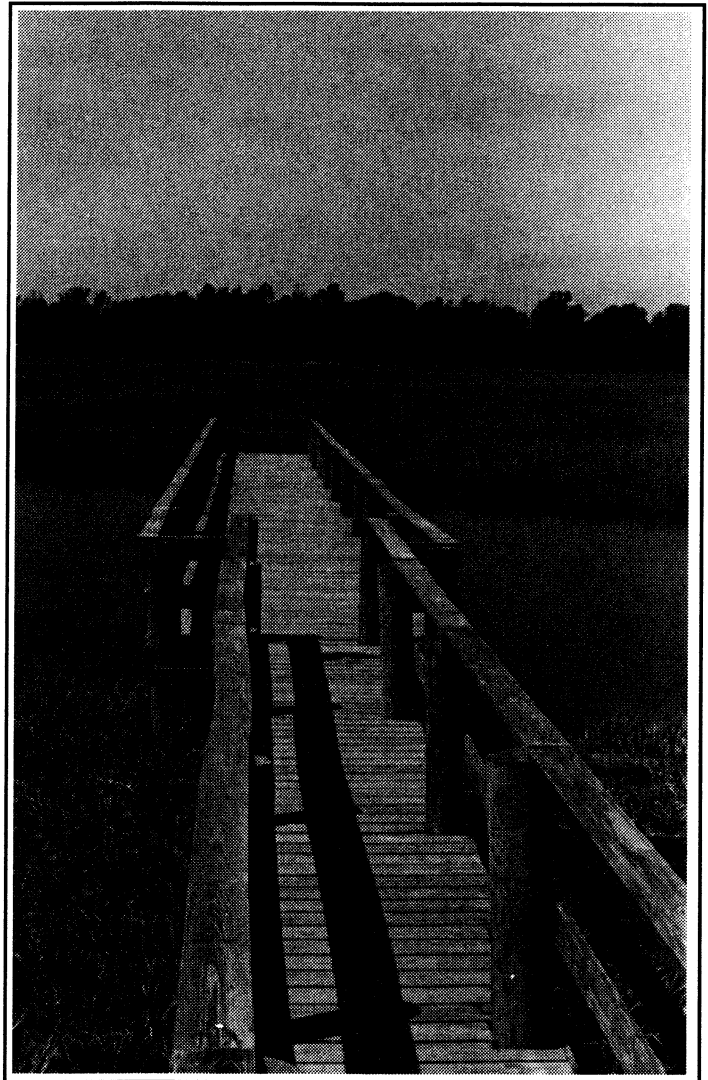


## **CHAPTER EIGHT:**

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## **FEDERAL CONSISTENCY**



When we try to pick out anything by itself, we find it hitched to everything else in the universe.

John Muir



The federal Coastal Zone Management Act requires that federal actions within or outside the coastal zone that affect any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent with the enforceable policies of approved state coastal management programs. This concept is known as "federal consistency," and is a benefit available only to those states that have a federally-approved coastal management program.

The benefits to Georgia of the consistency requirement include improved coordination and cooperation with federal agencies, effective application of State laws for federal activities, and better resource protection. Federal consistency is a powerful tool that Georgia can use to review most federal actions affecting the coastal area. Based on effects rather than geographic boundaries, there are no categorical exclusions from the consistency requirement. Maximum benefit to Georgia requires that the State pay regular attention to proposed federal actions, develop and implement adequate consistency procedures, and notify federal agencies of the State's assertion of consistency.

To maximize the consistency benefits, the regulations implementing the Coastal Zone Management Act require that a single state agency, usually the lead coastal management agency, perform the consistency functions. As lead agency for the Georgia Coastal Management Program, the Coastal Resources Division performs the consistency functions for the State of Georgia. This provides uniform application of Georgia's coastal management policies, efficient coordination of all coastal management requirements, comprehensive coastal management review, and a single point of contact for federal agencies to discuss consistency issues.

