

§ 930.30

interrelated activities satisfy the relevant consistency requirement of the Act.

Subpart C—Consistency for Federal Activities

§ 930.30 Objectives.

The provisions of this subpart are provided to assure that all federally conducted or supported activities including development projects directly affecting the coastal zone are undertaken in a manner consistent to the maximum extent practicable with approved State coastal management programs.

§ 930.31 Federal activity.

(a) The term *Federal activity* means any functions performed by or on behalf of a Federal agency in the exercise of its statutory responsibilities.

(b) 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.

(c) The term “Federal activity” does not include the issuance of a Federal license or permit to an applicant or person (see subparts D and E of this part) or the granting of Federal assistance to an applicant agency (see subpart F of this part).

§ 930.32 Consistent to the maximum extent practicable.

(a) The term *consistent to the maximum extent practicable* describes the requirement for Federal activities including development projects directly affecting the coastal zone of States with approved management programs to be fully consistent with such programs unless compliance is prohibited based upon the requirements of existing law applicable to the Federal agency's operations. If a Federal agency asserts that compliance with the management program is prohibited, it must clearly describe to the State agency the statutory provisions, legislative history, or other legal authority which limits the Federal agency's discretion

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to comply with the provisions of the management program.

The duty the Act imposes upon Federal agencies is not set aside by virtue of section 307(e). The Act was intended to cause substantive changes in Federal agency decisionmaking within the context of the discretionary powers residing within such agencies. Accordingly, when read together, sections 307(c) (1) and (2) and 307(e) require Federal agencies, whenever legally permissible, to consider State-management programs as supplemental requirements to be adhered to in addition to existing agency mandates.

(b) A Federal agency may deviate from full consistency with an approved management program when such deviation is justified because of some unforeseen circumstances arising after the approval of the management program which present the Federal agency with a substantial obstacle that prevents complete adherence to the approved program.

§ 930.33 Identifying Federal activities directly affecting the coastal zone.

(a) Federal agencies shall determine which of their activities directly affect the coastal zone of States with approved management programs.

(b) Federal agencies shall consider all development projects within the coastal zone to be activities directly affecting the coastal zone. All other types of activities within the coastal zone are subject to Federal agency review to determine whether they directly affect the coastal zone.

(c)(1) Federal activities outside of the coastal zone, as defined in section 304(1) of the Act, are subject to Federal agency review to determine whether they directly affect the coastal zone.

(2) OCS oil and gas lease sale activities conducted pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*) are not Federal activities which directly affect the coastal zone within the meaning of section 307(c)(1) of the Act, and, therefore, are not subject to review under this subpart.

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