written constitutions having inherent and implied powers in addition to the powers expressed.

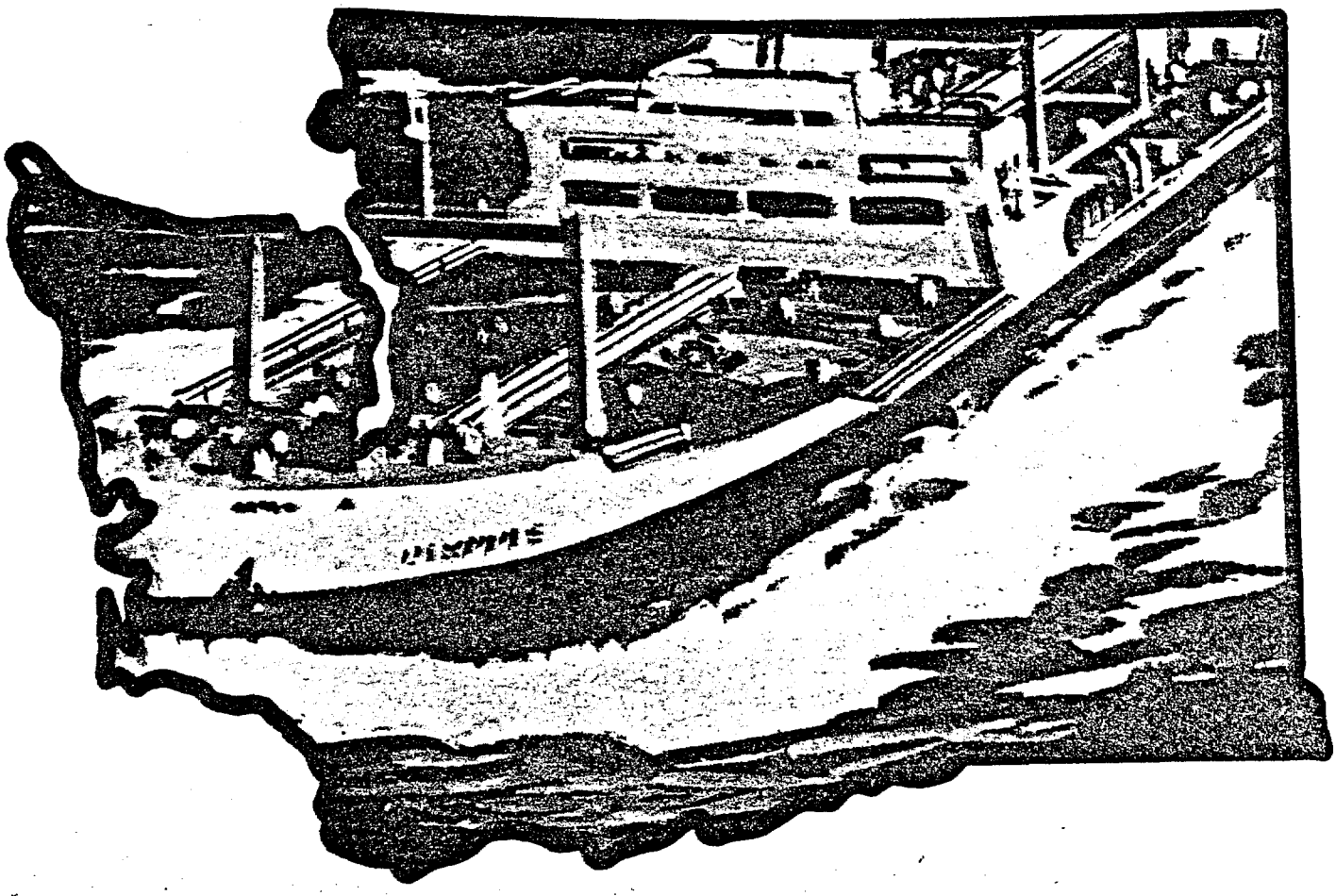
Management rights and responsibilities would be much clearer than they are were it not for a lack of legal clarity with respect to alienated lands. It is clear that external regulation of tribal lands held in trust by anyone but the tribe would be inconsistent with the Treaty of Point Elliott, which in effect allowed the tribe to reserve the exclusive use, occupancy and possession of the reservation lands to itself. It also appears reasonably clear that a parallel conclusion can be supported in the case of allotted lands within the coastal zone which remain unalienated and in Indian ownership, since they are lands subject to a restriction against alienation imposed by the United States. But with respect to alienated lands within the coastal zone owned in fee within the exterior boundaries of a reservation there is serious doubt and state jurisdiction may apply. The State of Washington is currently asserting jurisdictional rights over alienated lands and the matter will eventually be settled in court.

It is nonetheless obvious that a cohesive overall program of management of Indian lands in the coastal zone depends primarily on the Indian tribes themselves. Only intergovernmental agreements coordinated by the tribes and openly arrived at by the tribes on the one hand and federal, state, and local officials on the other can effectively tie together the multifarious programs currently found on coastal reservations.

The tribes have been able to persuade other units of government to undertake a number of programs and projects that relate to the management of coastal resources. At other times they have persuaded other units of government to cease activities and abandon projects which they believed to be detrimental to effective management. In some instances the tribes have persuaded other levels of government to intercede and regulate on their behalf, though this course of action is undertaken reluctantly and only as a last resort.

The Indian tribes have also contributed substantially to coastal zone resource conservation and protection programs. Construction of sewer systems and pollution control measures, erosion control activities, re-forestation and fire-fighting are good examples of reservation conservation programs, which are frequently very costly. The tribes have also engaged in direct regulation of the coastal zone and its resources. For many years most tribes have regulated their own on-reservation fisheries and shellfish harvesting. The recent beach closures on some reservations are a manifestation of the tribes' determination to conserve the natural resources of their lands.

Most tribes with planning capabilities have undertaken some planning for the long-range use and development of coastal zone resources on the reservations. Through the HUD 701 program a number of comprehensive plans have been prepared, zoning ordinances drafted and special studies undertaken to aid the tribes in the management of their reservations. Since it has only been in the last few years that this process has been in operation, there is considerable work yet to be done to develop the programs and procedures necessary to implement the plans that have been made.



Chapter V

Washington Coastal Zone Management and the Coastal Zone Management Act

CHAPTER V. WASHINGTON COASTAL ZONE MANAGEMENT AND THE COASTAL ZONE MANAGEMENT ACT

INTRODUCTION

The first four chapters have described the state's coastal resources and its programs for managing land and water uses. Most of the state's authorities and programs, including its primary legislative mandate for coastal management, the 1971 Shoreline Management Act, existed prior to enactment of the federal Coastal Zone Management Act. However, the mere existence of these programs, in and of themselves, do not provide the broadly-based coordinated efforts that Congress envisioned in the federal Act. The purpose of the present chapter is to relate the state program to the specific requirements of the Coastal Zone Management Act, amplifying the previous discussions as necessary. The chapter is structured to emphasize the relations of the state program to the key policies and requirements of Section 306 of the Act and CFR 923.11-923.44 of January 9, 1975 relating to coastal zone uses, boundaries, areas of particular concern, areas for preservation and restoration, state/federal relations, public participation and intergovernmental involvement, the state's managerial network, and some miscellaneous provisions of the statute.

GENERAL POLICY

The overriding philosophy of the State of Washington is that the coastal zone is among the most valuable of resources and that a comprehensive and coordinated program of management is essential to prevent damages resulting from uncoordinated and piecemeal development. This philosophy presumes that the coastal resource is viewed as an interrelated unit, irrespective of ownership, jurisdiction, or current individual agency goals and policies.

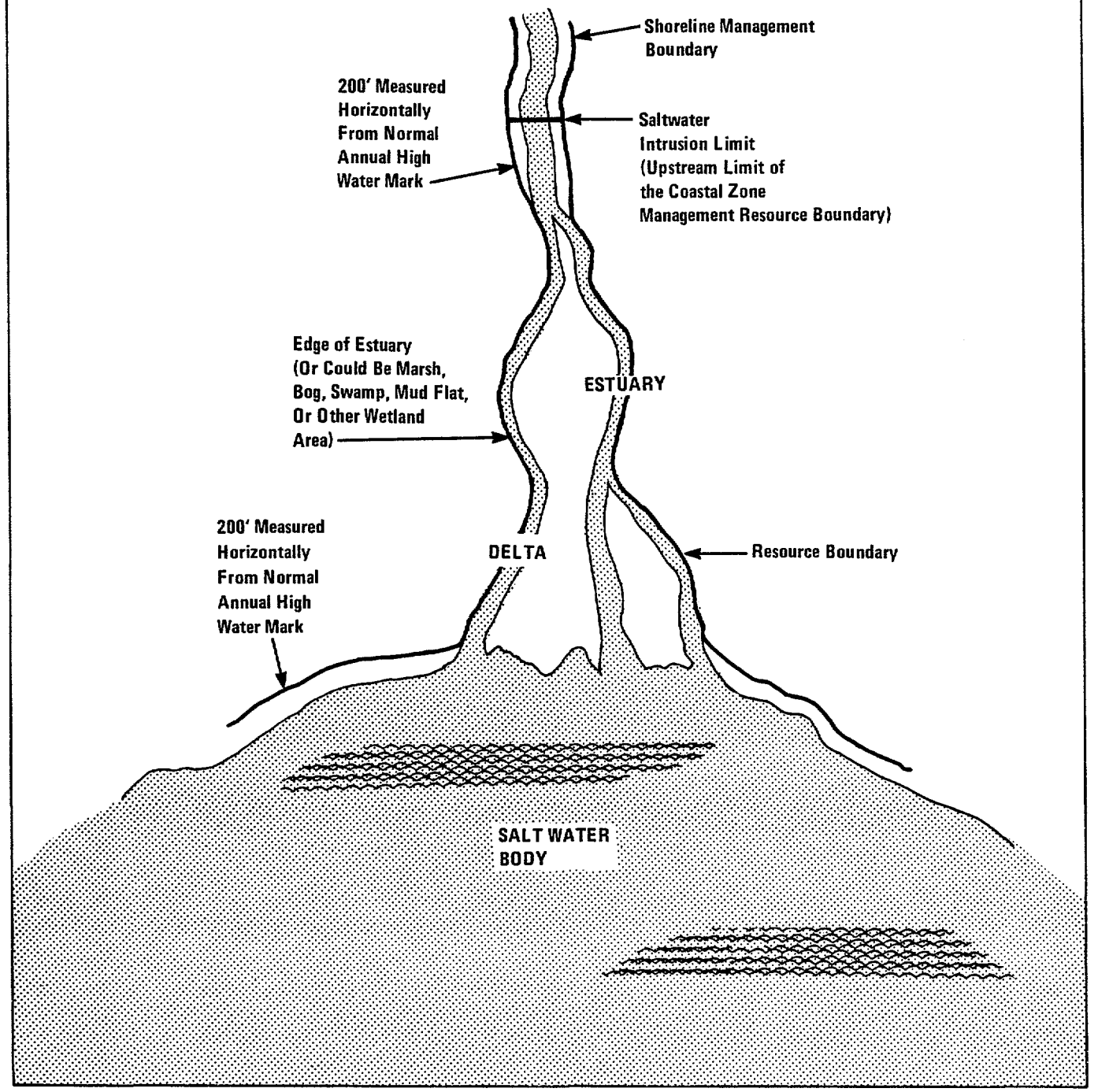
The approach to be used by the state in pursuing coastal zone objectives is that both federal and state interests must be recognized and that there is a local, state, and national interest in the use and conservation of the coastal resources. Additionally, it is a policy of the state (RCW 90.58.260) that where 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. This policy is consistent with and reinforces the policy contained in the Coastal Zone Management Act to encourage and assist the states to exercise effectively their full responsibilities in the coastal zone.

THE COASTAL ZONE BOUNDARY

The Washington State coastal zone management area embodies a two-tier concept. The first or primary tier, bounded by the "resource boundary," is that area legislatively defined by the Shoreline Management Act of 1971; that is, all of the state's marine waters and their associated wetlands, including at a minimum all upland area 200 feet landward from the ordinary high water mark. The second tier, bounded by the "planning and administrative boundary," is composed of the area within the fifteen coastal counties which front on saltwater.

The first tier, an area of permit authority under the Shoreline Management Act that is bounded by the *resource* boundary, can be defined through selective application of definitions in RCW Chapter 90.58 to consist of all marine water areas of the state and their associated "wetlands" together with the lands underlying them out to the western boundary of the state in the Pacific Ocean, where "wetlands" means those lands extending landward for 200 feet in all directions as measured on a horizontal plane from the ordinary high water mark and river deltas and tidal waters which are subject to the provisions of the Shoreline Management Act.

WASHINGTON STATE
COASTAL ZONE RESOURCE BOUNDARIES



"Ordinary high water mark" for all lakes, streams, and tidal water is defined in RCW 90.58.030(2)(b) to be

> 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 exist[ed] 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.

