

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



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

**2018**

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

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## **ABBREVIATIONS**

DCRM	Division of Coastal Resources Management
C.F.R.	Code of Federal Regulations
CMP	Coastal Management Program
CNMI	Commonwealth of the Northern Mariana Islands
CZMA	Coastal Zone Management Act
E.O.	Executive Order
F.R.	Federal Register
NOAA	National Oceanic and Atmospheric Administration
OCM	Office for Coastal Management
P.L.	Public Law
Secretary	Secretary of the US Department of Commerce

## INTRODUCTION

**Note:** This document is intended to act as a guide to the federal Coastal Zone Management Act of 1972 (CZMA) federal consistency review process. It should not be relied upon as a substitute for the federal regulations applicable to these review procedures. If there is any inconsistency between this guide and the federal CZMA regulations, the federal rules are the controlling rule and will apply. Please refer to the [CZMA Federal Consistency regulations](#) (15 C.F.R. Part 930) noted throughout this document and the [Coastal Zone Management Act \(16 U.S.C. §1451 et seq\)](#), for the legal authority on which this guide is based. While the CNMI Administrative Code, Chapter 15-10, Part 1500, contains federal consistency provisions, these have not been recently updated by the CNMI legislature and do not accurately reflect the Federal Consistency regulations (15 C.F.R. Part 930), which are the official authority.

The CNMI Coastal Management Program (CMP or coastal program) was approved by the National Oceanic and Atmospheric Administration (NOAA) in 1980, pursuant to the CZMA. The CNMI CMP expresses the CNMI's policy to guide the use, protection, and development of land and ocean resources within the CNMI coastal zone. This guide presents the enforceable policies of the Commonwealth's coastal program and explains the federal consistency review process of the CNMI.

The CNMI Division of Coastal Resources Management (DCRM) administers the Coastal Management Program, provides technical assistance, and enforces the laws that affect the Commonwealth's coastal uses and resources. Under the Coastal Resources Management Act of 1983 (P.L. 3-47), DCRM, as the lead agency of the CNMI CMP, also has the authority to review certain federal actions that affect coastal uses or resources to ensure that these activities are consistent with the enforceable policies that have been approved by NOAA as part of the CNMI CMP. This process is generally known as "federal consistency review".

**This guide has been designed to help state and federal agencies, federal permit applicants, federal assistance applicants, and the public understand when federal consistency review is needed and how CNMI conducts federal consistency reviews.**

## HOW TO USE THIS GUIDE

### 1- Determine the Appropriate Review Category

Federal regulations specify activities subject to DCRM review for consistency with the CNMI Coastal Management Program (CMP). They are grouped into three major categories, as follows<sup>1</sup>:

- Federal Agency Activities (15 C.F.R. Part 930, Subpart C)
- Activities Requiring a Federal License or Permit (15 C.F.R. Part 930, Subpart D)
- Federal Assistance to Local Governments (15 C.F.R. Part 930, Subpart F)

### 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.

### 3- Prepare and submit materials necessary for DCRM review

The information needed for DCRM review is listed in each section. For questions and more detailed information, please refer first to NOAA's CZMA federal consistency regulations 15 C.F.R. Part 930. Applicants are also encouraged to consult with DCRM.

Materials and inquiries may be directed to:

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<sup>1</sup> A fourth category exists covering Outer Continental Shelf (OCS) exploration, development and production activities. This category does not apply to the CNMI.

## THE CNMI COASTAL ZONE

The “coastal zone” of the CNMI includes all non-federally owned land and water areas, including submerged lands and waters extending seaward to a distance of three (3) nautical miles. The CNMI is an island chain consisting of 15 islands. Each island, in its entirety, is designated a “coastal zone” in the context of the CZMA, under *15 C.F.R. §923.31(a)(7)*. Excluded lands include the federally-leased: northern two-thirds of Tinian, all of Farallon de Medinilla (FDM), and approximately 72 hectares at Tanapag Harbor in Saipan (U.S. Public Law 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, and Asuncion, as well as the submerged lands adjacent to federally-leased lands on Tinian and Farallon de Medinilla ([Presidential Proclamation 9077](#)).

