

FEDERAL CONSISTENCY

Guam Coastal Management Program

Bureau of Statistics and Plans

**TAOTAO
TANO
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TERRY M. PEREZ
Planner

NOAA

LEGAL AUTHORITIES

Coastal Zone Management Act of 1972, 16 USC
1451 et seq

CZARA of 1990 (Public Law No. 101-508
CZPA of 1996. Public Law No. 104-150
15 CFR Part 923 CZMP Regulations

CZMA Federal Consistency Regulations
Final Rule, 15 CFR Part 930

Creation of (BOP) BSP and GCMP

- Public Law 12-200, Section 62017 created the then Bureau of Planning, delegated the function of developing and recommending **territorial policies** to promote the improvement of planning activity and development through the Comprehensive Development Plan.
- Implementation of these policies is established under E.O. 78-37 and implementation of such policies facilitate NOAA's approval of the **Guam Coastal Management Program (GCMP)**, in September 1979.

DEFINITION

- Federal Consistency is the CZMA requirement that ***federal actions*** that have reasonably foreseeable ***effects*** on any ***land or water use*** or ***natural resource*** of the coastal zone (also referred to as coastal uses or resources, or coastal effects) must be consistent with the ***enforceable policies*** of a coastal state's federally approved CMP.

FEDERAL CONSISTENCY IN GUAM

- The Federal Coastal Zone Management Act, through the Federal Consistency provisions, gives the state the ability to require that all federal activities within the state be consistent with the policies contained in the Guam Coastal Management Program (GCMP), Section 307(c)(1)(A).

Federal Activities & Project Coordination

- In accordance with the CZMA of 1972 (P.L. 92-583, as amended by P.L. 94-370) GCMP is responsible for conducting federal consistency review for: 1) *federal activities*; 2) *activities requiring federal license or permit*, and 3) *federal assistance to local government*.

Continue:

These activities include U.S. Army Corps of Engineers (ACOE) permit applications such as:

- Dredging and filling in coastal waters and rivers;
- Construction and / or repair of docks and piers;
- Construction of underwater utilities;

Continue:

- Guam State Clearinghouse applications for federal assistance; and
- Other federal activities such as designation and establishment of wildlife preserves or development on federal lands which may affect local resources.

- Any Federal agency proposing to conduct or support an activity, regardless of location, if affects any land or water use or natural resource of the coastal zone is subject to the federal consistency requirement, CZMA Act of 1972, (P.L. 92-583) as amended (P.L. 94-370, P.L.104-150, the Coastal Zone Protection Act of 1996), 15 CFR Part 930.

The BSP- the lead agency of the GCMP

The BSP/GCMP is the only state agency duly authorized to comment officially on or concur with or object to a federal consistency determination or negative determination, a consistency certification or determine the consistency of a proposed federal assistance activity on Guam, 15 CFR 930.6(b).

GCMP as a Networked Program

- Established to guide the use, protection, and development of land and ocean resources. GCMP works as a networked program, involving existing governmental agencies, such as GEPA, DLM, DoAg, DPR, DPW, GWA, and DPHSS. Agencies included in the program also coordinate their individual permit processes, mandates and responsibilities through an Application Review Committee (ARC) and the GCMP Federal Consistency Review, as mandated by E.O. 78-37 and Public Law 19-26.

GCMP OBJECTIVES AND POLICIES Established by E.O. 78-37

Development Policies:

1. Shore Area Development
2. Urban Development
3. Rural Development
4. Major Facility Siting
5. Hazardous Areas
6. Housing
7. Transportation
8. Erosion and Siltation

Resources Policies:

1. Air Quality
2. Water Quality
3. Fragile Areas
4. Living Marine Resources
5. Visual Quality
6. Recreation Areas
7. Public Access
8. Agricultural Lands

The four steps for the Consistency Review

1. Federal agency prepares for the State agency its **Federal Consistency Determination** for its proposed activity under CZMA Section 307(c)(1) that the Federal agency determines will have reasonably foreseeable effects on any land or water use or natural resource of a State's coastal zone (such effects are also referred to as coastal effects or effects on any coastal use or resource). A **Negative Determination** may be prepared for a Federal activity that the Federal agency determines will not have reasonably foreseeable coastal effects. Please refer to Part 930.30 to Part 930.46 of the Code of Federal Regulations (CFR) Subpart C - Consistency for Federal Agency Activities, for the corresponding provision of the law.

Continue:

2. Federal agency submits materials to the BOP.
3. BOP conducts review, including solicitation of review by networked agencies.
4. BOP policies are applied to the review of federal activities, and written determination of consistency is provided.

Other Required Permits/Clearances

- US Army Corps of Engineers
(Dept. of the ACOE permit)
- Dept. of Land Management
(Guam Seashore Clearance)
- DPR/Guam Historic Preservation Office
(Section 106 of the National Historic Preservation Act)
- Guam Environmental Protection Agency
(Section 401 Water Quality Certification)
- Dept. of Public Works
(Building Plan Review and Clearing / Grading Permit)
- Dept. of Agriculture
(Clearances from DAWR)

FOR MORE INFORMATION OR
ASSISTANCE

PLEASE CONTACT:

Amelia De Leon (475-9669)

Terry M. Perez (475-9673)

OFFICE: GCIC Bldg., Hagatna
3rd Floor, Suite 303

SI YU'OS MA'ASE

