

PROCEDURES GUIDE FOR ACHIEVING **FEDERAL** **CONSISTENCY** WITH THE CNMI COASTAL MANAGEMENT PROGRAM



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**Bureau of Environmental and Coastal Quality
Division of Coastal Resources Management**

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TABLE OF CONTENTS

ABBREVIATIONS	4
INTRODUCTION	5
HOW TO USE THIS GUIDE	6
THE CNMI COASTAL ZONE.....	7
MAP OF CNMI COASTAL ZONE.....	8
ENFORCEABLE POLICIES	9
CNMI LISTED FEDERAL ACTIONS	14
FEDERAL AGENCY ACTIVITIES.....	14
ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT	17
FEDERAL ASSISTANCE TO LOCAL GOVERNMENTS	21
MEDIATION	21
APPEAL OF A CNMI OBJECTION.....	22
CZMA MATERIALS AND GUIDANCE	23

ABBREVIATIONS

ABBREVIATION	DEFINITION
CFR	Code of Federal Regulations
CMP	Coastal Management Program
CNMI	Commonwealth of the Northern Mariana Islands
Covenant	Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America
CRM	Coastal Resources Management
CZMA	Coastal Zone Management Act
DCRM	Division of Coastal Resources Management
EO	Executive Order
FR	Federal Register
NEPA	National Environmental Policy Act
NOAA	National Oceanic and Atmospheric Administration
OCM	Office for Coastal Management
PL	Public Law
US	United States
U.S.C.	United States Code

INTRODUCTION

On February 15, 1975, the “Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America” (Covenant), which specified provisions for the political relationship between the Commonwealth of the Northern Mariana Islands (CNMI) and the United States (US), was signed by representatives for the people of the Northern Mariana Islands and the US. The Covenant was subsequently approved by Congress and President Gerald Ford and became US Public Law (PL) 94-241, 90 Stat. 263, on March 24, 1976. Soon thereafter, the National Oceanic and Atmospheric Administration (NOAA) approved the CNMI Coastal Management Program (CMP) in 1980, pursuant to the federal Coastal Zone Management Act of 1972 (CZMA). The CNMI Division of Coastal Resources Management (DCRM) administers the CMP and leads coastal program coordination with other CNMI agencies.

One of the provisions of the CZMA found in Section 307, Coordination and Cooperation (16 U.S.C. § 1456), is known as “federal consistency.” Federal consistency requires that federal actions that have reasonably foreseeable effects on any coastal use or resource, within or outside the coastal zone, are consistent with the enforceable policies of the CNMI CMP. This guide informs agencies, applicants, and the public of the federal consistency review process in the CNMI and the enforceable policies and federal actions approved by the NOAA Office for Coastal Management (OCM).

The guidance provided here is for informational purposes only, and it is not a substitute for the federal laws and regulations applicable to these review procedures. Please refer to the CZMA (16 U.S.C. § 1451 et seq), NOAA’s Regulations for “Federal Consistency with Approved Coastal Management Programs” (15 CFR Part 930), NOAA’s Regulations for “Coastal Zone Management Program Regulations” (15 CFR Part 923), and other applicable federal laws and regulations as the legal authority.

HOW TO USE THIS GUIDE

This guide provides information on the categories where federal consistency requirements may apply in the CNMI, and educates users on how to navigate through this process:

Step 1- Determine the Appropriate Review Category

- Federal regulations that specify activities subject to DCRM review for consistency with the CNMI CMP are grouped into three major categories, as follows¹:
 - Federal Agency Activities. (15 CFR Part 930, Subpart C). *“Consistency Determinations” for Federal Agency Activities under this subpart are submitted by, or on behalf of, Federal agencies.*
- Activities Requiring a Federal License or Permit. (15 CFR Part 930, Subpart D).
 - *“Consistency Certifications” for Activities Requiring a Federal License or Permit under this subpart are submitted by non-federal Applicants.*
- Federal Assistance to State and Local Governments. (15 CFR Part 930, Subpart F).
 - *“Consistency Certifications” for Federal Assistance to State and Local Governments under this subpart are submitted by, or on behalf of, CNMI government agencies.*

Step 2- Read the Descriptive Section for the Subpart Applicable to the Proposed Activity

Each section describes what needs to be prepared for submission to DCRM, outlines how long DCRM’s review may take, and suggests when other agencies or individuals may be involved in coordination. Careful attention should be given to following the procedures in the appropriate section.

Step 3- Prepare and Submit Materials Necessary for DCRM Review

The information needed for DCRM review is listed in each section. Applicants are also encouraged to consult with DCRM.

¹ A fourth category exists covering Outer Continental Shelf (OCS) exploration, development, and production activities. This category has not yet been applicable to the CNMI.