### **Does Federal Consistency Apply Only to Actions Within the Coastal Zone?**

No. A federal action is subject to CZMA federal consistency requirements if the action will affect a coastal use or resource of CNMI’s coastal zone. This may include federal actions that are conducted outside the coastal zone, but still affect any land or water use or natural resource of CNMI’s coastal zone. All federally owned or leased properties are excluded from the coastal zone. However, federal actions on these properties that have reasonably foreseeable effects on any land or water use or natural resource of CNMI’s coastal zone are still subject to a federal consistency review.

## ENFORCEABLE POLICIES

As noted above, the CZMA requires certain federal actions affecting CNMI’s coastal uses or resources to be consistent with the “enforceable policies” contained in the CNMI Coastal Management Program. If a federal action or effect is not addressed by one of the enforceable policies, the federal action is presumed to be consistent with the CNMI Coastal Management Program, and a federal consistency review is not necessary. For a complete list of the CNMI Coastal Management Program enforceable policies, please refer to Appendix A.

## LISTED ACTIONS

The Commonwealth has the option to identify particular federal actions of all categories (direct activities; licenses, permits, or authorizations; and financial assistance or grant programs) that are reasonably likely to affect the coastal zone and *list* them in its federally approved Coastal Management Program. For *listed* activities, the federal agency or applicant must engage in federal consistency coordination.

The CNMI's Federal Consistency List (2018) is included Appendix B of this Guide. It is also available online on the DCRM and OCM websites:

- [https://dcrm.gov.mp/wp-content/uploads/crm/CNMI\\_Federal-Consistency\\_Final-Listed-Actions\\_2018.pdf](https://dcrm.gov.mp/wp-content/uploads/crm/CNMI_Federal-Consistency_Final-Listed-Actions_2018.pdf)
- <http://coast.noaa.gov/czm/consistency/media/cnmi.pdf>

## 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 CNMI's coastal zone.**

Any Federal agency proposing to conduct or support an activity which will directly affect the CNMI's coastal zone is required to do so in a manner consistent to the maximum extent practicable with the CNMI Coastal Management Program (CMP) [Section 307(c)(1), CZMA].

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 C.F.R. §930.31). Since this definition encompasses an extremely broad range of Federal actions, early consultation with DCRM is recommended to resolve any questions regarding the application of the Federal consistency review process to a specific type of activity.

The responsibility to determine whether a particular activity directly affects the coastal zone rests with the Federal agency. Any activity on Federally controlled lands excluded from the coastal zone is also subject to DCRM review and concurrence if the Federal agency determines that the activity will have a direct effect on the coastal zone (15 C.F.R. §930.33).

If a Federal agency decides after its initial assessment of coastal zone effects that a consistency determination is not required, it must notify DCRM before issuing its approval of the activity and briefly explain the reasons for its negative determination (15 C.F.R. §930.35). The federal agency must submit a “negative determination” to DCRM in the following circumstances:



- 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 (15 CFR §930.35(a)).

A Federal agency may use its National Environmental Policy Act (NEPA) documents as a vehicle for its consistency determination or negative determination. However, a Federal agency's federal consistency obligations 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 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 C.F.R. §930.37).

## **STEP 2 – Federal agency submits materials to DCRM**

A letter describing the proposed activity and the agency's consistency determination should be submitted to DCRM at least ninety (90) days before final approval of the federal activity. The consistency submission must include:

- A letter setting forth the statement of determination, asserting that the activity “is consistent with and will be conducted in a manner consistent with the CNMI CMP to the maximum extent practicable.”
- A detailed description of the proposed activity.
- An assessment of the proposed activity's impact with respect to the enforceable policies of the CNMI CMP.
- Comprehensive data and information sufficient to support the agency's determination.