Since the Georgia Coastal Management Program is a networked program that relies on other State agencies to implement the statutory authorities with which each is charged, there are special considerations for the federal consistency process. Consistency concurrence by the State for a federal activity can be achieved in either of two ways -- by issuance of all applicable State permits, licenses, or certifications, or by issuance of a consistency decision from the Coastal Resources Division for those activities that do not require a State permit, license, or certification. The Coastal Resources Division is the coordinating agency in both cases, i.e., the Division serves as the single point of contact to notify the federal agencies that all necessary State permits have (or have not) been issued and that the proposed activity is (or is not) consistent with the State laws that comprise the policies of the Georgia Coastal Management Program. In those instances where an activity requires a State permit, but additional policies also apply (even though the activity does not require other State permit), the Coastal Resources Division will ensure that the activity complies with all policies before issuing an affirmative consistency decision.

Generally, when a federal permit program has been delegated to the State of Georgia, State implementation of the federal permit is not subject to the federal consistency process. For example, the U.S. Environmental Protection Agency delegated the National Pollution Discharge Elimination System (NPDES) permit program in Georgia to the State. When Georgia issues its

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NPDES permit, federal consistency does not apply as the permit is no longer a federal permit, but is a state permit. With respect to the Section 401 Water Quality Certification Program, while Section 401 of the federal Clean Water Act gives Georgia the ability to certify that a federally-permitted activity will comply with State water quality standards and other appropriate requirements of State law set forth in the certification, the underlying federal permits (e.g., Clean Water Act Section 404 permits) are still subject to federal consistency. Also, for direct federal activities, the issuance of a State 401 Water Quality Certification would not necessarily mean that the activity was consistent with other relevant State Coastal Management Program policies.

Procedures for federal consistency review are defined in the following Section. Section II describes the appeals process and conflict resolution procedures. Section III lists the federal actions reasonably likely to affect Georgia's coastal area and therefore subject to federal consistency.

**SECTION I:  
FEDERAL CONSISTENCY PROCEDURES**

The following types of federal actions must be consistent with the policies of the Georgia Coastal Management Program, as defined in Chapter Five of this document. Program policies are comprised of Georgia State law.

- (1) Direct federal activities -- activities and development projects performed by a federal agency, or a contractor for the benefit of a federal agency;
- (2) Federal license or permit activities -- activities not performed by a federal agency, but requiring federal permits or licenses or other forms of federal approval;
- (3) Plans for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act; and
- (4) Federal financial assistance to state agencies and local governments.

The Georgia Coastal Management Program is a comprehensive networked program with direct authority over certain activities and permits. The Program also relies on other State agencies to administer certain management authorities to help implement the full range of policies necessary for comprehensive coastal management. As designated lead agency for the Georgia Coastal Management Program, it is the role of the Coastal Resources Division to coordinate the various agencies on coastal matters, including federal consistency procedures. Each of the State agencies networked in the Georgia Coastal Management Program manages its own responsibilities, issues its own permits, administers its own federal grant monies, etc. One role of the Coastal Resources Division, as required in the federal Coastal Zone Management Act and designated in the Georgia Coastal Management Act, is to conduct federal consistency reviews. This is accomplished by coordination between the State agencies. State agencies involved with the Coastal Management Program are linked by Memoranda of Agreement (MOAs). These MOAs require notification of activities within the coastal area or that affect the coastal area.

In its simplest form, the consistency process involves two stages: (1) a consistency determination or certification is made by a federal agency or federal permit applicant regarding a proposed activity that affects the coastal area, and; (2) the Coastal Resources Division makes a consistency decision, i.e., concurs with or objects to the consistency determination or certification of the federal agency or permit applicant. The Division's role is to ensure that each relevant State permit is issued before the corresponding federal permit is issued. The Coastal Resources Division does not usurp the authority of any other State agency -- rather, the Division provides the necessary coordination to review federal activities in the coastal area. Agencies requiring guidance on consistency review procedures for the Georgia Coastal Management Program should contact the Coastal Resources Division.