The state enacted regulations specifying criteria for the designation of wetlands and associated wetlands and mapped those designations for the shoreline of the state under Chapter 173-22 WAC. The pertinent provisions are summarized here:

(1) "Associated wetlands" means those wetlands which are strongly influenced by and in close proximity to any tidal water.

(2) The wetlands shall be measured on a horizontal plane two hundred feet in all directions from the line of vegetation. If there is no vegetative cover, the measurement will be, whenever possible, from a line connecting the lines of vegetation on either side of an area; otherwise, the measurement will be from the mean higher tide on salt water and the mean high water on fresh water.

(3) On river deltas and flood plains where dikes have been placed by governmental agencies for public benefit and reasonably protect against floods, the wetlands will be designated as follows:

(a) Where the dike is located within two hundred feet of the ordinary high water mark, the wetlands shall be that area within two hundred feet of the ordinary high water mark.

(b) Where the dike is located more than two hundred feet beyond the ordinary high water mark, the wetlands shall be that area lying between the apex of the dike and the ordinary high water mark.

The *planning and administrative* or second tier boundary is the eastern boundary of the fifteen coastal counties which front on marine waters. The basis for the inclusion of Wahkiakum County on the Columbia River estuary is the presence of measurable quantities of salt water up the Columbia River to Pillar Rock. The second tier is intended to be the maximum extent of the coastal zone and as such is the context within which coordinated coastal policy planning will be accomplished through the framework of this program.

The use of the two tiers provides the state a basis to differentiate in terms of both the need for control and the intensity of control. The most immediate and direct control is exercised in the tier adjacent to the water's edge and on water bodies through processes established by the Shoreline Management Act. Should a proposal in the second tier have the potential to have direct and significant impact on coastal waters or directly affect the coastal zone, the other state programs described in Chapter III can be invoked. The state network and its applicability to the two-tier system is described later in this chapter, as is the applicability of the boundary system to federal lands.

EXCLUDED FEDERAL LANDS

The technical definition of the coastal zone under Section 304(a) of the federal Coastal Zone Management Act of 1972 states that 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 are excluded from the coastal zone. The Washington coastal zone includes many acres of land and many miles of marine shoreline which fall within the perimeter of lands managed and owned by various federal agencies.

Those federal lands fall within several categories of jurisdictional status. Technically, all lands under the exclusive legislative jurisdiction of the U.S. Government are excluded from Washington's coastal zone since the State of Washington does not exercise any discretion over the uses which take place on these lands. Those lands held by the federal government under a concurrent, partial, or proprietorial jurisdictional status may be included in the state's coastal zone since the state retains varying degrees of discretion as to the uses which take place on those lands.

The state will emphasize the requirement that the closest possible coordination and cooperation between the state and federal agencies be maintained during the administration of the state's coastal zone program. In this spirit, the state will work with federal land managers, regardless of the jurisdictional status of the lands in question to develop mechanisms whereby the federal land managers agree to manage their lands in a manner consistent with the substance and merits of the state's coastal zone management program to the maximum extent practicable. The state will work with federal agencies to arrive at a definitive policy and identification of excluded lands. The state will make every effort to enter into memoranda of understanding with all federal agency land managers as to the applicability of the state program to the various parcels of federal land or private holdings within federal lands within the state's coastal zone.

In the process of developing this program, several federal agencies have taken the position that the "excluded lands" language contained in Section 304(a) is intended to exclude from a state's coastal zone all federal lands, irrespective of jurisdictional status. Since clarification of this issue is pending before the U. S. Attorney General, Department of Justice, it is the interim policy of the State to exclude all federal lands, irrespective of jurisdictional status, from the previously defined coastal zone until such time as the U. S. Attorney General or his designee renders an opinion as to the exact meaning of the "excluded lands" clause.

The interim position of the State to exclude all federal lands pending the resolution of the above issue shall not in any way diminish or negate the force and operation of the federal "consistency provisions" contained in this amended program and defined under Section 307 of the Coastal Zone Management Act. It is the intent of the State of Washington to abide by and adhere to the opinion of the Department of Justice and any subsequent legal determinations, and to amend this program accordingly.

For those federal lands excluded from the state's coastal zone, it should be made clear that the state has not relinquished any of its existing authority over those federal lands by not including them within the boundaries of its coastal zone management program.

USES IN THE COASTAL ZONE

Sections 305(b)(2) and (5) of CZMA require that a management program define permissible land and water uses within the coastal zone and develop broad guidelines on priority of uses in particular areas. Prior to CZMA and the subsequent Section 306 regulations, Washington had already established through SMA a process, policies, and guidelines which enable it to meet the intentions of these two requirements.

This section describes the process as it meets the requirements of the 306 regulations and how permissibility and priority of uses work in actuality. It is believed that these management principles, as reflected by the overall coastal zone program, are not only adequate to meet the particular needs of the State of Washington, but indeed were used in developing the CZMA requirements. Since SMA is already in the implementation stage, the adequacy of the process can be verified in practice. The following sections of SMA and the state guidelines are of particular relevance to determining uses in the coastal zone:

(1) RCW 90.58.020. State Policy Enunciated--Use Preference.

(2) RCW 90.58.100 Programs as Constituting Use Regulations

(3) RCW 90.58.150. Selective Commercial Timber Cutting

(4) RCW 90.58.160. Prohibition Against Surface Drilling For Oil or Gas

(5) RCW 90.58.270. Nonapplication to Certain Structures, Docks, Developments, Etc.

(6) RCW 90.58.340. Use Policies For Land Adjacent to Shorelines

(7) WAC 173-16-040(3). Master Program Elements

(8) WAC 173-16-040(4). Environments

(9) WAC 173-16-060(1)-(21). The Use Activities

(10) WAC 173-16-070. Variances And Conditional Uses

The Legislature set forth principles and policies to guide actions that would or could occur within the state's shorelines. Briefly stated, all "reasonable and appropriate uses" would be permitted under specified conditions which would protect against "adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life." This laid the groundwork for a performance-standards approach to land and water use decision making. Two notable exceptions were included by the Legislature, namely: (1) that within the resource zone, only selective commercial timber cutting would be allowed, and (2) that surface drilling for oil and gas within a specified geographic area would not be permitted. Far from being arbitrary, these policies were based on previous experience and scientific studies which showed the potential and real adverse impacts such uncontrolled uses may have on resources SMA was designed to manage.

Master programs are to use a systematic interdisciplinary approach to ensure a comprehensive integration of uses. Seven use elements which include all different shoreline uses are included in master programs as appropriate: economic, public access, recreation, circulation, use, conservation, historic/cultural/scientific, and education.

WAC guidelines required local governments to inventory their coastline and designate environments (natural, conservancy, rural, and urban) based upon the existing development pattern, the biophysical capabilities and limitations, and the goals and aspirations of the citizenry. The system was designed to encourage uses in each environment which enhance the character of that environment and to utilize performance standards which regulate use activities in accordance with state goals and objectives.

Based upon studies and analyses, the guidelines established 21 shoreline use activities which were to be included within the local master programs. (WAC 173-16-060). Using the CZMA terminology, it was determined that these uses have a "direct and significant" impact not only on the coastal waters but on the environment in general and on the users of the coastal resources. In addition, the process requires that shoreline use activities not specifically identified and for which policies and regulations had not been developed would be evaluated on a case-by-case basis and would be required to satisfy the goals and general development policies of SMA.

To summarize, a permissible use is basically a use of the coastal land or waters that is consistent with the policies and guidelines governing the Washington State coastal zone management program. Any use occurring completely or partially within the resource boundary is operationally considered to have a direct and significant impact on the coastal waters. Most developments in the first tier require a substantial development permit. Other uses falling under the definition of development are managed on a case-by-case basis but must be consistent with the policies of SMA. Further, uses of the lands adjacent to the resource boundary are to be consistent with the policy of SMA as well, in accordance with RCW 90.58.340. A summary of the regulations for the 21 defined use activities relating to the environment classifications and a general environment map are included in Appendix A to this document.

Permissibility and priority of uses are closely integrated in the management system. SMA established broad guidelines on priority of uses in particular areas. Certain shorelines were designated in SMA as shorelines of statewide significance because of their importance to the entire state. Local master programs were required to give preference to uses in accordance with the principles stated in WAC 173-16-040(5).

Preference was further given to those uses 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 shorelines. When alteration of the natural condition of the shoreline is authorized,

> priority is given to 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 developments that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. (RCW 90.58.020)

To assist in an overview of uses of highest and lowest priority, fifteen county shoreline use matrices were assembled and have been placed in Appendix A

along with the environment map to provide a summary of the types of uses considered to be permissible in the various shoreline "environments." Caution should be exercised in using the matrices for an actual determination of an allowable use. They are intended only to be a general definition of the more specific regulations that are part of each master program.

The process of determining permissibility and priority of uses has been used by the state during the interim period while local governments were developing their master programs. Each approved master program has designated environments and uses which are consistent with those environments and has set priorities of uses within those environments, particularly for shorelines of statewide significance. There are a number of court cases which have sustained the state's stand on permissibility and priority of uses as they meet the objectives of SMA and related state policies.

THE STATE'S MANAGERIAL NETWORK

Chapter III discusses in detail the means and authorities available to the state and the Department of Ecology to administer and manage a comprehensive coastal zone program. The management network consists of a variety of formal and informal complex interrelationships among agencies, DOE offices, and individuals. The following discussion describes how the interrelationships occur, with particular emphasis on DOE's managerial role. In describing this network it is obviously impossible to indicate every formal and informal aspect of the system and still retain cohesiveness and understandability. Thus, while this network description is accurate it is not designed to cover all details of the network system.

The management network system can best be described as consisting of the following elements:

(1) Studies and Information Base
(2) Policy Development for Coastal Zone Management
(3) Plan Review/Approval/Consistency
(4) Project Review
(5) Permit Processes

The general flow of how these elements relate is shown below:

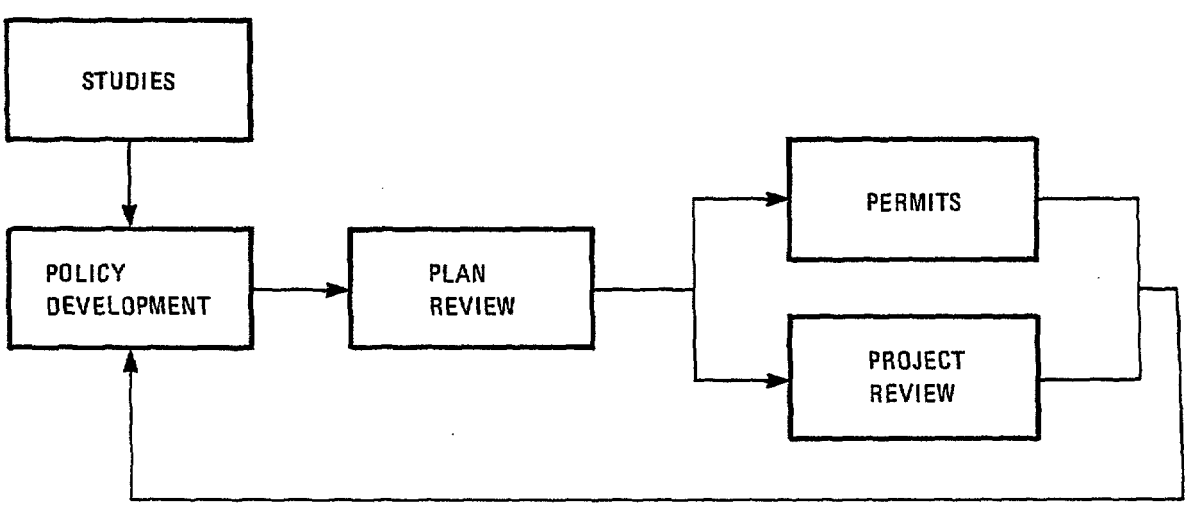
The broadest description without identifying the actors would be as follows:

STEP 1: Studies and information are analyzed and the knowledge thus gained is a primary input into the development of policy.

STEP 2: Policy is developed and is utilized by local, state, and federal agencies in the development of plans and programs.

STEP 3: Such plans and programs are reviewed by the state for determination of adherence to policy. Approvals, certifications, conditions, or other types of coordination are made as appropriate.

STEPS 4 & 5: Projects for review or specific permits when required are handled by the state and appropriate action is taken.



STEP 6: The results of permit actions (including judicial or quasi-judicial decisions) and project review are used in the refinement of policy.

Before entering into a more detailed discussion of each of the above network elements it should be noted that the Department of Ecology has the primary authorities for coastal zone management and intends through its Shorelands Division to remain the primary focal point for the program.

The Shoreline Management Act of 1971 clearly placed the Department of Ecology in the lead role for the implementation of SMA and for Coastal Zone Management. The 1971 Act is the basic authority. Unusual among state statutes, the Act provides regulatory and permit authority and planning and coordinative functions. This explicit authority providing the Department lead role is expressed in 98.58.300:

> 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 the programs of this chapter.

