

THE CALIFORNIA COASTAL MANAGEMENT AGENCIES

CALIFORNIA COASTAL COMMISSION

CALIFORNIA STATE COASTAL CONSERVANCY

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

August 14, 2017

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

RE: NOAA Docket ID NOAA-NMFS-2017-0067 – Public Comment on Streamlining
Regulatory Processes and Reducing Regulatory Burden under Department of Commerce

To Department of Commerce/NOAA/NMFS Reviewers:

The California Coastal Commission, San Francisco Bay Conservation and Development Commission and State Coastal Conservancy thank you for considering our input regarding the review of existing regulations and regulatory processes being conducted under a series of recent Executive Orders¹ aimed at eliminating, improving, and streamlining current regulatory processes associated with the Marine Mammal Protection Act, Endangered Species Act, Magnuson-Stevens Act, Federal Power Act, National Marine Sanctuaries Act, and Coastal Zone Management Act.

As the three state agencies that implement the federally approved California Coastal Management Program (CCMP) under the Coastal Zone Management Act (CZMA), we have implemented its regulatory process since it was created. In sum, the current CZMA regulations and regulatory processes have been an enormous success nationwide and have been consistently implemented by states in a manner that has facilitated and expedited federal agency and federally permitted activities.² Moreover, by the agencies' broad inclusion of stakeholders and the public at local, state, and national levels, these reviews have actually reduced or eliminated regulatory delays and costly and time-consuming litigation. When combined with the fact that CZMA reviews occur concurrently with other regulatory processes, and themselves contain very short statutorily-mandated time frames for state review, it is difficult to imagine a more efficient or streamlined regulatory process.

In practice, the vast majority of the over 3,000 CZMA reviews our agencies have conducted in California during the past 40 years have taken less than two months, the reviews have resulted in an overall approval (concurrence) rate of over 90%, and less than ½ of 1% of the cases have resorted to litigation. When considering the very broad scope of federal activities, the competing interests they affect, and the importance of the coastal resources, the results of these reviews are a remarkable achievement accomplished under a well-planned regulatory approach that both considers the national interest and is a voluntary program (i.e., states are not required to participate). Examples of the broad scope of activities with a host of competing interests that have been subject to consistency review include offshore oil and gas drilling, offshore liquefied natural gas facilities, onshore and offshore military operations, offshore aquaculture, shoreline

¹ Including but not limited to Executive Orders 13766, 13771, and 13777.

² Federal consistency review is a central statutory requirement of the CZMA, not solely a regulatory process.



armoring, habitat protection and restoration, dredging and sediment management, remediation of sediment contamination, restoration after major oil spills, infrastructure construction, improving public access to the shoreline, and a host of other activities.

Moreover, the consistency review process inherently strives to increase efficiency as it calls for “the coordination and simplification of procedures in order to ensure expedited governmental decision making for the management of coastal resources.”³ This coordination and simplification is achieved in a number of ways:

- 1) it facilitates early consultation between states and federal agencies to avert disputes arising after substantial commitments have been made;
- 2) it provides flexible procedures to foster intergovernmental cooperation and minimize duplicative efforts and unnecessary delays;
- 3) it promotes a wide range of good governance efficiencies such as federal/state collaborations, pre-application consultations, and joint review processes; and,
- 4) it fosters interstate consistency and coordination efforts that bring multiple states and federal agencies together to improve communication, decision-making, and project outcomes.

Regarding marine aquaculture, our agencies believe that a clear regulatory framework and mechanism for leasing federal submerged lands is necessary to improve and streamline the regulatory process and promote robust interagency coordination and public participation in the decision-making process. Further, these steps would help ensure that any adverse effects on marine resources from offshore aquaculture, including those to water quality and protected wildlife and habitats, are acknowledged and minimized.

In conclusion, while we welcome further dialogue and suggestions to improve efficiencies in the federal consistency review process, we firmly believe the existing regulations and processes already encourage such improvements and do not need to be changed.

Thank you for your consideration of these comments.

Sincerely,



R. ZACHARY WASSERMAN
Chair
San Francisco Bay Conservation
and Development Commission



DOUGLAS BOSCO
Chair
California State
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DAYNA BOCHCO
Chair
California Coastal Commission

³ 16. U.S.C. § 1452(2)(G).