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### **A. Direct Federal Activities and Development Projects**

#### **Summary**

- (1) The federal agency proposing an activity or development project within or outside Georgia's defined eleven-county coastal area determines if the proposed activity will have reasonably foreseeable effects upon any land use, water use, or natural resource of the coastal area.
- (2) If effects are reasonably foreseeable, the federal agency submits a consistency determination to the Coastal Resources Division at least 90 days before final approval of the federal activity or project.
- (3) The Coastal Resources Division shall provide public notice of the federal agency's consistency determination and consider public comments when making its consistency decision.
- (4) The Coastal Resources Division has 45 days (plus appropriate extensions, if granted) to agree or disagree with the federal agency's consistency determination.
- (5) Georgia waives its right to consistency if the Coastal Resources Division does not meet its time frames.
- (6) Direct federal activities must comply with all applicable enforceable policies of the Georgia Coastal Management Program (i.e., Georgia laws), even when the federal agency is not normally required to apply for a State permit in all cases.
- (7) If there is a dispute between the federal agency and the Coastal Resources Division over the consistency decision, either party may seek mediation from the Secretary of Commerce or informal negotiation from the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resources Management.

#### **Description**

Each federal agency activity within or outside the coastal zone that has reasonably foreseeable effects on any land or water use or natural resource of the coastal zone (including development projects) shall be carried out in a manner that is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. 16 U.S.C. § 1456(c). The requirements for direct federal activities are found at 16 U.S.C. § 1456(c). Direct federal agency activities are any functions performed by or on behalf of a federal agency in the exercise of its statutory responsibilities. Such activities do not include the granting of a federal license or permit. A federal development project is a 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.

Federal agencies proposing activities, whether within or outside the coastal area, must first determine if the activity will have reasonably foreseeable effects upon any coastal use or resource.

Effects include cumulative and secondary effects. If such effects are reasonably foreseeable, then the federal agency must submit a consistency determination to the Coastal Resources Division no later than 90 days before final federal action on the proposed activity. If the federal agency determines that an activity is not reasonably likely to affect coastal uses or resources, then the federal agency may have to provide the Coastal Resources Division with a "negative determination" at least 90 days prior to the public action.

The federal agency should contact the Coastal Resources Division at the earliest possible moment in the planning of the activity to ensure early State and federal coordination and consultation. Early consultation with the Division reduces potential conflicts as the activity progresses.

There is no categorical exemption for any federal activity. If a federal activity is likely to affect coastal uses or resources, then consistency applies. However, the President may exempt a specific federal activity (but not a class of federal activities) under certain circumstances. See 16 U.S.C. § 1456 (c)(1)(B). A federal activity affecting Georgia's coastal area must be conducted in a manner that is consistent to the maximum extent practicable with Georgia's approved Coastal Management Program. This requires federal activities to be fully consistent with the policies of the Georgia Coastal Management Program unless compliance is prohibited based upon the requirements of existing law applicable to the federal agency's operations. Thus, a federal activity may deviate from full consistency if legally required (as opposed to a general notion or claim of national security). Finally, federal agencies may deviate from full consistency with an approved program when such deviation is justified because some unforeseen circumstances (e.g., an emergency situation) arising after the approval of the management program present the federal agency with a substantial obstacle that prevents complete adherence to the approved program.

While the form of the consistency determination may vary, it must include a detailed description of the proposed activity, its expected coastal effects, and an evaluation of the proposed activity in light of the applicable policies of the Georgia Coastal Management Program. More specifically, the consistency determination should state, generally, the enforceable statutory provisions and regulations of the Georgia Coastal Management Program; detail the analysis by which the federal agency has determined that its project is consistent to the maximum extent practicable with the relevant policies of the Coastal Management Program; provide an analysis of coastal effects (or reference pages of the NEPA document if appropriate); provide information, data, and analysis supporting the determination of consistency with the policies of the Coastal Management Program; and notify the Coastal Resources Division that it has 45 days (plus any appropriate extension) from receipt of the determination and supporting information in which to agree or disagree with the determination.

The listing in Section III details those direct federal activities that Georgia deems will have reasonably foreseeable effects on coastal uses or resources. While the Coastal Resources

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Division, on behalf of the State of Georgia, will monitor unlisted federal activities and will notify federal agencies when an unlisted activity requires consistency review, it is the responsibility of federal agencies to comply with the consistency requirement and notify the Division for all federal activities (listed or unlisted) affecting Georgia's coastal area. The failure of the Division to either list federal activities in the Georgia Coastal Management Program Document or to monitor unlisted federal activities does not remove the requirement for federal agencies to provide the Coastal Resources Division with consistency determinations when the federal agency independently concludes that the proposed activity will affect coastal uses or resources.