The pervasiveness of the Act is further defined in 90.58.280:

> 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 ex.s. c 286 § 28.)

The Act also provides that the adjoining uplands are to be managed consistently with the coastal resource itself, i.e., that the state and its local governments avoid having parallel management programs which are not coordinated. This concern applies to all agencies and local government as set forth in 90.58.340:

> 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 jurisdiction adjacent to the shorelines of the state so as the (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.

By these two provisions then the tools for meeting the need for coordination are provided, along with the other provisions of SMA. The responsibility for implementation of the process is vested jointly in the Department of Ecology and local government. The roles and relationships are spelled out in 90.58.050:

> 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.

In addition to defining the relationship between local government and the Department of Ecology, the Act also provided that the Department was to represent its interest and preserve the integrity of the policies before federal interests. The Act, 98.38.260 provides the following:

> 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 the interior, department of agriculture and the atomic energy commission, before interstate agencies and the courts with regard to activities or use 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.

Studies and Information Base

In a variety of ways the Shorelands Division as a routine matter becomes knowledgable of reports, plans, and studies that might have a significant relationship to the coastal zone. These documents may be initiated by federal, state, local, or private entities within or outside of Washington State. The Division serves as a focal review center for this material and thus becomes both the coordinator for coastal zone matters and the primary formulator and integrator of policy for review and subsequent adoption by the state.

While obviously there are an almost endless variety of means to acquire material, some specific examples of the type and flow of such material to the Division are provided below.

(1) The Office of External Affairs serves as the Department's office representative on a variety of boards, commissions, and councils. The Assistant Director in charge of this office is, for instance, the Department's representative on the Energy Facility Site Evaluation Council (EFSEC). Studies resulting from or related to EFSEC activities would be available to this office. Those which would have significance to the coastal zone program would be forwarded to the Office of Land Programs, Shorelands Division. The same flow would result from other boards, commissions, or councils represented by the Office of External Affairs, as well as from other offices within the Department.

(2) The state library, DOE branch, as a matter of standard operating procedure routes to all divisions in the Department lists of reports and studies that are available. Upon request these are ordered and routed to program staff. Generally, after review they are maintained in the state library facilities located at DOE headquarters.

Policy Development

As indicated above, the initial formulator of coastal zone management policy (aside from direct policy legislative action and action under direct legislative policy guidance) is the Shorelands Division. The second step in the policy development network is taken by the Office of Land Programs, where recommendations are reviewed and refined. The Assistant Director for Land Programs is a member of the Department's Executive Policy Committee, which consists of the several Assistant Directors, the Deputy Director, and the Director. A major agency policy or proposed state policy is brought to the weekly meeting of the Executive Policy Committee with a recommendation for action. If such policy has a broad impact on other offices of the Department the Assistant Director may request an independent review by the Office of Comprehensive Programs. This Office would then review that policy and its potential and probable impacts on other programs. The report prepared through such a review would come under Executive Policy Committee scrutiny. The coastal zone management program under this approach benefits in two ways. First, the policy impacts of the coastal zone program on other programs can be determined, and second, other offices' policies are reviewed and considered by the Office of Land Programs for coastal zone implications.

Some policy statements derived through the above-described network are considered by the Department to be beyond the scope of a single agency. In those cases the policy determination is escalated to the Natural Resources Cabinet of the Governor's Office. The Natural Resources Cabinet consists of Directors of the natural resources agencies (the Departments of Game, Fisheries, Natural Resources, Ecology, and Commerce and Economic Development and Parks and Recreation Commission) and the Governor, so that all agencies would bring to bear their interests, resources, and expertise in terms of overall state policy. It is quite conceivable that another state agency may bring an issue to the Cabinet meeting with significance to the coastal zone management program.

Plan Review and Approval

This aspect of the coastal zone management network rests primarily in the Department's Shorelands Division, Office of Land Programs. Local master programs and federal plans and programs are and will continue to be reviewed within the Division for consistency with the policies of the management programs. The Department intends to develop more formalized arrangements with the

Office of Field Operations to assure more direct input from the regional offices on plan review.

Recommendations for plan approvals, denials, or modifications are made by the Division after extensive staff review. These are forwarded to the Assistant Director, Office of Land Programs, for final review and approval. If problems are anticipated, the Office will coordinate with other offices and the Deputy Director or the Director.

Permits

The shoreline management permit program is implemented by two offices in DOE: Land Programs, and Field Operations. Within the Office of Field Operations (described below in greater detail) are four regional DOE offices which have the following responsibilities in the shoreline management permit program:

(1) They have full responsibility for DOE review and screening of substantial development permits.

(2) They consult with the Office of the Attorney General on permit reviews, negotiations, DOE appeals, and certification of citizen appeals.

(3) In cases where local actions appear to be inconsistent with either the intent of SMA or adopted master programs, they make every effort to negotiate agreement with local government prior to initiating an appeal.

(4) If they deem that an appeal action is appropriate, the regional staff and the program staff (in Land Programs, Shorelands Division) jointly review the permit. If both staffs agree that an appeal is appropriate, the appeal action is initiated by the regional office. If agreement cannot be reached, the Assistant Directors in charge of Field Operations and Land Programs make the final decision.

Conditional uses and variances coming under SMA authority are handled by the regional offices in the same manner as appeals.

The following responsibilities are assigned to the Shorelands Division of Land Programs:

(1) There is a direct assignment of a program staff person to be the contact individual and work directly with the regional offices.

(2) Program staff are responsible for providing necessary information to regional offices pertaining to program philosophy, guidelines, operating policies, and information contained in the master plans.

(3) Program staff will develop policies to assure the uniformity of actions statewide.

In summary, the day-to-day contact under the shorelines program with the local agencies which issue substantial development permits is maintained by the regional offices. But appeals arising from agencies, citizens, or applicants may be joined by DOE and become an integrated Department function.

Other functions in which the Department is involved with SMA operations and implementation include assistance to local communities in the continuous updating of inventories and local master plans, the approval of master programs which have been developed but not yet adopted, and providing a continuous forum for public information and involvement through presentations, workshops, and public hearings for master programs and the adoption of use regulations.

In addition to SMA permits, other permits are also used to assure the implementation of a sound management program. Assurance that the network takes significant actions into account is guaranteed in three ways. The first is the EIS review process, which covers all major projects with significant effects. Secondly, most major projects will require one or more permits from DOE. And thirdly, the personnel in the regional offices not only work on shoreline/coastal zone matters, but the same individual may be working on water quality and other environmental matters as well. If there is to be a significant impact on the coastal zone, which may not be directly covered under SMA, such impact will be considered in terms of SMA as a matter of Department practice.

Project Review

While in many cases a project review also involves the permit network, it is worthy of separate treatment here because the network is substantially different. The fact that there is an overlap in terms of process offers an advantage in that it serves as a fail-safe system for projects having significant impact among DOE and related agencies.

Basically, projects for review enter the network in one of two ways. They are part of the SEPA/NEPA system or they are part of the A-95 system. They come to the attention of DOE in the Environmental Review Section housed in the Office of Comprehensive Programs. This section handles all environmental impact statements in terms of review and comment for the state. Any major project or any project having a significant effect on the environment goes through this process. They are reviewed internally by the Environmental Review Section and distributed throughout the Department to the sections, divisions, and offices that have or might have an interest in and input into the environmental review process. Consequently, the Office of Land Programs receives information on any project or any development that would have a significant impact on the coastal zone. The Environmental Review Section has been directed to keep in mind in all reviews that any direct or significant impacts on the coastal zone are to be reported for review to the Office of Land Programs, Shorelands Division. The environmental review process, of course, covers not only projects and developments but also plans and programs, local rezones, and other legislative and administrative actions.

Integrative Network

While the focal point for the coastal zone management program is the Office of Land Programs, Shorelands Division, the major integrative mechanisms for facilitating the coordination of intradepartmental concerns are contained within the Office of Comprehensive Programs. This is done in several sections within the Office of Comprehensive Programs, but primarily through the Environmental Review Section and the Major Authorizations Section. The Major Authorizations Section is a key element in this process. If there is a project or an issue that is beyond the scope of one particular office, say of the Office of Land Programs, the Assistant Director for that office will request from the Office of Comprehensive Programs an analysis of the issue in terms of how it fits with other programs, what impacts other programs will have on a decision, and what impacts that decision will have on other programs and processes within the Department. An objective analysis is then made and a recommendation, along with the Assistant Director's recommendation of the particular office requesting review, go to the Executive Committee which is comprised of the top departmental management. The issue is examined by the Executive Committee and a final decision is made. If concurrence is not obtained it goes to the Director or the Deputy Director for an ultimate decision. This procedure enables the Department to assure that, for example, a facility being built within a coastal county but not within a shoreline boundary jurisdiction will not have an adverse direct and significant impact upon the coastal zone.

There are means to assure that projects will be subject to this process. Essentially such assurance is based upon two things: (1) the integrative approach recognized throughout the agency; and (2) the authority contained within the Office of Land Programs itself. Most, if not all, projects that will have a direct and significant impact on the coastal zone will require some analysis or action by the Office of Land Programs or through the field operations and the shoreline management controls at that level. Since shoreline management involves not only the coastal waters, but rather almost all the lakes and streams in the state, most, if not all, projects that would have a significant effect on the coastal zone would be within the jurisdictional boundaries of the Shoreline Management Act for which the Office of Land Programs has direct responsibility.

In terms of very large-scale proposals such as deep water ports, energy facility siting, and monobuoy systems, the issue would not only be addressed by the Department of Ecology, through the shoreline/coastal zone and other programs, but would also go through the Natural Resources Cabinet and the Governor's Office.

Chapter III details several other forums for interactions among agencies which are integral parts of the overall management network. Not only do they provide coordinative and discussion vehicles for specific topical issues and policies, they also serve for broader formal and informal interaction among agencies. Though the Cabinet system is the broadest and most significant vehicle for policy development and issue resolution the following forums play a somewhat similar and very significant role in this area: (1) TPPSEC (see pages 92-93); (2) the Marine Resource Advisory Committee (see page 75); (3) IAC (see pages 84-86); and (4) ECPA (see pages 47-50).

The state's management network can probably best be seen in operation, however, as it reponds to specific proposals. Roughly speaking, the response of the management system varies according to two parameters: the type of proposal made and the location of the proposed action. For explanatory purposes here it will be useful to take a brief look at several different types of proposals in a variety of environmental settings relevant to the coastal zone. Examples of the responsiveness of the management network can be generated endlessly, of course, but the present discussion will be limited to the presentation of the following five:

(1) an industrial project in an aquatic environment (the development of a petroleum transfer station);

(2) a commercial project on tidelands (the development of a saltwater marina);

(3) a recreational project on saltwater shoreline (the development of a public recreation area);

(4) a residential development on upland shoreline (a residential subdivision); and

(5) a forest practice on the uplands (a logging operation).

The discussion that follows is intended to show the managerial network in operation, and the comprehensive influence and direction provided by the Shoreline Management Program in the operation of the network. The policies and programs of SMA provide the uniformity and coordination that is essential in the CZM network. The Environmental Procedures Coordination Act provides uniformity and coordination, but on a more general level. The coastal zone, and all shorelines are the subject of special effort by the state, and thus SMA provides a particularly coordinative as well as regulatory function.

Two other comments are appropriate here with respect to the discussion that follows. First, no attempt has been made to provide a complete account of the processes that would be triggered or the authorities invoked in each case. The point is to provide a broad look at the sort of thing that happens in the State of Washington when a proposal with the potential to impact the coastline is made. And second, all of the agency programs referred to in the examples are discussed in greater detail in Chapter III. In order to facilitate readability, page references have been omitted.

Example 1

Development of an Offshore Petroleum Transfer Station

A not so typical but certainly important example of how the state's coastal zone management network comes into play for an industrial aquatic use is the development of offshore petroleum transfer stations. Faced with the dilemma of meeting ever-growing energy demands while at the same time answering a compelling citizen ultimatum to protect fragile marine environments, state officials turn to a management network which appears to work rather well.

The first phase of network responsiveness relates to policy determinations and citizen input. The Legislature would be the Final decision-making authority, would draw conclusions from research and studies developed by such agencies as the Oceanographic Commission of Washington and the Governor's Energy Policy Council. Citizen participation would come in the form of programs such as the Alternatives for Washington recommendations and public statements from industry groups, environmentalist organizations, and maritime associations, as well as from citizens at large.

As policy development continues — ever changing and adjusting to new problems and needs — the existing framework of state laws and regulations would be applied. Certainly the very size, location, and public awareness of an offshore petroleum transfer facility would require preparation of an environmental impact statement under the State Environmental Policy Act. Because the facility would require construction in navigable waters, Army Corps of Engineer permits would also be necessary. In both cases a broad review of the project by a number of state agencies would be triggered.

The Department of Ecology would be called upon to implement regulations under such state laws as the Water Resources Act, the Water Pollution Control Act, the Washington Clean Air Act, and of course, the Shoreline Management Act.

