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**CALIFORNIA COASTAL COMMISSION**  
**FEDERAL CONSISTENCY IN A NUTSHELL**

A Guide concerning the Operation of the  
Federal Consistency Provisions  
of the  
Coastal Zone Management Act of 1972  
as Amended

Adapted from a Publication by  
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT  
United States Department of Commerce  
National Oceanic and Atmospheric Administration

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**FEDERAL CONSISTENCY IN A NUTSHELL**

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**I. GENERAL DEFINITIONS**

**STATE AGENCY**

<p>Legal Authority:          CZMA § 306(d)(6)          15 CFR § 930.11(o)</p>	<p>For all of the California Coast, except the San Francisco Bay, the "State agency" responsible for implementing Coastal Zone Management Act (CZMA; Attachment 1) is the California Coastal Commission (Commission). (In the San Francisco Bay Area, the administering agency is the San Francisco Bay Conservation and Development Commission.) The Commission is responsible for reviewing proposed federal and federally authorized activities to assess their consistency with the approved state coastal management program. The rules for implementing the CZMA are established in federal regulations at 15 CFR Part 930 (Attachment 2).</p>
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**MANAGEMENT PROGRAM**

<p>Legal Authority          CZMA § 304(12)          15 CFR § 930.11(k)</p>	<p>The Commission developed the California Coastal Management Program (CCMP), pursuant to the requirements of the CZMA. The key policy component of the CCMP is the California Coastal Act of 1976, as amended (Division 20, Cal. Pub. Resources Code (PRC)). The National Oceanic and Atmospheric Administration (NOAA) approved the CCMP in November 1977. The Commission began conducting consistency reviews in November 1978, when the U.S. District Court dissolved an injunction against NOAA's approval of the CCMP. See <i>American Petroleum Institute (API) v. Knecht</i> (1978) 456 F. Supp. 889, affirmed 609 F.2<sup>nd</sup> 1306.</p>
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**COASTAL ZONE**

<p>Legal Authority:          CZMA § 304(1)</p>	<p>In its approval of the CCMP the NOAA determined that the coastal zone delineated in the CCMP (see PRC § 30103) satisfies the standards set forth in CZMA § 304(1)). However, for all purposes, including consistency reviews, arising under the CZMA, section 304(1) excludes from the coastal zone all lands held in trust by or whose uses are subject solely to the discretion of the federal government. Notwithstanding this exclusion, if activities on excluded lands affect land or water uses or natural resources of the coastal zone, they must be reviewed for consistency with the CCMP.</p>
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**ASSOCIATED FACILITIES**

<p>Legal Authority:          15 CFR § 930.11(d)</p>	<p>The term "associated facilities" means all proposed facilities which are specifically designed, located, constructed, operated, adapted, or otherwise used, in full or in major part, to meet the needs of a federal action (e.g., activity, development project, license, permit, or assistance), and without which the federal action, as proposed, could not be conducted. The proponent of a federal action shall consider whether the federal action and its associated facilities affect any coastal use or resource and, if so, whether these interrelated activities satisfy the requirements of the applicable Subpart (Subparts C, D, E, F or I).</p>
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**CONDITIONAL CONCURRENCE**

<p>Legal Authority: 15 CFR § 930.4</p>	<p>The Commission can conditionally concur with a consistency determination, certification, or federal assistance application. The conditions must be based on enforceable policies of the CCMP. If the Federal agency, federal permit applicant, or the applicant agency does not agree with the conditions and does not modify its project to incorporate the conditions, the Commission’s conditional concurrence will be treated as an objection. Conditional concurrences for federal permit and assistance activities are appealable to the Secretary of Commerce.</p> <p>The Commission does not anticipate that its use of this authority will be extensive. Where there are significant concerns about a federal activity, permit, or assistance, the Commission is likely to continue, as it has in the past, to object to the submittal rather than to issue a conditional concurrence. Conditional concurrences will be limited to situations where relatively minor project modifications are necessary to bring a project into consistency with an enforceable policy of the CCMP and, because of administrative constraints, project modifications cannot be agreed to within the timeframe for Commission action on a consistency submittal.</p>
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**II. FEDERAL AGENCY ACTIVITIES AND DEVELOPMENT PROJECTS**  
**CZMA Sections 307 (c)(1) & (2) [16 USC §§ 1456(c)(1) & (2)]**  
**15 CFR Part 930, Subpart C**

