



Managing Maine's Nearshore Coastal Resources

Final Report of the Bay Management Study

Submitted by the Land & Water Resources Council
to the Joint Standing Committee on Marine Resources
pursuant to PL 2003 c.660, Part B

Prepared by the Maine State Planning Office
and the Maine Department of Marine Resources

January 2007

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A compiled set of the Appendices are printed under separate cover. It can be downloaded at <http://www.maine.gov/dmr/baystudy/baystudy.htm>. Hard copies are available by calling 207-287-1486 or emailing Lorraine.Lessard@maine.gov.

MANAGING MAINE'S NEARSHORE COASTAL RESOURCES

Final Report of the Bay Management Study

EXECUTIVE SUMMARY



Introduction

Maine's nearshore¹, coastal waters are under increasing pressure from a variety of influences. The potential exists for both increased user conflicts and for further environmental degradation. At the same time, there are signs and symptoms that Maine's current methods of nearshore management need improvement. Without embarking on enhancements to nearshore management, the health of the marine environment, the livelihoods and recreation that depend on it and the essence of Maine's character may be at risk.

The Maine Legislature directed the Land and Water Resources Council ("LWRC") to undertake a two-year study (through PL 2003 c. 660, Part B (LD 1857) "to explore and document potential new and innovative concepts for the management of Maine's embayments." This report is a product of that effort.

Context

There is nothing perhaps as integral to Maine's identity, its past, its present, and its future, as its ocean. Lying along over 5,000 miles of meandering coastline and over nearly two million acres of public submerged lands, Maine's nearshore waters are part of one of the most productive and rich ecosystems in the world, the Gulf of Maine. Since long before colonial times, these waters and the lands beneath them have provided people with bountiful food, transportation, and spiritual inspiration. As the primary steward and trustee of the public resources in Maine's nearshore environment, the State manages these resources for the benefit of both current and future generations. In 2004, it was estimated that the Maine's coastal economy employs 45,685 people and results in \$1.2 billion dollars in annual wages.²

While the sea remains a constant source of sustenance, the lifeblood of Maine, the uses which our society makes of this diverse and complex resource are changing, diversifying, and intensifying. Aquaculture has joined traditional capture fisheries as an economically significant use in a number of areas. Sea kayaks and other types of recreational watercraft, large and small, have increasingly joined

¹ As used in this report, the term "nearshore" or "coastal waters" refers to marine areas within three nautical miles of the shore that are under the jurisdiction of and, with few, limited exceptions owned by the State of Maine.

² Colgan, C. *The National Ocean Economics Program*. 2004.

fishing boats at town landings. More second-home buyers and retirees have joined coastal communities that, for generations, have been home to families that earn their living on the water. With changes in national and world energy markets, Maine is now a proposed host for regionally significant energy infrastructure, including terminals for liquefied natural gas. These changes and trends provided a strong call to action to undertake this study and implement its recommendations.

Study Process and Scope

The Maine Legislature directed the Land and Water Resources Council³ (“LWRC”) to undertake this two-year study “to explore and document potential new and innovative concepts for the management of Maine’s embayments” and submit a final report by January 15, 2007 to the Legislature’s Joint Standing Committee on Marine Resources.⁴ An interagency staff team from the State Planning Office and the Department of Marine Resources carried out the study at the LWRC’s direction. As directed in the study legislation, a project steering committee was formed to advise project staff. The staff team carried out the study through consultation with the steering committee and members of the public, completion of two pilot projects, policy research, discussions with state natural resources agencies, and feedback from the LWRC at its quarterly meetings.

Following an initial review of the issues facing Maine’s coastal areas and an exploration of management alternatives, this study focused on whether and how regional management could be applied to coastal governance in Maine. Given this scope, the following topics were investigated:

- Current uses and anticipated trends in use – What are the major uses along Maine’s coast? How are they changing? What new uses are emerging?
- Existing nearshore governance system – What is the current mix of federal, state and local legal authorities over coastal waters? What significant marine and coastal resources management projects are state agencies now undertaking or planning? How are state agencies working together now?
- Models of innovative nearshore management – Are there models from other countries, states or other Maine programs that might serve as models for improvement?
- Public comments and concerns – What are the major concerns of the public and stakeholders that use and enjoy Maine’s coastal resources? What ideas do they have for addressing them?

³ The LWRC is made up of the Commissioners of the Departments of Marine Resources, Environmental Protection, Agriculture and Rural Resources, Inland Fisheries and Wildlife, Economic and Community Development, Transportation, Health and Human Services, and Conservation and the director of the State Planning Office, who serves as chair. The LWRC was created in statute to advise the Governor and Legislature and help coordinate agency actions on natural resources policy-related matters.

⁴ PL 2003 c. 660, Part B (LD 1857) is included in Appendix A of the main body of this report

- Results of bay management pilot projects – What are the major lessons learned from the two pilot projects, conducted in Taunton Bay and Muscongus Bay?
- Data and information needs – What nearshore data and information are available? How is data and information shared and exchanged?
- Budgetary considerations– What state financial and budgetary considerations should guide policy recommendations?

Findings

The study's major findings include:

- Effective coastal and nearshore management frequently involves collaborating beyond local political boundaries at a regional scale. Yet, while there are federal, state, and local processes for nearshore management, there is currently no recognized forum to advance comprehensive marine and coastal management efforts on a regional scale.
- Strong state priorities are needed in order to make sure that the public trust is protected and that coastal management achieves desired goals. However, the nature and types of concerns vary from place to place along the coast. Encouraging and supporting regions to discover and act on their issues in partnership with the State will permit coastal management to respond to regional differences, rather than be a one-size-fits-all approach.
- There are many types of nearshore data that do not currently exist, are out-dated, or are at the wrong scale to be useful. It is very difficult to locate and gather existing information, and there has been no concerted effort to create a robust marine GIS. Therefore, it is difficult to ascertain a complete understanding of current coastal conditions and subsequent changes over time.
- Seven state agencies, six federal agencies and coastal towns have major roles in various aspects of nearshore management. The existence of multiple and sometimes overlapping jurisdictions has proven confusing to the public, and often requires concerted efforts among staff to coordinate activities and programs.
- Existing state agencies and programs for coastal and marine management are already working with limited resources. Any new efforts to improve the State's stewardship of coastal waters should complement and not divert or diminish existing efforts and resources.

Recommendations

Envisioning a future for Maine's nearshore is essential to guide this study's recommendations.

A Vision for the Future of Maine's Nearshore

Maine's coastal and marine resources are among the most healthy, productive, and resilient natural systems in the world. Effective, coordinated management and active citizen stewardship achieves a careful balance between conservation and development that ensures the sustained use and enjoyment of coastal resources by current and future generations. Human impacts on coastal ecosystems are managed in a holistic way that addresses multiple, cumulative stressors on a complex, dynamic and ever-changing ecosystem. Comprehensive, up-to-date data and information informs public and private management decisions. Management at effective scales reflects ecosystem boundaries and allows for improved citizen participation.

Enabling regional nearshore management is the most promising first step in moving towards this vision of integrated, inclusive and ecosystem-based coastal governance in Maine. The four recommendations in this report - supporting regional initiatives; providing needed data and information; improving a coordinated State framework, and ensuring adequate funding - are all geared to this end. The goals and associated recommendations are:

- A. Move towards regional management of nearshore waters** – The State will encourage and support regional initiatives to address locally-relevant issues by providing information, staff assistance and/or funding and by encouraging interlocal agreements. The State will also provide eligibility criteria to ensure that state investment is directed to initiatives that are contributing to the state's coastal priorities.
- B. Increase the amount, availability and accessibility of nearshore data and information** – The State will create and implement a long-term coastal marine science plan to identify and acquire needed data, and to enhance information exchange and marine geographic information systems in Maine.
- C. Improve the state's framework for nearshore management** – The State will implement interagency coastal strategic planning, and will institute several coordination mechanisms to improve interagency cooperation and communication. Periodic summaries, evaluations, and modifications will ensure continued progress towards a regional, ecosystem-based coastal management system.
- D. Increase the amount and diversity of funding sources** – In order to support the implementation of the recommendations under each of these goals, the State will maintain current levels of funding for existing state priorities while securing additional sources of support for enhanced programming.

This approach – geared to developing regional capacity for place-based management, creating scientific data and information, and improving the State's approach – is fiscally-sound, practical, and well-suited to Maine at this time.

INTRODUCTION

This is a moment of unprecedented opportunity. Today, as never before, we recognize the links among the land, air, oceans and human activities. We have access to advanced technology and timely information on a wide variety of scales. We recognize the detrimental impacts wrought by human influences. The time has come for us to alter our course and set sail for a new vision for America, one in which the oceans and coasts...are healthy and productive, and our use of their resources is both profitable and sustainable. – An Ocean Blueprint for the 21st Century, U.S. Commission on Ocean Policy, September 2004.

The Maine coast is an asset of immeasurable value to the people of the State and the nation, and there is a state interest in the conservation, beneficial use and effective management of the coast's resources. – The Maine Coastal Policies Act, 38 MRSA §1801

The Maine Legislature directed the Land and Water Resources Council⁵ (“LWRC”) to undertake a two-year study (through PL 2003 c. 660, Part B (LD 1857) – see Appendix A) “to explore and document potential new and innovative concepts for the management of Maine’s embayments⁶.” This report of the LWRC to the Legislature’s Joint Standing Committee on Marine Resources is the product of the two-year effort.

Background

The Importance of Maine’s Nearshore Environment

Maine’s identity, its past, its present, and its future, are tied to the ocean. Lying along over 5,000 miles of meandering coastline and over nearly two million acres of public submerged lands, Maine’s nearshore waters are part of one of the most productive and rich ecosystems in the world, the Gulf of Maine. Since long before colonial times, these waters and the lands beneath them have provided people with bountiful food, transportation, and spiritual sustenance. Commercial fisheries, boat-

⁵ The LWRC is made up of the Commissioners of the Departments of Marine Resources, Environmental Protection, Agriculture and Rural Resources, Inland Fisheries and Wildlife, Economic and Community Development, Transportation, Health and Human Services, and Conservation and the director of the State Planning Office, who serves as chair. The LWRC was created in statute to advise the Governor and Legislature and help coordinate agency actions on natural resources policy-related matters.

⁶ Embayments are relatively shallow, semi-enclosed coastal water bodies. In Maine the openings from bays to the larger Gulf of Maine are characterized by an irregular and complex shoreline.

building and related marine industries have shaped the locations, traditions and values of our coastal communities and nourished our natural resource-based economy. Maine ports and harbors have handled the world's commerce. Maine's beaches, coves and rocky coast have long been a national and international destination of choice for travelers, and our sea and shores an ever-renewing source of inspiration for painters, writers and other artists. In 2004, it was estimated that the Maine's coastal economy employs 45,685 people and results in \$1.2 billion dollars in annual wages⁷. Maine's coastal resources continue to offer promise and opportunity to people and communities inside Maine and beyond.

Increasing and Intensifying Uses

While the sea remains a constant source of sustenance, the lifeblood of Maine, the uses which our society makes of this diverse and complex resource are changing, diversifying, and intensifying. Long a frontier, and in many ways a true public commons, our nearshore ocean environment is becoming increasingly settled and populated in the wake of these many changes. Aquaculture has joined traditional capture fisheries as an economically significant use in a number of areas. Sea kayaks and other types of recreational watercraft, large and small, have increasingly joined fishing boats at town landings. More second-home buyers and retirees have joined coastal communities that have been for generations home to families that earn their livings on the water. With changes in national and world energy markets, Maine is now a proposed host for regionally significant energy infrastructure, including Liquefied Natural Gas terminals. These changes and trends in coastal uses (Appendix B) provided a strong call to undertake this study and implement its recommendations.

State Responsibility for the Public Trust Resources

This study was conducted and its' recommendations are offered in light of the central importance of Maine's nearshore environment to its economy and way of life. It is also recognized that the long-term sustainability of this environment depends on maintenance and enhancement of the integrity of its ecological systems. The State is the primary steward and trustee of the public resources in Maine's nearshore environment, which are held in trust by the State for the benefit of current and future generations.

National Context

Maine's bay management study takes place in the context of renewed national attention on our ocean resources and how they are managed. The federally appointed U.S. Commission on Ocean Policy submitted recommendations for creating a coordinated and comprehensive ocean policy in 2004 in its report titled "An Ocean Blueprint for the 21st Century." The Pew Ocean Commission's privately funded analysis of similar topics was completed in 2003 in their report, "America's Living Oceans: Charting a Course for Sea Change." While these reports focus on the national and multi-state regional scale, they present a vision of healthy, resilient marine ecosystems to which we strive to contribute in Maine. In doing so, the Maine study, although different in structure and scope, joins other recent state-level efforts in Massachusetts, California and New York to improve coastal and ocean management.