Federal agencies have the option of submitting negative determinations, general consistency statements, or assertions of non-consistency for activities in this category. The time frame and types of information noted above are generally applicable to these options. Refer to the CZMA Federal Consistency Regulations, Part 930, Subpart C for guidance.

## **Step 3 – DCRM conducts review**

DCRM will initially review the submitted materials for completeness and will notify the Federal agency of any deficiencies. At this time, conferences may be arranged with the agency to clarify information submitted, to 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.

Coastal resource management agencies may be asked by DCRM to review the determination and may participate in conferences with the Federal agency. Their comments will be considered by DCRM in preparing an official response to the consistency determination (15 C.F.R. §930.34).

#### **Step 4 – DCRM Action**

DCRM will issue a written response to the Federal agency within sixty (60) days from receipt of the consistency determination. If DCRM does not issue a written response within those sixty days, the Federal agency may presume DCRM’s concurrence that the activity is consistent with the CRM program. DCRM may request a fifteen (15) day extension of time for review as mandated by 15 C.F.R. §930.41. The Federal agency may agree to longer or additional requests at its own discretion. DCRM concurrence shall not be presumed if DCRM requests an extension of time within the sixty-day review period.

Final Federal agency action may not be taken sooner than ninety (90) days from the issuance of the consistency determination, unless both the Federal and Commonwealth agency agree to an alternative period.

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 mediation of the disagreement pursuant to the procedures set forth in Section 307 of the Federal Coastal Zone Management Act of 1972. The mediation procedures are further described in the “Mediation” section of this document on page 14.

### **FEDERAL CONSISTENCY DETERMINATION TEMPLATE**

This document is an outline for federal agencies to use when making a Consistency Determination under the Coastal Zone Management Act section 307(c)(1)&(2). Use of this template is optional, so long as all required information is provided in accordance with 15 C.F.R. Part 930, Subpart C.

#### **Coastal Zone Management Act (CZMA) Consistency Determination**

This document provides the CNMI Coastal Management Program with the [name of federal agency’s] Consistency Determination under CZMA §307(c)(1) [or (2)] and 15 C.F.R. Part 930, Subpart C, for the [name of Federal activity]. The information in this Consistency Determination is provided pursuant to 15 C.F.R. §930.39. This activity includes:

- [Describe the Federal agency activity or reference relevant pages of the NEPA document.]

The [name of Federal agency] has determined that the [activity] affects the land or water uses or natural resources of the CNMI in the following manner:

- [Provide analysis of effects or reference relevant pages of NEPA document.]

The [name of Federal activity] affects the following CNMI Coastal Management Program enforceable policies:

- [List and/or briefly describe the CNMI's applicable enforceable policies and whether the Federal activity does or does not comply with them and why.]

Based upon the following information, data, and analysis the [name of Federal agency] finds that the [activity] is consistent to the maximum extent practicable with the enforceable policies of the CNMI Coastal Management Program. [Provide information, data, and analysis supporting the determination of consistency with the applicable enforceable policies].

Pursuant to 15 C.F.R. §930.41, the CNMI Coastal Management Program has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 C.F.R. §930.41(b).

The CNMI Coastal Management Program response should be sent to:

- [Provide Federal agency contact information]

## **ACTIVITIES REQUIRING A FEDERAL LICENSE OR PERMIT**

This section applies to non-federal applicants (e.g., private citizens, industry, state and local governments) seeking a Federal license or permit.

### **Step 1 – Applicant consults the CNMI's list of federal actions subject to federal consistency review.**

For listed activities within the CNMI's coastal zone, the applicant includes in its federal application a certification that the proposed activity complies with and will be conducted consistently with the enforceable policies of the CNMI CMP. This certification, the federal application and related information specified in 15 C.F.R. §930.58, and the applicable completed state and local permit applications required constitute the necessary data and information for consistency review.

In reviewing the certification and necessary data and information, the lead state agency (typically DCRM) will make consistency findings based on the enforceable policies using the same procedures and standards used in evaluating permit and license applications under the core laws.