**TYPE OF ACTION**

<p>Legal Authority: CZMA § 307(c)(1) 15 CFR §. 930.31(a), (c), and (d)</p>	<p>A <b><u>Federal agency activity</u></b> is any function performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities. This encompasses a wide range of Federal agency activities that initiate an event or series of events where coastal effects are reasonably foreseeable, e.g., rulemaking, planning, physical alteration, and exclusion of uses. Federal agency activities do not include the issuance of a federal license or permit to an applicant or person or the granting of federal assistance to a state or local agency. However, unless the Federal agency chooses otherwise, Federal agency activities include issuance of regional or nationwide permit, such as the Army Corps of Engineer’s nationwide permits. Federal agency activities are a residual category for federal actions that are not a federal permit or license or federal assistance to state or local governments.</p>
<p>Legal Authority: CZMA § 307(c)(2) 15 CFR § 930.31(b)</p>	<p>A <b><u>Federal Development Project</u></b> includes any federal activity involving the planning, construction, modification, or removal of public works facilities or other structures, and the acquisition, utilization, or disposal of land or water resources.</p> <p>The federal regulations define federal development projects as a subset of federal activities, and thus federal activities and development projects are subject to the same substantive and procedural requirements under the consistency review provisions of the CZMA.</p>
<p>Legal Authority: CZMA § 307(c)(1) and (2) 15 CFR § 930.31(e)</p>	<p><b><u>Federal agency activity</u></b> and <b><u>Federal development project</u></b> include modifications of any of those activities or development projects that affect uses or resources of the coastal zone. If the activity was previously reviewed, the modification is subject to consistency review if its effect on coastal uses or resources is substantially different than those previously reviewed by the State agency.</p>

<p>Legal Authority:          CZMA § 307(c)(1)          15 CFR § 930.30</p>	<p>Any <b>Federal agency activity</b> or <b>Federal development project</b>, whether it occurs inside or outside of the coastal zone, that affect any land or water uses or natural resources of the California coastal zone is subject to the federal consistency provisions of the CZMA.</p>
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**NOTIFICATION**

<p>Legal Authority:          CZMA § 307(c)(1)(C)          15 CFR § 930.36(b)</p>	<p>A federal agency planning to undertake an activity likely to affect the coastal zone must notify the Commission of the proposal at least <b>90 days</b> before final approval of the federal action. In most cases, the final federal approval is the Record of Decision or Finding of No Significant Impact.</p>
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**CONSISTENCY DETERMINATION**

<p>Legal Authority:          15 CFR § 930.39</p>	<p>A <b>Consistency Determination</b> includes a statement indicating that the proposed action will be undertaken in a manner that is consistent to the maximum extent practicable with the CCMP. The statement must be based upon an evaluation of the relevant enforceable policies of the management program, which must be included in the consistency determination. The consistency determination shall also include a detailed description of the activity, its associated facilities, and their coastal effects, and comprehensive data and information sufficient to support the Federal agency’s consistency statement. The amount of detail in the evaluation depends on the complexity of the project. Federal agencies are strongly encouraged to obtain the assistance of the Commission staff in preparing a consistency determination.</p>
<p>Legal Authority:          15 CFR §§ 930.32(a) and (b),          and 930.39(a)</p>	<p>The term <b>consistent to the maximum extent practicable</b> means that federal activities must be fully consistent with the CCMP unless existing law prohibits compliance. Lack of appropriations is not a basis for a maximum extent practicable argument. The consistent to the maximum extent argument must be made in writing at the time the federal agency submits its consistency determination or at the time it learns that its activity may not be fully consistent with the CCMP.</p> <p>A Federal agency may deviate from full consistency with the CCMP if the deviation is justified because of an emergency or other similar unforeseen circumstance. However, the federal agency must carry out its activity in a manner consistent with the CCMP and consult with the State to the extent that the circumstance allows. Once the circumstances have passed, the federal agency must consult with the State agency and, at a minimum, provide a description of its actions and their coastal effects.</p>