Materials and inquiries may be directed to:

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[NOAA OCM Contact List²](#)

THE CNMI COASTAL ZONE

Based on the definition in Section 304 of the CZMA, the “coastal zone” of the CNMI includes all non-federal land and water areas, including submerged lands and waters extending seaward to a distance of 3 nautical miles. The CNMI is an island chain consisting of more than 13 islands. Each island, in its entirety, is designated a “coastal zone” in the context of the CZMA, under 15 CFR § 923.31(a)(7). CNMI’s coastal zone does not include federal lands, which under Section 304 of the CZMA are excluded from a coastal state’s coastal zone. Excluded lands include the federally-leased northern two-thirds of Tinian, all of Farallon de Medinilla, and approximately 72 hectares at Tanapag Harbor in Saipan. (US PL 94-241).

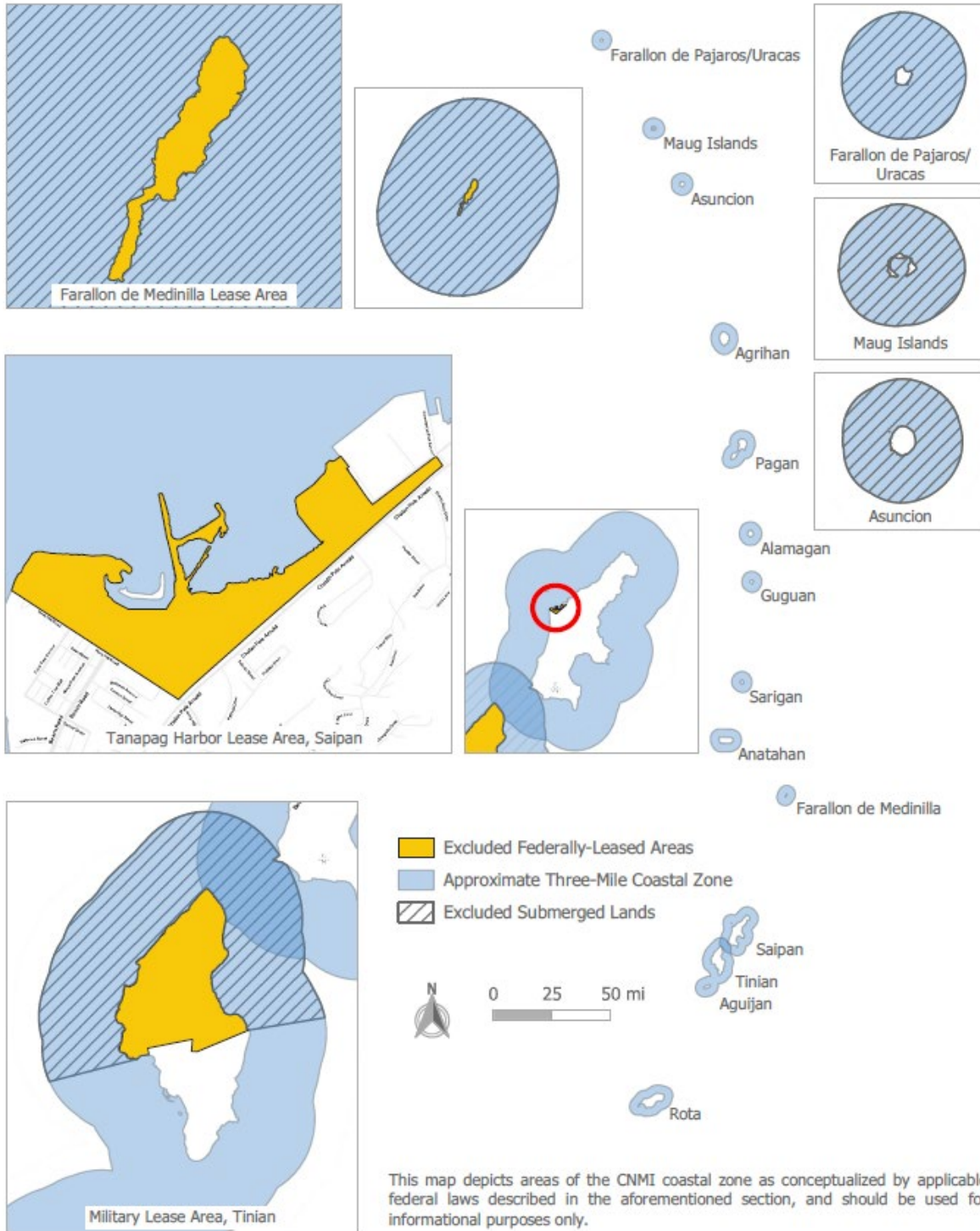
Submerged lands in the CNMI were conveyed back to the Commonwealth on January 16, 2014, with the exception of the submerged lands adjacent to the islands of Farallon de Pajaros (Uracas), Maug, Asuncion, and the submerged lands adjacent to federally-leased lands on Tinian and Farallon de Medinilla. (Presidential Proclamation 9077).