Upon notification of a federal agency's consistency determination, the Coastal Resources Division shall issue public notice of the consistency determination in accordance with the Georgia Administrative Procedures Act. The Division shall consider public comments when making its consistency decision.

If the Coastal Resources Division agrees with a federal agency's consistency determination, the agency may immediately proceed with the activity. If the Coastal Resources Division disagrees with the consistency determination, the Division's disagreement must describe how the proposed activity is inconsistent with enforceable policies of the Georgia Coastal Management Program. The Division must also detail alternative measures (if they exist) that would allow the activity to be conducted in a manner consistent to the maximum extent practicable. In the event of a disagreement, the Division and the federal agency will attempt to resolve differences during the remainder of the 90-day period. The federal agency may, notwithstanding Coastal Resources Division disagreement, proceed with the activity as long as they clearly describe to the Division the specific legal authority (i.e., the statutory provisions, legislative history, or other legal authority) that limits the agency's discretion to comply with Georgia Coastal Management Program policies. Either party may seek non-binding formal Secretarial mediation or informal negotiation, as described in Section II.



**B. Federal License or Permit Activities**

Summary

- (1) The Coastal Resources Division, or the NOAA Office of Ocean and Coastal Resources Management determines the effects of a proposed license or permit.
- (2) An applicant for any required federal approval submits a certification of consistency with the permit application if the activity is listed in Section III or, if unlisted, the Office of Ocean and Coastal Resource Management finds that the activity will have reasonably foreseeable effects on any coastal use or resource.
- (3) Public notice shall be provided by a Joint Public Notice (JPN) with the relevant federal agencies, and, if applicable, according to the Georgia Administrative Procedures Act and the rules of the authorizing State agency that evaluates the relevant permits.
- (4) The Coastal Resources Division has up to six months to respond, but must notify the applicant if review will exceed three months. The Coastal Resources Division coordinates with other State agencies on the status of State permits, and the time frame for the consistency decision is driven by the State permitting agency (or agencies). Response will always occur immediately following issuance of relevant State permits.
- (5) The Coastal Resources Division must either concur with or object to the applicant's certification of consistency. Issuance of all relevant State permits for the same activity constitutes concurrence.
- (6) The federal agency cannot issue approval until the Coastal Resources Division concurs. If all relevant State permits are issued, concurrence may be presumed.
- (7) The applicant may appeal the Coastal Resources Division's federal consistency objection to the Secretary of Commerce. Appeals over State permits are subject to State appeals processes. If a State permit is appealed in favor of the applicant through the State appeals process, the Divisions consistency objection is automatically overturned.

Description

A private individual or business, or a State or local government agency, or any type of non-federal entity, applying to the federal government for a required permit or license or any other type of an approval or authorization, must follow the requirements of the Coastal Zone Management Act section 307(c)(3)(A) (16 U.S.C. § 1456(c)(3)(A)).

Applicants for federal licenses, permits, or other approvals, must certify to the Coastal Resources Division that the proposed activity, whether in or outside the coastal area, affecting any land or water use or natural resource of the coastal area, will be conducted in a manner that is

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consistent with the policies of the Georgia Coastal Management Program. Section III of this chapter lists those federal license or permit activities deemed reasonably likely to affect any coastal use or resource. Unlisted activities may also require a consistency certification.

The applicant shall furnish to the federal permitting agency a consistency statement certifying that the proposed activity complies with and will be conducted in a manner consistent with the policies of the Georgia Coastal Management Program, i.e., State laws. The submitted statement shall include a declaration similar to the following: "The proposed activity complies with the policies of Georgia's approved Coastal Management Program and will be conducted in a manner consistent with such program." By making this statement certifying consistency, the applicant understands that Georgia State law and associated regulations define the enforceable policies of the Georgia Coastal Management Program, and that the project must fully comply with all relevant State laws and rules and regulations. If any State permits are necessary for the proposed project, the relevant State application will include the statement of consistency. The appropriate State agency shall notify the Coastal Resources Division of the permit application consistency certification.

Public notice shall be provided in conjunction with the federal permit by Joint Public Notice (JPN), but in no instance shall it provide less than the public notice requirements of the Georgia Administrative Procedures Act and the rules of the authorizing State agency. If there is no JPN procedure, the Coastal Resources Division shall issue public notice in accordance with the Georgia Administrative Procedures Act.