**NEGATIVE DETERMINATION**

<p>Legal Authority:          15 CFR § 930.35</p>	<p>A federal agency may decide that a consistency determination is not required either because, after a thorough assessment, it determines that there would be no effects upon coastal uses or resources. In such cases, the federal agency should submit a <b>negative determination</b> and supporting information to the Commission at least <b>90 days</b> before final approval of the activity.</p> <p>A <b>negative determination</b> contains a brief description of the activity, the activity’s location and the basis for the Federal agency’s determination that the activity will not</p>
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	<p>affect any coastal use or resource. In determining effects, Federal agencies shall include an evaluation of the relevant enforceable policies of the CCMP. The level of detail in the Federal agency’s analysis may vary depending on the scope and complexity of the activity and issues raised by the State agency, but shall be sufficient for the State agency to evaluate whether coastal effects are reasonably foreseeable.</p> <p>The federal agency may assume the state has concurred with a <b><u>negative determination</u></b> if the Commission has not responded to the federal agency’s submittal within <b>60 days</b> after receipt of the negative determination or requested an automatic <b>15-day</b> extension.</p> <p>If the Coastal Commission objects to a <b><u>negative determination</u></b> and the Federal agency agrees that coastal effects are reasonably foreseeable, the Commission will attempt to complete the consistency review within the 90-day period for the negative determination or consider an alternative schedule. If necessary, the Commission will work with the appropriate federal agency to agree upon a schedule different than the original 90-day period.</p>
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**COMMISSION REVIEW**

<p>Legal Authority: 15 CFR §§ 930.41 and 930.42</p>	<p>The Commission’s concurrence can be presumed by the federal agency if the federal agency does not receive the Commission’s response to its consistency determination within <b>60 days</b> from the day the Commission received the consistency determination. Federal agencies are required to approve one request for an extension period of not more than <b>15 days</b>. Approval of longer or additional extension requests is left to the discretion of the federal agency.</p> <p>Each consistency determination is reviewed and acted upon by the Commission following preparation of a staff report, public notice, and a public hearing.</p>
<p>Legal Authority: 15 CFR §930.39</p>	<p>A <b><u>consistency determination</u></b> is a brief statement indicating whether the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the CCMP. This statement is based upon an <b><u>evaluation</u></b> of the relevant enforceable policies of the CCMP, which can be found in Chapter 3 of the California Coastal Act, PRC §§ 30210, en seq. (Attachment 3). This evaluation must be included in the consistency determination. The consistency determination must also include a <b><u>detailed description of the activity, its associated facilities, and their coastal effects, and comprehensive data and information</u></b> sufficient to support the Federal agency’s consistency statement. The amount of detail in the evaluation of the enforceable policies, activity description and supporting information shall be commensurate with the expected coastal effects of the activity.</p> <p>Where a Federal agency is aware, prior to its submission of its consistency determination, that its activity is not fully consistent with the CCMP’s enforceable policies, the Federal agency shall describe in its consistency determination the legal authority that prohibits full consistency. Where the Federal agency is not aware of any inconsistency until after submission of its consistency determination, the Federal agency shall submit its description of the legal authority that prohibits full consistency to the State agency as soon as possible, or before the end of the 90-day period.</p>
<p>Legal Authority:</p>	<p>If the Commission determines that the federal agency’s consistency determination</p>

<p>15 CFR § 930.41(a)</p>	<p>does not include all of the information required by section 930.39(a), it will immediately notify the Federal agency that the <b>60-day review period</b> has not begun and identify the necessary data and information that is missing. The 60-day review period will begin when the missing information is received by the State agency. The Commission will generally attempt to notify federal agencies of missing information within five working days from receipt of the consistency determination.</p>
<p>Legal Authority: 15 CFR § 930.43</p>	<p>In an event the <b>Commission objects</b> with the federal agency's consistency determination, the Commission must describe the reasons for the objection and may describe alternative measures, if they exist, that would make the activity consistent with the CCMP. The Commission can also object to a consistency determination by finding that a federal agency has not supplied enough information to assess the activity's consistency with the CCMP. In either of these instances, the federal agency and the Commission should utilize the remaining portion of the 90-day notification period to attempt to resolve their differences. In cases of continuing disagreement, federal agencies are encouraged to suspend implementation of the proposed activity beyond the 90-day notification period pending resolution of the disagreement. When faced with a disagreement, federal agencies are encouraged to reassess their consistency determination in light of the Commission's response.</p>

**CONFLICT RESOLUTION**

**There are several procedures that can be used in the event of a disagreement regarding a consistency determination or a negative determination.**

