

# Federal Consistency Session

*Southern and Caribbean Regional Meeting*

*October 29, 2008*

# Using Federal Consistency to Require Beneficial Use

- Has NOAA had discussions with the COE regarding this issue?
- The federal standard/base plan says nothing about consistency with the CZMA. How can states compel budgetary process changes at the COE through federal consistency?

# Using Federal Consistency to Address Alternative Energy Projects and Other New Uses

- Many of these activities (e.g., minerals mining and ocean fish farming) were not being considered at the time states developed their programs and so they may not have addressed them in their documents, specifically within the federal consistency sections.
- What is your take on these activities and how states can address them?
- How are states addressing these activities?

# Interstate Consistency Process

- What approach have states taken when developing their lists? How did they work with other states and federal agencies? What issues or concerns came up when developing their lists?
  - NY, PA, NJ and/or CT's experiences
  - FL's experience
- What are some tips or things states should consider when starting the process to develop an interstate consistency list?
- What are the common activities/permits that states have included on their interstate consistency lists?

# Unlisted Activities

- What is the process by which states would request to review an unlisted activity? What are some potential reasons for why NOAA would deny a state's request?
- What are some examples of unlisted activities that other states have asked to review?

# Program Change Rulemaking

The ANPR identified 8 goals:

1. Establishing a clearer and more efficient and transparent process for program change review
2. Describing clearer approval/disapproval criteria and how these apply
3. Using the statutory language of the CZMA, including time lines, extensions, and preliminary approval
4. Keeping the "routine" concept to streamline the process for truly routine changes, but do away with "routine program changes (RPCs)" and "Amendments" and replace with just "program changes"



# Program Change Rulemaking

5. Removing the “substantial” evaluations currently done by states and replace with just describing what the change is to the program.
6. Establishing use of NEPA categorical exclusions
7. Submitting underline/strikeout documents showing changes to previously approved policies
8. Creating a program change checklist that states would submit to ease state and NOAA paperwork burdens and promote consistent submissions and NOAA analyses

# Program Change Rulemaking

- Comment period for Advanced Notice of Proposed Rulemaking (ANPR) ended Aug. 18
- Proposed rules will not be out before the new administration
- Received comments from 5 organizations
  - CSO, Delaware, Oregon, San Francisco BCDC, and Navy
  - [www.coastalmanagement.noaa.gov/consistency/programchange.html](http://www.coastalmanagement.noaa.gov/consistency/programchange.html)



# Program Change Rulemaking: Comments

- General Comments
  - Current process and requirements are unclear, inefficient, inconsistent, cumbersome, burdensome, and time consuming. The result is a backlog of changes.
  - Overall, strong support for revising the program change regulations.
- Navy provided detailed comments; recommendations focused on:
  - Desire to be more informed about proposed program changes (improve notification, transparency and clarity).
  - Need for access to all of the state policies that are in effect.