Georgia's federal consistency procedures do not add additional time to the State's review of State permit applications. The consistency procedures do ensure compliance with Georgia's Coastal Management Program, and ensure that federal actions are conducted in a manner that is consistent with the policies of the Coastal Management Program.

If the applicant obtains all relevant State permits within six months of submitting the State and federal permit application(s) to the relevant State agency, then the issuance of these State permits constitutes the State's federal consistency concurrence and the federal agency may issue its approvals. The Coastal Resources Division assists in coordinating State and federal agencies, tracking permit issuances, and notifying federal agencies once all relevant State permits have been received.

If a State permitting agency denies the permit application within the six month period, then that denial constitutes the State's federal consistency objection and the federal agency may not issue its approval. If, at any time, the applicant successfully appeals the permit denial to a State administrative body, or otherwise modifies the permit application and obtains the State permit, then the activity will be consistent with the policies of the Georgia Coastal Management Program and the federal agency may issue its approval. The Coastal Resources Division serves to

coordinate State and federal agencies, track permit denials and issuances, and notify federal agencies of permit denials and issuances.

If a State permitting agency has not acted upon a permit within the six month period, then that activity will be deemed inconsistent with the Georgia Coastal Management Program, provided the Coastal Resources Division, within the six month period, notifies the applicant and the federal agency in writing that the State objects to the activity and that the federal agency may not issue its approval. Once, and if, the applicant obtains relevant State permits then the activity will be consistent with the Coastal Management Program, and the federal agency may then issue its approval.

If, following receipt of the consistency certification, the Coastal Resources Division determines that no State permits are needed or that other State authorities as outlined in Chapter Five apply, the Division will issue a consistency decision within six months. The Coastal Resources Division will coordinate its consistency review with the relevant networked Georgia Coastal Management Program agencies.

### **C. Outer Continental Shelf Permits or Licenses**

#### Summary

- (1) Similar to the process for federal permits or licenses.

#### Description

A private person applying to the federal government for outer continental shelf (OCS) exploration, development, and production activities must follow the requirements of the Coastal Zone Management Act, Section 307(c)(3)(B) (16 U.S.C. §1456(c)(3)(B)).

Any person who submits to the U.S. Department of the Interior an OCS plan for the exploration of, or development of, or production from, any area leased under the Outer Continental Shelf Lands Act, must certify to the Coastal Resources Division that any activities proposed in such OCS plans will be conducted in a manner consistent with the policies of the Georgia Coastal Management Program. The process and requirements for this section generally mirror those of federal license or permit activities discussed above.

An applicant for an OCS permit or license that does not have a corresponding State permit must submit a consistency certification and supporting data and information to the Coastal Resources Division and the permitting federal agency. The Coastal Resources Division will coordinate its consistency review with the relevant networked Georgia Coastal Management

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Program agencies, and issue its consistency decision within six months of receipt of the certification and supporting information.

### **D. Federal Financial Assistance Activities**

#### **Summary**

- (1) Either a State agency or a local government applies for federal financial assistance. The activity may be a listed or an unlisted activity, which must be determined by the Coastal Resources Division.
- (2) The Georgia State Clearinghouse Procedures must be followed for submission of an application and Coastal Management Program review.

#### **Description**

A State agency or local government applying for any form of federal assistance for an activity reasonably likely to affect any land or water use or natural resource of Georgia's coastal area must follow the requirements of the Coastal Zone Management Act, Section 307(d) (16 U.S.C. §1456(d)). The federal agency may not grant any federal assistance until the Division finds an application consistent.

The Georgia State Clearinghouse notifies the Coastal Resources Division of applications for federal financial assistance. Public notice of the application shall be provided by the Coastal Resources Division according to the Georgia Administrative Procedures Act. Federal financial assistance applications for projects requiring State approvals are automatically deemed consistent with the Georgia Coastal Management Program policies once all relevant State approvals have been issued.

