

Get Oil Out!, Inc.
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August 25, 2003

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

RE: Federal Consistency Regulations/Proposed Rule
Docket No. 030604145-3145-01

Dear Mr. Kaiser:

Get Oil Out! (**GOO!**) wishes to offer the following comments regarding the proposed rule to revise the Federal Consistency regulations, in addition to the letter by the Environmental Defense Center which **GOO!** has signed.

Last year, the National Oceanic and Atmospheric Administration (NOAA) published an Advance Notice of Rulemaking indicating its intent to make procedural changes to the existing federal consistency regulations, particularly for developments on the Outer Continental Shelf (OCS). This Advance Notice of Rulemaking was met with surprise because no real evidence had been presented to indicate that any significant problems were occurring under the existing regulations. In addition, these regulations had been very recently amended, in 2000, following an extensive five-year process involving numerous consultations with federal agencies, coastal states and interested parties. Proposing a new rulemaking such a short time after those regulation changes went into effect did not, and still does not, make sense. Many environmental organizations and elected officials submitted comments to NOAA at that time asking that the proposed rulemaking be withdrawn.

NOAA, however, has chosen to ignore those requests and has, instead, moved forward with its proposed rulemaking, which is clearly designed to diminish the role of state

and local governments to "exercise effectively their responsibilities in the coastal zone..." "improve, safeguard and store the quality of coastal waters and to protect natural resources"; and to ensure "public and local government participation in coastal management decision making", as required by the Coastal Zone Management Act (CZMA). One of the clearest attacks on the intent of the CZMA included in the proposed rulemaking is the proposal to amend the "effects test" by shifting the decision as to whether an activity will affect a coastal resource, in a substantially different way than those already reviewed, from the State to a federal agency. This would effectively limit the activities subject to State review, thus robbing the State of any control over impacts to its environmental resources.

In addition, actions that are considered "preliminary" or "interim" would be exempted. In the case of oil and gas leasing activities, such an exemption flies in the face of the 1990 CZMA amendments, which clearly allow states to review such activities, and is in direct conflict with the recent *State of California V. Norton* court decision.

Finally, by proposing to shorten timeframes, the proposed rulemaking would provide less time for states to develop decision records and submit briefs, thereby hampering thoughtful decision-making.

In conclusion, **GOO!** and its members are deeply troubled by the direction being taken under the guise of this proposed rulemaking. Instead of working with the states, the proposed rulemaking would weaken their current abilities to adequately review developments within their borders and rob them of their rights to affect such developments. **GOO!** once again requests that this proposed rulemaking be withdrawn.

Sincerely,

Abe Powell

Abe Powell, President
Get Oil Out!

AP:cdf