Federal consistency applies to actions within and outside the coastal zone. A federal action is subject to CZMA federal consistency requirements if the action will affect any land or water use or natural resource of the CNMI coastal zone, whether the action is conducted within or outside the CNMI coastal zone. The exclusion of federally owned or leased lands does not remove the obligation of complying with federal consistency provisions when federal actions have reasonably foreseeable effects on any land or water use or natural resource of CNMI’s coastal zone.

² See last page for full link.

MAP OF CNMI COASTAL ZONE

CNMI Coastal Zone



ENFORCEABLE POLICIES

The CZMA requires certain federal actions affecting CNMI’s coastal uses or resources to be consistent with the federally-approved “enforceable policies” contained in the CNMI CMP. Federal agency activities under 15 CFR Part 930, Subpart C must be “consistent to the maximum extent practicable” with CNMI’s enforceable policies, and federal license or permit activities and federal financial assistance activities must be fully consistent.

The enforceable policies of the CNMI CMP are approved by NOAA OCM through required program change procedures. (15 CFR Part 923, Subpart H). These approvals are available to view on the [CZMA Program Change Website](#)³. The enforceable policies of the CNMI CMP include:

- **Northern Mariana Islands Administrative Code (NMIAC) Chapter 15-10 CRM Rules and Regulations**
 - § 15-10-020: Definitions
 - § 15-10-101(c): Early Action for Flood Zone Risk Reduction
 - § 15-10-105: APC Permits for Minor and Other Developments
 - § 15-10-301: General Standards for all CRM Permits
 - § 15-10-303: Standards to Avoid Adverse Impacts
 - § 15-10-305(a)-(d)&(f)-(k): General Criteria for CRM Permits
 - § 15-10-311: Specific Criteria; Areas of Particular Concern; Impact Avoidance, Minimization, and Mitigation Required
 - § 15-10-315: Criteria; Areas of Particular Concern; Lagoon and Reefs
 - § 15-10-320: Specific Criteria; Areas of Particular Concern; Managaha and Anjota Islands
 - § 15-10-325: Specific Criteria; Areas of Particular Concern; Coral Reefs
 - § 15-10-330: Specific Criteria; Areas of Particular Concern; Wetlands and Mangroves
 - § 15-10-335: Specific Criteria; Areas of Particular Concern; Shorelines
 - § 15-10-340: Specific Criteria; Areas of Particular Concern; Ports and Industrial Areas
 - § 15-10-345: Specific Criteria; Areas of Particular Concern; Coastal Hazards

³ See last page for full link.

- § 15-10-350: Height Density, Setback, Coverage, and Parking Guidelines
- § 15-10-505: Specific Criteria for Major Sitings
- § 15-10-610(e): Mandatory Conditions
- **CRM Act of 1983, CNMI PL 3-47, 2 Commonwealth Code (CMC) §§ 1501-1543**
 - 2 CMC § 1511: Coastal Resources Management Policy
 - 2 CMC § 1513: Coastal Resources Management Program: Territorial Jurisdiction
- **Air and Water Quality Standards of the CNMI, Per 15 CFR § 923.82(e), Including:**
 - NMIAC Chapter 65-130, Water Quality Standards
 - NMIAC Chapter 65-10, Air Pollution Control Regulations
- **NMIAC Chapter 15-20 Water Sports Regulations**
 - Part 001 General Provisions:
 - § 15-20-015: Definitions
 - Part 100 Permit Issuance:
 - § 15-20-115: Maximum Number of Permits
 - Part 200 Commercial Water Sports Operations [All Sections]
 - Part 400 Designated Areas of Operation [All Sections]
 - Part 500 Personal, Recreational and Non-Commercial Uses [All Sections]
- **NMIAC Chapter 65-20 Division of Environmental Quality (DEQ) Drinking Water Regulations**
 - Part 001 General Provisions:
 - § 65-20-010: Definitions
 - Part 100 CNMI Public Water System Regulations:
 - All Sections, excluding:
 - § 65-20-142: Emergency Powers of the Director
 - § 65-20-144(a)(2): Prohibition against Tampering with Public Water Systems
 - § 65-20-148: Enforcement of Regulations
 - § 65-20-150: Penalties for Violation of Regulations
 - Part 200 CNMI National Primary Drinking Water Regulations [All Sections]