If the Coastal Resources Division determines the proposed project to be inconsistent with Georgia Coastal Management Program policies, a formal objection will be provided to the Georgia State Clearinghouse, the applicant, the federal agency, and the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management. Objections will be provided to the Georgia State Clearinghouse within the standard sixty-day review period, except for any programs established by the Clearinghouse requiring a thirty-day review period, in which case the Division will respond within those time limits. The objection shall describe how the proposed project is inconsistent with specific policies of the Georgia Coastal Management Program and alternative measures (if they exist) which, if adopted by the applicant agency, would permit the proposed project to be conducted in a manner consistent with the policies of the Coastal Management Program. The Division may object based on the failure of the applicant to provide adequate information; in this case, the objection must describe the nature of the

information requested and the necessity of having such information to determine consistency. The objection shall include a statement informing the applicant agency of a right of appeal to the Secretary of Commerce.

The federal agency may not grant the financial assistance if the State determines it to be inconsistent with the policies of the Georgia Coastal Management Program unless the applicant agency appeals the objection and the Secretary of Commerce overrides the State's objection.

If the Coastal Resources Division determines that an application for federal assistance outside of Georgia's defined eleven-county coastal area is subject to consistency review, the Division shall immediately so notify the applicant agency, the federal agency, the Georgia State Clearinghouse, and the Office of Ocean and Coastal Resource Management. Any objection by the Division to the proposed activity shall be made according to the Georgia State Clearinghouse schedule described above. If the Division determines it to be inconsistent with the policies of the Georgia Coastal Management Program, the federal agency may not grant the financial assistance except if the activity is consistent with the objectives or purposes of the federal Coastal Zone Management Act or if the activity is necessary in the interest of national security.

**SECTION II:  
APPEALS AND CONFLICT RESOLUTION PROCEDURES**

**A. Appeals for State Permits**

As described in Part B of Section I above, federal license or permit activities that also require a State permit under Georgia law are presumed to be consistent with the Georgia Coastal Management Program upon receipt of all relevant State permits. The appeals procedures for State permits are described in Georgia State laws and remain unchanged by this process. In most cases, Georgia law provides any person or agency that is aggrieved or adversely affected by any order or action the right to a hearing before an Administrative Law Judge. In cases in which there is no direct provision for State Administrative Law Judge review under State law, the aggrieved party has the right to the State Court process.

**B. Secretarial Mediation of Disputes**

In the event of a serious disagreement between the State of Georgia and a federal agency over any aspect of the federal consistency requirement, either party may request that the U.S. Secretary of Commerce mediate the dispute. All parties must agree to participate in the mediation, but agreement to participate is non-binding and either party may withdraw from the mediation at any time. Secretarial mediation is a formal process that includes a public hearing, submission of written information, and meetings between the parties, upon which a hearing officer, appointed by the Secretary, will propose a solution.

Secretarial mediation may be used for disputes under any of the four consistency review types: direct federal activities, federal license or permit activities, OCS license and permit activities, and federal assistance activities. However, the request can only be made by the head of a federal agency, the Governor of Georgia, or the Coastal Resources Division. Exhaustion of the mediation process is not a prerequisite to judicial review.

**C. Informal Negotiation of Disputes**

The availability of formal Secretarial mediation or litigation does not preclude the parties from informally negotiating the dispute through the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management (OCRM) or another facilitator. OCRM has successfully filled this role of informal negotiator, and most disputes are addressed through this informal method. Either party may request OCRM involvement, and participation is non-binding.

### **D. Appeals to the Secretary of Commerce**

The federal Coastal Zone Management Act (CZMA) provides an administrative appeal to the Secretary of Commerce from a consistency objection by a coastal state. In the case of a federal license or permit, an outer continental shelf exploration or development plan, or an application for federal financial assistance, the applicant may request that the Secretary override the State of Georgia's consistency objection on the grounds that the activity is consistent with the objectives of the CZMA, or is otherwise necessary in the interest of national security. 16 U.S.C. § 1456(c)(3)(A),(B), and (d).

The inquiry by the Secretary into whether the grounds for an override have been met is based upon an administrative record developed for the appeal. While the Secretary will review the State objection for compliance with the CZMA and the implementing regulations (e.g., whether the objection is based on enforceable policies), the Secretary does not review the objection for compliance with State laws and policies.

There are four elements that an appellant must meet in order to satisfy the first ground for a Secretarial override, "consistent with the objectives of the CZMA."

