

to December 31, 1998, the State reviewed 26 applications for federal licenses or permits under 15 CFR part 930, subpart D (the existing regulations), for activities that did not require a State permit. Of these 26 applications, no small entities were subject to the State's CZMA Federal Consistency review authority and the existing regulations. During the same period the State also reviewed 90 applications by State agencies and local governments for federal financial assistance. Of these 90 applications, 28 small entities were subject to the State's CZMA Federal Consistency review authority and the existing regulations. The State did not object to any of these financial assistance applications. Moreover, all of these financial assistance activities involved allowing federal funds to improve local infrastructure. North Carolina is a representative State in the use and application of the Federal Consistency requirement and the existing regulations.

In addition, the Federal Consistency appeal process affects very few entities of any kind. Since the CZMA was enacted in 1972, only 39 consistency appeals have been decided by the Secretary of Commerce. Of those 39 consistency appeals, only 5 appeals have involved small entities. In 27 years of implementation, only five small entities have been affected by these regulations governing consistency appeals to the Secretary of Commerce.

Thus, the existing regulations do not, and the proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities. Accordingly, an initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule contains no additional collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA).

National Environmental Policy Act

NOAA has concluded that this proposed regulatory action does not have the potential to pose significant impacts on the quality of the human environment. Further, NOAA has concluded that this proposed rule, if adopted, would not result in any changes to the human environment. As defined in sections 5.05 and 6.03c3(i) of NAO 216-6, this proposed action is of limited scope, a technical and procedural nature and any environmental effects are too speculative or conjectural to lend themselves to meaningful analysis.

Thus, this proposed rule, if adopted, is categorically excluded from further review pursuant to NEPA.

List of Subjects in 15 CFR Part 930

Administrative practice and procedure, Coastal zone, Reporting and record keeping requirements.

Dated: June 5, 2003.

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Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

For the reasons stated in the preamble, NOAA proposes to revise 15 CFR part 930 as follows:

PART 930—FEDERAL CONSISTENCY WITH APPROVED COASTAL MANAGEMENT PROGRAMS

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1451 *et seq.*

2. Section 930.1 is proposed to be amended by revising paragraph (b) to read as follows:

§ 930.1 Overall Objectives.

(b) To implement the federal consistency requirement in a manner which strikes a balance between the need to ensure consistency for federal actions affecting any coastal use or resource with the enforceable policies of approved management programs and the importance of federal activities (the term "federal action" includes all types of activities subject to the federal consistency requirement under subparts C, D, E, F and I of this part.);

3. Section 930.10 is proposed to be amended by amending the table as follows:

§ 930.10 Index to definitions for terms defined in part 930.

Term	Section
Failure substantially to comply with an OCS plan.	930.85(c).

4. Section 930.11 is proposed to be amended by revising the first sentence of paragraph (g) to read as follows:

§ 930.11 Definitions.

(g) *Effect on any coastal use or resource (coastal effect).* The term "effect on any coastal use or resource" means any reasonably foreseeable effect on any coastal use or resource resulting

from a Federal agency activity or federal license or permit activity (including all types of activities subject to the federal consistency requirement under subparts C, D, E, F and I of this part.) * * *

5. Section 930.31 is proposed to be amended by revising paragraphs (a) and (d) as follows:

§ 930.31 Federal agency activity.

(a) The term "Federal agency activity" means any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities, which includes a range of activities where the Federal agency makes a proposal for action which initiates an activity or series of activities and if coastal effects are reasonably foreseeable, *e.g.*, a Federal agency's proposal to physically alter coastal resources, a plan that is used to direct future agency actions, a proposed rulemaking that alters uses of the coastal zone. "Federal agency activity" does not include the issuance of a federal license or permit to an applicant or person (*see* subparts D and E of this part) or the granting of federal assistance to an applicant agency (*see* subpart F of this part).

(d) A general permit proposed by a Federal agency is subject to this subpart if the general permit does not involve case-by-case or individual approval of a license or permit by the Federal agency. When proposing a general permit, a Federal agency shall provide a consistency determination to the relevant management programs and request that the State agency(ies) provide the Federal agency with review, and if necessary, conditions that would permit the State agency to concur with the Federal agency's consistency determination. State concurrence shall remove the need for the State agency to review individual uses of the general permit for consistency with the enforceable policies of management programs. Federal agencies shall, to the maximum extent practicable, incorporate State conditions into the general permit. If the State's conditions are not incorporated into the general permit or a State agency objects to the general permit, then the Federal agency shall notify potential users of the general permit that the general permit is not available in that State unless the potential users in those States provide the State agency with a consistency certification under subpart D of this part and the State agency concurs.