- Part 300 CNMI National Secondary Drinking Water Regulations [All Sections, excluding the appendices]
- **NMIAC Chapter 65-140 DEQ Well Drilling and Well Operations**
 - Part 001 General Provisions:
 - § 65-140-010: Definitions
 - Part 300 Well Siting Criteria [All Sections]
 - Part 400 Well Construction Criteria [All Sections]
 - Part 500 Well Development and Disinfection [All Sections]
 - Part 600 Pump Testing and Water Quality Sampling Requirements [All Sections]
 - Part 700 Well Drilling Activity Reporting for Well Operations Permit Application [All Sections]
 - Part 800 Water Supply Capacity Guidelines [All Sections]
 - Part 1000 Well Operations Permit Obligations [All Sections]
 - Part 1100 Exemptions for Seawater Wells [All Sections]
 - Part 1200 Exemptions for Wells Predetermined to Undergo Reverse Osmosis Treatment [All Sections]
 - Part 1600 Test Wells [All Sections]
 - Part 1700 Monitoring Wells and Comprehensive Hydrogeologic Investigations [All Sections]
 - Part 1800 Discontinued Use of Wells [All Sections]
 - Part 1900 Requirements for Destruction of Abandoned Wells [All Sections]
 - Part 2000 Groundwater Management Zones [All Sections]
 - Part 2200 Groundwater Protection [All Sections]
- **NMIAC Chapter 65-90 DEQ Underground Injection Control Regulations**
 - Part 001 General Provisions:
 - § 65-90-010: Definitions
 - Part 100 Classification of Injection Wells [All Sections]
 - Part 200 Prohibited Activities [All Sections]
 - Part 300 Permitted Activities [All Sections]
 - Part 400 Access to Records [All Sections]
- **NMIAC Chapter 65-120 DEQ Wastewater Treatment and Disposal Rules and Regulations**
 - Part 001 General Provisions:
 - § 65-120-010: Definitions

- Part 100 Construction and Operation of an Individual Wastewater Disposal System (IWDS) or Other Wastewater Treatment Systems (OWTS) [All Sections]
 - Part 200 Applicability of Regulations to Existing and New IWDS, OWTS, and Confined Animal Facilities [All Sections]
 - Part 300 IWDS and OWTS Permit Application Requirements [All Sections]
 - Part 400 IWDS General Design Parameters [All Sections]
 - Part 500 Identify Average Daily Wastewater Flow Rate [All Sections]
 - Part 600 Septic Tank Design and Construction [All Sections]
 - Part 700 Percolation Testing Procedures [All Sections]
 - Part 800 Leaching Field Design and Construction [All Sections]
 - Part 900 Seepage Pit Design and Construction [All Sections]
 - Part 1000 IWDS and OWTS Siting Criteria [All Sections]
 - Part 1100 Holding Tanks [All Sections]
 - Part 1200 Inspection of Work in Progress [All Sections]
 - Part 1300 IWDS Certification for Use [All Sections]
 - Part 1400 IWDS Maintenance [All Sections]
 - Part 1500 Cleaning Wastewater Systems, Disposal of Wastewater Requirements and Procedures [All Sections]
 - Part 1600 OWTS Design and Construction, and Treated Wastewater Effluent Re-use [All Sections]
 - Part 1700 Animal Waste Management [All Sections]
 - Part 1800 Temporary Toilets Facilities (TTF) [All Sections]
 - Part 2100 Right of Entry [All Sections]
- **NMIAC Subchapter 155-10.2 Department of Public Works (DPW) Flood Damage Prevention Regulations**
 - Part 001 General Provisions:
 - § 155-10.2-005: Definitions
 - § 155-10.2-010: Lands to Which These Regulations Apply
 - § 155-10.2-015: Basis for Establishing the Areas of Special Flood Hazards
 - § 155-10.2-025: Compliance
 - § 155-10.2-035: Interpretation
 - Part 100 Administration:
 - § 155-10.2-105: Building Permit Required
 - § 155-10.2-115: Interpretation of Firm Boundaries
 - § 155-10.2-120: Alteration of Watercourse
 - Part 200 Provision for Flood Hazard Reduction [All Sections]