⁷ Colgan, C. *The National Ocean Economics Program*. 2004.

Study Purpose and Methodology

Problem Statement

Maine's nearshore, coastal waters are under increasing pressure as both user conflicts and environmental degradation increase. At the same time, there are signs and symptoms that Maine's current methods of nearshore management need improvement. Without embarking on enhancements to coastal management, the health of the marine environment, the livelihoods and recreation that depend on it and the essence of Maine's character may be at risk. Thus, the purpose of this study, as directed by the Legislature, was to assess innovative improvements to the management of bays. After exploring various concepts, the study evolved to examine the potential for a regional approach to coastal governance as a method to address identified problems.

Methods

Department of Marine Resources and State Planning Office staff carried out this study at the LWRC's direction and in consultation with a project steering committee made up of eight public members⁸ with expertise in relevant fields as directed in the study legislation. Year one of the study focused primarily on idea and information gathering, and year two on development of recommended policy options. Three primary methods by which staff carried out this study - public participation, pilot project support and assessment, and policy research - were complemented by consultation with state agencies and the steering committee, and oversight by the LWRC. Highlights of major activities are as follows:

Public Participation

- Developed a website <http://www.state.me.us/dmr/baystudy/baystudy.htm> and an e-mail list of interested parties;
- Performed a public participation survey and developed a public participation plan;
- Hosted five public meetings at different locations on the coast and briefed four statewide stakeholder groups to get early public input into the study;
- Facilitated a mid-course workshop at which twelve stakeholders presented their concepts for improvement of nearshore management;
- Sponsored sessions at Maine Fishermen's Forum in three consecutive years;
- Considered public comments at project steering committee meetings; and,
- Solicited and reviewed public comments on draft recommendations through briefings of non-governmental and industry stakeholder organizations, a public meeting, and a posting of the report online for written comments.

⁸ The steering committee members are: Paul Anderson, *Director, Maine Sea Grant Program*; Kathleen Billings, *Chair, Maine Soft Shell Clam Advisory Council, and Town Clerk, Town of Stonington*; Heather Deese, *Marine Science and Policy Consultant*; Dewitt John, *Director of Environmental Studies Program, Bowdoin College*; Evan Richert, *Associate Professor, Muskie School of Public Service*; Jim Salisbury, *Retired CEO, Supreme Alaska Seafoods*; David Schmanska, *Harbormaster, Town of St. George*; Barbara Vickery, *Director of Conservation Programs, Maine Chapter of the Nature Conservancy*

Pilot Project Support

- Supported two, one-year pilot projects each with a \$20,000 grant and a staff liaison. These pilots explored nearshore management issues concepts in Taunton Bay (Friends of Taunton Bay) and in Muscongus Bay (The Quebec-Labrador Foundation, Inc. and Muscongus Bay Project Committee);
- Assessed lessons learned from these projects in order to advance understanding of the opportunities and challenges inherent in place-based nearshore management.

Policy Research

- Conducted policy research in four principal areas: uses and related trends in Maine's nearshore environment, current nearshore management in Maine, other states and other countries; and marine data and information needs.

Study Oversight

- Planned and supported eleven steering committee meetings (Appendix C) to solicit advice related to information collection and development of policy options;
- Delivered quarterly progress reports and briefings to the Land and Water Resources Council; and;
- Sponsored three state interagency meetings.

Geographic Extent and Context

The Legislature's study directive used the terms "bay" and "embayment" to describe the geographic extent of the study. During the course of the study, it was found that not only does Maine have many types and sizes of embayments (Appendix D), but also that there are concerns about management along open coastal areas. Thus, study participants came to interpret the Legislature's intent as a call to look regionally at nearshore waters and the land immediately adjacent to the coast.

Nearshore areas are different, both ecologically and socially, than land or open water areas. Less is known about this environment, especially the land-water interface. A broad array of recreational, commercial and other types of activities take place in state waters. And while land-based activities can impact marine uses, there is not always a mechanism for those who most directly rely on the health of bays (e.g., commercial fishermen) to assist in addressing many of the land-based factors that affect nearshore resources. State waters are held in trust for the public, yet leasing of submerged lands for commercial and residential use, placement of fixed fishing gear and assignment of private moorings have created formal and informal private interests in certain areas of ocean bottom. In addition, there are many nearshore management entities but there is no overarching governance structure or explicit state management plan for the nearshore. Thus, this study, in examining Maine's nearshore areas, considered a suite of complex ecological, social and management parameters.

Study Limitations

This study was not a comprehensive assessment of Maine’s coastal management system in its entirety, but focused instead on the potential improvements that a regional approach could make to the management of nearshore coastal uses. Evaluation of the management of broader marine resources and uses such as commercial ocean fisheries and shipping, which must take place on a larger geographic scale and in a national or even international context, were beyond the scope of this study. Similarly, the study does not attempt to evaluate the scientific or technical basis of standards by which coastal uses or resources are managed.

Several efforts examining needed reforms to other aspects of state governance were taking place at the same time as the bay management study, including an evaluation of Maine’s Comprehensive Planning and Land Use Regulation Act and a review of the Site Location of Development statute. Those evaluations will likely augment the recommendations of this report, as related to regional planning. Appropriate linkages to these other efforts are discussed in the text of this report.

Moving Forward

Enabling regional nearshore management as outlined in this report is the most promising first step to help the State better carry out its responsibility to ensure a healthy marine ecosystem that supports multiple uses. The recommendations presented here, although incremental in nature, will lay the groundwork to eventually support integrated, inclusive and ecosystem-based coastal governance in Maine. Due to limited financial and technical capacity at the local, regional and state levels, this report takes the approach of supplementing existing state nearshore resources management efforts with new, well-targeted and regional management efforts. These recommendations are fiscally-sound, practical, and well-suited to Maine at this time. Furthermore, they will yield lasting significant benefits and put the State in the position to take additional, well-informed actions in the future to support regional nearshore ecosystem-based management.

The remainder of this report presents the analysis of information collected, findings based on that analysis, a vision and principles for advancing coastal management in Maine, and recommendations for improvement. The recommendations form three pillars of support to coastal management by: encouraging regional management; providing needed data and information; and establishing a state framework for collaboration, strategic planning and accountability for nearshore resources.

ANALYSIS OF INFORMATION COLLECTED

Throughout the course of the bay management study, staff collected and assessed information regarding nearshore uses, conditions and governance through public meetings, two pilot projects, and staff policy research. This analysis section presents a synopsis and analysis of that research, and informs the findings and recommendations found in this report.

Maine’s Nearshore Waters: Current Uses and Anticipated Trends

In order to provide background information and context for evaluating approaches to nearshore governance, SPO prepared a report to assess current and anticipated uses of Maine’s nearshore waters. This report, *Maine’s Nearshore Waters: Current Uses and Anticipated Trends* (SPO, October 2006), (“trends report”) is attached as Appendix B. The report contains a discussion of the following uses: marine aquaculture, commercial fisheries, marine transportation, marine recreation, energy facilities and related development, coastal dredging and ocean disposal of dredged materials, water pollution control, and marine conservation. To the extent practicable given available information, the report identifies current and future trends in use, the expected geographic location(s) of certain activities, and potential conflicts among uses. The summary table (reproduced below) provides an overview of the trends in nearshore activities.

The trends report finds a variety of factors that are likely to contribute to increasing diversification and intensification of human uses and related pressures on coastal ecosystems. Principal factors include technological innovation; conditions supportive of development of renewable energy sources; increased demand for seafood products; continued growth in Maine’s resident coastal population; and continued growth in coastal tourism and recreation. Given the diversity and level of activity, it is reasonable to expect increased conflicts among user groups and concerns about adverse environmental impacts. In addition, the trends report suggests that the composition, nature and pace of change and the degree of potential conflict among uses will to continue to vary markedly in different places along the coast.

Table 1: Maine’s Nearshore Waters: Current Uses and Anticipated Trends Summary Table

Use	Has there been an increase or a decrease in this use, or has it remained stable over the past 5 years?	Is this use likely to increase, decrease or to remain stable over the next 5 years?*	Where in Maine will the increase in the use take place, (if applicable)?*
Aquaculture	Decrease in finfish Increase in shellfish	Increase – both finfish and shellfish	<ul style="list-style-type: none"> • Finfish – primarily Downeast. • Shellfish – could be coast-wide in places where conditions are suitable
Lobster Fishing	Increase in the amount of gear, decrease in the number of fishermen	Increase in the amount of gear, decrease in the number of fishermen	Statewide increase in traps with the greatest increase likely occurring in Downeast Maine

Use	Has there been an increase or a decrease in this use, or has it remained stable over the past 5 years?	Is this use likely to increase, decrease or to remain stable over the next 5 years?*	Where in Maine will the increase in the use take place, (if applicable)?*
Urchin Fishing	Decrease	Difficult to determine	Difficult to determine
Sea Scallop Fishing	Decrease in the number of licensed fishermen	Difficult to determine	Difficult to determine
Sea Cucumber Harvesting	Stable	Stable	Will likely continue to be primarily a Downeast fishery
Blue Mussel Harvesting	Decrease in the number of licensed fishermen	Stable or decrease – depends on the resource	Not applicable (increase not predicted)
Horseshoe crab Harvesting	Decrease (No recorded harvest since 2003)	Stable (unless seasonal closure is lifted)	Not applicable (increase not predicted)
Soft Shell Clam Harvesting	Decrease in the number of licensed fishermen	Difficult to determine	Difficult to determine
Shrimp Fishing	Decrease in number of licensed fishermen	Difficult to determine	Depends on the shrimp population but will likely continue to take place between Kittery and St. George
Marine Worm Harvesting	Stable	Difficult to determine	Will likely continue to take place primarily between midcoast and Downeast Maine
Periwinkle Harvesting	Difficult to determine	Difficult to determine	May continue to be primarily a Washington County fishery
Seaweed Harvesting	Decrease in the number of licensed harvesters	Difficult to determine.	Difficult to determine
Herring	Decrease in the number of licensed fishermen	Difficult to determine	Unless resource changes, will likely remain an offshore fishery
Marine Research and Education	Difficult to determine	Increase	Difficult to determine
Cargo Port Traffic	Increase	Increase	Primarily at 3 major ports: Portland, Searsport, Eastport
Cruise Ships	Increase	Increase	<ul style="list-style-type: none"> • Increased traffic possible at Portland and Bar Harbor • Possible growth in visits to small ports by smaller cruise ships
Ferry Service	Slight increase in ridership	Slight increase in ridership	No areas have been identified at this time
Boating and Boating Facilities	Increase	Increase	<ul style="list-style-type: none"> • Statewide increase for boating, and demand for moorings • Increase in marinas will likely occur first in southern- and mid-coast

Use	Has there been an increase or a decrease in this use, or has it remained stable over the past 5 years?	Is this use likely to increase, decrease or to remain stable over the next 5 years?*	Where in Maine will the increase in the use take place, (if applicable)?*
Docks, Piers, Wharves	Increase	Increase	Statewide
Sea kayaking	<ul style="list-style-type: none"> • Increase in people using recreational kayaks** • Increase in short (half day) kayak trips** • The number of people using traditional kayaks and going on extended tours has remained stable** 	<ul style="list-style-type: none"> • Increase in the number of people using recreational kayaks 	<ul style="list-style-type: none"> • Some increase in Downeast use • Most growth will likely take place in the islands that are already seeing a lot of use
Wildlife Sightseeing	Stable**	Slight increase	Difficult to determine
Saltwater fishing	Slight decrease	Stable	Not applicable (increase not predicted)
Energy Facilities	Increase	Increase	Dependent on type of energy resource
Coastal Dredging and Dredge Disposal	Difficult to determine	Difficult to determine	Difficult to determine
Sand and Gravel Mining	Stable (currently not occurring)	Difficult to determine	Difficult to determine
Marine Managed Areas	Increase	Increase	Difficult to determine

Summary Table: Water Pollution

Type of Waste Disposal/Pollution	Has this been on the increase, decrease or remained stable over the past 5 years?	Is this likely to increase, decrease or remain stable over the next 5 years?*	Where in Maine will the increase take place (if applicable)?*
Point Source Pollution	Decrease of some sources, including Overboard Discharges (OBD's)	Decrease of some sources, including OBD's	Difficult to determine
Non-Point Source Pollution	Increase	Increase	Statewide issue
Marine Debris	Persistent problem	Will continue to be a persistent problem	Statewide issue
Toxic Pollution	Increase in some substances, decrease in others	Increase in some substances, decrease in others	Difficult to determine

* = An estimation based on best available data

** = Assessment comes primarily from anecdotal evidence

Maine's Existing Nearshore Governance System

This section provides a synopsis of the current mix of legal jurisdictions and authorities over coastal waters. Broad guidance is provided for coastal resources management by the Public Trust Doctrine and Maine's Coastal Management Policies, and these obligations are fulfilled by the municipal, state and federal entities entrusted with managing Maine's coastal resources.