- (1) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 or 303 of the CZMA;
- (2) When performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal area substantial enough to outweigh its contribution to the national interest;
- (3) The activity will not violate any requirement of the Clean Air Act, as amended, or the Federal Water Pollution Control Act, as amended; and,
- (4) There is no reasonable alternative available (e.g., location, design, etc.) which would permit the activity to be conducted in a manner consistent with the management program.

The second ground for a Secretarial override, "necessary in the national security," describes a federal license or permit activity or a federal assistance activity which, although inconsistent with the Georgia Coastal Management Program, is found by the Secretary to be permissible because a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

If the Secretary overrides the State's objection, the authorizing federal agency may permit or fund the activity. A secretarial override does not obviate the need for an applicant to obtain any State-required permits or authorizations.

**SECTION III:  
LIST OF FEDERAL ACTIONS SUBJECT TO FEDERAL CONSISTENCY**

**A. Direct Federal Activities and Development Projects**

Department of Commerce, National Marine Fisheries Service:

- Fisheries Management Plans
- Endangered Species Act listings and Designation of Critical Habitat

Department of Defense, Army Corps of Engineers:

- Dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, and activities and other projects with the potential to impact coastal lands and waters
- Land acquisition for spoil disposal or other purposes
- Selection of disposal sites for dredged material from federal harbors and navigation channels

Department of Defense: Air Force, Army, and Navy:

- Location, design, and acquisition of new or expanded defense installations (active or reserve status including associated housing, transportation, or other facilities)
- Plans, procedures, and facilities for handling storage use zones
- Establishment of impact, compatibility, or restricted use zones
- Disposal and reuse plans for military base closures

General Services Administration:

- Acquisition, location, and design of proposed federal government property or buildings, whether leased or owned by the federal government
- Disposal and disposition of federal surplus lands and structures

Department of Interior, Bureau of Land Management:

- Oil and gas leasing on federal lands

Department of Interior, Minerals Management Service:

- Oil and gas leasing on the Outer Continental Shelf
- Offshore sand mining leases
- Offshore mineral leases

Department of Interior, U.S. Fish and Wildlife Service:

- Management of National Wildlife Refuges; land acquisition

Department of Interior, National Park Service:

- National Park Service unit management; land acquisitions

Department of Transportation, Coast Guard:

- Location, design, construction, or enlargement of Coast Guard stations, bases, and lighthouses.
- Location, placement, or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON)
- Expansion, abandonment, designation of anchorages, lighting areas, or shipping lanes
- Area Contingency Plans developed under the Oil Pollution Control Act



- Designation and management of Regulated Navigation Areas and Limited Access Areas identified in 33 C.F.R. § 165
- Designation of Security and Safety Zones under the Port and Waterways Safety Act

Department of Transportation, Federal Aviation Administration:

- Location and design, construction, maintenance, and demolition of federal aids to air navigation

Department of Transportation, Amtrak, Conrail:

- Expansions, curtailments, new construction, upgradings or abandonments of railroad facilities or services, in or affecting the State's coastal area

Department of Transportation, Federal Highway Administration:

- Highway construction

Department of the Treasury, Federal Law Enforcement Training Center:

- Location and design, construction, upgradings, demolition, or abandonment of facilities or projects associated with the Federal Law Enforcement Training Center

Environmental Protection Agency

- Ocean dump site designations

Federal Energy Regulatory Commission

- Licensing federal hydroelectric projects.

**B. Federal Licenses or Permits Subject to Consistency with  
The Georgia Coastal Management Program**

Department of Defense, Army Corps of Engineers:

- Approval of plans for improvements made at private expense under U.S.A.C.E. supervision pursuant to the Rivers and Harbors Act (33 U.S.C. 565)<sup>1</sup>
- Disposal of dredged spoils into the waters of the U.S. pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344)<sup>1</sup>
- Other provisions of Section 404 of the Clean Water Act, including permits<sup>1</sup>
- All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1413)<sup>1</sup>

Federal Energy Regulatory Commission:

- Licenses for non-federal hydroelectric projects and primary transmission lines under Sections 3 (11), 4 (e), and 15 of the Federal Power Act (16 U.S.C. 796 (11), 797 (11), and 808)<sup>1</sup>
- Orders for interconnection of electric transmission facilities under Section 202 (b) of the Federal Power Act (15 U.S.C. 824 a (b))<sup>1</sup>
- Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7 (c) of the Natural Gas Act (15 U.S.C. 717 f (c))<sup>1</sup>
- Permission and approval for the abandonment of natural gas pipeline facilities under Section 7 (b) of the Natural Gas Act (15 U.S.C. 717 f (b))<sup>1</sup>
- Regulation of gas pipelines, and licensing of import and export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act<sup>1</sup>

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### Environmental Protection Agency

- National Pollutant Discharge Elimination System (NPDES) permits and other permits for federal installations discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Sections 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342, 1343, and 1328)<sup>1</sup>
- Permits pursuant to the Resources Conservation and Recovery Act<sup>1</sup>
- Permits pursuant to the underground injection control program under Section 1424 of the Safe Drinking Water Act (42 U.S.C. 300 h-c)<sup>1</sup>
- Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857)<sup>1</sup>
- Permits pursuant to the Marine Protection, Research, and Sanctuaries Act (16 U.S.C. 1431)<sup>1</sup>

### Department of Interior, U.S. Fish and Wildlife Service:

- Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a))<sup>1</sup>
- Permits pursuant to the Migratory Bird Treaty Act (U.S.C. 703)<sup>1</sup>

### Nuclear Regulatory Commission:

- Licensing and certification of the siting, construction, and operation of nuclear generating stations, fuel storage, and processing centers pursuant to the Atomic Energy Act, Title II of the Energy Reorganization and the National Environmental Policy Act<sup>1</sup>

### Department of Transportation, Coast Guard:

- Construction or modification of bridges, causeways, or pipelines over navigable waters pursuant to 49 U.S.C. 1455<sup>1</sup>
- Transport and transfer of hazardous substances and materials (33 U.S.C. §419)<sup>1</sup>
- Marine Event Permits<sup>1</sup>

### Department of Transportation, Federal Aviation Administration:

- Permits, licenses, and other approvals for construction, operation, or alteration of airports<sup>1</sup>

### U.S. Department of Interior:

- Outer Continental Shelf (OCS) activities (including pipeline activities) described in detail in OCS plans that affect coastal resource areas<sup>2</sup>
- OCS lease sales in the Atlantic Ocean under 43 U.S.C.A. § 1337<sup>2</sup>

1 = A corresponding Georgia State permit exists.

2 = This activity is subject to the provisions for OCS permits or licenses.

This list of federal licenses and permits may be revised by the State following consultation with the federal agency and approval by the Office of Ocean and Coastal Resource Management. The Coastal Resources Division may also review federal license and permit activities outside Georgia's eleven-county coastal area that affect the coastal area. This review requires prior consultation with federal agencies and approval by the Office of Ocean and Coastal Resource Management.

**D. Federal Assistance Programs Applicable to the Consistency Process**

*(Note: Code Numbers refer to the Catalog of Federal Domestic Assistance Programs.)*

Department of Agriculture

- 10.414 Resource Conservation and Development Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.901 Resource Conservation and Development
- 10.904 Watershed Protection and Flood Prevention
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Department of Commerce

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- 11.407 Interjurisdictional Fisheries Act of 1986
- 11.419 Coastal Zone Management Program Administration
- 11.420 Coastal Zone Management Estuarine Research Reserves
- 11.427 Fisheries Development and Utilization Research/Development Grants/Coop Agreements
- 11.433 Marine Fisheries Research Initiative (MARFIN) Projects
- 11.434 Cooperative Fisheries Statistics Program
- 11.441 South Atlantic Fishery Management Council Projects
- 11.474 Atlantic Coastal Fisheries Cooperative Management Act Projects
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- 12.101 Beach Erosion Control Projects
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- 12.106 Flood Control Projects
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- 12.610 Joint Military/Community Comprehensive Land Use Plans
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- 36.422 U.S. Department of the Army -- Environmental Impact Assessment/Statement
- 36.423 U.S. Department of the Navy -- Environmental Impact Assessment/Statement
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Department of Health and Human Services (HHS)

- 35.460 HHS -- Direct Federal Development Project
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Department of the Interior (DOI)

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  - 2. Water Pollution Control State and Local Manpower Program Development
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