In addition, the proposer of the transfer station could elect to use the procedures made available by the Environmental Coordination Procedures Act administered by DOE. Since in most cases an offshore transfer system would require leases of underwater bedlands for both the installation of the station itself and the pipeline to the shore, the Department of Natural Resources as manager of state-owned bedlands and tidelands would fulfill its responsibilities under the Public Lands Act and statutes relating to tidelands, shorelands, and harbor areas. The Department of Natural Resources' lease will be based on the Department of Natural Resources' leasing policies which are in turn, cognizant and reflective of the policies, regulations and processes of shoreline management.

This is an instance where the Legislature might have to enact new statutes because the Department of Natural Resources' authority to lease bedlands from outer harbor lines seaward is presently unclear. Provisions of the Seashore Conservation Act would be implemented by the Parks and Recreation Commission. Hydraulic permits would have to be obtained from the Departments of Fisheries and Game.

Several interactions with local agencies would occur in land-based development associated with offshore facilities. Permits would have to be obtained from the appropriate county or city under the Shoreline Management Act and appropriate zoning ordinances and building codes would have to be satisfied. If ownership of the proposed offshore transfer station were to be public instead of private several alternatives would have to be considered. The state could operate the facility through either an existing or a new agency but such an arrangement would require legislation. Or the system could be operated by a public port district or a combination of districts. Port districts in Washington have broad capabilities although in this instance as well new legislation probably would be required.

Example 2

Development of a Saltwater Marina

Washington State with its 2,337 miles of saltwater shorelines is considered to be a boater's paradise. There are more than 180,000 recreational boats operating in state waters now and the number is expected to increase to more than half a million by the year 2000. With this boating popularity has come a concurrent demand for additional moorage facilities and for development of new private and public marinas. But at the same time there is growing public concern about protecting and preserving open shorelines. Marinas, because they often by necessity must be located in fragile estuaries, are considered by some to be an unwanted intrusion on tidelands and adjacent uplands. The state's coastal zone management program must respond to both the need and the concerns for protection. Tideland commercial activities such as marinas are a test for the state's management network.

Policy considerations are tackled at the state level through activities of the Legislature as well as at the local governmental level in the development of land use measures such as comprehensive and shoreline management plans. As previously mentioned, marinas could be proposed for environmentally sensitive estuarine areas, and they also may be sought in the harbors of both large and

small communities. In any case, nearby residents, boat owners, and marine industry spokesmen generally make their feelings known during the proposal and development stages.

The state has provided a network through which this public interest can be addressed. Under SEPA, an EIS may be required for a marina development. The project definitely would require an SMA substantial development permit from a county or city. Unless the tidelands are privately owned (none have been sold by the state since 1969) the owner would have to lease the tidelands and any bedlands either from DNR or from a public port district. By statute DNR cannot sign the lease until the applicant has received appropriate Army Corps permits.

The Department of Ecology handles the state review of the Corps of Engineers' permits, and will not clear such permits until requirements of the SMA are satisfied. As mentioned before, the Department of Natural Resources will lease on the basis of its lease policies which were developed in recognition of the SMA.

The Departments of Fisheries and Game generally look closely at marina proposals to see if natural fish runs are affected (particularly in the mouths of streams and rivers) or if activities such as dredging, bulkheading, or landfills are harmful to fish or bird or waterfowl habitat. Both agencies would have to approve a hydraulic permit.

In addition to coordinating the necessary Army Corps permits and reviewing the appropriate substantial development permit, DOE could be called upon to issue a state water quality permit if a package sewage disposal system were utilized with effluent discharge directly to the adjacent waters. Also, a water rights permit would be issued if a domestic water supply system hook-up were not available. Noise regulations, established by DOE and enforced by local governments, would be applicable to the boating activities.

The Department of Social and Health Services has established a set of guidelines relating to marina construction and has delegated authority to local health agencies to enforce them. The guidelines stipulate provisions for public water supplies and sewage systems, sewage pumpout stations for boats, potable water supply for boats, and other sanitary facilities and procedures.

It is quite possible that the proper zoning would not be existent for development of the marina, and consequently the proposed development would likely be required to obtain a rezone from the appropriate city or county jurisdiction. Also, if the development were in a flood control zone, as identified by either DOE or the local government, the appropriate flood control permit would have to be obtained if the development were to be allowed to occur at all.

In this example, as with the prior one, the major coordinative devices (SMA, SEPA, ECPA, if it is used, and Corps Section 10) are administered by or through the Department of Ecology. Four major agencies of the state (Department of Natural Resources, Department of Social and Health Services, Department of Fisheries and Department of Game) have the authority and responsibility of controlling certain important aspects of the marina, and these agencies have the necessary expertise to assure that these aspects are properly developed. The Department of Ecology also administers specific programs (water quality, noise, floods, water supply) which are selectively brought to bear on the project. However, the Department of Ecology also provides overall evaluation and judgment of the project from the SMA perspective, in addition to assuring that the special interests are alerted to the proposal, and that the concerns of these interests are made part of the state's reaction to the proposal.

Example 3

Development of a Public Recreation Area on a Saltwater Shoreline

As the state's population grows and more leisure time becomes available, the need for recreational facilities also increases. The State of Washington has some of the most beautiful and rugged marine shoreline in the world. The development of public recreation areas — parks, campgrounds, open space — on or near the state's ocean and inland beaches and adjacent uplands is a task which challenges the state's coastal zone management system.

The initial policy considerations have been undertaken by the people in their approval by statewide vote of several funding measures to support the acquisition and development of recreational facilities. The Legislature has also moved in the policy area by giving the State Interagency Committee for Outdoor Recreation (IAC) expanded authority in park and recreation planning. The IAC administers both state and federal funds for park site acquisition and funding and prepares and updates the Washington Statewide Comprehensive Outdoor Recreation and Open Space Plan (SCORP). This plan gives saltwater recreational development a high priority and in any case proposals for new public facilities would have to fit in with SCORP if they are to be funded through the IAC.

The most likely agency to develop major public recreation areas along saltwater shorelines would be the State Parks and Recreation Commission, although some other agencies also have authority to do so: DNR, particularly in tideland areas; port districts in harbors; and cities and counties within their respective boundaries.

The State Parks and Recreation Commission is authorized to acquire recreation sites by outright purchase or through leases from public agencies or private individuals. The tidelands and shorelands owned by DNR provide an interesting example. The present procedure is for State Parks to purchase the site from DNR, which almost always withdraws the abutting tidelands and the bedlands out to one-quarter mile in favor of the Parks and Recreation Commission for development and management with the shoreline park.

If the IAC is involved, the filing of a specific park acquisition or development plan is required prior to site acquisition. Once the plan has been acquired, the State Parks and Recreation Commission would begin the development work. If the site falls within the SMA 200-foot boundary, a substantial development permit must be obtained from either a city or a county, whichever is appropriate. If any work is to be done in the waters offshore from the park site — boating docks, breakwaters, dredging of areas for swimming — then an Army Corps permit would also be obtained. In either case the development would be subject to formal review by many state agencies.

Prior to acquiring the site for construction, or before funding, the proposing agency would have to make a determination of environmental significance and prepare an EIS if the development were determined to be significant. DOE would be involved in the review of the SMA substantial development permit application and the SEPA EIS if one is prepared and would also function as the coordinator for the Army Corps permit review. In addition, if a local, municipal, or private water supply system were not available and the park necessitated the drilling of a new well for its operation, appropriate water rights permits would have to be obtained from DOE.

The site plan is also subject to review by the Department of Social and Health Services (DSHS) relating to such things as numbers of sanitary facilities in relation to the park's capacity, the layout of camp sites to prevent overcrowding, waste disposal procedures, recreational vehicle disposal pump-out stations, and on-site sewage disposal systems. Regulations of DSHS, which may be enforced through local health units, are contained in the Chapter 248-72 WAC.

The review and coordination functions and the various agency roles are as described in the earlier examples.

Example 4

A Residential Subdivision in a Shoreline Area

Of all the competing land uses within the coastal zone, the one which poses the most critical challenge in terms of siting factors is probably residential development. The building of housing has significant impact on numerous nearby uses like shopping facilities, factories, schools, and parks. When the residential site is adjacent to a shoreline, another element of complexity is added. How the state is meeting this challenge will in many respects give a clue to the effectiveness of the coastal zone management system.

Although the State of Washington has not yet established a comprehensive statewide land use program, it has addressed the subject through a number of individual statutes such as the Planning and Enabling Act, the Shoreline Management Act,

and the Platting and Subdivision Act, all of which grant rather broad land use authority to local governments. In addition, the state and local regulatory network serves to monitor residential development with respect to public health, air, and water quality, building codes, solid waste management, noise regulation, and utility installations.

A subdivider must first ensure that the proposed development is compatible with the appropriate local government's comprehensive plan and, where applicable, the SMA master program. The next step would be to see that the proposed location is properly zoned if a zoning ordinance exists for the locality. The city or county may also require by ordinance that the subdivider provide public open space, individual front and rear yard setbacks, drainage ways, street paving, parks, and other public improvements.

A residential use in a shoreline area would also be reviewed by state and local agencies with respect to its influence upon public access to beaches and tidelands. The state's comprehensive park and recreation plan places high priority on acquiring saltwater shorelines for public use. While construction of a single family dwelling by the owner is generally excluded from the permit system under SMA and from the requirement to file an EIS under SEPA, it is possible that a major subdivision which is planned for an environmentally sensitive area and which has not already been affected by the provisions of a local comprehensive plan or zoning might be subject to the preparation of an EIS. And the subdivision would most certainly require an SMA substantial development permit.

If lots are to be sold without improvements, then the subdivider must register the development with the Real Estate Division of the Department of Motor Vehicles under the Land Development Registration Act.

DSHS, through the local health authority, reviews the subdivision plans for compliance with statutes relating to water supply and sewage disposal. If no public sewage system exists, the subdivider might be required to install a package sewer system in lieu of septic tanks. It would in all likelihood depend upon soil conditions, surrounding uses, and planning policies of the local government. If a local water supply system were not available to provide the domestic water and consequently wells or surface water appropriations were necessary, a water rights (ground or surface) permit would have to be obtained. Further, if a new water supply system serving more than 1,000 users was planned, DOE would notify DSHS which in turn would require a comprehensive plan for the proposed development approved by DSHS. If a new water supply system were built by a local municipality or water district to serve the subdivision, Washington Future Referendum 27 monies would be available to assist in developing the system.

Most of the above reviews are triggered when the subdivider files a preliminary plat with the county or city government. In most cases the coordination of the review process is by the locality's planning department. The developer, if confronted by two or more state permits, could elect to use the ECPA procedures, which would be initially implemented by the affected county at the time of preliminary plat filing.

The review and coordination functions and the various agency roles are as described in the earlier examples.

Example 5

A Logging Operation on Upland Property

Within the coastal zone uplands are some of the most productive forest lands in the world. How these lands are controlled is extremely important in the state's coastal zone management system. The environmental impact from industrial uses of these lands – primarily logging – has significant implications for the coastal area. Non-point sources of water pollution, disruption of streams used for anadromous fish runs, air pollution from slash burning or timber processing activities, and the conservation techniques used in the actual logging operation all are cause for concern.

The people of the state and the State Legislature have addressed these concerns in several ways. The most far-reaching action was the passage of the Forest Practices Act (RCW Chapter 76.09), which

spells out acceptable procedures for virtually all types of logging activity on both public and private forest lands. Implemented through the Department of Natural Resources, this statute not only calls for enlightened management of forest practices but also brings into play considerable coordination of the appropriate regulatory functions of a number of state agencies and county governments. But other regulatory mechanisms are triggered too – the water quality requirements of DOE, health and sanitary guidelines from DSHS, the responsibilities of the Army Corps of Engineers, and meticulous review by the Departments of Fisheries and Game.

In addition to the various state regulations, the local shoreline program may have additional regulations to which the logging operator must adhere.

In this example, let us assume that the logging operation is to take place on state-owned lands managed by DNR. Under the latter's management program the forest has been assessed for its market potential and subjected to a variety of silvicultural practices including pre-commercial thinning, fertilization, and application of herbicides and pesticides. A specific logging plan is prepared. The timber cutting project may be scrutinized by a departmental team for its environmental impact although in most cases a formal EIS is not prepared. Then the timber is sold at public auction and a contract prepared. The contractor is required to obtain a number of permits and approvals – from the Army Corps if the logging operation affects a navigable stream or river, from the county under SMA if the project involves a stream or river or the construction of a road of more than 500 feet in length, from DOE for compliance with water quality requirements, from DOE or the local Air Pollution Control Authority for any burning, and from DSHS for sanitary facilities.