The lead review agency will review the applicant's submission for completeness and notify the applicant and federal agency in writing, within 30 days, if all necessary data and information has not been provided. The six-month review period begins when all necessary data and information has been received. The lead review agency may request additional information during the review period.

If the application receives the applicable state licenses and permits within six months of the applicant's submission of its consistency certification and all necessary data and information, the state licensed and permitted activity is deemed consistent with the enforceable policies of the CNMI CMP. On request and as it deems appropriate, CRM will respond directly to the permit applicant and/or federal agency that the CNMI, in accordance with pertinent state licenses and permits, concurs that the proposed activity is consistent with the CNMI CMP. If the CNMI does not object to the certification within six (6) months from the CNMI's receipt of a complete consistency review request, the project is deemed consistent. In some instances, the CNMI may condition its concurrence on receipt of all applicable permits.

The CNMI and applicant for a federal license or permit may agree in writing to stay the six-month review period for a specified period of time. The agreement must specify the dates when the six month review period began and was scheduled to end; the dates when the stay begins and ends; and the date when a decision on CZMA consistency is due. Such a stay may be appropriate to accommodate review of complex permits using state administrative processes.

If the State objects to an applicant's consistency determination, the applicant must receive DCRM's objection letter within six (6) months from the CNMI's receipt of a complete consistency review request or, alternatively, within the period agreed to by stay.

DCRM's objection letter must notify the federal agency and OCM of the CNMI's decision. The objection letter must describe how the activity is inconsistent with specific enforceable policies in the CNMI CMP and may describe alternative measures (if they exist) that, if adopted, would permit the project to be conducted in a manner that is consistent with the enforceable policies. The letter shall also notify the applicant of its right to appeal the CNMI's objection to the U.S. Secretary of Commerce who may override the CNMI's objection if the Secretary finds that the project is consistent with the objectives of the CZMA or is otherwise necessary in the interest of national security.

If the CNMI objects to the consistency certification, the federal agency shall not issue the license or permit absent override of the CNMI's objection by the Secretary of Commerce pursuant to 15 C.F.R. Part 930, Subpart H.

## **Step 2 – Applicant goes through local permitting process**

Most federal license or permit activities requiring a consistency certification are subject to the CNMI's local permit requirements. These local requirements are reviewed under the same

enforceable policies used for federal consistency reviews, and the permit applications provide the information needed to initiate federal consistency review.

The CNMI's federal consistency review is integrated into its review process of pertinent permit applications. *Consequently, in most instances, receipt of all the necessary Commonwealth permits constitutes the Commonwealth's concurrence with the applicant's consistency certification, and no further federal consistency review is required.* Pertinent state and local permitting processes provide opportunities for public notice and comment on the project's consistency with applicable enforceable policies. Applicants for federal permits may wish to contact DCRM regarding applicable federal consistency procedures and enforceable policies. If no enforceable policies are applicable, then consistency with the CNMI Coastal Management Program is presumed. Procedures for listed and unlisted activities are outlined below.

**\*It is the responsibility of the applicant to apply for and obtain all relevant local permits\***

### **Unlisted Activities**

Unlisted activities, in or outside the coastal zone, may be reviewed by the CNMI under the CZMA's federal consistency provisions on a case-by-case basis. This review must be approved first by OCM and is conducted according to the following process:

1. If the CNMI wishes to review an unlisted federal license or permit activity, or a listed license or permit activity outside the coastal zone which requires OCM's approval pursuant to 15 C.F.R. §§930.53(a)(2) and 930.54, DCRM will notify the federal agency and the applicant that DCRM intends to request approval from OCM to review the unlisted activity. See 15 C.F.R. §930.54 DCRM notifies OCM that the CNMI seeks to review the unlisted activity and provides support for the CNMI's assertion that coastal effects are reasonably foreseeable.
2. The federal agency and the applicant may submit comments to OCM regarding whether the CNMI should be allowed to review the activity.
3. OCM will issue a decision to DCRM, the federal agency and the applicant. OCM must base its decision solely on whether the proposed activity's coastal effects are reasonably foreseeable. 15 C.F.R. Part 930.54 (C)
4. If OCM denies the request, the federal agency may issue the license or permit without consistency certification.
5. If OCM approves the request for review, the applicant must follow the same procedure for reviewing listed licenses or permits, above.