Public Trust Doctrine

In accordance with the common law Public Trust Doctrine, the State holds state-owned submerged lands (those lands below the mean low-tide line to the three-mile limit of state ownership) in trust for the benefit of the people of Maine. The Public Trust Doctrine recognizes a wide range of public uses of state-owned submerged lands, including navigation, commerce, fishing, recreation and conservation, and states' rights to protect and manage such uses in the public interest. The Public Trust Doctrine itself does not assign priorities among these uses⁹. As trustee, the State manages these lands and related natural resources in the public interest through exercise of its regulatory authority (e.g., issuance of licenses and permits) and its proprietary authority (e.g., state authorization of private uses of state-owned submerged lands through lease or easement).

Coastal Policies

The Maine Coastal Management Policies Act (38 MRSA §1801) (Appendix E) provides that, "the well-being of the citizens of this State depends on striking a carefully considered and well reasoned balance among the competing uses of the State's coastal area." The Coastal Management Policies Act articulates a basic policy-level framework for management of the State's nearshore embayments and other coastal areas.¹⁰ The Act provides that "state and local agencies and federal agencies as required by the United States Coastal Zone Management Act of 1972, PL 92-583, with responsibility for regulating, planning, developing or managing coastal resources, shall conduct their activities affecting the coastal area consistent with the following polices to:"

1. Port and harbor development. Promote the maintenance, development and revitalization of the State's ports and harbors for fishing, transportation and recreation;

2. Marine resource management. Manage the marine environment and its related resources to preserve and improve the ecological integrity and diversity of marine communities and habitats, to expand our understanding of the productivity of the Gulf of Maine and coastal waters and to enhance the economic value of the State's renewable marine resources;

⁹ Hildreth, Richard G. 1989. The Public Trust Doctrine and Conflict Resolution in Coastal Waters: West Coast Developments. *Proceedings of the Sixth Symposium on Coastal and Ocean Management*, ASCE, July 11-14, 1989, Charleston, SC.

¹⁰ The Act defines the "coastal area" as "all coastal municipalities and unorganized townships on tidal waters and all coastal islands. The inland boundary of the coastal area is the inland line of coastal town lines and the seaward boundary is the outer limit of the United States territorial sea" 38 MRSA §1802, sub-1. When the law was enacted, the U.S. asserted a three mile territorial sea. Subsequently, by Executive Order, President Reagan extended the U.S. territorial sea to 12 miles in accordance with emerging international law norms. This change did not affect or extend state jurisdiction. Consequently, it is reasonable to understand the Coastal Policies Act as referring to the three mile limit of state ownership in keeping with the Legislature's evident intent.

3. Shoreline management and access. Support shoreline management that gives preference to water-dependent uses over other uses, that promotes public access to the shoreline and that considers the cumulative effects of development on coastal resources;

4. Hazard area development. Discourage growth and new development in coastal areas where, because of coastal storms, flooding, landslides or sea-level rise, it is hazardous to human health and safety;

5. State and local cooperative management. Encourage and support cooperative state and municipal management of coastal resources;

6. Scenic and natural areas protection. Protect and manage critical habitat and natural areas of state and national significance and maintain the scenic beauty and character of the coast even in areas where development occurs;

7. Recreation and tourism. Expand the opportunities for outdoor recreation and encourage appropriate coastal tourist activities and development;

8. Water quality. Restore and maintain the quality of our fresh, marine and estuarine waters to allow for the broadest possible diversity of public and private uses; and

9. Air quality. Restore and maintain coastal air quality to protect the health of citizens and visitors and to protect enjoyment of the natural beauty and maritime characteristics of the Maine coast.”

Implementation of these policies is achieved through agencies’ enforceable resource management laws and regulations and other programmatic efforts. In those instances where a permit or lease must be issued, agencies typically have decision criteria which clearly specify which existing uses must be considered when making the permit or lease decision (Appendix F).

Coastal municipalities, when preparing comprehensive plans under the Comprehensive Planning and Land Use Regulation Act, are required to address each of the coastal policies and to create strategies that implement them. Eighty-one of Maine’s 136 coastal towns have adopted comprehensive plans that have been determined to be consistent with state goals.

As directed by 38 MRSA §1803, on January 1, 1989, SPO reported accomplishments related to these policies to the Legislature. No further progress reports specific to the Coastal Policies Act were required by the Legislature.

Statutory and Regulatory Programs and Authorities

Given the wide variety of uses and activities in the coastal zone, it is not surprising that there is a complex mosaic of management. Municipal, state and federal authorities often overlap in the same geographic coastal space. The regulation of certain activities may require the involvement of

multiple agencies at multiple levels of government. The figure and accompanying text in Appendix G provide an overview of all the entities that play a role, and some information about their basic responsibilities.

Current Nearshore Management Initiatives in Maine

Each state agency responsible for nearshore management conducts programs and initiatives that are integral to efforts to strengthen nearshore management. Many of these programs are already in the process of being reviewed and improved, as described below. Some of these initiatives are also specifically referenced in the most recent five year Maine Coastal Program Strategic Plan (2006-2011), required by Section 309 of the Coastal Zone Management Act (CZMA) and submitted to the National Oceanic and Atmospheric Administration (NOAA). NOAA approved this plan and will provide funds to help conduct the program strategies. Activities that are in the Section 309 plan are noted below.

Management of intertidal and submerged lands

- *Protecting eelgrass habitat.* In consultation with the mussel harvest industry, DMR is identifying conservation areas that will be protected from dragging and which will be periodically reviewed and revised, and is working to develop harvest techniques and technology that minimize harm to the non-target communities. In addition, subject to available funding, DMR plans to fund necessary research to characterize and quantify the ecological value of eelgrass in the context of the overall surrounding area. DMR's work on eelgrass issues has been identified in the Maine Coastal Program 309 Plan.
- *Minimizing adverse impacts of docks and piers.* There are concerns regarding the efficacy of current laws and rules in addressing the adverse effects of temporary, seasonal docks (e.g., impacts of resting on flats at low tide and disturbance when docks are installed and removed) and the potential for significant cumulative adverse effects to scenic values, waterfowl and habitat values. Tools to address these concerns include: technical and financial assistance to encourage siting of common docks; better natural resources-related information; and grants to support management of harbors and related nearshore resources subject to municipal jurisdiction. In consultation with DEP and the Bureau of Public Lands, SPO has been working on development of this guidance. Evaluating the impact of development (such as of docks and piers) on nearshore habitats is a priority in the Maine Coastal Program 309 plan.

Wildlife and habitat management

- *Understanding and minimizing impacts of aquaculture on seabirds.* Aquaculture operations can potentially disturb nesting seabirds, entangle migratory birds in protective netting, and disturb bald eagle nests (e.g., where the 1/4 mile setback required is over open water). For the past two years, DMR has engaged seabird biologists at DIFW, USFWS, and USACOE and

the finfish aquaculture sector to develop a research priorities list and seek funding to begin answering questions related to disturbance. Study results may be useful in developing amendments to the aquaculture leasing statute and/or DMR's implementing rules, if and as necessary, to address study findings. This effort is included in the Coastal Program 309 Plan.

- *Assisting municipalities to consult with DIFW about "essential wildlife habitat."* In some cases, improvements need to be made in the timing of municipal consultation with DIFW regarding activities that may adversely affect habitat critical to threatened or endangered species ("essential habitat"). Subject to available funding, SPO, in consultation with DIFW, intends to evaluate and support additional outreach, education and technical assistance on this issue through SPO's code enforcement officer (CEO) training program.
- *Improving Nearshore Fisheries Management.* Over the past decade, co-management structures have been put into place for Maine's lobster, sea urchin and scallop fisheries. Each of these fisheries faces unique challenges, some of which may require statutory and regulatory changes. For example, the intense level of effort in the lobster fishery has prompted concerns about interference with other fisheries as lobster gear proliferates. This project, as described in the Coastal Program 309 Plan, aims at: identifying options for lobster trap reduction; developing and implementing new urchin management measures; and developing a new management framework for the inshore scallop fishery.

Water quality

- *Improving marine water quality.* DEP conducts programs to improve marine water quality including wastewater treatment plant construction programs, combined sewer outfall abatement efforts, grant programs for removal of overboard discharge systems and replacement of malfunctioning septic systems, redevelopment of former industrial sites ("brownfields"), and stormwater management planning. SPO and DEP collaborate to assist to towns to carry out Maine's Coastal Nonpoint Pollution Program (which includes technical assistance and grants to coastal watershed groups for surveys, planning, capacity building and pollution remediation), to run the Clean Marinas and Boatyards program, and to run the Nonpoint Education for Municipal Officials Program.
- *Developing total maximum daily loads (TMDLs) for state waters.* On a prioritized basis, DEP is currently involved in the complex process of establishing total maximum daily loads (TMDLs) for state waters that inform decisions regarding water quality management. Establishment of TMDLs for river systems must precede efforts to set TMDLs for nearshore waters into which those rivers flow. After completion of the riverine phase of its TMDL effort, DEP may calculate TMDLs for individual bay and estuarine systems, subject to available funding and assessment of agency priorities.
- *Assisting municipalities to maintain catch basins.* MaineDOT routinely implements its maintenance practices for catch basins to prevent discharges of pollutants to coastal waters.

MaineDOT, in conjunction with the SPO-led coastal nonpoint source project, intends to develop and distribute guidance for municipalities regarding maintenance of catch basins.

- *Identifying and remediating septic systems which contribute to beach closures and other coastal water quality issues.* Malfunctioning or inappropriately sited septic systems continue to present water quality issues that adversely affect recreational and commercial harvest opportunities in some coastal areas. Through SPO's Healthy Beaches program and other state authorities, SPO, DEP, the Department of Health and Human Service (DHHS), and affected municipalities have worked to address septic-related problems. SPO, DHHS and DEP are currently exploring ways in which further progress can be made to address septic and other water pollution issues facing beaches.

Invasive species control and management

- *Addressing marine invasive species issues.* Existing state approaches regarding marine invasive species may be inadequate in a number of areas. Yet effective approaches to marine invasives efforts may be more dependent on coordinated action at the regional and national level than additional unilateral state efforts. Consequently, DEP and DMR are continuing to monitor and participate in Northeast regional efforts to address marine invasives issues. In addition, DMR and DEP intend to address as and when practicable, additional agency recommendations in their 2006 report to the Legislature's Marine Resources Committee, which are focused on research and monitoring, rapid response protocols, outreach and education, and regional ballast water management plans. See http://www.maine.gov/dep/blwq/report/marine_invasive2006.pdf

Maintenance and enhancement of ports and harbors

- *Identifying and addressing dredging policy issue.* In some circumstances, the high cost of sediment testing, dredging, and dredged material disposal, due in part to federal testing requirements, may inhibit private investment and development of piers, marinas and related waterfront infrastructure and commerce. Decreases in federal funds available for maintenance dredging of federal navigation projects makes it increasingly difficult for relatively small federal navigation projects in Maine and elsewhere in New England to compete for funding nationally. The interagency dredging team, jointly staffed by SPO, DEP and MaineDOT and overseen by the Land and Water Resources Council, provides an on-going means for the State, in consultation with stakeholders and counterparts in other states to identify and address dredging policy issues.

Promoting regionally-based land use planning

- *Considering regional impacts and benefits of development projects.* A development proposal in a single community may have both potential economic benefits and adverse environmental effects that should be considered from a regional perspective. SPO and DEP are currently evaluating options, in coordination with the work of the Community Preservation Advisory

Committee for amendment of the Site Location of Development Act (“site law”), Growth Management Act, and other current state laws to ensure that this regional perspective is adequately considered.