<p>Legal Authority: 15 CFR § 930.43(e) CCMP Chapter 11, p. 90</p>	<p>The Commission has limited regulatory authority over federal activities or development projects. A Commission <b>objection</b> to a consistency determination does not result in a veto of the proposed project. A federal agency may continue with a proposed project even though the Commission has objected to the consistency determination. However, federal agencies must inform the Commission in writing of any such action.</p>
<p>Legal Authority: CZMA § 307(c)(1)(B)</p>	<p>The 1990 amendments to the Coastal Zone Management Act provide for a <b>presidential exemption</b> for activities found to be inconsistent with the CCMP. If a federal court upholds a Commission objection to a consistency determination by a federal agency, the President may, upon written request from the Secretary of Commerce, exempt that federal activity from compliance with the CCMP. In order to make such an exemption, the President must determine that the activity is in the paramount interest of the United States.</p>
<p>Legal Authority: 15 CFR Part 930, Subpart G 15 CFR §§ 930.44 and 930.111</p>	<p>The <b>Office of Ocean and Coastal Resource Management (OCRM)</b> of the NOAA encourages informal discussion between the parties. The OCRM is available to <b>mediate</b> in these discussions. Additionally, either the federal agency or the Commission may request <b>mediation</b> by the Secretary of Commerce. If the mediation process is agreed to by both the federal agency and the Commission, a hearing officer will hold a public hearing to gather information on the disagreement, and the hearing record will be transmitted to the Secretary of Commerce. The Secretary must then schedule a mediation conference to be attended by the disagreeing agencies.</p>
<p>Legal Authority: 15 CFR § 930.116</p>	<p>If mediation efforts are unsuccessful, or are simply not utilized, either party may resort to judicial action to resolve a serious disagreement. <b>Judicial review</b> may be sought without first having exhausted the mediation process.</p>

**CONTINUING REVIEW**

<p>Legal Authority: 15 CFR §930.45</p>	<p>The Coastal Commission will continue to monitor approved federal activities in order to make certain that such activities continue to be undertaken in a manner consistent to the maximum extent practicable with the CCMP. If the Commission determines that a previously approved federal agency activity or development project is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent to the maximum extent practicable with the enforceable policies of the CCMP, the Commission will request that the federal agency take appropriate <b><u>remedial actions</u></b>.</p>
<p>Legal Authority: 15 CFR §930.46</p>	<p>A federal agency is responsible for a <b><u>Supplemental Consistency Determination</u></b> for a proposed activity that was previously determined by the Commission to be consistent with the CCMP, but which has not yet begun, if the proposed activity will affect any coastal use or resource substantially different than originally described.</p>

**III. FEDERAL LICENSES AND PERMITS**  
**CZMA § 307(c)(3)(A) [16 USC § 1465(c)(3)(A)**  
**15 CFR Part 930, Subpart D**

**TYPE OF ACTION**

Legal Authority: CZMA Section 307(c)(3)(A) 15 CFR § 930.51	A <b>federal license and permit</b> includes any authorization, certification, approval, or other form of permission that any federal agency is empowered to issue to an applicant.
Legal Authority: 15 CFR § 930.52	An <b>applicant</b> includes any individual, organization, or other entity organized or existing under the laws of any nation or state, except a federal agency, who files an application for federal license or permit.

**NOTIFICATION**

Legal Authority: 15 CFR § 930.53 CCMP Chapter 11, pp. 91-92	The Commission has included in the CCMP a <b>list of federal license and permit activities</b> that reasonably can be expected to affect the coastal zone (Attachment 4). This list has been provided to federal agencies that must, in turn, make the information available to applicants.
Legal Authority: 15 CFR § 930.54	In addition, the Commission monitors <b>unlisted federal license and permit activities</b> , which are subject to federal consistency review if THE OCRM determines they are reasonably likely to affect coastal uses or resources. An applicant may choose to subject itself to the consistency certification process and avoid delays associated with THE OCRM's approval of the Commission's request to review an unlisted activity.
Legal Authority: CZMA § 307(c)(3)(A) 15 CFR § 930.53(d) and § 930.54(d)	No federal license or permit listed in the CCMP or an unlisted permit that is the subject of a Commission's request to review that THE OCRM has approved can be issued by the federal agency until either 1) the Coastal Commission concurs with a consistency certification prepared by the applicant, 2) the Commission's concurrence is conclusively presumed, or 3) the Secretary of Commerce, on appeal from a Commission objection, overrides the objection.

