

DATE: June 24, 2008

Congress enacted the [Coastal Zone Management Act](#) (CZMA) ([16 U.S.C. 1451 et seq.](#)) to protect the coastal environment from growing demands associated with residential, recreational, commercial, and industrial uses (e.g., State and Federal offshore oil and gas development). CZMA provisions help States develop coastal management programs (Programs) to manage and balance competing uses of the coastal zone. Federal Agencies must follow the Federal Consistency provisions as delineated in 15 CFR part 930.

### **What is “Federal Consistency”?**

The Coastal Zone Management Act requirement that Federal actions that are reasonably likely to affect any land or water use or natural resource of the coastal zone be consistent with enforceable policies of a State’s federally-approved coastal management program. The “effects test” is used to determine whether an activity is subject to Federal consistency provisions:

Will the activity directly, indirectly, or cumulatively affect any natural resources, land uses, or water uses in the coastal zone?

If yes, then the activity is subject to Federal consistency.

### **What are the different “Federal Consistency” standards?**

- Federal agency activities must be “consistent to the maximum extent practicable” with enforceable policies (e.g., OCS lease sales).
- Private activities requiring a Federal license/permit must be “fully consistent” with enforceable policies (e.g., geological & geophysical permits).
- OCS plan activities must be “fully consistent” with enforceable policies.

### **Federal Agency Activities:** (Subpart C)

- Federal agency prepares a *Consistency Determination* (CD) stating that its activity is either Fully Consistent or consistent to the “Maximum Extent Practicable.”
- State concurs with or objects to the CD. If the State objects, Federal agency can still proceed with its activity if it (1) describes legal impediments to being fully consistent or (2) concludes that the activity is fully consistent.

### **Private Activities Requiring Federal Licenses or Permits:** (Subpart D)

- “Applicant” prepares *Consistency Certification* stating that its licensed/permitted activity is fully consistent.
- State concurs with or objects to the certification. If the State objects, the Federal agency is prohibited from issuing the objected-to permit.
- To proceed, applicant either appropriately amends license/ permit or successfully appeals State’s objection to Secretary of Commerce.

### **OCS Exploration, Development and Production Activities:** (Subpart E)

- “Person” prepares a *Consistency Certification* stating that any activity described in detail an OCS plan is fully consistent.

- State concurs with or objects to the certification. If the State objects, MMS is prohibited from issuing the objected-to permit.
- To proceed, applicant either appropriately amends its OCS plan or successfully appeals State's objection to Secretary of Commerce.
- Additional State consistency review of Federal licenses/permits described in an OCS plan is not required by the CZMA after the State concurs with consistency, MMS presumes consistency, or an applicant successfully appeals a State's consistency objection to the Secretary of Commerce.

**Federal Assistance to State and Local Governments:** (Subpart E)

- "Applicant Agency" submits application for Federal assistance to Federal agency and copy to the State(s).
- "Applicant Agency" submits to the State(s), with a copy to the Federal agency, a brief evaluation on the relationship of the proposed activity and any reasonably foreseeable coastal effects to the enforceable policies of the management program.
- Federal agency can only grant Federal Assistance if State does not object to the Applicant Agency evaluation or upon over-ride by the Secretary of Commerce.
- If Federal agency decides to reject the application, it must immediately notify both the applicant agency and the affected State(s).

**BEA Point of Contact for CZMA:**

Winston deMonsabert

Email: [Winston.deMonsabert@mms.gov](mailto:Winston.deMonsabert@mms.gov)

Phone: 703-787-1547

FAX: 703-787-1026

Department of Interior

Minerals Management Service

Environmental Assessment Branch

Mail Stop 4042

381 Elden Street

Herndon, VA

20170-4817