Coordination Among State Agencies Involved in Nearshore Management

Coordination in nearshore management can refer to many different types of mechanisms such as regular and open communication channels within an agency, between staff at different state agencies, or between state agency staff and town officials. Staff from multiple agencies might work together on a specific problem or policy initiative or create streamlined processes for permit applications. Furthermore, coordination occurs at all levels from on-the-ground interaction with the public to conceptual-level policy initiatives. Existing examples of state agency coordination include:

Table 2: Examples of state agency coordination

Type of Coordination	Current Programs	Timing
Information sharing	Interagency meetings, sponsored by Maine Coastal Program and others	Occasional
Efficient and effective permitting and licensing; permit streamlining	Ad hoc interagency teams for large-scale developments (e.g., LNG); Coordination of state agency comments	As needed
Joint work program development	Maine Coastal Program federal grant application	Annual
Interagency collaboration on projects via teams	Numerous examples including: dredging; clamflats; public access	Ad hoc; some formally established like Public Access Work Group
Coastal assessment and strategy development	Interagency development of the Maine Coastal Plan under Section 309 of the CZMA	Every 5 yrs; 2006- most recent ME Coastal Plan
Interagency policy development	Land and Water Resources Council Natural Resources Subcabinet	Quarterly Monthly
Interagency reviews of compatibility with state policies & criteria	Review of municipal comprehensive plans; Review of grant applications for distribution of state funds (e.g., Working Waterfronts)	As needed
Collective measurement of success	Maine Coastal Program performance indicators; NOAA review of the MCP	Annually Every 3-5 years

Coordination within and among governments is a complex issue and not one that was meant to be resolved within the context of the bay management study. Rather, the study focused on identifying coordination most relevant to nearshore management. Staff organized a meeting, held in September 2006 to solicit ideas from state agency staff on improving interagency coordination when addressing issues from a regional perspective. See Appendix H for a synopsis of comments from this meeting. In summary, participants noted many examples of coordination, but these examples were not usually focused on specific nearshore regions.

While it was beyond the scope of this study to survey the satisfaction of municipal officials and communities regarding their experience with state agency coordination, some participants in the study noted the confusion of dealing with multiple state agencies in the nearshore environment. While it is not prudent at this time to undergo large scale restructuring of state government to consolidate nearshore governance, such comments point to the need for improved articulation of agency programs and goals for the nearshore. In addition, they suggest the need for a more formal council for marine policy coordination through the State's Land and Water Resources Council.

Models of Innovative Nearshore Management

The Legislative directive regarding the bay management study charged staff to, "drawing on national and international examples, define a range of approaches for bay management that is feasible for use in Maine." Staff reviewed examples of innovative nearshore marine management both nationally and internationally, explored models proposed during public meetings, and investigated models about which members of the Steering Committee had specific knowledge. Staff used this information to develop a range of approaches for consideration in improving nearshore management in Maine. Models that were explored include:

International:

- European Union: Integrated Coastal Zone Management
- Ireland: Bantry Bay; Coordinated Local Area Managements (CLAMS)
- Scotland: Cromarty Firth Liaison Group; Fair Isle Marine Environment and Tourism Initiative; Firth of Clyde Forum; Forth Estuary Forum; Moray Firth Partnership; Solway Firth Partnership; Tay Estuary Forum
- New Zealand: Regional Coastal Plans; Oceans Policy
- Australia: Oceans Policy; Great Barrier Reef Marine Park
- Tasmania: Coastal Policy; Marine Protected Areas; Derwent Estuary program
- Canada: Eastern Scotian Shelf Integrated Management; Integrated Coastal Management in Nova Scotia; British Columbia Coastal Planning Process

National:

- Federal: Bureau of Land Management Advisory Council; National Estuary Program
- Massachusetts: Coastal Zone Management; Massachusetts Ocean Management Initiative
- Washington: Coastal Zone Management; Northwest Straits; Shoreline Master Program
- Oregon: Coastal Zone Management
- Rhode Island: Coastal Zone Management
- New York: New York Ocean and Great Lakes Ecosystem Conservation Act
- California: Ocean Protection Council
- Hawaii: Coastal Zone Management - Ocean Resource Management Plan process

Staff also considered the following structures currently in place in Maine that are either successful in engaging users or stakeholders in management or managing at more local or regional levels:

- Fisheries co-management structures: Lobster Zone Councils, Sea Urchin Zone Council
- Zoning tools: Land Use Regulation Commission (LURC)
- Existing mechanisms for increased local control: Shoreland Zoning Act, Growth Management Act, Municipal Shellfish Conservation programs, Municipal Shellfish Aquaculture permit, interlocal cooperation
- Resource Centers: Penobscot East Resource Center, Cobscook Bay Resource Center

While it is instructive to examine innovative structures for nearshore management, it is also important to recognize that there is not an existing model that could be adopted wholesale for immediate implementation in Maine. Examination of these models provided a better understanding of the range of structures that could be adapted for use in Maine. This range included: improved fisheries management; marine protected area development and management, regulatory structures, non-regulatory structures, planning and zoning.

Based on analysis of this range of examples, staff developed a preliminary set of options for nearshore management in Maine:

- Enhancements to the Existing Governance System, including:
 - ways to address gaps identified in the current management system.
- Regional approaches to management, including:
 - regional councils recognized in statute and with specific authorities,
 - locally based regional initiatives supported by the State,
 - regionalizing state government.
- Bay planning, including:
 - comprehensive bay plans,
 - advisory plans for selected uses,
 - resource management plans,
 - action plans.

Co-management in Maine’s fisheries

In “Co-management,” some authority is shared between the government that holds public trust responsibilities for resources and the stakeholders, such as fishermen, who use the resources. Co-management contrasts with traditional, top-down governance structures and has not been widely used in fisheries management. Maine has successfully implemented a form of co-management in its lobster fishery, through the formation of lobster management policy councils.

In 1995 the Maine Legislature gave the Commissioner of Marine Resources the authority to create lobster management zones. By rule, the Commissioner established seven zones, each of which has its own council of members democratically elected by fishermen. Originally, the zone councils were given authority by the Legislature on three management measures: limits on the number of traps per fisherman, limits on the number of traps on a trawl, and limits on days and times when fishing is allowed. Additional authorities were later granted by the Legislature, including the authority to survey a zone and make recommendations regarding the entry/exit ratio for the issuance of new licenses.

The original interest in moving toward co-management in the lobster fishery was because of the difficulty in making management decisions that were appropriate over the entire range of the resource. Co-management allowed for development of rules on a smaller ecological and human scale.

While the existing co-management structures (e.g. Lobster Zone Councils) do not need to be changed, the concepts behind this process may provide useful lessons for developing new types of improved nearshore management structures.

- State Boards, including:
 - appellate
 - planning
 - conflict resolution
 - permitting.

This initial list of options was then further refined, resulting in the recommendations contained in this report.

Public Participation in the Bay Management Study

Both the general public and specific stakeholder groups provided input throughout the course of the study through three primary methods: public meetings; 11 Steering Committee meetings; and direct consultation with stakeholder groups, boards and individuals. The stakeholders represented a range of interests from aquaculture and conservation groups to fisheries and municipalities.

Sharing Public Waters: A Community Discussion (January - March 2005)

To kick off the bay management study, a series of public meetings entitled “Sharing Public Waters: A Community Discussion” was held in five coastal towns: Eastport, Ellsworth, Rockland, Portland and Wells. The information collected in these meetings (Appendix I) provided a snapshot of the issues present at the time. It is expected that the problems faced by an area will continue to evolve, and that nearshore management should be structured to anticipate, to the degree possible, future needs. In summary, the major themes and ideas that emerged include:

- A large number of issues and concerns were identified along the Maine coast. These include ecological impacts of land- and marine-based activities on the marine environment, and user conflicts when multiple users impact each other or have different ideas about the appropriate use of the coast.
- When asked to identify what does and does not work in terms of coastal management, people were often not familiar with what coastal management entails. The concepts of ‘local input’ and ‘science-based decisions’ spurred more discussion than other aspects of management.
- One of the underlying ideas that emerged at each meeting was the need to pay more attention (in both governance and science) to the relationship between land and water. What happens on land is understood to impact nearshore environments and users, and vice versa, but there seems to be little documentation of this or consideration of it in decision-making.
- Although some issues are common to many bays, as one might intuitively expect, the specific mix and prioritization of problems is unique to each specific area or bay.

Steering Committee Work Session and Public Meeting (February 2006)

A joint Steering Committee work session and public meeting was held to provide an opportunity for those who had followed this study to share and explore specific ideas about changes they wanted to

see in stewardship and management of our nearshore waters (Appendix J). Close to 60 participants shared their ideas during this full day meeting. Some of the major ideas were:

- Regional council systems could comprehensively address multiple issues in a bay. It was difficult, however, to specify the logistics, authority and funding for this type of proposal.
- Issue-specific ideas ranging from eelgrass restoration to urchin fishery management suggest that some people see improved nearshore management as a way to consider managing specific resources with a more holistic perspective.
- Finally, some proposals focused on state-level improvements such developing data standards for nearshore data or creating a state resource management board.

Review of Draft Study Recommendations (November - December 2006)

Four meetings were held to present and hear reactions to the draft study recommendations from both specific stakeholder groups as well as the general public, and the report was posted online. Comments were compiled (Appendix K) and the report was revised as deemed necessary.

Summarized Results of Two Bay Management Pilot Projects

Two community-based groups were funded for one year (Winter 2005-2006) to carry out bay management pilot projects. The Taunton Bay pilot project was carried out by the Friends of Taunton Bay (FOTB). Taunton Bay, a small, enclosed bay surrounded by three towns, is located in the upper part of Frenchman's Bay. The FOTB is a conservation advocacy group that, in the past, had mostly conducted volunteer monitoring and advocated for conservation of their bay's resources through local and legislative avenues. During the course of its project, the FOTB was successful in collecting and compiling a tremendous amount of data and maps, in conducting limited community outreach and in providing specific management principles. The organization was challenged by internal conflicts, having a small group with limited resources to do proposed activities, and being perceived negatively by some members of the local community (See Appendix L).

The Muscongus Bay pilot project was run by the Maine office of the Quebec-Labrador Foundation, Inc., (QLF), a non-profit organization focused on conservation and community development. QLF did not have much of a known presence in the area before the project, and it created a Muscongus Bay Project Steering Committee made up of local professionals in the conservation field to advise the project. Muscongus Bay is a larger, open bay in the Midcoast region that is surrounded by 10 towns. The QLF project was successful in introducing the concept of Muscongus Bay as an identity for towns and citizens in the area, creating GIS maps, and in using innovative engagement techniques. Its primary challenges were related to having only one full-time staff person and no volunteers, and not having a clear goal for the final product of their project (See Appendix M).

The following is a summary of some of the lessons learned from the pilot projects. See Appendix N for a complete staff analysis of the pilot projects.

1. The pilot projects did not represent their communities as a whole and certain voices (especially harvesters and municipal officials) were underrepresented. Certain topics require involvement by specific groups (i.e. harvesters in fisheries issues, municipalities in water access issues).
2. Pilot project participants voiced an interest in “having more say” over activities in their areas but fell short of suggesting a transfer of authority over managing certain uses. Only those interested in community-based fisheries management expressed a desire for some transferred authority. A more appropriate role for regional groups at this time is improving coordination at a regional level and carrying out discrete projects rather than exercising authority.
3. While almost any issue could be examined and managed at a regional level, both pilot groups found that different issues require different management approaches. Some things are best dealt with at a town level or state level, and the appropriate regional scale depends upon the issue at hand.
4. The State needs to enable community groups to carry out regional initiatives by providing clear guidance, scientific data, and coordination, without imposing a strict structure.

User Conflicts and Methods for Resolution

Maine’s Nearshore Waters: Current Uses and Anticipated Trends (Appendix B) documents the use conflicts now evident in many areas along the Maine coast that are expected to grow. Other examples of use conflicts were voiced during the first round of public meetings (Appendix I). In general, user conflicts can be grouped into two categories:

1. Situations where two or more users want to use the same area for different activities. For example: lobster gear and recreational boaters in confined harbor areas; recreational users and commercial fishermen at public landing areas.
2. Situations where two or more users have conflicting perspectives on appropriate use of the coast. For example: coastal property owners in opposition to aquaculture and other commercial uses; objections to docks and piers due to aesthetic impacts.