## FEDERAL ASSISTANCE TO LOCAL GOVERNMENTS

This section applies to any unit, or agency of the CNMI government, that submits an application for Federal assistance. “Federal assistance” refers to assistance provided under a Federal grant program to an applicant agency through grant or contractual agreements, loans, subsidies, guarantees, insurance, or other forms of financial aid

**Listed and Unlisted Activities:** The Commonwealth has the option to *list* particular federal assistance programs in its federally approved Coastal Management Program. For *listed* activities, the applicant submits a Consistency Certification to the Commonwealth at the time he/she applies for a federal permit.

*Unlisted* Federal assistance activities, located inside or outside the coastal zone, may be reviewed by the CNMI under the CZMA’s federal consistency provisions on a case-by-case basis. This review must be approved first by NOAA’s Office for Coastal Management in accordance with 15 C.F.R. Part 930, Subpart F.

DCRM and other coastal program agencies in the CNMI monitor federal assistance activities in the CNMI’s coastal zone. The Commonwealth 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 the responsibility of the applicant to apply for and obtain all relevant local permits\***

## MEDIATION

In the event of a disagreement between a federal agency and the CNMI over consistency with the CNMI Coastal Management Program, either party may seek mediation by OCM or the Secretary of the U.S. Department of Commerce. 15 C.F.R. Part 930, Subpart G.

## APPEAL OF A COMMONWEALTH OBJECTION

As noted above, non-federal applicants for federal licenses, permits or funding may appeal a CNMI objection to the Secretary of the U.S. Department of Commerce. Appeals must be made to the Secretary within 30 days of an issuance of an objection or conditional concurrence that the applicant or federal agency does not agree to. 15 C.F.R. Part 930, Subpart H.

## FEDERAL GUIDANCE

For more information on the federal consistency process, please consult NOAA’s Federal Consistency Overview document (February 20, 2009):

- [http://coastalmanagement.noaa.gov/consistency/media/FC overview 022009.pdf](http://coastalmanagement.noaa.gov/consistency/media/FC%20overview%202009.pdf)

## APPENDIX A: LIST OF THE CNMI'S ENFORCEABLE POLICIES

The enforceable policies of CNMI's Coastal Management Program include:

- The following sections from the CNMI Coastal Resource Management Rules and Regulations, which can be found in the Northern Mariana Islands Administrative Code (NMIAC), [Chapter 15-10](#):
  - 15-10-020: Definitions
  - 15-10-025: Conflicts with Regulations of Other CNMI Government Agencies
  - 15-10-301: General Standards for all CRM Permits
  - 15-10-305: General Criteria for CRM Permits
  - 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
  - 15-10-350: Height Density, Setback, Coverage, and Parking Guidelines
  - 15-10-501: Determination of Major Siting
  - 15-10-505: Specific Criteria for Major Sitings
  - 15-10-610: Mandatory Conditions
- [Public Law No. 3-47](#)
- Air and water quality standards and regulations of the CNMI, including:
  - DEQ Underground Injection Control Regulations (NMIAC, title 65, chapter 90)
  - DEQ Drinking Water Regulations (NMIAC, title 65, chapter 20)
  - DEQ Well Drilling and Well Operations Regulations (NMIAC, §65-140-005, §65140-010)
  - DEQ Wastewater Treatment and Disposal Rules and Regulations (NMIAC, §65-120010, and §65-120 Part 1700)
  - DEQ Water Quality Standards (NMIAC, §65-130, Part 200, Part 400, Part 500)
- Any additional policies, regulations, standards, priorities and plans that are approved by NOAA's Office for Coastal Management as enforceable policies of the CNMI Coastal Management Program for CZMA federal consistency review purposes.