**CONSISTENCY CERTIFICATION**

Legal Authority: 15 CFR § 930.57(a)	In order to comply with the federal consistency requirements of the CZMA, the applicant must provide, in the application to the federal agency, a <b>certification</b> of consistency.
Legal Authority: 15 CFR § 930.57(b)	The certification must include the following statement: <b><i>The proposed activity complies with California's approved coastal zone management program and will be conducted in a manner consistent with such program.</i></b>
Legal Authority: 15 CFR § 930.57(a) and § 930.58	The applicant must submit the <b>certification</b> to the Commission along with <b>necessary data and information</b> . The supporting information shall include a copy of the federal permit application, a detailed description of the proposal, its associated facilities, its coastal effects, and comprehensive data and information sufficient to support the applicant's consistency certification. The consistency certification must also include an evaluation of the consistency of the project and its associated

	facilities with the enforceable policies of the CCMP, Chapter 3 of the California Coastal Act (California Public Resource Code § Section 30210 et seq., Attachment 3)
Legal Authority: 15 CFR § 930.56	The Commission staff is available to provide <b>assistance</b> for developing the consistency certification.

### **COMMISSION REVIEW**

Legal Authority: 15 CFR § 930.60	The <b>period for Commission review begins</b> at the time the Commission receives the applicant's consistency certification and all necessary data and information. If the Commission does not receive a complete consistency certification, within 30 days of its receipt of the incomplete information it will notify the applicant and the federal permitting agency that its consistency certification is incomplete and that the review period has not begun. Additionally, the Commission will identify the missing information. Following receipt of this material, Commission staff prepares a staff report and recommendation for Commission action. After public notice, the Commission, during a public hearing, makes a decision to concur with or object to the consistency certification.
Legal Authority: 15 CFR § 930.62(a)	<b>At the earliest practicable time</b> , the Commission must notify the applicant and federal agency of its decision. The federal permitting agency can <b>conclusively presume</b> Commission concurrence with a consistency certification if the Commission has not acted within <b>six months</b> following commencement of its review.
Legal Authority: 15 CFR § 930.62(b)	If the Commission has not issued a decision within <b>three months</b> , it must notify the applicant and federal agency of the <b>status</b> of the matter and the basis for further delay.
Legal Authority: 15 CFR § 930.63	In the event the <b>Commission objects</b> to the applicant's consistency certification because it is inconsistent with the CCMP, it may describe any alternative measures, if they exist, that would allow the Commission to concur. If the Commission <b>objection</b> is based on a finding that the applicant <b>has not supplied the information</b> either required by section 930.58 or otherwise necessary to assess the activity's consistency with the CCMP, the Commission will identify the necessary information and the reason it is necessary to assess consistency with the CCMP.  A Commission objection must include a statement informing the applicant of a <b>right to appeal</b> the objection to the Secretary of Commerce. The applicant has 30 days from receipt of the Commission's objection letter to file an appeal. The Secretary may overturn an objection if the activity is consistent with the objectives or purposes of the CZMA or is necessary in the interest of national security.
Legal Authority: 15 CFR § 930.64	Following <b>receipt of a Commission objection</b> to a consistency certification, the federal permitting agency <b>cannot issue the license or permit</b> , unless the objection is overturned by the Secretary of Commerce on appeal.

**CONFLICT RESOLUTION**

**There are several procedures that can be used in the event of a disagreement regarding a consistency certification.**

<p>Legal Authority: 15 CFR Part 930, Subpart G 15 CFR §§ 930.55 and 930.111</p>	<p>The <b>OCRM</b> encourages informal discussion between the parties. The OCRM is available to <b>mediate</b> in these discussions.</p>
<p>Legal Authority: 15 CFR Part 930, Subpart H 15 CFR § 930.125(a)</p>	<p>An applicant for a federal permit may <b>appeal</b> a Commission objection to the Secretary of Commerce within 30 days from receipt of the objection. Copies of the appeal must be sent to the federal agency and the Commission.</p>
<p>Legal Authority: CZMA § 307(c)(3)(A) 15 CFR Part 930, Subpart H 15 CFR §§ 930.121, 930.122</p>	<p>The Secretary of Commerce can override a Commission objection if he or she determines that the proposal is <b><u>consistent with the objectives or purposes of the Federal Coastal Zone Management Act or is necessary in the interest of national security.</u></b></p>
<p>Legal Authority: CZMA § 307(c)(3)(A) 15 CFR § 930.130(e)</p>	<p>If the Secretary overrides the Commission's objection the federal agency may approve the activity; otherwise the federal agency is prohibited from issuing the permit.</p>
<p>Legal Authority: 15 CFR § 930.116</p>	<p>If mediation efforts are unsuccessful, or are simply not utilized, either party may resort to judicial action to resolve the serious disagreement. <b>Judicial review</b> may be sought without first having exhausted the mediation process.</p>

