


PROCEDURE NUMBER: <i>ENV 1-13</i>	PROCEDURE NAME: <i>Coastal Zone Consistency Findings</i>
ADOPTION DATE: <i>January 19, 2023</i>	LAST UPDATED: <i>January 19, 2023</i>
PROCEDURE APPROVED BY: <i>Chairperson, Policy & Records Workgroup</i>	SIGNATURE: 
RESPONSIBLE OFFICE: <i>Bureau of Environment</i>	CONTACT PERSON: <i>Administrator</i>
RELATED POLICY: ENV 1 Environmental Policy	RELATED FORMS: CZMA OSI Intergovernmental Review Request

PURPOSE

The purpose of this procedure is to provide direction on project-level coordination with the [New Hampshire Office of Strategic Initiatives \(OSI\)](#) for compliance with the Coastal Zone Management Act (CZMA) of 1972.

SCOPE

This procedure shall apply to all individuals needing to ensure actions located in the [coastal zone of New Hampshire](#) comply with the Coastal Zone Management Act of 1972.

FHWA Funded Projects (Highway Planning and Construction)

On March 4, 2019, the National Oceanic and Atmospheric Administration (NOAA) Office for Coastal Management (OCM) approved a change to the federally-approved New Hampshire Coastal Program (NHCP) and concurred that the change constitutes a routine program change (RPC). As described in the NHCP’s public notice dated November 30, 2018 the RPC involves modification of the NHCP’s list of federal assistance programs subject to the CZMA federal consistency review, pursuant to [15 CFR Part 930, Subpart F](#) (Consistency for Federal Assistance to State and Local Governments). Specifically, the RPC pertains to the Federal Department of Transportation’s Highway Planning and Construction (HPC) Program (Catalog of Federal Domestic Assistance #20.205).

The NHCP’s list of federal assistance programs subject to CZMA federal consistency review now specifies that activities funded, wholly or in part, by the HPC Program are excluded from CZMA federal consistency review by the NHCP **except for** the following:

- Highway construction or reconstruction
- Bridge construction, reconstruction, replacement or rehabilitation

- Construction of truck weigh stations or rest areas
- Construction of bus storage or maintenance facilities
- Work that alters the hydrology of freshwater perennial streams, tidal waters or tidal wetlands
- Work in tidal waters or tidal wetlands to mitigate the impacts of an existing transportation facility.

For the project types listed above, the Intergovernmental Review process shall be completed. For all other FHWA-funded HPC Program projects NOT specifically listed above, an individual consistency determination is NOT required.

Other Federally Funded Projects

Federally funded projects that do not fall under the HPC Program shall require an individual consistency determination through the Intergovernmental Review Process.

Federal Permits and Licenses

In addition to the requirement to comply with the CZMA for federally funded actions, all federal permits involving the coastal region of NH must also be found to be consistent with the enforceable policies of the NHCP. Such permits include Army Corps Section 404 (wetlands) permits, Environmental Protection Agency general permits (Construction General Permit, and Small Municipal Separate Storm Sewer System General Permit), and US Coast Guard Bridge Permits. However, the Federal agency ensures consistency is met, and there are no additional requirements upon the Department, external to the permitting process itself.

GENERAL PROVISIONS

[Coastal Zone Management Act of 1972 \(16 U.S.C § 1451-1465\)](#)

[NH Intergovernmental Review Process](#)

[Executive Order 12372](#)

[Executive Order 83-10](#)

[NHDES Guide to Federal Consistency Coastal Zone Management Act § 307](#)

DEFINITIONS

Definitions related to this procedure may be viewed on the SOS [Approved Definitions](#) page.

RESPONSIBILITY

1. Environmental Manager/environmental coordination Lead
 - a. Understand the proposed action, and determine if an individual consistency review is required pursuant to the RPC outlined above.
 - b. Initiate the Intergovernmental Review process for projects not subject to the RPC.

- c. Document the environmental impacts associated with a project, including coastal zone consistency.
 - d. Coordinate with the NHCP, as needed.
2. Administrator, Bureau of Environment
 - a. Approve environmental documentation identifying project impacts, including consistency with the CZMA.
 - b. Ensure that this procedure is followed for NHDOT-sponsored projects.
3. Design Lead
 - a. Assist the Environmental Manager/environmental coordination lead with determining the applicability of the RPC.
 - b. Assist the Environmental Manager/environmental coordination lead in gathering necessary documentation for an individual consistency review, as necessary.

PROCEDURES

1. When undertaking the environmental review of a project, the Environmental Manager/environmental coordination lead shall coordinate with the Design Lead to determine the scope of the project and whether the project is located in one of the seventeen (17) coastal communities. If not, the CZMA does not apply to the project.
2. If the project is located within one of the seventeen (17) coastal communities, the Environmental Manager/environmental coordination lead shall determine the applicability of the RPC.
3. If the RPC applies, the Environmental Manager/environmental coordination lead shall include the following language in the environmental document: *"A Routine Program Change was requested by the NH Coastal Program (NHCP) and approved on March 4, 2019 by the National Oceanic and Atmospheric Administration. The change involves modification of the NHCP's list of federal assistance programs subject to federal consistency review, pursuant to 15. C.F.R. Part 930, Subpart F (Consistency for Federal Assistance to State and Local Governments). As a result, only those activities authorized under the Highway Planning and Construction Program that are likely to have reasonably foreseeable coastal effects, as deemed by the in tidal waters or tidal wetlands to mitigate the impacts of an existing transportation facility, need a consistency review. The subject project is an activity that does not have reasonably foreseeable effects on any coastal use or resource and does not warrant further review by the NH Coastal Program."*
4. If the RPC does not apply, and an individual consistency finding is required for the project, the Environmental Manager/environmental coordination lead shall initiate the Intergovernmental Review process by gathering the following information:
 - Project description;
 - Breakdown of project funding (Federal/State); and
 - Location map.

5. The Environmental Manager/environmental coordination lead shall utilize the [CZMA OSI Intergovernmental Review Request](#), to transmit the information and request a consistency finding from OSI.
6. If the result of the consistency review indicates that the proposed project is not consistent with the enforceable policies of the NHCP, the Environmental Manager/environmental coordination lead shall coordinate among the designer, and the NHCP to resolve the issue.
7. Once the consistency finding is obtained, the Environmental Manager/environmental coordination lead shall document the results in the environmental document.

TRAINING

All Bureau of Environment staff completing environmental review shall be made aware of this procedure. The procedure will also be made available to external organizations completing environmental reviews on behalf of NHDOT.

DISCIPLINE

Disciplinary action related to this procedure can be found in the referenced policy.

AMENDMENT RECORD

This procedure shall be reviewed every two years to ensure its continuing relevance and accuracy. The record of amendments is recorded below.

Date	Comments	Name	Authority
1/19/2023	Original Procedure Adopted	Andre Briere	Deputy Commissioner