

Congress of the United States

Washington, DC 20515

August 22, 2003

The Honorable Donald L. Evans
Secretary of Commerce
1401 Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Evans:

We are writing to express our deep concern with the National Oceanic and Atmospheric Administration's proposed rule to revise certain sections of the Coastal Zone Management Act (CZMA) Federal Consistency regulations. In our view, the proposed rule constitutes a pernicious assault on states' rights and would serve no purpose other than to reward through subtle, yet significant, regulatory changes those special interests whose plans to weaken state authority under the CZMA were frustrated by a non-compliant Congress. This action should be withdrawn immediately.

The proposed rulemaking would make unwarranted changes to the existing federal consistency review regulations, effectively curtailing states' ability to protect their coastline. The landmark federal Coastal Zone Management Act of 1972 is the only land and water use planning and management law at the national level. It represents a unique and carefully crafted partnership between coastal states and the federal government. Through this voluntary partnership, the CZMA has given local coastal governments a meaningful voice in federal actions and decisions that directly affect their environment and their quality of life.

These proposals would severely limit states' ability to participate in coastal planning decisions for federal agency activities or federally permitted or regulated activities as currently guaranteed by the CZMA. This would endanger the "equal-footing" basis of the federal-state partnership that has ensured the protection of coastal resources and communities for nearly 30 years, and it would undermine the legislative intent of the statute. For example, the proposed regulatory changes would limit the information a state could obtain regarding a proposed activity. Additionally, unrealistic and arbitrary deadlines would be imposed to crimp and constrain adequate and fair state review.

Additionally, the published rule proposes to potentially exempt from state review activities that could result in significant, direct coastal impacts, like offshore oil and gas development, even though such projects may be completely at odds with the policies of the federally-approved state coastal management plan. This change would relegate all participating states to second-class status by eliminating the federal government's obligation to defer to states' judgments on the impacts of federal projects to state coastal resources.

Finally, the proposed rule would inappropriately make it easier for development to occur off our Nation's coasts, regardless of a state's existing coastal protection policies, by reversing court opinions that have affirmed state authority. For example, proposed regulatory changes would have the effect of overturning recent federal court decisions that upheld states' authority to review certain federal offshore oil drilling decisions.

Therefore, for the above stated reasons we request the Administration withdraw the proposed rule changes immediately. The proposed rule is a clear attempt to short-circuit procedures designed to ensure fully informed environmental protection and strip states of an equal voice in decisions that could have significant adverse effects on local coastal communities and coastal resources.

Sincerely,

Lois Caputo

Jim Davis

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Max Eshoo

Nick Rahall

Peter Deutch

Henry A. Waxman

Sam Farr

J. Esterson

Wayne T. Gilchrest

Nancy Pelosi

Rosa L. G. Cantu

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Diane E. Watson

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Letter to Secretary of Commerce

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