**CONTINUING REVIEW**

<p>Legal Authority: 15 CFR §930.65</p>	<p>The Coastal Commission will continue to monitor approved federally permitted activities in order to make certain that such activities continue to be undertaken in a manner consistent with the CCMP. If the Commission determines that a previously approved federally permitted activity is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent with the enforceable policies of the CCMP, the Commission will request that the federal permitting agency take appropriate <b><u>remedial actions.</u></b></p> <p>If the federal permitting agency does not respond after 30 days the Commission may file a written objection with the OCRM. If the OCRM agrees with the Commission, the applicant must submit an amended or new consistency certification or comply with the originally approved certification.</p>
<p>Legal Authority: 15 CFR § 930.66</p>	<p>An applicant is responsible for a <b><u>Supplemental Consistency Certification</u></b> for a proposed activity that was previously determined by the Commission to be consistent with the CCMP, but which has not yet begun, if the proposed activity will affect any coastal use or resource substantially different than originally described.</p>

IV. **OUTER CONTINENTAL SHELF (OCS) ACTIVITIES**  
**CZMA § 307(c)(3)(B) [16 USC § 1456 (c)(3)(B)**  
**15 CFR Part 930, Subpart E**

**TYPE OF ACTION**

<p>Legal Authority: 15 CFR § 930.73</p>	<p>The activities covered by CZMA Section 307(c)(3)(B) are <b>exploration, development, and production</b> of oil or gas from any area that has been leased under the <b>Outer Continental Shelf (OCS) Lands Act</b> (43 U.S.C. § 1331 <i>et seq.</i>). In general, these activities include exploration plans (EPs) and development and production plans (DPPs), which the CZMA regulations refer to collectively by the term “OCS Plan.”</p>
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**NOTIFICATION**

<p>Legal Authority: CZMA § 307(c)(3)(B) 15 CFR § 930.76</p>	<p>Any person submitting to the Secretary of the Interior an OCS plan affecting the California coastal zone must provide with such plan a consistency certification supported by data and information described in 15 CFR § 930.58. That agency will furnish the Commission with a copy of the OCS plan (excluding proprietary information), the consistency certification, and the necessary data and information. No federal license or permit activity described in detail in an OCS plan may be approved by a federal agency until the requirements of the CZMA are satisfied.</p>
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**CONSISTENCY CERTIFICATION**

<p>Legal Authority: 15 CFR § 930.76(d)</p>	<p>A <b>consistency certification</b> for any OCS activity affecting the coastal zone shall include following language: <i>The proposed activities described in detail in this plan comply with the California Coastal Management Program and will be conducted in a manner consistent with such program.</i></p>
<p>Legal Authority: 15 CFR §§ 930.76(b) and 930.77(a)(2)</p>	<p><b>Supporting information</b> to accompany the certification must include the comprehensive offshore, nearshore, and onshore <b>data and material required by</b> the Department of the Interior's operating <b>regulations governing</b> exploration, development and production <b>operations on the OCS</b> (see 30 CFR §§ 250.203 and 250.204) and regulations pertaining to the Interior OCS <b>information program</b> (see 30 CFR Part 252). The certification must also be accompanied by supporting information required by 15 CFR § 930.58, namely, a brief assessment of the probable coastal zone effects, and a brief set of findings indicating that the proposed activities, their associated facilities, and their combined effects, are all consistent with the provisions of the CCMP. Any draft or final environmental impact statement should also be included. The Commission staff will, upon request, provide assistance in preparing a consistency certification.</p>