- Part 300 Variance and Appeal Procedures [All Sections]
- **NMIAC Chapter 65-80 DEQ Solid Waste Management (SWM) Regulations**
 - Part 001 General Provisions:
 - § 65-80-010: Definitions
 - Part 100 General Permit Requirements - Solid Waste Management Activities/Facilities:
 - § 65-80-102: Exemptions
 - § 65-80-108: Permit by Rule
 - Part 600 Recycling and Materials Recovery Facilities:
 - § 65-80-601: Applicability
 - § 65-80-610: Application for Permit
 - § 65-80-615: Operating Conditions
 - § 65-80-620: Recordkeeping and Reporting Requirement
 - Part 700 Collection: Requirements for Commercial Waste Haulers:
 - § 65-80-725: Standard Conditions
 - Part 800 Miscellaneous Facilities/Activities:
 - § 65-80-801: Applicability
 - § 65-80-810: Application for Permit - General Requirements
 - § 65-80-820: Operating Conditions
 - § 65-80-830: Recordkeeping and Reporting Requirement
- **Commonwealth SWM Act of 1989; PL 6-30, as Amended**
 - 2 CMC § 3513: Definitions [All Sections]
 - 2 CMC § 3517: Recycling [All Sections]
 - 2 CMC § 3518: Prohibited Activities [All Sections]
- **Commonwealth Environmental Protection Act; PL 3-23, § 4**
 - 2 CMC § 3112: Definitions [All Sections]
- **Commonwealth Environmental Amendments Act of 1999; PL 11-103, §6, §8**
 - PL 11- 103, §6, §8; which amended the following:
 - 2 CMC § 3513(m): “Debris staging areas”
 - 2 CMC § 3518(b)
- **Any Additional Policies, Regulations, Standards, Priorities and Plans That Are Approved by NOAA OCM as Enforceable Policies of the CNMI CMP for CZMA Federal Consistency Review Purposes.**

CNMI LISTED FEDERAL ACTIONS

DCRM has identified particular federal actions for consistency review and listed them in its federally-approved CMP based on the provisions of 15 CFR § 930.34(b) for Federal Agency Activities (15 CFR Part 930, Subpart C), 15 CFR § 930.53 for Activities Requiring a Federal License or Permit (15 CFR Part 930, Subpart D), and 15 CFR § 930.95 for Federal Assistance to State and Local Governments (15 CFR Part 930, Subpart F). For listed activities, the Federal agency or applicant must engage in federal consistency coordination with DCRM as specified in the applicable subpart of the federal regulations.

Please see the CNMI Listed Federal Actions document, as approved by NOAA OCM:

- [CNMI Listed Federal Actions \(NOAA\)⁴](#)

FEDERAL AGENCY ACTIVITIES

This category applies to Federal agencies, or entities performing functions by or on behalf of a Federal agency in accordance with 15 CFR Part 930, Subpart C. The following steps provide a general description of coordination between Federal agencies and DCRM for federal agency activities:

STEP 1 – Federal agency determines if the proposed activity (located inside or outside the coastal zone) will have reasonably foreseeable effects on the uses or resources of the CNMI coastal zone

As specified in provisions of Section 307(c)(1) of the CZMA, any Federal agency proposing to conduct or support an activity which will affect a land or water use or natural resource of the CNMI coastal zone is required to do so in a manner consistent to the maximum extent practicable with the enforceable policies of the CNMI CMP. The responsibility to determine whether a particular activity affects a coastal use or resource rests with the Federal agency. (15 CFR § 930.33).

A “Federal agency activity” is defined as “any function performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities.” (15 CFR § 930.31(a)). Since this definition encompasses a broad range of federal actions, early consultation with DCRM is recommended to resolve any questions regarding the

⁴ See last page for full link.

application of the federal consistency review process to a specific type of activity, as noted in 15 CFR § 930.34. This category includes a range of activities where a Federal agency makes a proposal for action initiating an activity or series of activities when coastal effects are reasonably foreseeable; but does not include the issuance of a federal license or permit to an applicant per 15 CFR Part 930, Subpart D, or the granting of federal assistance to an applicant agency per 15 CFR Part 930, Subpart F.

If a Federal agency decides after its initial assessment of coastal zone effects that a consistency determination is not required the Federal agency must submit a negative determination, as described at 15 CFR § 930.35, to DCRM in the following circumstances (15 CFR § 930.35(a)):

- DCRM has listed the activity or identified the activity on a case-by-case basis as having potential coastal effects;
- The Federal agency has prepared a consistency determination for the same or similar actions in the past; or
- The Federal agency has undertaken a consistency assessment and developed initial findings on coastal effects.

As stated in 15 CFR § 930.39(e), Federal agencies are not required to obtain CNMI permits unless required by a federal law other than the CZMA. However, when a Federal agency is not required to obtain a CNMI permit, the Federal agency must still be consistent to the maximum extent practicable with enforceable policies of the CNMI CMP, including the standards that underlie the CNMI's permit program. (15 CFR § 930.39(e)).