DNR has a master agreement with the Departments of Fisheries and Game regarding hydraulic permits. However, in cases where logging might affect a sensitive fish habitat, one or both of the departments may require that a specific hydraulic permit be obtained. By general guidelines, loggers must follow special instructions in construction of culverts in anadromous fish use waters, must keep debris out of the streams, and are not allowed to "yard" through or fall trees into streams. Timber contractors also must comply with safety regulations as promulgated in RCW Chapter 70.74 and if helicopters or other aircraft are used must meet safety requirements of the State Aeronautics Commission as well. When logging is completed and burning of slash is begun, the logging operator must receive approval from DNR for the burning of waste on the day it is to be burned. DNR in turn coordinates its approval with the DOE Office of Air Programs in order to minimize smoke impact.

GEOGRAPHIC AREAS OF PARTICULAR CONCERN AND AREAS FOR PRESERVATION AND RESTORATION

Chapter II identifies the state's areas of particular concern according to stated selection criteria. In addition, management programs are required by CZMA to 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 or restoring them. The state has made provisions for the identification of such areas primarily through the shoreline management process.

The state guidelines for local program preparation specify that local programs include the following plan elements which pertain to restoration and preservation:

(1) Public access element for assessing the need for providing public access to shoreline areas.

(2) Recreational element for the preservation and expansion of recreational opportunities through programs of development and acquisition including less-than-fee acquisition. Master programs were also to recognize existing state parks, wildlife recreation areas, national parks, national wildlife refuges, and other areas identified for preservation.

(3) 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 esthetic features.

(4) Historical/cultural elements for protection and restoration of buildings, sites, and areas having historic, cultural, educational, or scientific values.

(5) Restoration element for the restoration of blighted areas and abandoned or dilapidated structures to a natural or useful condition.

The guidelines also called for local programs to classify the shorelines into four environment categories (urban, rural, conservancy, and natural), each with its own range of permissible uses.

Two classifications, the natural and the conservancy, and particularly relevant for the identification of areas to be preserved or restored. The natural environment classification is intended to preserve and restore those natural resource systems existing relatively free of human influence, permitting an activity only if it contributes 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 feature considered valuable in its natural or original condition which is relatively intolerant of intensive human use. 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 environment classification system is explained in Chapter III and the maps in Appendix A provide the location of approximately 140 miles of marine shoreline designated natural.

The State of Washington does not identify all areas of preservation and restoration as areas of particular concern. Areas of particular concern are designated by state and federal legislation to give prominence to certain large resource areas threatened by alternative or competitive uses. By contrast, an area for preservation or restoration is usually a specific site. It may or may not be within an area of particular concern.

With the final adoption of all local master programs, the Department will coordinate the designation of these identified areas along with other state programs to provide a consolidated list of candidate areas. In this regard, the Department has restrained its preservation and restoration activities, recognizing that numerous other state and federal programs address the problem. While the state programs are discussed in detail in Chapter III, some of the more significant programs of preservation and restoration are summarized here.

Under the authority of RCW 79.70.630, the Department of Natural Resources is authorized to acquire and maintain natural areas or areas of scientific or educational value. Sand Island and Goose Island in Grays Harbor have been designated under this Act. The Department of Game has established a natural area for rhinocerous auklets on Protection Island in the Strait of Juan de Fuca and on upland natural areas adjacent to Padilla Bay in Skagit County.

In 1972 the Legislature passed the Natural Area Preserves Act to "...establish a state system of natural area preserves and a means whereby the preservation of these aquatic and land areas can be accomplished" and provide for the acquisition of unique and natural lands for inclusion in a state-wide preserve system. The Act also created a natural area preserves advisory committee within the Department of Natural Resources to assist the Department in carrying out the intent of the Act.

The State of Washington historic preservation program legislation is patterned after the National Historic Preservation Act of 1966. The state law created an advisory council similar to the National Advisory Council. The state legislation also establishes a State Register of Historic Places. The State Register will include all nominations to the National Register and other nominations deemed sufficiently significant by the state advisory council. Of the 159 properties in Washington State that have been placed on the National Register of Historic Places since June 18, 1975, 97 sites are located in the 15 coastal zone counties.

A POLICY STATEMENT BY GOVERNOR DANIEL J. EVANS, ON THE SITING OF SINGLE, MAJOR CRUDE PETROLEUM TRANSFER SITE AT PORT ANGELES. SUPPLEMENTING AND AMENDING THE JANUARY 1976 WASHINGTON STATE COASTAL ZONE MANAGEMENT PROGRAM.

Background

Faced with impending actions in both the private and public sectors on the issue of oil transfer in Northern Puget Sound and the Strait of Juan de Fuca, there is an urgent need to clarify and make known the State's position regarding an oil terminal at or west of Port Angeles. Supportive policy expressions have already been issued by the Oceanographic Commission, the Legislature, private groups and the Office of the Governor. The need to reassert the state position results from the fact that the State of Washington has submitted its coastal zone management program, the nation's first, to the U. S. Department of Commerce for review. With federal approval, state and federal agencies will be expected to conduct their activities consistent with the State program. Washington's coastal zone management program, while based primarily on the 1971 Shoreline Management Act, also includes the body of state legislation and programs which affect and manage land and water uses in the coastal zone. The inclusion of these additional programs brought about concern as to whether or not the major terminal was supported by and a part of the state coastal zone management program.

Coastal Zone Management Policy on an Oil Terminal at or West of Port Angeles

The State of Washington, as a matter of overriding policy, positively supports the concept of a single, major crude petroleum receiving and transfer facility at or west of Port Angeles. This policy shall be the fundamental, underlying principle for state actions on the North Puget Sound and Straits oil transportation issue and is specifically incorporated within the Washington State coastal zone management program. State programs, and specifically state actions in pursuit of the intent of federal consistency, shall be directed to the accomplishment of this objective. Further, it is the policy of the Washington coastal zone management program to minimize adverse effects in the area, and to seek mitigation of unavoidable adverse impacts.

Policy on the Expansion of Existing Oil Terminal Facilities

The use of a single offloading site at Port Angeles has the dual purpose of lessening vessel traffic in the inland marine waters and the number of transfer points with their associated spill problems. The objectives of this major proposal are to reduce the risk factor of a major oil spill by reducing the number of transfer sites, the amount of vessel traffic in constricted channels, and the amount of environmentally sensitive marine waters to be exposed to the risk.

The offloading facility and transportation system at Port Angeles shall be designed to include provisions to supply existing refineries in Whatcom and Skagit Counties. Unless specific plans and firm commitments to connect to the Port Angeles facility are included, individual expansions to existing offloading facilities or proposals to deepen channels to accommodate deeper draft vessels are considered inconsistent with the single terminal concept as incorporated in the state coastal zone management program.

STATE/FEDERAL RELATIONS

While the state's shoreline and related programs have traditionally involved inter-action with a variety of federal agencies, participation in the national coastal zone management program heightened the importance and broadened the scope of this interaction. The Coastal Zone Management Act stresses the pivotal role of the states in coastal management and imposes reciprocal coordination duties upon the states and federal agencies. States must provide for federal agency participation, adequate consideration of their views (including "national interests"), incorporation of water pollution and air pollution control requirements, and an effective mechanism for continuing state/federal

consultation and coordination. This chapter and Appendices B, D, and F set forth the Washington State coastal zone management program activities, approaches, and results associated with these objectives and requirements.

History of Federal Participation in the Washington Program

Federal participation in Washington's program began modestly during the development of guidelines for the Shoreline Management Act. Federal agencies were invited to contribute views, and the final guidelines reflected those federal contributions.

Federal agencies were also asked to participate in a state-federal task force to review local master programs. Since 1973, this task force has grown to include more than 20 federal agencies.

With the passage of the Coastal Zone Management Act in 1972, state and federal interest in Washington's coastal zone increased.

In 1974, the state began to develop its coastal zone management program and a major effort to increase federal involvement began. Efforts were hampered somewhat because many agencies were not informed about the Act, and were unprepared to work with it. Also, the Department of Commerce had not yet finalized the 306 program guidelines, and many legal questions relating to the provisions of the Act were unanswered. Many agencies were uncertain if, or how, the Act would affect their programs.

Some two dozen federal agencies were identified as being "principally affected" by the State's program. Specific contact people were selected by the agencies, and correspondence was directed to the contacts.

Early in 1975, a meeting was held at the Federal Regional Council offices to discuss the State's program and to identify areas which would be of particular concern to a group of federal agencies with common concerns.

In February of 1975, the State sent a questionnaire to the identified federal agencies, and a number responded with details about their coastal zone management concerns, activities, programs, problems and expectations.

In late March of 1975, the State distributed the preliminary program document, displaying in black and white positions and policies of the State which had not been fully understood by federal agencies. The document stimulated extensive federal comment, which in turn clarified the policies and positions of federal agencies which had not been perceived by the State.

Many of the federal views identified legitimate deficiencies or desirable modifications to the program. Others were based on a misunderstanding of the State's program or a different interpretation of the Coastal Zone Management Act. A few were based on unrealistic expectations of the State's capability—or legal obligation—to provide detailed analyses or projections or initiate programs.

Generally, the objections addressed the following: lack of involvement in the development of the program; the need for a concise description of the overall program; the definition of coastal zone boundaries; lack of information on specific kinds of "permissible uses," "priorities of use," and "areas of particular concern"; inadequate expression of regional and national interests; and administrative or operational mechanisms for coordination and consistency. (See Appendix F.)

In May of 1975, the State was given preliminary approval. Full approval was withheld, in part because of the many federal objections.

The State began revamping its program, paying special attention to the deficiencies and misunderstandings which had been brought out through the federal review.

In June of 1975, the State met with federal agencies in the offices of the Federal Regional Council. At this meeting, several topics were discussed: procedures for ensuring consistency of

federal actions with an approved Washington program; the ways in which federal views had been considered; and the opportunity of federal agencies for "full participation." No conclusive agreements were reached on any of these topics. The concept of several subcommittees of federal and state agencies with common interests was explored and later rejected; it became apparent that common interests were difficult to identify, that such an approach would be unwieldy, and that there was more need for individual consultation.

During the ensuing months, the State began a massive information-gathering effort, described in the next section. State-federal communication throughout the fall and early winter focussed on development and refinement of these "informational packets."

In mid-December of 1975, the State published its substantially revised coastal zone management program. The distribution was officially handled by the Office of Coastal Zone Management in Washington, D. C. Federal reaction swiftly followed distribution of the document. Very soon it became apparent to the State that concern centered on two issues: the State's position on "excluded federal lands"; and procedures for ensuring consistency.

Discussions with a number of agencies over the next few months failed to bring resolution. As a result, in March of 1976, the State substantially revised its excluded lands policy pending the opinion of the U. S. Attorney General which had been sought by NOAA.

During the same month, the State published and distributed its "Operational Guidelines for Federal Consistency."

Other objections and comments were addressed in further revisions to the program document and also in an addition to Appendix F.

Development of a State/Federal Coordination System

The Washington coastal zone management program has attempted to consider adequately the views of relevant federal agencies through a number of the participatory devices discussed above: involvement in key guidelines preparation; review of local master programs; questionnaire instruments; bilateral discussions; formal review of the initial program document; responses to agency comments; and acknowledgement of agency and national interests. This experience, however, made it clear that a more structured and continuing mechanism for state/federal interaction is needed to implement effectively the state's program. The essentials of this system are set forth below.

State coastal zone management policy concerning federal views and interests has been adopted in light of the positive spirit embodied in the Coastal Zone Management Act, that is, "to cooperate and participate in furthering the purposes of this title." Washington finds, as did the Congress, that there is a direct national interest in the effective management of the coastal zone and that its carefully planned development, protection, and public use is of concern to all of the citizens of the United States. Nationwide public interest is manifested in many ways: through the use of the coastal zone for international commerce, national defense and security, and active and passive recreational pursuits; and in recognition of the need for managing the natural systems and the uses of man-modified segments of the coastal zone.

Many of the federal agency missions, responsibilities, and activities directly share in this reflection of national concern and interest. National defense and security, for example, are among the highest priority of uses of Washington's coastal zone. Similarly, the needs and concerns of a broad spectrum of federal agencies such as the National Park Service, the Environmental Protection Agency, the Federal Energy Administration, the Army Corps of Engineers, the Fish and Wildlife Service, and the Coast Guard must be recognized and reflected in the program.

It is the intent and desire of the state to minimize any form of adversary confrontation when the legislated responsibilities, duties, or procedures of a federal agency conflict with those of the state coastal zone program. Every effort will be exhausted through communication and informal channels before resorting to formal procedures for conflict resolution.

The state has committed itself to a continuing effort to understand and actively consider federal interests in the further refinement and implementation of its coastal zone management program. A major tool to achieve mutual understanding, develop consistency of activities, and resolve differences is the coordinative packet system adopted by the Department of Ecology. The packet system has been designed specifically to assure that a single documented basis for considering individual agency views and concerns is established and maintained in the future. It is also designed to be a dynamic record and focal point for at least the following ten elements of policy and programmatic relevance:

(1) The policy of the state regarding the major state/federal interfaces caused by, or part of, CZM.

(2) Organization charts of the agency and the state, showing the components of both that are particularly concerned with CZM.

(3) A statement about the mission of the agency and the CZM implications of that mission.