Methods for reducing user conflicts were examined throughout the bay management study. Staff researched several formal methods for limiting conflicts such as ocean zoning or the pre-identification of sites for certain marine uses. However, such an approach was deemed neither practical nor feasible for Maine at this time. Staff also assessed the experience of the bay management pilot projects. While it was originally intended that both pilots would address regional user conflicts, the experience of these groups was that they needed additional expertise from professional facilitators and mediators to navigate difficult discussions. Finally, staff compiled methods currently used to both prevent and mitigate user conflicts in Maine. These include general alternative dispute resolution techniques (Appendix O) as well as methods specifically tailored to coastal issues:

Prevention of Conflicts

- establishment of fishing areas and protection of these areas from encroachment;

- negotiation over the siting of, and conditions for, new projects during hearings;
- establishment and implementation of preferences for marine dependent uses of coastal waters and adjacent shorelines (established in state statute and can be contained in local ordinances);
- establishment and implementation of harbor plans and ordinances.

Mitigation of Conflicts

- facilitated discussions among user groups (e.g., DMR convened Casco Bay fishermen and Portland Pilots Association, resulting in voluntary no buoy zone and rotating safety zones to minimize conflicts);
- development of guidelines for use of public access points by different user groups;
- the use of formal mediation (Monhegan Island Lobster Zone); and
- legislation (Monhegan Island Lobster Zone).

It was determined that it is unlikely that any one new mechanism would eliminate user conflicts along Maine's coast, and therefore, the established methods discussed above will remain relevant. However, fostering regional stakeholder initiatives could create forums that, with facilitation or mediation assistance, could help resolve current conflicts and set the stage for advance identification of potential future problems. Through the formation of cohesive groups and the subsequent establishment of relationships and trust, regional groups may:

- further identify specific current and anticipated use conflicts;
- articulate a desired vision for the future; and
- work in partnership with state government, users and others to help solve priority problems.

Budgetary Considerations

While the bay management study contemplates a variety of enhancements to Maine's methods of nearshore management, the ability to pay for program improvements and new initiatives with existing resources is limited. Any such improvements or initiatives should be considered in light of the current state budget context within which all state natural resource programs are operating. Maine faced a half million dollar gap in the 2006-2007 biennial budget. Maine's general fund budget for all programs other than education decreased by .5% in 2006 and is anticipated to decrease by 1.2% in 2007 due to increased state aid to education. Newly established state spending caps also place limits on growth in state spending. To reach a balanced budget in recent years, Maine has relied on federal relief funds, instituted a hiring freeze, eliminated state positions, deferred expenditures, increased the cigarette tax and made spending cuts.

There are already many critical unmet needs in the area of natural resource and environmental protection. One example is an estimated need for approximately \$290 million in wastewater treatment facilities to replace outdated systems over the next five years. Decreases in available

federal matching funds (cut by \$5 million for this program in 2006) and a stalemate over the authorization of bond funds have significantly affected this program in recent years.

In terms of federal funding, Maine's coastal zone management grant from the NOAA has been capped for at least the last eight years. Federal funds that previously supported grant programs to municipalities have increasingly been used to support state functions. Relatively new programs like the Coastal Nonpoint Pollution Program have been funded only sporadically, even though several national reports indicate that pollution from diffuse sources is one of the top threats to coastal water quality.

Current and anticipated budgetary considerations suggest that an incremental approach may best ensure progress in achieving the regional nearshore management recommended in this report. Any significant additional state agency responsibilities to address this report's recommendations should be matched with additional resources in order to avoid creating unreasonable public expectations or diverting resources from other important and currently funded efforts. Decisions regarding budgeting and allocation of state resources to support implementation of this report's nearshore management recommendations must be tempered by consideration of other state responsibilities and related public needs and priorities.

Potential nearshore management partners in municipal government, non-governmental organizations, business, industry and the public face comparable constraints on their ability to take on new initiatives while maintaining important current commitments. While in many ways an impediment to improving nearshore management efforts, the limited scope of public and private resources available and the shared need to invest such resources prudently may help ensure the state-municipal-private cooperation and collaboration that are needed to address key issues effectively on a regional basis.

MAJOR FINDINGS



These findings are derived from analysis of information collected throughout the course of the study and form the justification and basis for the study's recommendations. For details about the research upon which these findings are based, refer to the 'Analysis' and 'Appendix' sections.

A. Context: Ecological and Social Problems in the Nearshore

- Despite existing state nearshore management initiatives, there are indications that Maine's current methods of nearshore management need improvement, including:
 - Degraded environmental conditions (e.g., depleted fisheries, loss of eelgrass) and associated reduction in opportunities for sustainable harvest
 - Increase in use conflicts
 - Contentious permitting processes (creating uncertain business climate)
 - Public action (e.g. citizen-lead legislation for increased protection)
 - Lack of approaches to assess and address cumulative effects of activities (e.g., siting of private docks and piers).
- A variety of factors are likely to contribute to growth in both traditional and new, emerging uses that are dependent on nearshore resources. Increased diversification and intensification of human uses and subsequent pressures on Maine's coastal ecosystems are likely to result in increased conflicts among user groups and concerns about adverse environmental effects.
- The interface and relationship between the land and nearshore waters is often not explicitly considered in governance or in scientific inquiry. There is a greater need to understand and govern how land-side regulations, programs and uses impact marine health and use, and how marine regulations and use impact environmental and social conditions on land.

B. Need for Regional Nearshore Management

- Effective coastal and nearshore management frequently involves working beyond local political boundaries at a regional scale. Yet, while there are federal, state, and local processes for nearshore management, there is currently no recognized forum in Maine to advance coastal management efforts on a regional scale.

- It is necessary to balance both state priorities and regional issues when improving nearshore management. Strong state priorities are needed to make sure that public trust resources are protected and that coastal management achieves desired goals. However, the nature and types of issues are expected to vary markedly in different places along the coast. Allowing regions to discover and act on issues in partnership with the state will permit coastal management to respond to regional differences, rather than be a one-size-fits-all approach.
- Regional groups should be encouraged to work in the area most relevant to their issues and they should also define the regional scale that is most appropriate for their projects. Thus, establishing formal boundaries for regional nearshore efforts is not suggested at this time.
- Participants in the study's two pilot projects concluded that although stakeholders "want more say over what happens in their area" they do not currently have the ability to take on formal authority for nearshore management. Similarly, while there is great potential for municipalities to participate in nearshore management, they are currently hesitant because their roles are unclear and they have limited capacity. Thus, while delegation of authority is not generally proposed at this time, methods should be sought to engage and build capacity for towns and organizations to carry out regional nearshore initiatives.
- As evidenced by participation in this study, Maine people want to be engaged in nearshore projects, planning and management in varying ways and to different degrees. Some people are only likely to be involved when it intersects with their direct interests, needs or livelihoods. Others are motivated to participate in broader, visioning and policy-level debates and are interested in crafting innovative nearshore governance methods. As support of regional initiatives evolves, it is important to recognize that different topics are likely to draw different groups to the table and different levels of engagement in the process.
- While cooperative management mechanisms that have been specifically designed for nearshore fisheries management provide useful lessons and examples for other types of nearshore management efforts, these established methods do not need to be altered to allow for new types of nearshore regional efforts.

C. Need for Improved State Framework for Coordination of Nearshore Governance

- Seven state agencies, six federal agencies and coastal towns have major roles in nearshore management. The existence of multiple and sometimes overlapping jurisdictions, disparate outreach and reporting programs from each agency, and the lack of a single nearshore oversight body has proven confusing to the public.
- Although some state agency staff are organized on a regional basis, fostering more regional initiatives will necessitate enhanced state agency support at the regional level. At the same time, staff support of regional initiatives will need to be balanced with other responsibilities.

- Improvements of state coastal management may help avoid and minimize some use conflicts but will not eliminate all conflicts. Nor will they eliminate dissatisfaction with state policies and decisions. It is not possible to foresee all potential future complexities regarding Maine's nearshore resources, and ongoing debate over coastal and marine resources policy is healthy, especially when management structures are flexible enough to accommodate change. Thus, while the recommendations in this report may help alleviate some user conflicts, current formal and informal methods of conflict resolution, including alternative dispute resolution will likely continue to need to be employed.

D. Need for Improved Nearshore Data and Information

- There are many types of nearshore data that do not exist, as well as many existing data sources that are out-dated or at the wrong scale to be useful. Available nearshore data are scattered in topic and geographic area of focus. Therefore, it is difficult to ascertain a complete understanding of current coastal conditions and subsequent changes over time (Appendix P).
- Marine Geographic Information Systems (GIS) in Maine are limited in their ability to facilitate understanding and decision-making regarding nearshore environments. GIS data acquisition in Maine has been dominated by land-side data and issues. There has been no concerted effort on the part of marine-focused organizations to create a more comprehensive marine GIS.
- It is extremely difficult to locate and gather existing nearshore data. State and federal government websites are generally inadequate in making data available. Non-governmental organizations are scattered, and some lack capacity to make their data easily available. In addition, all entities may be reluctant to share data for a variety of reasons, including: desire for ownership or credit; concern that data might be misused or misinterpreted; belief that data is confidential or sensitive; or knowledge that data collection or analysis is still in progress.

E. Funding for New Nearshore Approaches

- The lack of resources to inventory, monitor, research, enforce and implement existing regulatory tools is a significantly greater concern than the adequacy or a lack of regulatory tool(s).
- New sources of revenue will be needed to fully implement the bay management study recommendations. It is important that recommendations do not create unreasonable public expectations for existing programs (particularly if no new resources are provided) or divert resources from other important and currently funded efforts.

F. Conclusion

- Although there is no one single crisis that is a priority for all of coastal Maine, there are a variety of regionally-relevant problems in Maine's nearshore waters. In addition, there is a persistent and pervasive sense that past and potential cumulative changes in the nearshore environment warrant improvements in the current systems of resource protection, governance and public involvement.
- There are many ongoing projects that are currently working to improve the condition of Maine's nearshore resources that need to continue. The most important, additional improvements needed in Maine's methods of nearshore management at this time are: a movement towards regional management; the development of new science and data; a tightening of the state's collaboration, coordination and oversight mechanisms; and the establishment of new funding resources to support improved management. Thus the type of improved nearshore management that is appropriate for Maine is a mix of both existing and new activities tailored to the needs of different geographic areas.
- This approach to improvements in nearshore management is purposefully incremental in nature given local, regional and state capacity, the realities of existing and potential new funding, and the amount of information available to inform our efforts. The recommendations are intended to be the first steps in advancing towards integrated, ecosystem-based nearshore management in Maine.

DEFINITION, VISION, PRINCIPLES AND GOALS FOR IMPROVED NEARSHORE MANAGEMENT

The Legislature's directive to the Land and Water Resources Council included a charge to develop a definition, principles and goals for improved nearshore management. These products, drawn from analysis of staff research and input from the public, pilot projects and the project steering committee, help inform the study recommendations.

Definition of Nearshore Management

This study confirmed that the issues, opportunities, and challenges facing Maine's coastal areas vary considerably from place to place, and that a regional approach to management of certain coastal issue would be beneficial. However, during the course of this study it became evident that the term 'bay management' (indeed, even the term 'bay' itself) can and does mean many different things to many people, often implying a new, additional layer of bay-by-bay regulatory control that is not being proposed at this time. Instead, the term "nearshore management" is used throughout the study, and is defined as a network of existing and new regulatory and non-regulatory techniques that, when used together, better protect the integrity and sustainability of Maine's nearshore areas for use by current and future generations.

A Vision for Maine's Nearshore Environment

A vision provides an image for the future of Maine's coast, an ideal set of characteristics to strive towards as coastal management is improved. The following vision statement was crafted by staff, based on the ideas and sentiments expressed by the study participants:

Maine's coastal marine resources are among the most healthy, productive and resilient natural systems in the world. Effective, coordinated management and active citizen stewardship achieves a careful balance between conservation and development that ensures the sustained use and enjoyment of coastal resources by current and future generations. Human impacts on coastal ecosystems are managed in a holistic way that addresses multiple, cumulative stressors on a complex, dynamic and ever-changing ecosystem. Comprehensive, up-to-date data and information informs public and private management decisions. Management at regional scales reflects ecosystem boundaries and allows for more effective citizen participation.

As recommended in this report, this vision and its more detailed principles below are to be used by state agencies with nearshore responsibilities as part of strategic planning exercises. The vision and principles are also recommended to be incorporated into guidance for funding for regional projects, as discussed later in this report.

Principles for Management of Maine’s Nearshore Waters

These principles are the fundamental concepts and values that underlie improved nearshore management policies and programs. As such, they assist in understanding the intent of this report and recommendations.

