



COMMONWEALTH of VIRGINIA

Office of the Governor

Matthew J. Strickler
Secretary of Natural Resources

April 25, 2019

Mr. Kerry Kehoe
Federal Consistency Specialist
Office of Coastal Management
National Oceanic and Atmospheric Administration
1305 East-West Highway, 10th Floor, N/OCM6
Silver Spring, Maryland 20910

RE: Advance Notice of Proposed Rulemaking, Procedural Changes to the Coastal Zone Management Act Federal Consistency Process, Docket No. 180215185-8185-01, DEQ 19-019F

Dear Mr. Kehoe,

The Commonwealth of Virginia has completed its review of the Advance Notice of Proposed Rulemaking (ANPR) for Procedural Changes to the Coastal Zone Management Act (CZMA) Federal Consistency Process, which appeared in the March 11, 2019 Federal Register (Volume 84, No. 47) at pages 8628-8633 (hereinafter "the Notice"). We are providing the following comments for your consideration.

There is no evidence that CZMA consistency regulations need to be altered or that consistency review is being implemented in a manner that Congress did not intend. Regulatory changes are unnecessary because the existing federal consistency process works. Federal consistency under the CZMA is a process whereby federal agency activities, federal license and permit actions, and Outer Continental Shelf (OCS) plans that may impact the coastal uses or resources of a state's coastal zone are reviewed by the state for consistency with enforceable policies of the federally-approved state coastal management program. This coordinated approach ensures that the priorities and needs of coastal communities are adequately considered by federal agencies proposing to take actions that could affect those communities.

The regulatory processes of the CZMA and Outer Continental Shelf Lands Act (OCSLA) has established an equitable and efficient framework for consistency review of OCS oil and gas activities, including lease sales, Exploration Plans, and Development and Production Plans. Early and efficient coordination among state government, federal government and industry for all stages of planning and development under the OCSLA is essential to ensure that coastal communities are not exposed to catastrophic economic and environmental risk. The Commonwealth of Virginia is concerned that regulatory proposals considered under this Notice would subvert the rights and responsibilities of states to protect coastal communities, ocean-dependent uses, and irreplaceable ocean and coastal resources.

Specifically, Virginia does not support the proposal to prevent the Secretary of Commerce from using the best available science or other important information upon appeal of a state's objection to an OCS oil and gas Development and Production Plan or Development Operations and Coordination Document. The Notice suggests limiting the Secretary's review to information not previously considered in an appeal of an OCS oil and gas Exploration Plan for the same lease block.

These two plans cover separate and substantially different activities. As such, the federal consistency regulations appropriately require independent federal consistency reviews prior to federal authorization of each of these activities. Virginia, through its state universities and in conjunction with the Mid-Atlantic Regional Council on the Ocean (MARCO), is actively working to increase our knowledge and understanding of the resources located on the OCS offshore from our coast. New information received between the development of these two plans may alter a state's understanding of the coastal resources impacted and thereby affect the Secretary's review an appeal to a state's objection.

As described in the Notice, states rarely object to these plans, and there have only been 18 instances in the past 30 years when the oil and gas industry has appealed a state's objection. The current appeal process is efficient and predictable, and the only purpose of the proposed change would be to weaken states' federal consistency reviews.

The consistency process facilitates early and effective coordination between regulators and industry, averting conflict and litigation over controversial projects. Accordingly, the Commonwealth requests that the National Oceanic and Atmospheric Administration (NOAA) terminate this rulemaking.

Thank you for the opportunity to comment on the Notice for Procedural Changes to the Coastal Zone Management Act Federal Consistency.

Sincerely,



Matthew J. Strickler