



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

Mr. Charlie Evans
Director, Office of Long Island Sound Programs
Connecticut Department of Environmental Protection
79 Elm Street
Hartford, CT 06106

JUN 20 2006

Dear Mr. Evans,

Thank you for your letter dated May 22, 2006, requesting that the Office of Ocean and Coastal Resource Management (OCRM) approve the incorporation of the changes to Connecticut's Federal Consistency List into the Connecticut Coastal Management Program (CCMP) as a Routine Program Change (RPC) pursuant to Coastal Zone Management Act (CZMA) regulations at 15 C.F.R. part 923, subpart H and OCRM Program Change Guidance (July 1996).

A change to a state's federal consistency list, including interstate activities, is, generally, a change to Uses Subject to Management since a state is either adding new federal license or permit activities to review, or expanding its review of existing uses/federal license or permit activities to new geographic areas. The federal consistency lists are also part of a state's Coordination, Public Involvement and National Interest component.

Based on our review of your submission, we concur that the changes to Connecticut's Federal Consistency List are RPCs to Uses Subject to Management and Coordination, Public Involvement and the National Interest, and OCRM approves the incorporation of these revisions into the CCMP.

Connecticut's revised Federal Consistency List expands the geographic boundary of eight activities that require permits, licenses, or other forms of approval by the U.S. Army Corps of Engineers (ACOE) or the Federal Energy Regulatory Commission (FERC) to establish a list of federal license or permit activities occurring within described areas within the boundaries of New York, Massachusetts and Rhode Island ("interstate" activities). The interstate components of Connecticut's revised Federal Consistency List were developed in accordance with 15 C.F.R. part 930, subpart I. The five ACOE activities are pursuant to sections 9 and 10 of the Rivers and Harbors Act of 1899, section 404 of the Clean Water Act, and section 103 of the Marine Protection, Research, and Sanctuaries Act. The three FERC activities are pursuant to sections 797, 808, and 824a of the Federal Power Act, section 717 of the Natural Gas Act, the Energy Reorganization Act of 1974, and the Energy Policy Act of 2005.

All of these listed activities are currently part of Connecticut's list of federal license or permit activities and subject to Federal consistency review by Connecticut except for FERC licenses or permits pursuant to 16 U.S.C. § 797, or re-licensing pursuant to 16 U.S.C. § 808, for the construction, operation of dams, water conduits and reservoirs. The existing listings have been modified to include an expanded geographic area, as authorized by 15 C.F.R. part 930, subpart I. Some of the existing listings have also been revised and/or reorganized for clarity but no new activities have been added to these listings.



Connecticut has established two distinct, clearly defined geographic areas to review Federal activities: 1) Long Island Sound and its associated areas including New York waters encompassing the Bryam River to the Route 1 Bridge, Long Island Sound and Fishers Island Sound to the 20-foot contour closest to the opposing state, and Rhode Island waters in Little Narraganset Bay and the Pawcatuck River to the Route 1 Bridge; and 2) the Connecticut River at or below the dam at Holyoke, Massachusetts. The geographic areas were coordinated with the adjoining states and the New York boundaries are similar to those OCRM recently approved for New York's Interstate Federal Consistency List.

The activities Connecticut lists for New York and Rhode Island waters in or adjacent to Long Island Sound are as follows:

- ACOE licenses and permits pursuant to section 103 of the Marine Protection, Research, and Sanctuaries Act;
- ACOE licenses and permits pursuant to section 404 of the Clean Water Act, for the discharge of dredged or fill material into the waters of the United States;
- ACOE licenses and permits pursuant to section 10 of the River and Harbors Act for dredging, channel improvements, or other navigation works, beach replenishment, erosion control structures, dams or flood control works, creation of artificial islands or other structures, dredging or excavation of materials from offshore borrow areas, and/or maintenance dredging;
- FERC orders pursuant to section 824a of the Federal Power Act, directing the interconnection of electric transmission lines, whether permanent or temporary, if such interconnection requires construction of new facilities; and
- FERC certificates of public convenience and necessity pursuant to the Natural Gas Act (Section 717), the Energy Reorganization Act of 1974 and/or the Energy Policy Act of 2005, for gas pipelines and authorizations for the import or export of natural gas.

The activities Connecticut lists for the Connecticut River below the dam at Holyoke, Massachusetts include:

- ACOE licenses and permits pursuant to section 10 of the Rivers and Harbors Act for the creation of obstructions;
- ACOE licenses and permits pursuant to section 9 of the Rivers and Harbors Act for the construction of dams or dikes; and
- FERC licenses and permits pursuant to sections 797 and 808 of the Federal Power Act for the construction, operation, or maintenance of dams, water conduits, reservoirs or other projects.