A Federal agency may use its National Environmental Policy Act (NEPA) documents as a vehicle for its consistency determination or negative determination, but the Federal consistency requirements under the CZMA are independent of those required under NEPA and are not necessarily fulfilled by the submission of a NEPA document. If the consistency determination or negative determination is included in a NEPA document, the Federal agency shall ensure that the NEPA document includes the information required for such determinations and adheres to the required timeframes. Federal agencies and DCRM should mutually agree on how to best coordinate the requirements of NEPA and the CZMA. (15 CFR § 930.37).

STEP 2 – Federal agency submits materials to DCRM

If a consistency determination is deemed appropriate, a document describing the proposed activity and the agency’s consistency determination shall be submitted to DCRM at least 90 days before final approval of the federal activity. The consistency submission must include:

- A statement of determination, indicating whether the proposed activity will be undertaken in a manner “consistent to the maximum extent practicable” with the enforceable policies of the CNMI CMP;
- A detailed description of the proposed activity, its associated facilities, and their coastal effects;
- An evaluation of the enforceable policies of the CNMI CMP applicable to the proposed activity, and a description of this evaluation; and
- Comprehensive data and information sufficient to support the agency’s determination.

Please see 15 CFR § 930.39 for the content of a consistency determination.

If a negative determination is deemed appropriate, the submission must include:

- A statement of determination, a brief description of the activity, and the location of the activity; and
- The basis for the Federal agency's determination that the activity will not affect any coastal use or resource, sufficient for the State agency to evaluate whether coastal effects are reasonably foreseeable.

Please see 15 CFR § 930.35(b) for the content of a negative determination.

STEP 3 – DCRM conducts review

Upon initial receipt of the consistency submission, DCRM will review the materials for completeness and will notify the Federal agency of any deficiencies. If the required information is not included with the determination, DCRM shall notify the Federal agency in writing within 14 days of the initial receipt and identify the missing information that is required, and the 60-day review period will begin when the missing information is received by DCRM (15 CFR § 930.41(a)). During the review timeframe, coordination should continue between the Federal agency and the state to clarify information submitted, resolve potential issues related to the proposed activity, or to discuss possible alternatives to assure consistency with the CNMI CMP to the maximum extent practicable. This may include developing conditions that would allow the DCRM to concur with the federal action. (15 CFR § 930.4).

As DCRM leads coordination with other CNMI agencies, these agencies may be asked to review the determination and participate in coordination with the Federal agency. Comments received from these agencies and the public will be considered by DCRM in preparing an official response to the consistency determination. DCRM shall also provide for public participation, as per the requirements of 15 CFR § 930.42.

Step 4 – DCRM issues response and further coordination with the Federal agency

DCRM’s response is due within 60 days from receipt of the complete consistency determination. If DCRM does not issue a written response within 60 days, the Federal agency may presume DCRM’s concurrence that the activity is consistent with the enforceable policies of the CNMI CMP. (15 CFR § 930.41(a)). Federal agencies must approve a DCRM request for a 15-day extension of time to complete a review as mandated by 15 CFR § 930.41(b). The Federal agency may agree to longer or additional extensions at its own discretion. DCRM concurrence shall not be presumed if an extension is requested within the 60-day review period. Final Federal agency action may not be taken sooner than 90 days from DCRM’s receipt of the consistency determination, unless DCRM concurs with the determination, concurrence is presumed, or both the Federal agency and DCRM agree to an alternative period. (15 CFR § 930.41(c)).

In the event that DCRM and the Federal agency are unable to come to an agreement on the manner in which a federal activity or development project may be conducted or supported in a manner consistent to the maximum extent practicable with the CNMI CMP, either agency may request Secretarial Mediation or NOAA OCM mediation of the disagreement pursuant to the procedures set forth in 15 CFR Part 930, Subpart G. Please see the “Mediation” section of this document for further information.

ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT

This category applies to non-federal applicants (e.g., private citizens, industry, state and local governments) seeking a federal license or permit in accordance with 15 CFR Part 930, Subpart D. The following steps provide a general description of coordination between applicants and DCRM for listed activities:

Step 1 – Applicant consults the CNMI Listed Federal Actions subject to federal consistency review, and should also consult directly with DCRM

As specified in provisions of Section 307(c)(3) of the CZMA, any non-federal applicant for a federal license or permit listed in the CNMI CMP as subject to review pursuant to the requirements of the CZMA must certify that the proposed activity complies with enforceable policies of the CNMI CMP, and will be conducted in a manner consistent with the CNMI CMP. The CNMI Listed Federal Actions section contains the federal license or permit activities that are subject to review. DCRM’s consistency review for activities requiring a federal license or permit is incorporated into the review of applicable CNMI permits, including the CNMI CMP permit, as the federally-approved enforceable policies used for consistency reviews are also applied in the review of CNMI permit applications. Applicants for this section are advised to consult directly with DCRM to clarify if the issuance of a DCRM permit may serve as a concurrence for a consistency certification. It is the responsibility of the applicant to apply for and obtain all relevant CNMI permits.