(4) A discussion of the plans, policies, and programs of the agency relative to CZM and a proposed methodology designed specifically to the agency whereby coordination and consultation may occur.

(5) A listing and discussion of the facilities which the agency does not control but which affect its mission. The facilities may be either in the coastal zone or near enough to it to impact it.

(6) A discussion of the types of activities the agency undertakes having CZM significance and a proposed methodology for determining the consistency of those activities with the state program.

(7) A discussion of the CZM-related developments of the agency which are in the coastal zone and a proposed methodology for determining consistency with the state program.

(8) A discussion of the permits and licenses issued by the agency which have CZM relevance and a proposal for determining the consistency of those permits and licenses with the state program.

(9) A discussion of any grant programs of CZM significance offered by the agency and a proposal for determining consistency.

(10) A map or series of maps which show those lands and water areas within the Washington coastal zone which the agency owns, leases, rents, holds in trust, manages, regulates, operates in, or otherwise directly influences.

Design and development of this system was fully underway by September of 1975 drawing upon a substantial amount of prior experience documented earlier. Twenty-nine agencies were identified by OCZM as having potential interests in coastal zone management; by late November this number had increased to forty-seven as a result of state initiatives. The packets are available in the Department of Ecology central offices in Olympia and range in length from 20 to 100 pages. The packets are summarized briefly in Appendix B.

Although the development of the packet system involved a substantial and concentrated expenditure of resources, it is considered an essential in-progress beginning of an ongoing state/federal process. The process will be maintained and enhanced by the assignment of specific staff resources in the future.

The packets are parts of the Washington Coastal Zone Management process, and thus part of the CZM effort now underway. The packets are not, however, considered to be part of this program document. While all of the State's policy, especially regarding excluded lands and consistency, is in the program document, the packets contain information that will be useful in the future. The packets can become the basis by which minor arrangements for specific problems can be made. From an operational and an informational standpoint, the packets are very much a part of the CZM program effort.

Consideration of the National Interest in Facility Siting

The Coastal Zone Management Act at Section 306 (c) (8) and its approval regulations (Section 923.15) require the state to consider adequately the national interest in the siting of facilities necessary to meet requirements which are of greater than

local concern. The Washington coastal zone management program and its related state network of policies and authorities establish a reasoned means to consider the siting of facilities of local as well as national import. Similarly, SMA and the other components of the coastal zone management network are adequate to deal with uses of regional benefit.

A fundamental criterion to be met is that the state program neither arbitrarily exclude nor unreasonably restrict the siting of facilities or uses of regional benefit. This performance test is met primarily through the open planning process establishing the shoreline program, the appeals process available through the Shorelines Hearings Board (one basis of appeal being failure to consider greater-than-local interests), recognition of the statewide over local interests with respect to shorelines of statewide significance, and the checks, balances, and procedures associated with the Forest Practices Act, EFSEC, water and air quality standards, and related programs.

In addition, DOE has been refining and will continue to refine its research and policy development concerning the development of outer continental shelf resources and the potential effects of Alaskan oil on the state's coastal zone.

While the state's coastal zone management program is not a physical siting program, tangible evidence of the state's coastal zone accommodation of national and regional interests and uses is found in the identification of substantial federal facilities and lands mapped in Appendix C. The range of permissible uses accommodated and designated in the coastal zone is also readily apparent from an examination of the aggregate of shoreline environments described and mapped in Appendix A.

Perhaps the most essential ingredient in meeting national or regional needs is the commitment to a coastal zone management program acknowledging national values and needs in Washington's coastal zone; establishing a responsive system of consultation and coordination; and committing the state to a continuing process of interaction with these interests. The state/federal coordination system is explicitly designed to deal with this dimension of coastal zone management.

The state believes that the full accommodation of all perceived national interests is an evolving though perhaps ultimately impossible task. The range of interests expressed by various federal agencies (see Appendix F) ranged from foreseeable needs to meet national security emergencies, through siting of energy facilities in undeveloped areas, to stringent requirements to enhance living marine resources and protect natural habitats. Some of these national interests are incompatible in the finite reaches of the coastal zone. Nevertheless, the state has established a process and has acknowledged in its identification of areas of particular concern that it is the primary objective of coastal zone management to deal openly with these needs and conflicts—including those stemming from national perspectives—in the implementation of its program.

Incorporation of Water Pollution and Air Pollution Requirements

Section 307(f) of CZMA and Section 923.44 of the approval regulations call for the "incorporation" of the requirements of the Federal Water Pollution Control Act as amended and the Clean Air Act as amended into coastal zone management programs. The Department of Ecology as the lead state agency for all three programs is the single institutional locus for integrating the standards, regulations, and guidelines necessary to achieve the related goals of these programs. The internal network of DOE policies and management practices assures that this important relationship has been established.

The Governor has certified that the state coastal zone management program incorporates both federal water quality and federal air quality standards. Furthermore, any action or proposal which would violate air or water quality standards or regulations is considered to be inconsistent with the Washington State coastal zone program.

Program development has been coordinated with both authorities and the state CZM program is developed in compliance with the Federal Water

Pollution Control Act and the Clean Air Act. The policies and actions undertaken in conformance with the Washington State CZM program are intended to further the objectives of the federal air and water quality program.

While state air and water quality programs are adequate to control direct discharges and emissions which could directly and significantly impact the coastal water, the control of non-point sources of pollution to coastal waters is considerably more complicated. These authorities mostly fall within the Department of Ecology and require a comprehensive approach which must be incorporated into the total management scheme. For this purpose, the state program has been cognizant of, and has coordinated its program with, local, and area wide interstate plans applicable to areas within the coastal zone. In fact, local governments' primary management tool in the coastal zone, the local master program, was mandated by the SMA to be consistent with other state and local programs. Other specific programs that are directed to non-point pollution include the Section 208 of the Federal Water Pollution Control Act area wide waste treatment management planning. At present, two 208 areas are located in the Coastal Zone. As these planning programs get underway, the Department will assure coordination between the local effort and the state CZM program. Most specific to the state's water quality planning program is the considerable effort of the Department in basic planning under Section 303(e) of the Federal Water Pollution Control Act which enters into an advanced phase in the coming year to address non-point problems to meet the 1983 national water quality objectives. Success in meeting national water quality goals is dependent on a coordinated effort among the several state programs. Additional state programs for the protection of the upland watershed include the State Forest Practices Act and Hydraulics Permits issued by the Departments of Fisheries and Game.

The State Position on the Consistency Provisions of CZMA

Sections 307(c) and (d) of CZMA set forth the duties and general processes for federal agency consistency with the state's program. The state intends to develop further understanding of these requirements in consultation with the affected agencies during the initial period of program implementation. Developing such understanding will involve such matters as: which activities should be subject to consistency and under what circumstances; workable organizational arrangements; the appropriate and reasonable procedures to be employed by the various parties involved; and methods to resolve disputes in a reasonable fashion.

A record of these interactions will become part of the federal/state coordinative packet system. In the interim, before joint understandings have been reached, it is the state's position that federal agencies should begin to examine their activities in light of the Shoreline Management Act and its guidelines, as well as the Congressional findings and policies in Sections 302 and 303 of CZMA. Uses in or activities affecting the "resource boundary" are generally considered by the state to be within the purview of the consistency provisions.

For coastal zone management purposes, determination of consistency and any determination relating to the process of permit and license certification shall be undertaken by the State of Washington (Department of Ecology) with the federal agency involved, either jointly or by methods proposed in the packets or established at a later date. The state will be responsible for assuring that local desires and concerns are considered by the state in determining the consistency and conformity of federal developments, grants, activities, and the certification of licenses and permits. The policy of the state is that any applicant for a federal license or permit to conduct an activity affecting land and water uses in the coastal zone shall provide the Department of Ecology with a copy of the certification that the proposed activity complies with the state program. Methods for determining which activities are subject to the certification process and how certification procedures will be developed will be addressed on a high priority basis with the affected agencies. The state will make every effort to notify the concerned federal agency that the state concurs with or objects to the applicant's certification in a timely fashion.

State and local government requests for federal assistance will be made consistent with the state

program. Local and state government agencies will furnish their views to the federal agency as to the relationship of such federally funded activities to the approved state program. The primary mechanism for notification to the state will be the use of and consistency with the procedures of Title IV of the Intergovernmental Cooperation Act of 1968 (the A-95 process).

CITIZEN AND GOVERNMENTAL INVOLVEMENT IN PROGRAM DEVELOPMENT

Involvement in the Shoreline Management Process

The various state programs which make up the state coastal zone program have been developed under specific requirements relating to citizen involvement. The state's shoreline management program is probably a national model for maximizing involvement at all stages of development. Not only did the Act itself require and foster citizen involvement, but the controversial nature of the program made it newsworthy, which kept citizens aware of the program as it was being implemented.

The Act originated from the involvement of concerned citizens. As a direct result of the Washington Environmental Council's Initiative 43, the State Legislature passed the Shoreline Management Act of 1971, Alternative Measure 43B, and enacted it as an emergency law on June 1, 1971. On November 7, 1972, the voters went to the polls and affirmed the present law. Prior to the election and in order to inform the electorate of the issues involved in the two management proposals, an informational program was established throughout the state:

Information pamphlets were distributed widely throughout the state.

A state voters pamphlet was published which provided concise explanations of the opposing issues.

Workshops were sponsored by county extension offices to inform citizens about the Act and an article comparing the proposals was written and distributed in mass throughout the state; a slide show was developed by the county extension service and used extensively to educate the public on the issue of and need for shoreline management.

In addition, workshops were held with county assessors, legal representatives, county and city officials, and federal agency representatives who would be directly affected by the Shoreline Management Act, and newsletters, newspapers, and professional magazines were all provided with articles comparing the two shoreline management alternatives.

The effort resulted in a Shoreline Management Act which stressed the necessity for citizen input to shoreline programs with administration at the local level and review and advisory authority at the state level.

The Shoreline Management Act at 90.58.130 RCW provides that in order

> "[t] o 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 . . . [m] ake 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..."

Participation in Establishment of the Final Guidelines

With the passage of the Shoreline Management Act of 1971, the Department of Ecology staff had 90 days to draft a set of guidelines for local governments and citizen advisory committees to utilize in the formulation of their shoreline programs.

The first draft was mailed out and all interested persons, groups, and agencies had 90 days to submit their comments and criticisms. The Department of Ecology staff then had another 90 days to modify the original draft and mail the modified draft out again for further comment. After receiving the second set of comments, the draft was amended for the second time and public meetings

were held at various locations within the state. Federal and state agency participation in guideline preparation was considerable.

With the conclusion of the public meetings further modifications were made to the draft. Prior to the public hearings, a mailing list was put together consisting of all individuals who had attended the public meetings or had responded in some other way to the drafts that had previously been distributed. A copy of the final draft was then sent to each individual for one final review and two public hearings were held, one in Olympia and one in Spokane. Final adoption of the guidelines was made at a hearing held in Olympia.

Participation in Local Master Programs

Citizen involvement is stressed as a required integral part of local shoreline master programs. In fact, the final guidelines stipulate that failure of local governments to encourage and utilize citizen involvement without proper justification will be considered as a failure to comply with the Act. The guidelines for citizen involvement were quite explicit and have been adhered to by local governments throughout the state.

To insure that the needs and desires of the people were reflected in local master programs, local governments were required to appoint broadly based citizen advisory committees, representing both commercial interests and environmentalists, to define goals and to draft policy statements for the master programs. Selection procedures and the size and number of committees have varied among the participating jurisdictions, reflecting the unique needs and resources of each. Each local committee was to conduct a series of public meetings and encourage the participation of governmental agencies and private groups. Local committees were encouraged to issue newsletters to describe the results of the meetings and to give information about policy statements and program development.

During the process, which included the drafting of goals, policies, and regulations, the committee took the draft of the master program to public meetings for discussion. The committee then revised the draft and submitted it to local planning commissions and legislative bodies for action. Local government then sent the master programs and a report of public involvement to the Department of Ecology for approval.

The response by local government to the challenge presented by the public participation requirements of the Act has been impressive. Of 224 cities and counties directly affected by the Act, only four declined to take on the task of preparing a master program. Program development has often extended over an 18-month period and required anywhere from five to 40 citizen advisory committee public meetings. In the lengthy process over 2,000 citizens have been directly involved in developing the shoreline program in the State of Washington.

While the state has been careful to assure that local interests have had an opportunity to participate in the formulation of shoreline policy, the need for balance and assurance that "greater than local interest" has been recognized has been provided through state and federal review. To assist the Department of Ecology in review of local shoreline master programs, review task forces were formed, representing various state and federal agencies. These task forces provided the opportunity for all interested agencies to comment on the master programs.

The state was divided into four review areas, thus reducing the number of programs any one task force would be required to review and to ensure that field personnel most familiar with the area could be involved in the review. The technical expertise of the task force members and their knowledge of the geographical areas have greatly aided the Department of Ecology staff in arriving at their decisions to approve or deny the shoreline master programs.