Connecticut described effects from activities occurring within these geographic areas as follows:

- Activities pursuant to sections 9 and 10 of the Rivers and Harbors Act and sections 797 and 808 of the Federal Power Act occurring in the defined areas in Massachusetts and Connecticut could alter the rate and/or volume of freshwater flowing from the Connecticut River. Therefore, Connecticut's coastal resources that are adapted to a specific balance of fresh and salt waters could be negatively affected.
- Activities pursuant to section 404 of the Clean Water Act, section 103 of the Marine Protection, Research, and Sanctuaries Act, section 824a of the Federal Power Act, section

717 of the Natural Gas Act, the Energy Reorganization Act of 1974, and the Energy Policy Act of 2005 occurring within the defined areas in New York or Rhode Island could affect Connecticut coastal resources and uses by increasing suspended sediment loads. Increased sediment loads could impair coastal water quality and habitats such as shellfish beds, intertidal mud flats, and tidal wetlands and lead to negative impacts on Connecticut's commercial and recreational fisheries.

- In addition, activities pursuant to Section 717 of the Natural Gas Act, the Energy Reorganization Act of 1974, and the Energy Policy Act of 2005 occurring within the defined areas in New York or Rhode Island could also affect Connecticut coastal uses such as recreational boating by restricting access around facilities. Currently Connecticut boaters enjoy unrestricted access to most of Long Island Sound and its adjoining waters.

The effects are described in greater detail in Connecticut's RPC submission. OCRM concurs with Connecticut's description of effects since: (1) location of resources and uses in Long Island Sound, circulation of water in the Sound, and impacts of altered freshwater flows from the Connecticut River are well known; and (2) Connecticut is limiting its interstate description to those activities that present the most common source of federal license or permits that would impact Connecticut coastal uses or resources. If Connecticut, or other states, propose reviewing interstate activities farther removed from a state's coastal zone or for areas or activities not as widely understood, the state's effects analysis may need further information.

During the development of the interstate activities list, the CCMP consulted with New York, Rhode Island, Massachusetts and relevant Federal agencies. None of the parties had comments on the list. OCRM received three comments during the public comment period. Ms. Evonne Klein, First Selectwoman of the Town of Darien and Mr. David Carey, Director of the Bureau of Aquaculture and Laboratory with Connecticut's Department of Agriculture both wrote in support of the revisions to Connecticut's federal consistency list. Comments from Ms. Dolores Hughes of Jewett City, CT did not speak to whether or not amending Connecticut's Federal Consistency list is a routine program change as requested.

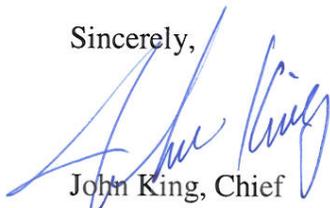
Federal consistency shall apply to the approved changes once you publish notice of the approval, pursuant to 15 C.F.R. § 923.84(b)(4), and shall apply to federal license or permit applications for activities in other states filed with the licensing or permitting federal agency on or after that same date. Please provide this office with a copy of the public notice.

Once you publish notice of OCRM's approval, only the listed federal license or permit activities located within the described geographic areas in New York, Rhode Island and Massachusetts will be routinely subject to Connecticut's interstate federal consistency review. Upon receipt of an applicant's consistency certification for a listed interstate activity, Connecticut must, pursuant to 15 C.F.R. § 930.155(c), notify the applicant, the other State, the licensing Federal agency and the Director of OCRM within 30 days that it will review the activity; otherwise Connecticut waives its right to review the activity. If Connecticut wants to review other interstate activities, or the listed interstate activities in areas outside of the described geographic areas, Connecticut must either amend its list or seek case-by-case review as an unlisted activity under 15 C.F.R. § 930.54.

In addition, consistent with recent OCRM advice provided to states seeking interstate review, states do not need to describe geographic areas within other states for the review of Federal agency activities under 15 C.F.R. part 930, subpart C in their coastal management programs. This is because, whether listed or described, a Federal agency is obligated to determine whether its activity, regardless of location (including within the boundaries of another state) will have reasonably foreseeable effects on a state's coastal uses or resources. NOAA included 15 C.F.R. § 930.155(a) to specifically address this matter; that, while NOAA encourages states to consult with Federal agencies for interstate Federal agency activities, NOAA's interstate regulations do not affect the obligation for Federal agencies to provide consistency determinations to states for activities with coastal effects.

Should you have any questions, please call Allison Castellan at (301)-713-3155, extension 125.

Sincerely,



John King, Chief
Coastal Programs Division