DCRM may request approval from NOAA OCM to review listed activities that would occur outside the coastal zone, and unlisted activities, whether inside or outside the coastal zone, within 30 days of notice of the license or permit per 15 CFR § 930.54.

Step 2 – Applicant submits all the information required to initiate a federal consistency review for activities requiring a federal license or permit, including requirements for the CNMI CMP and other CNMI permits and authorizations

If the submission of a consistency certification is required, the applicant includes in its federal application a certification that the proposed activity complies with and will be conducted in a manner consistent with the enforceable policies of the CNMI CMP. At the same time, the applicant shall furnish their consistency submission to DCRM. The consistency submission must include:

- A certification that, “The proposed activity complies with the enforceable policies of the CNMI approved management program and will be conducted in a manner consistent with such program.”;
- Any material relevant to the CNMI CMP provided to the federal permitting agency in support of the application, including a copy of the application for the federal license or permit;

A detailed description of the proposed activity, its associated facilities, the coastal effects, and any other information relied upon by the applicant to make its certification. This may include maps, diagrams, and technical data when the written

description does not suffice. Please see 15 CFR §§ 930.57-930.58 for the content of a consistency certification and necessary data and information.

Step 3 – DCRM reviews complete consistency submission

DCRM will review the consistency submission for completeness, and notify the applicant and the federal permitting agency in writing within 30 days if all necessary data and information has not been provided. The 6-month review period will commence when all requirements for the consistency submission have been received. DCRM and the applicant may agree in writing to stay the 6-month review period, and shall notify the Federal agency so that it will not presume concurrence with the applicant's consistency certification. (15 CFR § 930.60).

DCRM will continue to coordinate with both the applicant and the Federal agency during the review period, and may request additional information as necessary. DCRM may continue consultation with the applicant to agree upon conditions for concurrence, and may consult with the Federal agency on such conditions to ensure they meet federal and state regulatory compliance. (15 CFR § 930.62). DCRM will provide for public participation as mandated by 15 CFR § 930.61.

During the evaluation period, DCRM will review the consistency submission and determine whether the information submitted complies with and will be conducted in a manner consistent with the enforceable policies of the CNMI CMP. The enforceable policies used to evaluate consistency certifications are the same as those used to evaluate CNMI CMP permit applications (CRM Act of 1983, CNMI PL 3-47, 2 CMC §§ 1501-1543; and NMIAC Chapter 15-10 CRM Rules and Regulations). DCRM may issue consistency concurrences or objections based on the issuance or denial of relevant CNMI permits, including the CNMI CMP permit, when projects are reviewed to ensure consistency with all applicable CNMI CMP policies, and public participation requirements are satisfied. (15 CFR § 930.6(c)). The CNMI CMP states that DCRM has the power, functions, and duties to ensure consistency of permit decisions with its policies and regulations, as well as provide requirements for public participation, and therefore DCRM may choose to exercise such concurrences or objections through permit issuance or denial when applicable.

Step 4 – DCRM issues response and further coordination with the issuing federal regulatory agency and the non-federal applicant

Per 15 CFR § 930.60, the review period for a consistency certification is 6 months. When necessary, DCRM and the applicant may agree to a stay agreement to stop the

running of the six-month review period. Stay agreements must contain the following dates:

1. Date the state's six-month review period commenced [the original six-month review period];
2. Date the six-month period was to end [the original six-month review period];
3. Date during the six-month review period that the stay begins;
4. Date that the stay ends, at which time the remainder of the six-month review period, [insert number of months and/or days left in the six-month review period], shall commence; and
5. Date the state's decision is due.

See 15 CFR § 930.60(b) for the requirements pertaining to stay agreements, and the CZMA Federal Consistency Overview available at [CZMA Federal Consistency Overview](#)⁵ for further guidance.

DCRM shall notify the applicant and the Federal agency at the earliest practicable time, including when relevant CNMI permitting requirements are met, of DCRM's concurrence or objection to the consistency submission. If a decision is not issued within 3 months following the start of DCRM's review, DCRM shall notify the applicant and the Federal agency of the status of the review and basis for further delay in issuing a decision. If DCRM's response is not received within the 6-month period, concurrence will be presumed.