Ecological Protection

- Achieve healthy marine ecosystems and protect vital ecosystem functions
- Recognize that coastal systems are naturally dynamic and change over time and space
- Recognize the ecological links between terrestrial and marine systems
- Obtain and incorporate the best available science at appropriate ecosystem scales

Resource Use and Management

- Accommodate marine-dependent uses along the coast in a fair and responsible manner
- Promote innovation that supports new and existing marine industries consistent with protecting ecosystem health
- Maintain a working waterfront that supports marine-dependent uses
- Ensure that nearshore uses do not damage ecosystem health so that resources are available for future generations to use and enjoy
- Employ adaptive management to adopt to changing circumstances in resource conditions and use

Good Governance

- Uphold the State’s overarching Public Trust responsibilities
- Utilize a flexible, transparent and accountable management regime
- Promote interagency cooperation and collaboration and high quality service to the public
- Maintain a process that is affordable and efficient for state and local governments and volunteer organizations
- Work across political jurisdictions to address ecosystem challenges
- Enhance public input and participation at all levels of planning and decision making
- Encourage respectful, constructive, and earnest dialogue and collaboration
- Value the contribution of local knowledge as a critical complement to other sources of information

Goals for the Management of Maine's Nearshore Waters

Broad statewide goals for improved nearshore management were the area of focus in this study. The purpose in focusing at this level was to concentrate on a manageable number of improvements that would address core, underlying problems. Goals for an individual waterbody or section of the coast are better established through stakeholder dialogue in partnership with the state, as discussed later in this report. Goals for specific state agency programs in the nearshore can be created through interagency strategic planning exercises, also discussed later in the report.

The state-wide goals for improved nearshore management are to:

1. *Move toward regional management of nearshore waters* -- Encourage and support regional initiatives to address locally-relevant issues by providing information, staff assistance or funding and by encouraging interlocal agreements;
2. *Increase the amount, availability and accessibility of nearshore data and information* -- Create and implement a long-term coastal marine science plan to identify and acquire needed data, and enhance information exchange and marine geographic information systems;
3. *Improve the state's framework for nearshore management* -- Implement interagency coastal strategic planning, establish a policy-level oversight committee, develop improved outreach programs, and conduct ongoing evaluation of nearshore management; and
4. *Increase the amount funding and the diversity of funding sources for nearshore activities* -- Maintain current levels of funding for existing state priorities while securing additional sources of support for enhanced programming

The specific recommendations and tasks to achieve each of these goals are enumerated in the recommendations section of this report.

RECOMMENDATIONS



Goal A: Move towards Regional Management of Nearshore Waters

Effective coastal and nearshore management frequently involves working beyond local political boundaries at a regional scale. Yet there is currently no recognized forum in Maine to advance nearshore management efforts on a regional scale. This set of recommendations aims to provide both support and overarching guidelines for regional initiatives.

Regional approaches have proven successful in Maine. The Maine Lobster Zone Councils are hailed as a structure that tailors lobster management to a more effective scale. Similarly, cooperative agreements on shellfish management, such as the Damariscotta River Regional Management Program or the Georges River Clam Project, provide mechanisms for harvesters to work together to create and maintain productive clam flats. While the examples above illustrate the gains that can be made by coordinated efforts focused on a single marine species, it is also possible to imagine a broader spectrum of regional stakeholders working together to better understand and manage the effects of multiple activities in a bay. Other examples of successful regional efforts are listed in Appendix Q.

In addition to working at a more effective scale in a coordinated way, regional initiatives provide opportunities for individuals and groups to become involved in the management of coastal waters. The State could foster regional efforts, improve their chances for success and, in doing so, make significant advances in improving the management of Maine's nearshore marine environment. The two pilot projects (Taunton Bay and Muscongus Bay) provide examples of how state guidance and support benefited regional projects (See Appendices L and M).

The State will encourage and support regional initiatives to address locally-relevant issues, and provide criteria for a group to receive support. This will ensure that support is directed to initiatives that are contributing to the state priorities for coastal waters. In addition, recommendations B-2 and C-3 (in later sections of this report), which aim to provide information about nearshore resources and programs, may also help enable regional efforts.

Recommendation A-1: Provide limited-duration, issue-specific support to regional efforts

Emerging regional efforts and established initiatives may need short term support from, or limited consultation with state agency staff. Under this scenario, a staff person from the appropriate agency(s) will assist a group on a specific issue by providing information, presenting materials at a meeting, conducting a workshop, or participating in a short-term planning effort (see

Recommendation C-3 for the types of outreach materials that will be made available). State staff might assist in developing a study design for a volunteer monitoring effort, helping interpret and apply existing scientific data, presenting information about coastal land use planning, or mediating a conflict between marine user groups. Limited assistance by state staff could also help with shellfish management plans, eelgrass or other types of habitat restoration plans, harbor management and public access plans.

Task 1: Conduct interagency discussions to create effective support for regional initiatives.

SPO will lead discussions with other state agencies to a) understand how and if their nearshore programs could be enhanced through working at the regional level; b) to clarify the degree and amount of support that the agencies have available to regional coastal initiatives; c) to prioritize which regions receive support; and, d) to decide whether new mechanisms, such as formalized interagency teams or the designation of single points of contact, are needed.

Task 2: Assess the needs of regional planning commissions, fisheries resource centers, regional land trusts and other existing organizations that provide support to towns and citizen groups.

Regional organizations with sufficient technical capacity can often provide more effective support (training, GIS support, etc.) to bay-level efforts than state government. However, it is likely that existing organizations' services will need to be enhanced to provide support to regional nearshore management initiatives. Thus, a first step is to assess and address the needs of regional organizations that can provide support.

Task 3: Create partnerships to improve regional service delivery.

Enhanced partnerships between state agencies and existing regional service providers could result in better products such as presentations, training modules and technical assistance materials. Examples include training modules on topics such as: facilitation, nearshore marine science, linking town planning with nearshore water quality, capacity building, and sustaining local efforts. Specifically, SPO will lead discussions with potential partners to provide coastal trainers that would assist regional groups in collecting, analyzing and using data, and in building consensus or mediating conflict between stakeholder groups.

Timeframe and Costs for Recommendation A-1

June 2007	Complete discussions with state agencies and needs assessments for existing regional efforts
December 2007	Publicize the availability of issue-specific support for regional coastal efforts
Cost:	1 existing FTE SPO will conduct assessments State agencies will participate in assessments within existing resources Additional areas of focus could be added to SPO's contracts with Regional Planning Commissions Additional resources might be needed

Recommendation A-2: Provide support in the form of funding and/or staff assistance to one or more regional initiatives

The bay management study pilot projects provide the best example of the levels of support needed for focused regional efforts. Two organizations each received one-year grants from SPO, and a staff member served as a state agency liaison with the group, occasionally assisting with meeting planning and facilitation. The regional groups carried out activities such as: compiling and creating GIS map layers, identifying conflicts and issues in their region, and leading community discussions on improved local management. Because both pilot projects were limited by the small amount of monetary support available and the one year duration of the grant support, two years of support at higher levels should be considered, provided federal funds are available.

Task 1: Create guidelines and criteria for regional projects and apply them to regional efforts that receive state funding and/or staff support.

Formally establish criteria in requests for proposals, contract documents and memoranda of understanding. Additional detail on the criteria suggested below is included in Appendix R. Projects eligible to receive staff and funding support should:

- Demonstrate consistency with state nearshore management goals
- Demonstrate adequate stakeholder participation
- Demonstrate sufficient capacity to carry out proposed tasks
- Conduct work on a regional scale
- Minimize duplication of or conflict with similar efforts
- Commit to and be capable of using best available and appropriate information

Task 2: Determine state regional nearshore management priorities and create a Request for Proposals.

These priorities will guide assistance towards the type of projects most needed to improve nearshore management and to further ecosystem-based management principles.

Task 3: Fund and/or provide staff support to grantees.

At the end of the funding, assess success of the project, lessons learned and next priorities.

Timeframe and Costs for Recommendation A-2

March 2007	Determine funding available
June 2007	Determine regional priorities
July 2007	Issue RFP
Sept 2007- 2009	Conduct regional projects
December 2010	Assess results, determine next steps
Cost	Minimum \$25,000 annually for each funded project (CZM funds)

Recommendation A-3: Encourage formal, multi-town cooperative management of nearshore resources

One potential approach to more effective nearshore management involves encouraging municipalities to work together, possibly with state agencies, to manage or plan for nearshore activities at a regional level through the use of interlocal agreements (see Appendix R for background on interlocal agreements). As contrasted with initiatives undertaken by non-governmental organizations, this approach ensures that municipalities, and thus elected local officials, are vested participants with the ability to implement recommendations and political accountability to affected communities. By way of example, two or more municipalities could agree to joint, regional management of certain nearshore activities, including mooring locations, public access, waterfront development, shoreland zoning, shellfish management, permitting of docks and piers or other coastal matters over which the municipalities currently have jurisdiction. Interlocal agreements can only be used for the joint exercise of existing authorities.

One or more municipalities could also enter into an agreement with one or more state agencies to jointly exercise authority that is currently only exercised by a state agency. For example, if broadly interpreted, a state agency could share its authority to issue leases or permits or do submerged lands planning with municipalities that are parties to the agreement, or create a third, regional entity, with state and local representation, to make leasing, permitting or planning decisions.

Task 1: SPO will collect or develop model ordinances or other advice to assist towns in creating interlocal agreements regarding nearshore resources.

Task 2: Assess barriers to municipal involvement and reasons for past engagement. Explore possible incentives to encourage towns to use interlocal agreements.

While some towns have formed interlocal agreements for joint management of coastal resources (such as clam flat management), this method has not been widely embraced. Incentives informed by reasons for or barriers against involvement could increase participation in interlocal agreements. Related to this, Coastal Program staff at SPO and DMR will participate in discussions about reform of Maine's Growth Management Act, which, based on a 2005 study by SPO, suggests promoting multi-municipal regional planning regarding developments that have regional economic and environmental effects.

Task 3: Conduct legal analysis and sponsor meetings to determine the ability and extent to which state agencies are willing to jointly exercise certain authorities with towns through interlocal agreements.

Because a provision of the interlocal agreement statute (30-A MRSA §2203, sub-§8, ¶B) bars delegation of "essential legislative powers" to a joint authority, the scope of state agency authority that may be shared and the manner in which that authority may be shared pursuant to an interlocal agreement may not be entirely clear.

Timeframe and Costs for Recommendation A-3

2007	Collect and develop model ordinances Assess barriers and explore incentives
2007-2008	Conduct legal analysis
Cost	SPO .8FTE existing DMR .5FTE existing \$5,000 for model ordinances Sea Grant Law Center proposal pending for legal analysis and related outreach

Goal B: Increase the Amount, Availability and Accessibility of Nearshore Data and Information

Limitations in scientific data about the nearshore are major constraints in moving forward with improved nearshore management. Data availability, data exchange and marine GIS all need significant improvement if Maine is to manage for a healthy nearshore system. Appendix P (*Data and Information Needs Report*) and Appendix T (*Marine GIS Needs Assessment*) inform these recommendations. Except for in-kind staff support from DMR for Task B-1, #1 below, all the tasks in this section would require additional resources.

Recommendation B-1: Create a Long-Term Coastal Marine Science Plan

DMR should lead an initiative to bring together representatives from DEP, DMR, MGS, SPO, IFW, DOC, municipalities, universities and NGOs who work in the marine environment to develop a long-term plan for coastal marine science. The purpose of this science plan would be to identify common needs and priorities to support regional nearshore management and develop a strategy to address them. While some institutions, like DMR and Sea Grant have a set of research priorities, not all organizations that work in coastal waters have them nor were all plans developed to look at marine science in a regional coastal management context. This long-term coastal marine science plan would attempt to integrate agency priorities and other initiatives (e.g. Sea Grant research plans, Gulf of Maine Council’s Environmental Monitoring Plan, and EPA’s National Coastal Assessment) when creating a coastal research plan.

Task 1: Establish a science advisory committee.

A multi-disciplinary committee with emphasis on nearshore management and science will be established to provide advice on tasks as outlined in this recommendation.

Task 2: Conduct sector-specific and cross-sector research needs assessments.

The assessment will identify and prioritize top research and monitoring needs from various marine and nearshore entities (state and local governments, industry, non-profits). In addition, this assessment will determine research and monitoring needs of multi-sector issues such as cumulative impacts and carrying capacity. The research and monitoring needs assessment will put Maine in a strong position to obtain funding through grants, programs, and partnerships. More importantly, it

will guide agency policy makers and program managers by identifying priority needs in the context of Maine's coastal communities.

Task 3: Develop a human use and resource atlas.