**COMMISSION REVIEW**

<p>Legal Authority: 15 CFR §§ 930.77(a)(1) and (b)</p>	<p>The Commission <b>review begins</b> at the time the Commission receives the OCS plan, consistency certification, <b>and</b> adequate supporting information.</p>
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	<p>If the Commission does not receive a complete consistency certification, it will notify the applicant and the federal permitting agency that its consistency certification is incomplete and that the review period has not begun. Additionally, the Commission will identify the missing information.</p> <p>Following receipt of this material, the Commission must ensure timely <b>public notice</b>, and must hold one or more <b>public hearings</b>.</p>
<p>Legal Authority: 15 CFR § 930.78(a)</p>	<p><b>At the earliest practicable time</b>, the Commission must notify the applicant, the Director of OCRM, and the Secretary of Interior of its response to the consistency certification.</p>
<p>Legal Authority: 15 CFR § 930.78(a) and (b)</p>	<p>If the Commission has not issued a decision within <b>three months</b> following the beginning of review, it must notify the applicant and the Department of the Interior of the <b>status</b> of the matter and the basis for further delay or <b>be conclusively presumed to have concurred</b>. Concurrence by the Commission shall also be conclusively presumed in the absence of an objection within <b>six months</b> following commencement of Commission review.</p>
<p>Legal Authority: 15 CFR § 930.79</p>	<p>If the Commission <b>concurs</b> with the <b>consistency certification</b>, additional submittals will not be required for subsequent federal permit applications for activities described in detail in the OCS plan. The lessee or operator must, however, supply the Commission with copies of permit applications to allow the Commission to monitor the approved OCS activities. Further, if regulatory actions by any other agency result in substantial modification of the plan, renewed consistency review of the modified plan will be required.</p>
<p>Legal Authority: 15 CFR § 930.78(c)</p>	<p>In the event the <b>Commission objects</b> to an OCS plan, its objection must describe how the activity is inconsistent with the CCMP and may describe alternative measures, if any, that would allow for Commission concurrence.</p>
<p>Legal Authority: 15 CFR § 930.78(c) 15 CFR § 930.63 15 CFR § 930.80</p>	<p>The Commission can also <b>object</b> to a consistency certification by finding that the applicant has not supplied enough information to assess activity's consistency with the CCMP. A Commission objection must also include a statement informing the applicant of a right of appeal to the Secretary of Commerce on the grounds described below. Following receipt of a Commission objection, federal agencies may not issue any of the licenses or permits for activities described in detail in the OCS plan, except as provided below.</p>

**CONFLICT RESOLUTION**

**There are a number of procedures that can be used when a disagreement regarding an OCS plan certification arises.**

<p>Legal Authority: 15 CFR Part 930, Subpart G</p>	<p><b>Informal discussions</b> among the parties (the Department of the Interior, the Commission and the OCS lessee or operator) are recommended. The OCRM is available to assist in these discussions. The OCRM encourages informal discussion between the parties. When faced with a Commission objection, lessees and operators are encouraged to adopt amended or new OCS plans that conform to alternative measures proposed by the Commission.</p>
<p>Legal Authority: 15 CFR Part 930, Subpart -H</p>	<p>Next, the applicant may <b>appeal</b> the Commission's objection to the Secretary of Commerce within 30 days from receipt of the Commission's objection. Copies of the appeal must be sent to the Department of the Interior and the Commission.</p>

<p>Legal Authority: 15 CFR Part 930, Subpart H 15 CFR §§ 930-121, 930.122</p>	<p>The Secretary of Commerce can override a Commission objection if he or she determines that the OCS activities are <b><u>consistent with the objectives or purposes of the Federal Coastal Zone Management Act or is necessary in the interest of the national security.</u></b></p>
<p>Legal Authority: CZMA § 307(c)(3)(B) 15 CFR §§ 930.82, 930.83</p>	<p>If the Secretary overrides the objection, the Department of the Interior may approve the OCS plan and issue permits. In the event of either 1) a Commission objection that is not appealed, or 2) an unsuccessful appeal, the applicant must submit an amended or new OCS plan to the Interior Department and to the Commission, along with a new consistency certification and supporting information. Commission review will begin again, except that the applicable time period for purposes of concurrence by conclusive presumption will be three months instead of six months.</p>

**CONTINUING REVIEW**

<p>Legal Authority: 15 CFR §930.85</p>	<p>The Coastal Commission will continue to monitor approved OCS activities in order to make certain that such activities continue to be undertaken in a manner consistent with the CCMP. If the Commission determines that a previously approved OCS activity is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent with the enforceable policies of the CCMP, the Commission will request that the Secretary of Interior take appropriate <b><u>remedial actions.</u></b></p> <p>If the Secretary of Interior does not respond after 30 days the Commission may file a written objection with the OCRM. If the OCRM agrees with the Commission, the applicant must submit to the Secretary of the Interior and to the Commission an amended or new OCS plan and consistency certification for further review.</p>
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**VI. FEDERAL ASSISTANCE  
CZMA § 307(d) [16 USC § 1456(d)]  
15 CFR Part 930, Subpart F**

**TYPE OF ACTION**

<p>Legal Authority: 15 CFR § 930.91</p>	<p>The term "Federal assistance" means assistance provided under a federal program to state or local governments (applicant agencies) through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other forms of financial aid.</p>
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**NOTIFICATION**