Per 15 CFR § 930.63, if DCRM objects to the consistency certification, it shall notify the applicant, the Federal agency, and the NOAA OCM Director of the objection. The objection shall describe how the proposed activity is inconsistent with specific enforceable policies of the management program, or assert that insufficient information was not supplied upon written request. The objection may also describe alternatives, if available, that would allow the proposed activity to be consistent. The objection must describe the requirements for filing an appeal of the objection with the Secretary of the U.S. Department of Commerce. Under 15 CFR Part 930, Subpart H, if an applicant wants to appeal a state's objection, the applicant must file a notice of appeal with the Secretary of Commerce within 30 days of the issuance of the objection, requesting the Secretary to review and override the objection issued by DCRM. Please see the "Appeal of a CNMI Objection" section of this document for further information. The Federal agency shall not issue the federal license or permit if an objection is issued. (15 CFR § 930.64).

⁵ See last page for full link.

FEDERAL ASSISTANCE TO LOCAL GOVERNMENTS

This category applies to any unit or agency of the CNMI government that submits an application for federal assistance in accordance with 15 CFR Part 930, Subpart F. “Federal assistance” refers to assistance provided under a federal program to an applicant agency through grant or contractual agreements, loans, subsidies, guarantees, insurance, or other forms of financial aid. (15 CFR § 930.91). DCRM has listed particular federal assistance activities in the CNMI CMP for consistency review, which have been identified as a type of activity that will have a reasonably foreseeable effect on any coastal use or resource and occurs within the coastal zone. Such identified activities typically overlap with the requirements for CNMI permits. Applicants for this section are advised to consult directly with DCRM to clarify if the issuance of a DCRM permit may serve as a concurrence for a consistency submission.

Similar to listed activities requiring a federal license or permit, CNMI government agencies reaching the threshold for financial assistance activities in the CNMI Listed Federal Actions section may meet consistency through the issuance of CNMI permits, including the CNMI CMP permit. When such listed federal assistance activities also require a federal permit, they are reviewed under 15 CFR Part 930, Subpart D for Activities Requiring a Federal License or Permit.

Unlisted federal assistance activities, located inside or outside the coastal zone, may be reviewed by DCRM for consistency on a case-by-case basis, if approved by NOAA OCM. DCRM and other CNMI coastal program agencies monitor proposed federal assistance activities in the CNMI’s coastal zone, and those activities which may affect coastal resources outside of the coastal zone. The CNMI typically ensures that these activities are consistent with its enforceable policies through issuance of applicable licenses and permits, if and when the projects are later funded and undertaken. It is therefore the responsibility of the applicant to apply for and obtain all relevant local permits.

MEDIATION

If there is a serious disagreement between a Federal agency and the CNMI agencies, either party may seek mediation by NOAA OCM or the Secretary of the U.S. Department of Commerce. These provisions are outlined in 15 CFR Part 930, Subpart G.

APPEAL OF A CNMI OBJECTION

If DCRM objects to a consistency submission from an applicant for federal licenses or permits under 15 CFR Part 930, Subpart D, or federal assistance under 15 CFR Part 930, Subpart F, the applicant may appeal to the Secretary of the U.S. Department of Commerce within 30 days of issuance of the objection. The Secretary will then determine whether the activity is consistent with the objectives of the CZMA or is necessary in the interest of national security which are the two independent grounds for overriding an objection. These provisions are outlined in 15 CFR Part 930, Subpart H.

CZMA MATERIALS AND GUIDANCE

For more information on the federal consistency process, please see the following guidance:

- [NOAA CZMA Federal Consistency Overview](#)
 - <https://coast.noaa.gov/data/czm/consistency/media/federal-consistency-overview.pdf>
- [NOAA Federal Consistency Module](#)
 - <https://coast.noaa.gov/elearning/fedconsistency/>
- [NOAA OCM Contact List](#)
 - <https://coast.noaa.gov/data/czm/consistency/media/state-fc-contacts.pdf>

For the official authority on the CZMA, federal consistency provisions, and federally-approved management programs, please consult the following:

- [CZMA as amended through P.L. No. 109-58, the Energy Policy Act of 2005 \(16 U.S.C. § 1451 et deq\)](#)
 - https://coast.noaa.gov/data/czm/media/CZMA_10_11_06.pdf
- [NOAA's Regulations for "Federal Consistency with Approved Coastal Management Programs" \(15 CFR Part 930\)](#)
 - <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-IX/subchapter-B/part-930?toc=1>
- [NOAA's CZMA Program Change Portal](#)
 - <https://coast.noaa.gov/czmprogramchange/#/public/home>
- [CNMI Listed Federal Actions \(NOAA\)](#)
 - <https://coast.noaa.gov/data/czm/consistency/media/cnmi.pdf>