Nearshore management suffers from lack of information on the location and condition of coastal resources and their uses. This GIS-based atlas will compile information from various sources and incorporate both quantitative and local knowledge. It will be useful in setting priorities and identifying ecological relationships, especially between habitat requirements and species and their vulnerability to human exploitation. Once the base atlas has been developed, it can be periodically updated as new data from the larger coastal monitoring program is gathered.

Task 4: Establish long-term monitoring stations.

Distinguishing natural variability from that caused by humans is important. Trying to manage natural events is futile and resources are better spent on addressing those impacts that are truly manageable. Long-term monitoring, although not glamorous, is essential for creating long time series that documents the ebbs and flows of nature. A network of index stations would monitor changes in living resources and physical and chemical parameters of sediments and water. Opportunities exist to integrate this long-term network into other ongoing and supported programs such as the Integrated Ocean Observing System, EPA's National Coastal Assessment, and NOAA's Status and Trends Program. However, to serve the needs of coastal management, the long-term network would place more emphasis on nearshore coastal waters and the land-sea interface.

Task 5: Compile information on historical baseline conditions.

There is already much information that has been collected on the condition and quality of coastal resources. However, much of this is in the form of paper files, agency reports, and inaccessible archival material. For example, the Maine State Archives contains Critical Areas Program files that characterize intertidal benthic communities along the entire coast from the 1970s. Older data need to be made available digitally to measure natural variability, identify sensitive habitats and biological communities, and enhance our ability to assess environmental impacts after human or natural events. Funding is needed to prioritize, catalogue and digitize earlier publications and data sets so that the information contained is accessible for use by resource managers and scientists.

Timeframe and Costs for Recommendation B-1

2007:	Establish a science advisory committee
Timeframe	Conduct research needs assessments (1 year, with ongoing review)
contingent on	Develop a human use and resource atlas (5 years, with ongoing review)
funding:	Establish long-term monitoring stations (once started, ongoing)
	Compile information on historical baseline conditions (1 year)
Cost:	Research needs assessment: 1 FTE equivalent, or \$60,000 to start and \$10,000/year thereafter
	Human use and resource atlas: 1 FTE - \$60,000/yr
	Long-term monitoring stations: \$200,000/yr. (multi-agency and NGO partnership)
	Historical baseline conditions: 1 FTE - \$60,000

Recommendation B-2: Enhance Information Exchange and Marine Geographic Information Systems in Maine

DMR should lead an initiative to identify information exchange needs and develop information management, delivery and exchange mechanisms that will provide wide access to coastal marine data. DMR should also take the leadership role in coordinating and advocating for better Marine Geographic Information Systems (GIS). Together with a coordinated coastal Maine science plan, information management and exchange is a powerful tool for regional management.

Task 1: Develop a nearshore information portal.

A portal similar to that used by Chesapeake Bay Program (<http://www.chesapeakebay.net/>) will be developed to provide access to available information and foster communication among those interested in nearshore management. The portal should provide simple tools for data and information access, as well as background and updates on regional nearshore management initiatives. It should be integrated with InforME (<http://www.maine.gov/informe/>) and also take advantage of innovative regional and national information technology such as those being explored by the Gulf of Maine Ocean Data Partnership, and existing state systems such as the MGS coastal atlas.

Task 2: Engage in a focused effort to develop marine GIS data layers, standards and exchange.

There is currently not enough marine ecological or social GIS data at a bay level. Only through a concerted and specific focus will Maine be able to develop a marine GIS robust enough to aid in coastal understanding and decision making. The Marine GIS Needs Assessment (Appendix T), concluded that most GIS needs would benefit from better coordination and planning by DMR and that the Maine GeoLibrary and MEGIS could offer the organizational structure to fully integrate marine GIS with other GIS activities in the state.

The State can help by collecting and compiling marine GIS data in a way that enables bay level organization. To make data exchange most useful, spatial and non-spatial data must be created with common standards and associated with good documentation or metadata. Data standards such as those developed by the Maine GeoLibrary for parcel data will need to be established for marine data sets and accompanied by Federal Geographic Data Committee (FGDC) compliant metadata. As data are developed according to established standards, the marine GIS could be integrated into the MEGIS and the GeoLibrary so that it is easily accessible. The State should develop Web Mapping Services such as ArcIMS applications or other OpenGIS services that can be used in support of marine GIS. Additional GIS staff based at DMR are needed to manage and coordinate this effort.

Task 3: Provide support to existing community GIS centers.

Several GIS needs assessments and both bay management pilot projects pointed to the need to have regional GIS resource centers to support regional initiatives (for more detail on the assessments, see Appendix S). Most local groups do not have the capacity and knowledge to find and analyze data on their own and state staff cannot dedicate sufficient time needed to help individual groups. A community GIS center is one way to provide this link. The Maine Coast Protection Initiative has provided trial support to three such GIS centers, and the Applied Geographics County Needs Assessment suggested using county government offices for such centers (although no work has

begun on this yet). The State should evaluate the effectiveness of and provide additional support (training, funding, and data) to those pre-existing GIS centers most able to assist regional nearshore management initiatives. If a gap exists along the coast (e.g., Frenchman’s Bay area), the State could support an existing group to become a GIS resource center.

Timeframe and Costs for Recommendation B-2

Timeframe	Develop a nearshore management information portal (3 years)
contingent on	Engage in effort to develop marine GIS data layers, standards and exchange
funding:	(3 years)
	Provide support to existing community GIS centers (once started, ongoing)
Cost:	Nearshore management information portal: \$100,000/year
	Marine GIS data layers, standards and exchange: \$150,000/year
	Support to existing community GIS centers: \$150,000/year

Goal C: Improve and Implement a State Framework for Nearshore Management

Maine state government alone has seven agencies and tens of individual programs that plan for and manage some aspect of coastal and nearshore development, conservation and protection. While Maine has a networked coastal zone management program (the Maine Coastal Program), a coastal policies statute that requires an integrated approach by state and local government, and a variety of interagency communication mechanisms, our state framework for nearshore management¹¹ needs to be strengthened and implementation improved. In light of the findings and other recommendations contained in this report, Maine’s framework needs to ensure that the state’s nearshore management programs:

- Help achieve a desired future vision;
- Embody nearshore management principles; and
- Are responsive to, and supportive of regional efforts

Components of this strengthened state framework, as further discussed below, are: a focused interagency coastal strategic planning effort; establishment of a policy-level oversight committee; development of improved, linked outreach programs, institution of ongoing evaluation and assessment and periodic consultation with stakeholders.

Recommendation C-1: Improve Advance Planning and Collaboration on Coastal Issues By State Agencies

Maine’s federally approved coastal program was established in 1978 as a “networked program,” where responsibilities for sound management are distributed across different state agencies (in partnership with federal and local government) and coordinated by the State Planning Office. To

¹¹ As used here, “state framework” means a basic structure or system that supports and guides collective and individual state agency efforts.

help guide the formation and implementation of the Maine Coastal Program (MCP), the Coastal Management Policies Act (“Act”), 38 MRSA §1801, *et seq.*, (<http://janus.state.me.us/legis/statutes/38/title38sec1801.html> see also Appendix E) provided a basic policy framework and established goals for management of the State’s nearshore embayments and other coastal areas. The Act states that local, state and federal agencies should manage the coastal area consistent with the Polices and in a way that strikes a “carefully considered and well reasoned balance among the competing uses of the State's coastal area.” While individual agencies created rules, guidance and new programs as part of the creation of the MCP to address the specific coastal policies within their purview, there is no formal, ongoing mechanism for state agencies to look at the confluence of the intersecting and sometimes competing coastal policies. Successful implementation of the Act requires ongoing planning and collaboration on the part of state agencies. To be effective over time, the broad policy statements in the Act need to be further interpreted with goals, measurable objective and specific actions. This recommendation proposes the creation and implementation of a series of interagency plans as a method to institutionalize advance planning and collaboration on coastal issues among state agencies.

Task 1: Develop an issue-specific interagency nearshore strategic plan.

SPO (with DMR, DEP, DOC and IF&W) should create an interagency strategic plan for a high priority coastal issue, such as shellfish bed closures or swim beach health. The plan should outline an interagency approach to the coastal issue that:

- Helps achieve the vision for nearshore resources;
- Is consistent with relevant Coastal Policies (such as Marine Resources, Cooperative Management and Water Quality);
- Embodies the nearshore management principles;
- Establishes an approach to working in high priority regions; and,
- Includes interagency goals; measurable objectives and specific activities.

This pilot issue-specific strategic plan will be assessed for lessons learned regarding: desired level of detail, information needed, level of staff effort required, obstacles to effective strategic planning, benefits to agencies of the effort, and methods for effective integration of topics.

Task 2: Evaluate the effectiveness of the initial strategic plan and expand interagency strategic planning to other coastal and nearshore topics.

Based on lessons from the first interagency planning effort and on an assessment of priorities, build on the first effort by developing a succession of additional issue-specific interagency plans.

Task 3: Compile issue-specific plans and assess for gaps and next steps.

The limited scope, issue-based plans should continue to build on each other such that the issue-based plans together result in more robust, multi-issue nearshore interagency strategic plan. An assessment of this effort should examine how well issue-based plans address the charge of the Coastal Policies Act, and determine gaps where additional interagency efforts are needed.

Task 4: Incorporate results into the production of the Maine Coastal Plan Assessment and Strategy. The issue-based plans will be incorporated in the Maine Coastal Plan Assessment and Strategy, which is developed every 5 years. The current plan was adopted in 2006; the next Plan will be completed in 2010.

Timeframe and Costs for Recommendation C-1

Spring-Fall 2007	Completion of initial interagency plan
Winter 2007	Assess lessons learned from initial planning process
2008 - 2009	Develop successive issue-specific interagency plans
Winter 2009	Compile plans and assess for gaps and next steps
2010	Develop Maine Coastal Plan
Cost	\$20,000 CZM

Recommendation C-2: Create a Coastal and Nearshore Subcommittee of the Land and Water Resources Council

The Land and Water Resources Council (“LWRC”) formerly had a subcommittee on marine policy that was disbanded in the 1990’s. In order to track the progress of the bay management study and to review study outcomes in a more focused way, the LWRC established a subcommittee of management staff from SPO, DEP and DMR. It is recommended that this subcommittee be reconstituted to ensure an ongoing, policy-level forum for consideration of nearshore issues.

Task 1: Convene the coastal and nearshore subcommittee of LWRC, create goals, list of issues and meeting schedule.

This subcommittee will meet at the LWRC’s direction, and staff will be provided to the subcommittee. They will meet for purposes such as:

- networking and information sharing
- assessment of coastal trends
- examination of coastal problems or conflicts
- creation of new coastal policies and proposals
- planning for emerging coastal uses
- resolution of agency conflicts
- oversight of progress on coastal communication and coordination
- establishment of interagency teams, as needed, based on area-specific assignments or issue-area assignments

Task 2: Include a summary of the subcommittee’s annual activities into the LWRC’s annual report.

The LWRC submits its annual report to the Governor and the Legislature’s Natural Resources Committee pursuant to 5 MRSA §3331, sub-§4. This reporting mechanism provides an additional means to assist policy makers in tracking and assessing progress in implementing this report’s recommendations.

Timeframe and Costs for Recommendation C-2

Spring 2007	Convene coastal and nearshore subcommittee of the LWRC (meetings continue quarterly or as needed)
Winter 2007	Include subcommittee’s activities in LWRC’s annual report (reporting continues on a yearly basis)
Cost:	Staff support (SPO and DMR)

Recommendation C-3: Improve Coordination of Agency Outreach and Information Efforts

While some of the existing nearshore programs have established coordination mechanisms (e.g., the Overboard Discharge Removal program at DEP and the Shellfish Classification Program at DMR), other programs are not similarly coordinated. Because programs are operated by different agencies and publicized in separate print materials and websites, there is also a lack of high quality, comprehensive information to help the public understand how programs work in conjunction to protect and improve coastal environmental quality. Even state agency staff are not always aware of disparate programs, funding sources and contacts. Thus, this recommendation is intended to improve coordination through education of staff at relevant state and local governments, as well as the general public.

Task 1: Inventory existing outreach materials and websites of nearshore programs and projects.

The box to the right provides examples of nearshore programs.

- | |
|--|
| <p>Example nearshore programs</p> <ul style="list-style-type: none"> • State pump out facilities plan • Development of Total Maximum Daily Loads (TMDLs) for coastal areas • Designation of no-discharge areas • Water quality classification system • OBD removal program • Septic system replacement efforts • Dredging Management Action Plan • Port and waterfront development • Cruise ship visitation development • Intermodal transportation plans • Public access planning and facility development • Energy facility siting • Marine economic development |
|--|

Task 2: Create an improved outreach strategy.