*Federal agencies are not required to obtain State permits unless otherwise required by a Federal law, other than the CZMA. Even when Federal agencies are not required to obtain a state permit, they shall still be consistent to the maximum extent practicable with the enforceable policies that are contained in such State permit programs that are part of a management program.*(15 C.F.R. § 930.39 (e)).

## APPENDIX B: CNMI'S FEDERAL CONSISTENCY LIST

### NORTHERN MARIANA ISLANDS' LISTED FEDERAL ACTIONS

#### I. FEDERAL ACTIVITIES

##### DEPT. OF DEFENSE

All Branches (Excluding U.S.  
Army  
Corps of Engineers)

Operational plans, procedures, or facilities for the handling, storage, or cleanup of hazardous materials.

Location, design, or acquisition of new or expanded defense installations pursuant to 10 U.S.C. § 2802, as amended, regardless of the facility's active or reserve status, and including associated housing, transportation, or other facilities on properties.

Disposal or realignment of Defense property and/or disposal and reuse plans for military base closures pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act.

Establishment or modification of impact, compatibility, security, or other restricted use zones pursuant to 10 U.S.C. § 2802, as amended, if the establishment or modification of such an area or zone will restrict existing or future public access.

Construction or expansion of buildings or erosion control structures; or the acquisition or disposal of land pursuant to 10 USC § 2661 et.seq. 10 U.S.C. § 2802, as amended, and/or 40 USC § 101, 10 U.S.C. § 2802, as amended.

Installation, removal, or maintenance of submarine cables.

Defense exercises and the establishment of resource management plans occurring in, over, or adjacent to non-federal lands and waters.

##### DEPT. OF HOMELAND SECURITY

Federal Emergency Management  
Agency (FEMA)

Construction or reconstruction of permanent or semi-permanent housing under the Individuals and Households Program (IHP).

##### DEPT. OF THE INTERIOR

National Park Service (NPS)

Authorization to manage and general management including master plans of national parks.



## DEPT. OF TRANSPORTATION

Federal Aviation Administration (FAA) Acquisition or disposal of land.  
Location, design, construction, or disposal of airports or other air navigation facilities, including communications and radar facilities.

Federal Highway Administration (FHWA) Highway construction or modification.

## II. FEDERAL LICENSES AND PERMITS

<u>Federal Agency</u>	<u>Permit Description</u>	<u>Citation</u>
<b>DEPT. OF COMMERCE</b>		
National Marine Fisheries Service (NMFS)	Take of marine mammals.	Marine Mammal Protection Act; 16 U.S.C. §§ 1361-1407
	Take of endangered species (marine species).	Endangered Species Act; 16 U.S.C. §§ 1538-1543
<b>DEPT. OF DEFENSE</b>		
U.S. Army Corps of Engineers (USACE)	Construction of dams or ditches across navigable waters.	River and Harbors Act of 1899 § 9; 33 U.S.C. § 401
	Construction or alteration of navigable waters.	<i>Id.</i> §10; 33 U.S.C. § 403
	Establishment of harbor lines.	<i>Id.</i> §§ 11, 33; U.S.C. §§ 404-405
	Temporary occupation of sea wall, bulkhead, jetty, dike, level, wharf, pier or other work built by the U.S.	<i>Id.</i> § 14; 33 U.S.C. § 408
	Discharge of dredged spoil into waters of the U.S.	Federal Water Pollution Control Act of 1972 § 404; 33 U.S.C. § 1344
	Approval of plans for improvements made under Corps supervision at private expense.	River and Harbors Act of 1899; 33 U.S.C. § 565
	Transportation of dredged spoil for the purpose of dumping it in ocean waters.	Marine Protection, Research, and Sanctuaries Act of 1972 § 103; 33 U.S.C. § 1413
<b>DEPT. OF ENERGY</b>		
All Offices	Prohibition and construction orders.	Energy Supply and Environmental Coordination Act; 15 U.S.C. §§ 791-798