Involvement in the Permit Process

The regulatory portion of the program involves a permit system which cities and counties have the responsibility for administering. It is the responsibility of local government to instruct the applicant for a substantial development permit and to

publish notices in a local newspaper within the county of the proposed development. The notices must be published at least once a week for two consecutive weeks. An affidavit of publication must be transmitted to the local government by the applicant. The affidavit is then attached to the application.

All persons interested in the proposed project have 30 days from the final publication of the notice within which they may submit, in writing, all comments, views, and criticisms to the appropriate local agency. Local governments may establish a mandatory or optional public hearing procedure to precede the issuance or denial of permits in order to allow citizens the opportunity to present their views.

As applications for permits increased, the state, local governments, and local committees recognized a need for professional expertise in the area of technical assistance in reviewing permits and in developing master programs. This resulted in the formation of the Interdisciplinary Advisory Committee (IDAC) in December of 1972. The IDAC provided counseling to local governments and local committees on a volunteer basis and provided an opportunity for the academic community in addition to the general public to become involved in the permit system.

Public Hearings

Major state programs which comprise the Washington State coastal zone management program have met state hearing and public involvement requirements. Hearings were held for the Shoreline Management Act itself, as well as for all the regulations and local master programs as required by the Administrative Procedures Act of Washington (RCW Chapter 34.04). In the implementation of SMA, several state regulations have been adopted in the Washington Administrative Code. Hearing procedures under the Code require notice of the hearing in advance of the date and availability of materials prior to the hearing. There is a period for written comments to be received and considered before the decision is made. These written comments match or exceed oral comments in utility to the decision maker and are often more voluminous than the content of oral presentations at hearings. Attendance figures for these hearings should not be taken as a lack of interest since most of the comments received were written. The following table shows the hearing dates for relevant chapters of the Washington Administrative Code:

Chapter 173-14 Permits for Substantial Development on Shorelines of the State

Hearing date: December, 1971

Location: Olympia, Washington

Attendance: 80

Chapter 173-16 Shoreline Management Act Guidelines for Development of Master Program

Preliminary hearing #1 date: March 21, 1972

Location: Spokane, Washington

Attendance: 80

Preliminary hearing #2 date: March 23, 1972

Location: Olympia, Washington

Attendance: 150

Final hearing date: June 20, 1972

Location: Olympia, Washington

Attendance: 50

Chapter 173-19 State Master Program

Hearing #1 date: October 15, 1974

Location: Spokane, Washington

Attendance: 40

Hearing #2 date: October 23, 1974

Location: Olympia, Washington

Attendance: 30

Chapter 173-18 Shoreline Management Act—Streams and Rivers Constituting Shorelines of the State

Chapter 173-20 Shoreline Management Act—Lakes Constituting Shorelines of the State

Chapter 173-22 Adoption of Designations of Wetlands Associated with Shorelines of the State

173-18,-20 and -22 were all heard together. Hearing date: June 28, 1972. Location: Olympia, Washington. Attendance: 10

Additionally, a joint NOAA/DOE hearing on the entire proposed program was held on April 22, 1975, following press notification and individual invitations. A draft environmental impact statement was distributed at the hearings, in public libraries, and by mail to a number of citizen groups, federal agencies, and individuals. Sentiment at the hearing generally fell into two classes: recommending approval and recommending against approval, the latter stemming generally from concern over a lack of environmental protection in the program.

Washington's chief interstate involvement has been with the State of Oregon, which shares the Columbia River estuary. DOE and other state and local people have participated in CREST (Columbia River Estuary Study Team), a special organization created to examine and plan for the Columbia River estuary. Involvement with other states has been through correspondence and occasional meetings hosted by OCZM. In addition, Washington has had contact with Alaska at meetings hosted by the Federal Regional Council and DOE and through telephone and written communications.

DESIGNATED AGENCY AND AUTHORITY FOR PROPERTY ACQUISITON

Section 306 of the Coastal Zone Management Act requires that a single agency be designated to manage the coastal zone program. That agency must have the power to administer land and water uses, to control development, and to resolve conflicts among competing uses. The Governor's letter submitted with this document designates the Department of Ecology as the single agency and certifies that the Department has the necessary authorities. This designation is particularly appropriate in view of the fact that the key to Washington's coastal management, the Shoreline Management Act, declares in relevant part that

> [t]he 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 the programs of this chapter. [RCW 90.58.300]

The Act further identifies the Department's responsibilities in the relationship to the federal government in 90.58.260:

> The state, through the department of ecology and the attorney general, shall represent its interest before water resource regulations management, development, and use agencies of the United States, including among others, the federal power commission, environmental protection agency, corps of engineers, department of the 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.

The Coastal Zone Management Act also states that where necessary for program implementation, the state must acquire "fee simple and less than fee simple interests in. . .property. . . ."

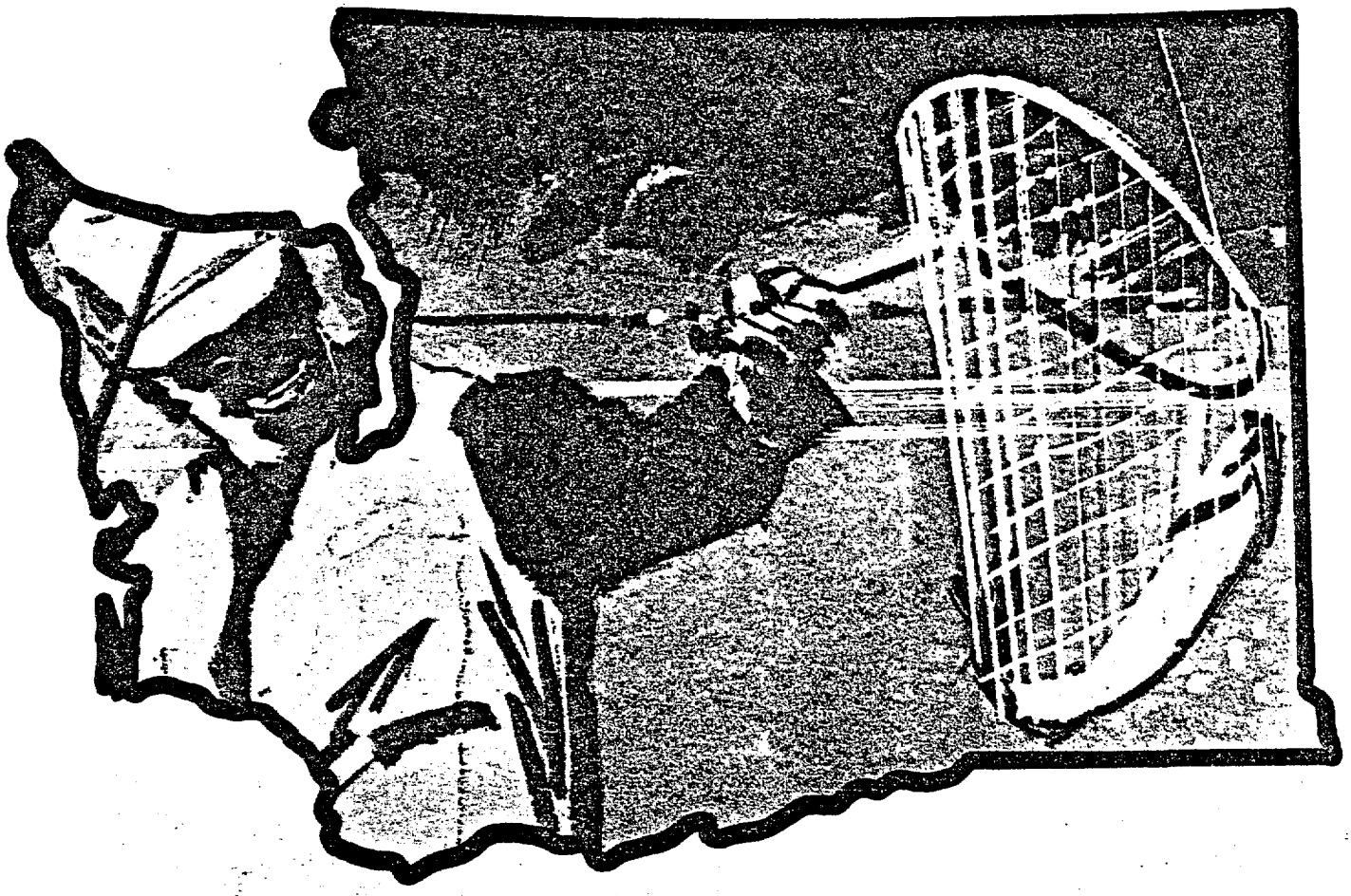
The Department of Ecology is empowered in RCW 90.58.240 to

> "[a]cquire 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. . . ."

In addition, state agencies and local governments have certain limited powers of eminent domain as follows:

Department of Ecology:	authority to acquire shorelines and related wetlands. (RCW 90.58.240)
Department of Natural Resources:	authority to acquire natural areas, natural area preserves or areas of scientific or educational value. (RCW 79.70.630)
Department of Game:	authority to acquire for sanctuary and other purposes. (RCW 77.12.200)
Parks and Recreation Commission:	authority to acquire for parks and parkways. (RCW 43.51.040)

The state does not currently consider it necessary to have outright power of condemnation to implement the coastal zone management program. The authorities cited above, in conjunction with the overall program, prevent inappropriate uses of the coastal zone.



Chapter VI
Continuing Development of the Management Program

CHAPTER VI. CONTINUING DEVELOPMENT OF THE MANAGEMENT PROGRAM

INTRODUCTION

The previous chapters have described the state's existing coastal zone management program in detail, including interrelationships, problems, and management mechanisms. From the foregoing it can readily be seen that the state has the necessary legislative, administrative, and informal tools to implement a state coastal zone management program.

However, coastal zone management is a process and as such it is apparent that the refinement of the management system does not cease with approval by the Department of Commerce. A program document, however well designed, is still merely the expression of a process at a given point in time. A process must continually undergo evaluation, review, and refinement and be responsive to new issues.

This chapter, then, sets out the policy of the coastal zone program to assure that it will be a flexible and meaningful process for the immediate future as well as for long-range considerations. The "continuing process" aspect of the program is addressed at two levels, recognizing that while there are immediate issues to be addressed in program administration, it is not possible to foresee all issues and concerns. For that reason, it is important to emphasize program evaluation and the coordination mechanisms among the various governmental units and the public.

OVERALL PROGRAM OBJECTIVES

A program approved under section 306 of the Coastal Zone Management Act will provide the State of Washington opportunities to more fully implement existing state programs for coastal zone management. Approval provides two added dimensions to the program that will enable the state to administer a more sound and comprehensive program for the management of the coastal resources. First, administrative funding will enable state and local agencies to increase their capabilities to carry out program objectives. The second dimension, the consistency provisions for federal activities in the Act, will allow the coastal resource to be viewed as a complete functional unit. This will remove the historical constraints which inhibited states from planning for and recognizing federal actions as they may relate to the coastal zone.

Through the processes established, the state will become more aware of federal programs and policies and, in turn, the federal agencies will be more cognizant of the state program. Better knowledge and communications and the requirements for consistency of federal actions will achieve a more rational and comprehensive management of the coastal resource.

The administration and implementation of the approved program will be undertaken in three general areas: program coordination, program administration, and program enhancement.

PROGRAM COORDINATION OBJECTIVES

It is the objective of the Department to continue to refine the processes and procedures for dealing with federal consistency and federal relationships generally to improve intra-state agency and program coordination, and to maintain a strong state/local interrelationship.

Federal Coordination.

There is a clear need for greater state/federal cooperation and understanding. There are four specific actions intended to be under taken following program approval to meet this objective:

1. The preliminary packets sent to 43 federal agencies will be finalized in terms of informational content and agreement as to the methods and procedures suggested in them.

2. Where seen as necessary, agreements between individual federal agencies and the state will be developed to deal with matters not now addressed in the packets. Such agreements, specifically tailored to particular agencies and directed at specific issues, will ultimately be included as a part of the packets.

3. Additional effort will be undertaken to better coordinate agency policies from a coastal zone management perspective. Also, specific questions remain unanswered with some agencies in the area of consistency generally. An important activity to be undertaken is to clarify and formalize these issues in a manner acceptable to both the state and the affected agency.

4. The state will also build and enhance a special relationship with certain existing bodies which are ideally constituted to enhance coordination for coastal zone management needs. These are:

   (a) The Federal Regional Council, which can be helpful in coastal management as a federal "one-voice" on problems and issues that require a consensus for consistency purposes;

   (b) The Pacific Northwest River Basins Commission, which can he helpful from the standpoint of a joint federal/state focus on technical applications of standards and principles of multi-purpose character stemming from Water Resource Council mandates; and,

   (c) The Pacific Northwest Regional Commission, which can be helpful as its preliminary plan evolves, to aid both state and federal "line operations" with coastal policy including criteria and constraints for both growth and energy questions.

Packets are prepared for these three bodies, which can be developed into mechanisms for all forms of coordination serving federal agencies and the state in many instances, especially those involving concerns shared by a number of federal departments.

