



August 21, 2017

Kelly Denit, National Marine Fisheries Service  
NOAA, Office of Sustainable Fisheries  
1315 East-West Highway  
Silver Spring, MD 20910

Attention: Docket No. NOAA-NMFS-2017-0067

Re: NOAA Request for Comment on Streamlining Regulatory Processes and Reducing  
Regulatory Burden

Dear Ms. Denit:

The Pennsylvania Department of Environmental Protection (DEP) respectfully offers the following comments in response to the Department of Commerce, National Oceanic and Atmospheric Administration's announcement (NOAA-NMFS-2017-0067-0001, Volume 82, No. 129 of the Federal Register, July 7, 2017) of its intent to review the Coastal Zone Management Act (CZMA) Federal Consistency Regulations (15 C.F.R. Part 930).

**CZMA Federal Consistency is protective of states' interests in their coastal uses and resources.**

In enacting the CZMA, Congress acknowledged the responsibility and authority of states to manage economic development, land use, and natural resources in the coastal zone. Congress understood coastal states' uniquely vital role in shaping not just local policy but national policy with respect to the management of resources and uses in coastal areas. The CZMA acknowledges the states as best suited to understand and manage the unique and various economic and cultural needs of coastal communities. Federal consistency ensures that federal activities are compliant with, not disruptive to, state coastal policies.

Federal Consistency is designed to promote early coordination between Federal Agencies and states to ensure that the objectives of Federal activities are met while also satisfying the requirements of states' coastal policies. Weakening or rescinding the Federal Consistency regulations will diminish states' voices at the early stages of planning for Federal activities. Without the early state input provided for by the Federal Consistency procedures, Federal activities may encounter state challenges at the later stages of planning or even after an activity commences. In such instances, delays are likely to be more drawn out and resolutions costlier to achieve. States may be more inclined to pursue litigation, particularly when an activity has already commenced or is scheduled to begin soon.

Secretary

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**Conflict resolution provisions within the Federal Consistency Regulation are effective tools for resolving disputes between federal and state agencies, reducing potential project delays, and allowing for the avoidance of costly litigation.**

Federal Consistency inherently reduces conflicts between states and Federal agencies by providing states with a statutory tool to protect their coastal interests and by providing Federal agencies with states' coastal management plans allowing them to be prepared for states' individual coastal needs. Frequent coordination between Federal agencies and states has allowed for refined process controls and predictability for the planning of Federal activities and the subsequent Federal Consistency reviews by the states. Where conflicts do arise, conflict resolution procedures specified within the regulations have been historically successful in facilitating satisfactory outcomes without the need for litigation and long project delays. The rescission or weakening of these provisions will create new unpredictability and may result in increases in costly litigation whenever a state views its coastal resources as not being adequately addressed in the planning of Federal activities.

The existing consistency regulations do not eliminate jobs or inhibit job creation, nor are the regulations outdated, unnecessary or ineffective. In fact, the consistency regulations provide important benefits and protections for our coastal resources as well as public health.

**Federal Consistency is a statutory obligation under section 307 of the CZMA (16 U.S.C. § 1456(c)). NOAA should ensure that any changes to the Federal Consistency regulations that result from the present review will continue to comply with Federal law and support the spirit of the CZMA.**

The Federal regulations at 15 C.F.R. Part 930 were promulgated to satisfy specific provisions of the CZMA. The design and procedures within those regulations were crafted to meet specific requirements of the CZMA. Any amendments or modifications to the Federal Consistency regulations must continue to comply with the existing Federal Law.

If you have questions or need additional information, please contact Jennifer Orr, Director of Compacts and Commissions, by e-mail at [jeorr@pa.gov](mailto:jeorr@pa.gov) or by telephone at 717.772.5633.

Sincerely,



Patrick McDonnell  
Secretary