<p>Legal Authority: 15 CFR § 930.94</p>	<p>The Commission monitors federal assistance applications through the State Clearinghouse (SCH) process (Executive Order 12372) and through other notice mechanisms (e.g. <b>Federal Register</b> and NEPA notices). If a federal assistance activity is listed in the CCMP or is otherwise identified by the Commission, the applicant agency will submit to the Commission its application for assistance and a brief evaluation on the relationship of the proposed activity and any reasonably foreseeable coastal effects to the enforceable policies of the CCMP.</p>
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**COMMISSION REVIEW**

<p>Legal Authority: 15 CFR § 930.94</p>	<p>The Commission will review applications from applicant agencies for federal assistance in accordance with E.O. 12372 and implementing regulations, which allows the states to establish their own review processes for federal assistance activities.</p> <p>Some federal agencies have adopted regulations in connection with their funding programs to assure timely implementation of the federal consistency review process.</p>
<p>Legal Authority: 15 CFR §§ 930.96(b), 930.97</p>	<p>In the event the <b>Commission objects</b> to the agency's proposal, its objection must describe how the activity is inconsistent with the CCMP and may describe alternative measures, if any, that would allow for Commission concurrence. The Commission can also object to an application for federal assistance by finding that the applicant agency has not supplied enough information to assess the activity's consistency with the CCMP. In the event of an objection, the Commission must then notify the applicant agency and the federal agency of the objection and inform the applicant agency of its right to appeal to the Secretary of Commerce on the grounds described below. Following receipt of the Commission objection, the federal agency may not grant the federal assistance except as provided below.</p>

**CONFLICT RESOLUTION**

**There are a number of procedures that can be used when a disagreement arises regarding the consistency of a federal assistance proposal.**

<p>Legal Authority: 15 CFR §§ 930.99, 930.111 15 CFR Part 930, Subpart -G</p>	<p><b>Informal discussions</b> among the parties (federal agency, Commission, and applicant agency) are recommended. THE OCRM is available to assist in these discussions. When faced with a Commission objection, applicant agencies are encouraged to re-examine their proposals in light of Commission remarks, particularly when the Commission suggests alternative measures.</p> <p>The OCRM is available to <b>mediate</b> in these discussions. Additionally, either the</p>
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	federal agency or the Commission may request <b>mediation</b> by the Secretary of Commerce. If the mediation process is agreed to by both the federal agency and the Commission, a hearing officer will hold a public hearing to gather information on the disagreement, and the hearing record will be transmitted to the Secretary of Commerce. The Secretary must then schedule a mediation conference to be attended by the disagreeing agencies.
Legal Authority: 15 CFR Subpart 930-H	Next, the applicant agency may <b>appeal</b> the Commission objection to the Secretary of Commerce within 30 days from receipt of the Commission's objection. Copies of the appeal must be sent to the federal agency and the Commission.
Legal Authority: 15 CFR Subpart 930-H	The Secretary can override a Commission objection if he or she determines that the proposal is <b><u>consistent with the objectives or purposes of the Federal Coastal Zone Management Act or is necessary in the interest of the national security.</u></b>
Legal Authority: 15 CFR Subpart 930-H	If the Secretary overrides the objection, the federal agency may grant the assistance; otherwise, the federal agency is prohibited from providing the financial aid.

**CONTINUING REVIEW**

Legal Authority: 15 CFR §930.100	<p>The Coastal Commission will continue to monitor approved federal assistance activities in order to make certain that such activities continue to be undertaken in a manner consistent with the CCMP. If the Commission determines that a previously approved federal permitted activity is being conducted or is having an effect on any coastal use or resource substantially different than originally described and, as a result, is no longer consistent with the enforceable policies of the CCMP, the Commission will request that the federal permitting agency take appropriate <b><u>remedial actions.</u></b></p> <p>If the federal assisting agency does not respond after 30 days the Commission may file a written objection with the OCRM. If the OCRM agrees with the Commission, the Commission can reinstate review of the assistance application or applicant agency can comply with the originally approved application.</p>
Legal Authority: 15 CFR §930.101	An applicant is responsible for <b><u>Supplemental Coordination</u></b> for a proposed assistance activity that was previously determined by the Commission to be consistent with the CCMP, but which has not yet begun, if the proposed activity will affect any coastal use or resource substantially different than originally described.