5. There may arise a conflict between the state and a federal agency during administration of the program, and resolving such conflicts is certainly an objective of this program. The method employed by the state will first be bilateral discussions with the federal agency to solve the problem. Should that fail, the state will either drop the matter or use one of the following possible solutions. The last, resolution in federal court, is seen to be the least desirable method.

   1. Appeal to a higher federal authority, such as the parent department of the agency.

   2. Bring the matter to a panel of CZM representatives of various state, local, and federal entities, called together for the purpose of airing such conflicts.

   3. Bring the matter before a mediation service to be provided by the Department of Commerce.

   4. Bring the matter to federal court.

State Coordination

Aside from the important coordination measures needed for federal participation in coastal zone management, the state will take further action to coordinate coastal zone activity among state agencies. The objective in this case is the coordinated application of all relevent state efforts in the coastal zone. These actions will be as follows:

1. There is a continuing need for restudy of the parent legislation for the components of the managerial network. Occasional gaps and overlaps in authorities have been identified and will be examined in detail with recommendations for corrective legislation.

2. In light of coastal zone management, it is necessary to reevaluate arrangements between and among state agencies (through interagency agreements or other formal mechanisms) to make the roles and responsibilities of respective agencies more explicit and effective.

3. Agency study committees and ad hoc advisory committees will be assembled as the need arises to deal with multi-agency concerns.

4. State agencies currently involved in local shoreline master program review will continue to participate in the review of new programs as well as major amendments of approved programs.

5. The use of state programs such as SEPA and ECPA (see Chapter III) will be emphasized in coordinating agency reviews of projects and proposals.

6. The Governor's Natural Resources Cabinet and other high level policy groups will be asked to deliberate major policy considerations.

7. Other existing multi-agency entities such as the IAC and EFSEC can provide coastal zone management coordination for specialized facilities in the coastal zone such as recreation facilities and power plants, respectively, for the two groups cited.

Local Coordination

It is the role of the Department of Ecology to serve as an intermediary between federal and local entities within the context of the state's program. To insure that both federal and local interests are fully considered by each party and that all attempts will be made to achieve an equitable arrangement that is mutually satisfactory.

Actions to be taken to achieve local coordination with state, federal, and other local entities are as follows:

1. Meetings of local citizen advisory and technical committees, which are composed of representatives for a broad spectrum of interests who meet to discuss issues in refining local shoreline programs, will continue.

2. The integration of other local planning efforts into the shoreline programs will be undertaken by a substantial number of local jurisdictions.

3. Emphasis will be placed on multi-jurisdictional approaches to program implementation so that coastal resources shared by more than one local government can be dealt with by all concerned entities.

4. The roles of the Washington State Association of Counties and the Association of Washington Cities, which are now staffed and charged with providing CZM/SMA assistance and coordination for all of their members, will be continued.

5. Periodic workshops and seminars, sponsored by DOE and/or the associations, will provide for the discussion of coastal zone management issues.

6. Revisions and corrections of local master programs will continue to be made so that the program components for adjoining jurisdictions are made compatible, emerging issues are addressed, and administration is improved generally.

Program Administration Objectives.

Activities proposed to be undertaken in this area are intended to eliminate duplication of effort wherever possible, to expedite and improve the quality of decision making, to more expediously inform all affected interests of pending proposals, and to improve the quality and timeliness of the entire administrative system.

Actions to meet these objectives for federal concerns are as follows:

1. Consistency procedures are of concern to federal agencies and critical to the efficient administration of the program. For this reason the state will assist federal agencies in making these determinations to the extent that the agencies seek such assistance. DOE will make special efforts to assure that information flows smoothly and that consistency matters receive the state's prompt attention. DOE will assist federal agencies to augment existing procedures where necessary.

2. There is a need to fully develop existing mechanisms and to create additional methods where necessary, by which state and local actions which may affect federal agency responsibilities can be made known to federal agencies.

3. The Department will continue to utilize existing tools such as NEPA, A-95 review, and the Federal Register, as well as other mechanisms already established by federal agencies or the state, and investigate new or alternative notification mechanisms.

4. In carrying out its functions as lead coastal zone management agency, DOE will attempt to be fully cognizant of federal programs and responsibilities. The Department will develop and maintain an information system on federal plans, activities, and developments.

5. Depending on the desires and needs of individual federal agencies, the Department could provide existing publications and information to federal agencies on state and local actions which might affect federal missions and responsibilities. This could be provided in the form of environmental impact statements under review, public hearing notices, appeal and enforcement actions, proposed regulations, etc.

6. The Department will develop the capability to provide technical assistance to applicants for federal permits or licenses to aid them in meeting certification requirements.

Additional administrative functions to be carried out by the state include the following:

1. DOE will expedite permit reviews among the state agencies.

2. Coastal zone management will be coordinate with other permit systems.

3. The state/federal program review task force will continue to operate.

4. Where notice and hearings are required for coastal zone management actions and are provided by other means, DOE will document those activities to assure compliance with CZMA. Where notice and hearing has not been available via other means, DOE will see that these requirements are met.

5. DOE's coastal zone management staff will review and if necessary respond to A-95 notices to assure consistency of the proposal to the coastal zone program.

6. DOE will administer a major grant program to local government and other Section 306 funded contracts and programs.

7. DOE will maintain an implementation program which involves court action, project negotiation, site visitation, consultation, correspondence, and other activities required to assure proper attention to land and water uses in the coastal zones.

8. DOE will promulgate administrative regulations for the continuing implementation of the program.

PROGRAM ENHANCEMENT OBJECTIVES

1. While control of land and water uses in the coastal zone is considered adequate, there is a need to augment state and local administration with better articulated policy, a better data base, and more thorough reviews through the managerial network.

2. At a policy level, there is a continuing need for an analysis of the parent legislation which makes up the components of the managerial network. Legislative deficiencies and the overlapping of authorities should be remedied through corrective legislation.

3. The program should assure adequate investigation into certain coastal zone management issues such as outer continental shelf development, energy generally, utility corridors, and water surface usage. Wherever possible, the comprehensive umbrella of the coastal zone management program should be brought into play to relate these investigations to the entire coastal zone.

4. At the interstate and international level, policy interests in the Columbia River, the outer continental shelf, the Strait of Juan de Fuca, the northern San Juan Islands, the fisheries resource, maritime commerce, and other

resources. Again, the coastal zone management umbrella should be used in all appropriate discussions to relate the consideration to the coastal zone as a whole.

5. The state's coastal zone program includes a number of processes for the identification of areas of particular concern and areas for preservation. There is a need to consolidate and coordinate these ongoing efforts and to further incorporate them into the coastal zone program.

6. If acqusition of some areas should be seen as desirable, the coastal zone program should reinforce and be consistent with state recreation acquisition programs, energy and economic development programs.

7. The state will attempt to establish an estuarine sanctuary through Section 312 of CZMA. Similarly, the state will continue to examine all of those coastal esturaine areas which have a particular biological significance for their possibilities as a sanctuary.

8. The Department will continue to assess the use capabilities of wetlands and identify areas of high biological productivity. To do this and concurrently assure their conservation will require detailed knowledge and adequate management criteria.

9. The state will continually monitor and evaluate the effectiveness of the program and carry out specific in-depth evaluations of key portions of the program. The state intends to conduct such specific evaluations in conjunction with other state, federal, and local agencies and the general public. Only in this way can the Department know with any certainty that the program is indeed carrying out the broad policy and intent of the program. To this end it may be necessary and desirable to establish review evaluation committees.

10. The coastal zone program is at the present time the primary vehicle in the state for assuring that the state's interest is considered in oil exploration, transport, and facility siting. While future legislative action may establish other mechanims for dealing with those issues, it is the policy of the program to more fully develop data, analysis capabilities, and specific policies that will assure that this interest is recognized.

11. Coastal zone management is a series of decisions, in terms of both program development and implementation. It is desirable that all decisions be founded on as strong a scientific basis as possible. Decisions should be made with as much knowledge as possible of the policies and opinions of others. Scientific knowledge and policy knowledge are data and must be organized such that they can be interpreted and used by everyone with a concern in the coastal zone. Much data has been collected and used thus far in the state's coastal zone management efforts and more will be collected as the program continues, but there is general agreement that the systems now used in collection, handling, and delivery should be improved.

12. Local government is also faced with a multitude of decisions that would be better made with more detailed and reliable information. A large effort will be made to determine how local decisions could be assisted with scientific information and to determine the type and display of such information that will be most useful to local government. This effort will be coupled with the overall data management program which integrates state and federal informational needs and systems.

13. Several of the activities listed herein will result in special reports which, if appropriate, would become additions or amendments to the program. Other special reports can become the basis of agreements or guidelines to the parties in order to solve a coastal zone concern.

14. As a training and informational device, periodic workshops will be held to bring together large groups to deal with specific coastal zone management affairs.

15. Recognizing that the purpose and thrust of the state's coastal zone program is to assure for future generations an environmentally and economically desirable place to live it is the policy of the state, through the coastal zone program, to keep its citizens aware of the need to protect and plan for its coastal resources.

    With regard to public awareness it should be noted that policy is not directed at the processes and tools which have been developed and are being implemented, but at the education and information phases as to why it is necessary to manage the coastal zone.

16. The Outer Continental Shelf, and its future, are of great concern to the state from environmental, economic, jurisdictional, and management standpoints. The state will undertake whatever investigations and actions are needed and proper to ensure good management of this area and to clarify the State's role in that management.

17. Several federal agencies are responsible for programs that are directly parallel to many programs in DOE and other state agencies. Examples are air quality, water quality, fisheries resources, timber management, wildlife, energy, and transportation. Whenever programs of such a dual nature affect the coastal zone, the Department will work, using the packets, multi-lateral discussions, memoranda of agreement, and other appropriate means, to promote and arrange compatibility of policy, objectives, methods, and practices. By this means, the CZM program can ensure consistent treatment of the coastal resource through such dual programs, and possibly assist such programs toward more rapid attainment of mutually sought goals and standards.

18. The state legislature has recently expanded the scope of the Thermal Power Plant Site Evaluation Council to embrace the siting of all types of energy facilities, and this new energy act also addresses other energy problems and issues. Insofar as energy facilities and other concerns may affect the coastal resource, the Department will work with the state's new energy program and the federal energy agencies to ensure compatible state/federal energy efforts as they affect the coastal zone, especially insofar as facilities siting is concerned.

19. Washington State will soon be faced with greater amounts of incoming crude oil shipped by tanker. The possibility of a single oil tanker receiving terminal located in the Port Angeles vicinity has become a serious proposal. The Department will devote special effort to assist, via CZM, the feasibility determination of this proposal. If the proposal is found feasible, the Department will work toward the best siting, design, and management of this terminal using the CZM program as the focal point of this effort.

20. Flooding and other natural hazards and their consequent damage are matters of great concern in Washington State, and with the establishment of an operational CZM program, a new relationship of local, state and federal partners is evolving. The subject of this relationship should be pursuit of compatible flood plain and hazard area management plans, policies, objectives, and regulations. Shoreline management has a very comprehensive approach to the management of uses on the floodplains, and when combined with other local endeavors and the federal flood damage reduction program in a compatible manner, can achieve the aims of all concerned.

21. Emphasis in the program development stage has been on the development of regulations and standards, enforcement, and on the development of broad management local and regional plans. While these elements of the program are essential, there is now the need to examine the needs of some specific land and water uses with requirements for sitings within the coastal zone from a broader, coastal zone-wide perspective. The need would include studies and positive policy for the location and siting of such uses as boating and energy facilities, and other use of greater than local interest.

22. Emphasis in the development of local shoreline master programs has been on the onshore, upland land use aspects of the program. This element is most critical to, and has historically been, the prerogative of local government. However, the resultant local programs often neglect or inadequately address complicated issues involving the management of the beds and surfaces of marine waters. Water areas have historically and continue to be managed by a multiplicity of state and federal agencies. There is now a need to examine local programs in light of state and national policies and to bring some degree of consistency between and among the programs at all levels of government.

CONCLUSION

As the CZM program continues, there will arise a need to formalize the refinements through the program amendment process.

When a possible amendment will affect various entities, then the Department will endeavor to develop such amendments in concert and consultation with those entities, as well as providing the opportunity for review.

When this happens, the proposed amendments will be sent to the Department of Commerce with a request for review and approval.

The state will publish annual supplements to the program every year to update the coastal zone management program, to account for new policy, and to report on the resolution of problems. The first supplement will be published in June of 1977.

Washington's coastal zone management program will be the first established in the nation pursuant to the Coastal Zone Management Act and represents an achievement for the nation as well as the state. Aside from the managerial aspects, this program represents a pioneering effort at multi-level governmental attention to the problems of a fragile, complex, and extremely valuable resource.

It is hoped that this attainment will grow and prosper throughout the coastal zone of the whole nation and that similar efforts can be directed at other resources and problems that are of concern to all levels of government.