Create an outreach strategy to consist of print materials (e.g. Citizens’ Guide), internet sites, and simple matrices that include program descriptions, laws and regulations, funding and other resources, and contact information. In addition, communicate interagency plans and LWRC subcommittee efforts.

Timeframe and Costs for Recommendation C-3

December 2007	Inventory existing materials
December 2008	Create outreach strategy
Cost:	\$5000 CZM for inventory; \$10,000 CZM for outreach strategy

Recommendation C-4: Adapt and Improve Maine’s nearshore and coastal governance systems over time

The bay management study results represent only a snapshot in time. The number and diversity of uses in our nearshore waters, the complexity of environmental problems and society’s viewpoints will continue to change over time. Likewise, the practice of nearshore ecosystem-based management will evolve as more states and nations learn how to adapt these principles into

governance measures. The recommendations in the report are, by design, incremental in nature, meaning that while important steps have been highlighted in this study, others are expected to be needed over time in order to lead Maine towards an integrated, ecosystem-based coastal management system.

Task 1: Assess the implementation of this report's recommendations and prepare periodic updates.

The Land and Water Resources Council should assess the implementation of recommendations and provide updates to relevant legislative committees. The update process should be used to monitor effectiveness, successes and challenges, provide new information and trend analysis and to suggest adaptations as needed.

Task 2: Host annual nearshore management meetings to advance integrated, ecosystem-based coastal management.

Along with regional grantees, interested stakeholders and others, hold a biennial meeting to assess progress and to further develop in-state knowledge of the application of ecosystem-based management to nearshore systems. In alternate years, assist with the newly established Coastal Waters Conference.

Timeframe and Costs for Recommendation C-4

December 2008	Assess implementation of report (and biennially thereafter)
Beginning in 2008	Host annual meeting or conference
Cost:	Staff time; \$2,500 CZM funding for meeting

Goal D: Increase the Amount and the Diversity of Funding Sources

While implementation of a number of this report's recommendations could be accomplished within current projections of existing budgeted resources, others will require identification of new sources of support. Table 1, on the following pages, provides an overview of state capacity and funding needs and potential sources of support to address the report's recommendations. Federal Coastal Zone Management Act (CZMA) grant funds may be available to support implementation of some of the report's recommendations. Some CZMA grant funds (CZMA Section 306) may be budgeted annually to support select nearshore management activities. Funds available under Section 309 of the CZMA must be used for changes to improve the State's coastal program in accordance with the State's five-year coastal plan. The current five year plan, approved by NOAA in July 2006 already includes several nearshore management projects, as detailed in "Current Nearshore Management Initiatives" in the Analysis section.

Reasonably available federal CZMA funds alone are not adequate to implement this study's recommendations. Under the oversight of the Council's coastal and nearshore subcommittee, state agencies should explore additional funding support options. Identification of such options and provision for them in agencies' budgets is important to ensure continuing progress and productive collaboration on nearshore management. Potential options include changes in lease fees, use of mitigation funds or penalties and fines generated through the regulatory process, and state grants

under the growth management program to support regional initiatives. Progress on funding for improved nearshore management should be periodically reviewed by the LWRC.

Recommendation D-1: Maintain Current Levels of Funding for Existing State Priorities in the Areas of Coastal, Environmental and Marine Resource Management.

Task 1: Work with nongovernmental partners to build support for maintenance and enhancement of current budgets for coastal and marine management.

Timeframe and Costs for Recommendation D-1

Timeframe: Ongoing
Cost: SPO Staff time

Recommendation D-2: Secure Additional Sources of support for enhanced programming.

Task 1: Work with state and federal agencies and the NGO community to identify additional sources of revenue for nearshore studies, monitoring, planning and management.

Potential new sources of funding and partnerships are included in the budget tables on the following pages.

Task 2: Work with the Department of Conservation’s Submerged Lands program to use funds made available from changes to its leasing program and fee structure , as appropriate.

PL 2005 c. 550, section 8, directs the Department of Conservation “to review the rent structure for leases under the submerged lands program” and report its recommendations, including “options for increasing lease revenue significantly”, to the Legislature’s Agriculture, Conservation and Forestry Committee in January 2007. The Department should include in its recommendations to the Committee equitable increases in submerged lands lease fees sufficient to provide a sustainable source of state support for harbor management and resource mapping and related data collection activities that would facilitate avoidance and minimization of use conflicts and protection of traditional, Public Trust- related uses of state-owned submerged lands and coastal waters. The first part of this task is to submit a summary of nearshore data and information needs to DOC. The second part of the task is to work with DOC, the Submerged Lands Advisory Committee and the Legislature’s Joint Standing Committee on Agriculture, Forestry and Conservation during discussions about potential restructuring of lease fees and programs that might be funded with an additional revenue stream.

Timeframe and Costs for Recommendation D-2

January 2007 on Continue to identify additional sources of revenue
December 2006 Submit summary of nearshore data and information needs
January - March 2007 Discussions with Submerged Lands Advisory Committee and the Joint Standing Committee on Agriculture, Forestry and Conservation
Cost: SPO staff time

TABLE 3: BUDGET TABLE AND TIMELINE

Goal A: Move Toward Regional Management of Nearshore Waters					
Recommendations	Task & Description	\$ Amount Needed	Existing Resources Available to Accomplish Task? (if yes, cite source)	New Resources Needed to Accomplish Task? (if yes, cite potential sources)	Task Timeline (TBD indicates the timeline will be determined when funding is secured.)
A-1. Provide limited duration, issue-specific support to regional efforts	1. Conduct interagency discussions to create effective support for regional initiatives	Staff support SPO/CZM	Yes – Agency participation formalized via MOUs	No	February-June 2007
	2. Assess needs of regional organizations that provide support to towns/groups	Staff support SPO/CZM	Yes – SPO Project position, CZM funded	No	February-June 2007
	3. Create partnerships to improve regional service delivery	TBD	Partial – SPO contracts with Regional Planning Commissions	May need additional funds for creation of new materials, trainings, etc. Private grant? NOAA?	December 2007
A-2. Provide funding or staff support to one or more regional initiatives	1. Create and apply criteria to regional efforts that receive state funding or staff support	Staff support only	Yes	No	July 2007-December 2010
	2. Determine state regional nearshore management priorities and create a request for proposals	Staff support only	Yes – SPO project position	No	March-July 2007
	3. Fund and provide support to grantees	\$25,000 to \$50,000 annually	Partial – CZM	Yes Submerged lands lease fees? State Fund for Regional Efficiencies? Regional projects secure additional funds? State Growth Management regional pilot funds	July 2007-December 2010
A-3. Encourage multi-town cooperative management of nearshore resources	1. Collect or develop model ordinances to assist towns in creating interlocal agreements	Staff time SPO, DMR \$5,000	Partial – CZM	Also pending grant proposal to National Sea Grant for Tasks 1-3 in this section	2007 (materials) 2008-2010 (work with towns)
	2. Assess barriers to and explore incentives for towns to use interlocal agreements	Staff time	Partial – CZM	See above	2007
	3. Conduct legal analysis to determine state agency ability to exercise joint authorities	Staff time SPO, OAG, DMR, DEP	Partial – CZM	See above	2007-2008

RECOMMENDATIONS

TABLE 3: BUDGET TABLE AND TIMELINE

Goal B: Increase the Amount, Availability and Accessibility of Nearshore Data and Information					
Recommendations	Task & Description	\$ Amount Needed	Existing Resources Available to Accomplish Task? (if yes, cite source)	New Resources Needed to Accomplish Task? (if yes, cite potential sources)	Task Timeline (TBD indicates the timeline will be determined when funding is secured.)
B-1. Create a long-term coastal marine science plan	1. Establish science advisory committee	Staff time DMR	Yes	No	As needed
	2. Conduct sector-specific and cross-sector research needs assessments	\$60,000 for one year; \$10,000/yr thereafter	Partial – Sea Grant and DMR effort under discussion	Yes Sea Grant? CZM?	2007
	3. Develop a human use and resource atlas	\$60,000/yr for 5 years	No	Yes Submerged lands lease fees? State R&D funds? Outdoor Heritage Program?	TBD
	4. Establish long-term monitoring stations	\$200,000 annually; ongoing	No	Yes Partnership with GoMOOS? NSF, EPA, NOAA?	TBD
	5. Compile information on historical baseline conditions	\$60,000 for one year	No	Yes Submerged lands lease fees?	TBD
B-2 Enhance information exchange and marine geographic information systems	1. Develop a nearshore information portal	\$100,000/yr for 3 years	No	Yes Cooperative projects with NOAA, EPA, IOOS, others? State R&D funds?	Begin planning in July 2007 with existing staff
	2. Engage in a focused effort to develop marine GIS data layers, standards and exchange	\$150,000/year for 3 years	No	Yes Submerged lands lease fees; partnership with GoMOOS?; State R&D funds?	Discussions to begin in January 2007, with potential for state GIS improvements in January 2008
	3. Provide support to existing community GIS centers	\$150,000/annually; ongoing	No	Yes Private grants?	TBD

TABLE 3: BUDGET TABLE AND TIMELINE

Goal C: Improve and Implement a State Framework for Nearshore Management					
Recommendations	Task & Description	\$ Amount Needed	Existing Resources Available to Accomplish Task? (if yes, cite source)	New Resources Needed to Accomplish Task? (if yes, cite potential sources)	Task Timeline (TBD indicates the timeline will be determined when funding is secured.)
C-1. Improve advance planning and collaboration on coastal issues by State agencies	1. Develop an issue-specific interagency strategic plan	Staff support Agency participation formalized via MOUs	No	N/A	February to November 2007
	2. Evaluate the effectiveness of the initial planning effort and expand process to other nearshore and coastal topics	Staff support	No	N/A	Winter 07/08
	3. Compile successive issue specific plans and assess for gaps, next steps	Staff support	No	N/A	2008-2009
	4. Incorporate results into the <i>Maine Coastal Plan Assessment and Strategy</i>	\$20,000 CZM	No	N/A	2010
C-2. Create a coastal and nearshore subcommittee of the Land & Water Resources Council	1. Convene the group, create goals, issues and meeting schedule	Staff support	No	N/A	
	2. Include summary of annual activities in LWRC's annual report	Staff support	No	N/A	
C-3. Improve coordination of agency outreach and information efforts	1. Inventory existing outreach materials and websites of nearshore programs and projects	\$5,000 contractor	Yes	SPO/CZM	July-December 2007
	2. Create outreach strategy	\$10,000 contractor and products	Could potentially be a larger project requiring additional funds	Private grant? Maine Outdoor Heritage Fund?	January-December 2008
C-4. Adapt and improve Maine's nearshore governance systems over time	1. Assess the implementation of the reports' recommendations and prepare periodic updates	LWRC with staff support SPO, DMR & partner agencies	No	N/A	December 2007 and biennially in subsequent years
	2. Host annual nearshore management meetings to advance integrated, ecosystem-based coastal management	\$2,500 CZM	No	N/A	Annually, beginning in December 2008

RECOMMENDATIONS

TABLE 3: BUDGET TABLE AND TIMELINE

Goal D: Increase the Amount and the Diversity of Funding Sources					
<u>Recommendations</u>	<u>Task & Description</u>	<u>\$ Amount Needed</u>	<u>Existing Resources Available to Accomplish Task?</u> <i>(if yes, cite source)</i>	<u>New Resources Needed to Accomplish Task?</u> <i>(if yes, cite potential sources)</i>	<u>Task Timeline</u> <i>(TBD indicates the timeline will be determined when funding is secured.)</i>
D-1. Maintain current levels of funding for existing state priorities in the areas of coastal, environmental and marine resource management	1. Work with nongovernmental partners to build support for maintenance and enhancement of current budgets for coastal and marine management	Staff time SPO/CZM DMR	Yes	No	Ongoing
D-2. Secure additional sources of support for enhanced programming	1. Work with state and federal agencies and the NGO community to identify additional sources of revenue for nearshore studies, monitoring, planning and management	Staff time SPO/CZM DMR	Yes	No	Ongoing; progress on new funding for implementation reported to LWRC
	2. Work with the Department of Conservation's Submerged Lands program to try to secure funds from a restructured lease fee program	Staff time SPO/CZM DMR DOC/BPL	Yes	No	January-March 2007; then possible study in 07/08

RECOMMENDATIONS