

How to Comment on the EPA/NOAA Proposed Approval of Washington's Coastal Nonpoint Pollution Control Program

*Two federal agencies have asked for public comment on their proposal to approve Washington's Coastal Nonpoint Pollution Control Program under the federal law known as "CZARA." This is your opportunity to comment on how well Washington is protecting salmon, orcas, and water quality from all forms of pollution that do not come from the end of a pipe—and how well it protects riparian and wetlands habitats. **Comments are due by August 14, 2020.***

What is CZARA?

"CZARA" is the Coastal Zone Act Reauthorization Amendments, passed by Congress to encourage states to reduce polluted runoff and temperature in coastal watersheds, including protecting and restoring salmon and salmon habitat. Nonpoint source pollution is everything that does not come out of a pipe and is therefore not covered with a Clean Water Act permit. CZARA applies to all watersheds that drain to the Pacific Ocean coastline and Puget Sound.

How does CZARA work?

CZARA requires states to obtain full approval of their Coastal Nonpoint Pollution Control Program (Program) by 1996—over 24 years ago. It requires more than just a plan; it requires a program to carry out protection measures to achieve and maintain water quality standards, protect fish and wildlife, and fish habitat. CZARA is co-administered by the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA).

Why is the federal government proposing approval now?

Washington's coastal nonpoint program was never fully approved. In 1998, EPA and NOAA issued a "conditional approval" that was intended to keep federal funds flowing to Washington even though the state had failed to meet the CZARA requirements by the law's deadline. This conditional approval set out specific conditions for Washington to meet within a few years.

In 2013, the federal agencies announced they were prepared to approve Washington's program but would not do so in order to meet the demands of Western Washington Treaty Tribes to protect salmon, salmon habitat, and water quality. Now—22 years after issuing its conditional approval—the Trump Administration EPA and NOAA have concluded that the demands of the tribes for salmon protection have been met.

Remarkable! Has Washington really started saving salmon and salmon habitat since 2013?

Unfortunately, the answer is no. Things are actually getting worse:

- In general, wild Puget Sound Chinook salmon are *showing declining trends* since the 1980s.
- Puget Sound's Southern Resident Killer Whales *continue to decline*, from 82 orcas in 2013 to only 73 animals now.
- Washington Department of Ecology's effort to create guidance on needed streamside protections for agricultural lands has *stalled out*.
- Washington's program to establish water "pollution diets" (TMDL) that Ecology says it depends upon to control polluted runoff has *stalled out*.
- Revisions to Washington's logging rules to protect non-salmon streams have *stalled out*.

What does CZARA require?

CZARA has two general requirements. First, Washington must make sure it has in place *very basic* nonpoint source controls—called “management measures”—set out in national guidance. Second, if these basic management measures are not adequate to ensure that Washington water quality standards are met and that Washington’s fish and wildlife are protected, the state must have what are called “*additional* management measures.” For example, in Washington, basic management measures are not sufficient to protect cold-water salmon and therefore *additional* management measures are required to keep rivers and streams cold.

What are some areas to address in comments?

EPA/NOAA have now concluded that Washington has an adequate coastal nonpoint program to protect salmon and other aquatic species. You may disagree that Washington has a program to:

- control polluted runoff from agriculture, particularly erosion and sediment control, small dairies, manure management, pesticide use, grazing, and irrigation water.
- protect streambanks and shorelines.
- control polluted runoff from urban development including: new and existing development, watershed protection, construction erosion and chemical control.
- protect wetlands and riparian areas.
- protect salmon from the effects of dams and culverts.
- fix on-site septic systems and provide for nitrogen removal where needed.
- control runoff from roads, highways, and bridges.
- address channelization and channel modification projects.
- identify critical coastal areas where land uses violate water quality standards.
- implement *additional* management measures for logging to protect frogs, fish, and forested wetlands and to protect against pesticide spraying and logging on steep slopes.
- develop and revise additional management measures needed to meet water quality standards in critical coastal areas.
- assess the success of management measures to improve water quality.
- use Total Maximum Daily Loads (TMDLs) to control nonpoint source pollution.
- protect and recover threatened and endangered species, such as salmon and orcas, from temperature and toxic pollution.
- control nutrient pollution from all nonpoint sources to Puget Sound.

How should we write our comments?

We encourage comments on all aspects of Washington’s failure to have a program that controls nonpoint pollution and protects aquatic and aquatic-dependant species and their habitat in coastal watersheds. While CZARA allows Washington to rely on voluntary measures, it must demonstrate the state has both enforceable mechanisms and policies to back-up its voluntary approach, as well as a commitment to use the enforcement authorities where necessary.

How do I submit comments and what’s the deadline?

Submit through Portal: [https://www.regulations.gov/docket \(?D=NOAA-NOS-2019-0135](https://www.regulations.gov/docket (?D=NOAA-NOS-2019-0135) to Joelle Gore, Acting Chief, Stewardship Division (N/OCM6), Office for Coastal Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, MD 20910. **DUE: August 14, 2020**

Where can I obtain more information?

More information is available on NWEA’s and NOAA’s websites:
<https://www.northwestenvironmentaladvocates.org/project/washington-salmon-threaten/>
<https://coast.noaa.gov/czm/pollutioncontrol/>

July 17, 2020