Federal Energy Regulatory Commission (FERC)	Licenses, renewals, or amendments to licenses for non-federal hydroelectric projects and primary transmission lines.	16 U.S.C. § 779
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Threshold: All projects that fall in or within 150 ft of a designated Area of Particular Concern (APC), result in permanent loss of APC resources, fall seaward of a line 150 ft inland of the high hazard (V/VE) floodplain, or when proposed project costs equal to or exceed \$1 million.

**DEPT. OF THE INTERIOR**

Fish and Wildlife Service (FWS)	Take of endangered species (terrestrial species).	Endangered Species Act; 16 U.S.C. §§ 1531-1543
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National Park Service (NPS)	Construction of visitor centers on NPS managed land.	16 U.S.C. § 3
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	Construction of electric and communication lines across NPS managed land.	16 U.S.C. § 5
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**DEPT. OF TRANSPORTATION**

Federal Aviation Administration (FAA)	Approval of airport development project applications.	49 U.S.C. § 171(b)
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U.S. Coast Guard	Permits for private aids to navigation.	14 U.S.C. § 83
	Permits for construction or modification of bridges or causeways in navigable waters.	33 U.S.C. §§ 401, 491, 625

	Authorization for handling of flammable or combustible liquids by bulk in U.S. ports.	46 U.S.C. § 391(a)
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	Deepwater port permits.	Deepwater Ports Act of 1974; 33 U.S.C. § 1501
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**ENVIRONMENTAL PROTECTION AGENCY**

	Permits for underground injection.	State Drinking Water Act § 1421(c)(1); 42 U.S.C. § 300(h)
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Permit to operate underground injection wells in designated areas.	Resources Recovery and Conservation Act of 1976; 42 U.S.C. § 3257
Approvals under preservation of significant deterioration (PSD) regulations.	Clean Air Act of 1976 § 110; 42 U.S.C. § 7410
New sources construction/operation permits.	<i>Id.</i> § 111; 42 U.S.C. § 7411
Approvals under National Emission Standards for Hazardous Air Pollutants (NESHAPS) Regulations.	<i>Id.</i> § 112; 42 U.S.C. § 7412
NPDES permits for federal installations.	Federal Water Pollution Control Act of 1972 §§ 401-402; 33 U.S.C. §§ 1341-1342
NPDES permits for discharges into the contiguous zone and ocean waters.	<i>Id.</i> § 402-403; 33 U.S.C. §§ 1342-1343
Sludge runoff permits.	<i>Id.</i> § 405; 33 U.S.C. § 1345

### III. FEDERAL FINANCIAL ASSISTANCE

Assistance Description

Threshold

**Highway Planning and Construction (20.205)**

All land acquisition or projects that fall in or within 150 feet of a designated Area of Particular Concern (APC), result in permanent loss of APC resources, fall seaward of a line 150 feet inland of the high hazard (V/VE) floodplain, or when assistance is equal to or exceeds \$1 million.  
 Exemption: Activities required to provide disaster or emergency relief in response to a proclamation issued by the Office of the Governor provided that activities do not include in-water work or result in the permanent loss of APC resources.

**Beach Erosion Control Projects (12.101)**

All land acquisition or projects that fall in or within 150 feet of a designated Area of Particular Concern (APC), result in permanent loss of APC resources, fall seaward of a line 150 feet inland of the high hazard (V/VE) floodplain, or when assistance is equal to or exceeds \$1 million.

**Airport Improvement Program  
(20.106)**

All land acquisition or projects that fall in or within 150 feet of a designated Area of Particular Concern (APC), result in permanent loss of APC resources, fall seaward of a line 150 feet inland of the high hazard (V/VE) floodplain, or when assistance is equal to or exceeds \$1 million.