

## Alaska Oil and Gas Association

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*Judith Brady, Executive Director*

August 25, 2003

Mr. David Kaiser, Federal Consistency Coordinator  
Coastal Programs Division, Office of Ocean and Coastal Resource Management  
National Oceanic and Atmospheric Administration  
1305 East-West Highway, 11<sup>th</sup> Floor  
Silver Spring, MD 20910

**Re: The National Oceanic and Atmospheric Administration's proposed rulemaking on "Coastal Zone Management Act Federal Consistency Regulations" (*Federal Register*, Vol. 68, No. 112, Wednesday June 11, 2003)**

Dear Mr. Kaiser:

The Alaska Oil & Gas Association is a private non-profit trade association. Our 17 member companies represent the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

A certain and predictable CZM process is important to Alaska. As I know you are aware, Alaska has the most extensive coastal zone of all the states, with well known reserves both in the Arctic Beaufort Sea in the north and the Cook Inlet in the south. The five year OCS leasing plan has scheduled sales for:

Beaufort Sea, Sale 186	-	September 2003
Norton Basin, Sale 188	-	September 2004
Cook Inlet, Sale 191	-	May 2004
Chukchi Sea/Hope Basin, Sale 193	-	September 2004
Beaufort Sea, Sale 195	-	March 2005
Cook Inlet, Sale 199	-	May 2006
Beaufort Sea, Sale 202	-	March 2007
Chukchi Sea/Hope Basin, Sale 203	-	May 2007

AOGA endorses the comments of the American Petroleum Institute (API) on the proposed rulemaking.

The Coastal Zone Management Act was designed to enhance communications between federal agencies responsible for permitting activities on Federal lands and coastal states to minimize or eliminate conflicts with approved State goals and programs.

Over 20 years ago, Congress made an explicit finding in the CZMA that priority consideration be given to siting major energy facilities in coastal areas, and to expediting decisionmaking. The Congressional Declaration of Policy in CZMA states that:

- priority consideration be given to...orderly processes for siting major national defense and energy related facilities and,
- that there should be coordination and simplification of procedures in order to ensure expedited governmental decision making for managing coastal resources.

Contrary to these important policy goals consistency authority has been often used to delay energy development. Under prior administrations, in State program reviews with federal CZM officials, it is common for concerns about duplication, uncertain authority, and policy confusion to be dismissed with “well, yes, we have that problem everywhere.” The expectation from the federal office is that duplication, uncertainty and confusion is “just part of the program.”

We are encouraged that under the Bush Administration there is an expectation that the CZM program will be revitalized to meet Congress’ original goals.

There are several changes needed in the CZMA consistency review process to bring its implementation into harmony with these goals. These revisions have several aims:

- Clarify a states role and responsibility in reviewing activities far beyond its coastal waters -- specifically limit their review to activities directly affecting their coastal zone;
- Ensure certainty, predictability and transparency in the federal consistency process by identifying the data and information necessary for state review of federally approved energy projects -- these needs should be delineated at the beginning of the consistency review process;
- Guarantee that override appeals decisions are governed by definitive deadlines and not subject to endless requests for further information that delays decisionmaking – set 180 days from filing the appeal as the deadline for a decision.
- Do not adopt the proposed changes that create a “reopener” to decision deadlines related to National Environmental Policy Act and/or Biological Opinion documents. Such information has already been developed prior to any oil and gas lease sale.

The President's Energy Plan notes and directs NOAA to address the delays and uncertainties of the CZMA which can hinder proper energy exploration and production projects. Correction of these problems would work distinctly to improve the efficiency and fairness of the consistency process, and to resolve conflicts.

Specifically, additional changes needed include:

- Guarantee that closure of the record in appeals decisions is governed by specific deadlines that cannot be extended indefinitely for receipt of additional National Environmental Policy Act (NEPA) and Biological Opinion documents. AOGA joins API in recommending that 120 - 180 days from notice of filing the appeal should be the deadline for closure of the record, and there should be no exceptions to this deadline.
- Recognize there is no need to "reopen" the deadline for closure of the record to develop or wait for additional NEPA and/or Biological Opinion documents as this information has already been developed prior to any oil and gas lease sale or in connection with the OCS plan. The data generated for review by the Minerals Management Service (MMS) prior to lease sales is comprehensive. Additional data is likely to be redundant and seems hardly consistent with Congressional intent regarding CZMA which sought "the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources." AOGA supports the API recommendation that the NEPA and Biological Opinion "reopeners" not be adopted.
- Require in the regulations that states delineate data and information requirements in their state CZM programs or in a Memorandum of Agreement with MMS prior to the beginning of the consistency review process. Even though NOAA has provided guidance at the federal level of what must be submitted in order for the consistency review period to begin, states can still issue continual requests for new information. Continuing requests for additional information reduce the predictability of the consistency process. States have sufficient experience with the consistency review process and should be able to specify what they need upfront and not continue to impose new information burdens. We urge that NOAA specify in the regulations (not just the preamble) that a state's completeness review is a "checklist" and not a substantive review to avoid further delay.
- Address how National Energy Policy Directives and Presidential Executive Orders on permit streamlining and actions affecting energy projects will be incorporated into the CZMA review process.

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Other key changes are included in the API detailed comments. AOGA endorses those comments.

We look forward to working with you in the future.

Thank you for the opportunity to comment.

Sincerely,

JUDITH BRADY  
Executive Director