

**SUPPORTING STATEMENT  
PAPERWORK SUBMISSIONS UNDER THE COASTAL ZONE MANAGEMENT ACT:  
FEDERAL CONSISTENCY REQUIREMENTS  
OMB CONTROL NO. 0648-0411**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

The [Coastal Zone Management Act](#) (CZMA) creates a State-federal partnership to improve the management of the nation's coastal zone through the development of federally approved State coastal management plans (CMPs). The CZMA provides two incentives for States to develop federally approved CMPs: 1) the National Oceanic and Atmospheric Administration (NOAA) has appropriated monies to grant to States to develop and implement State CMPs that meet statutory and regulatory criteria; and 2) the CZMA requires federal agencies, non-federal licensees, and State and local government recipients of federal assistance to conduct their activities in a manner "consistent" with the enforceable policies of NOAA-approved CMPs. The latter incentive, referred to as the "federal consistency" provision, is found at 16 U.S.C. § 1456. NOAA's regulations at [15 C.F.R. part 930](#) implement NOAA's responsibilities to provide procedures for the consistency provision, the procedures available for an appeal of a State's objection to a consistency certification as provided for in 16 U.S.C. §§ 1456(c)(3)(A) and (B) and 1456(d), and changes in the appeal process created by Congressional amendments in 1990, 1996 and 2005, and found at 16 U.S.C. § 1465.

Paperwork and information collection occurs largely outside of NOAA by: 1) State and Federal agencies engaged in licensing and permitting activities affecting coastal resources, 2) Federal agencies taking actions affecting State coastal zones, and 3) Federal agencies providing federal assistance to State and local governments in the coastal zone. In each of these cases, information is collected by the entity making the license, permit, assistance or action decision and NOAA's regulations provide for the use of that information already required by the State or Federal entity in the consistency process. Pursuant to 16 U.S.C. § 1456, NOAA's regulations require the appropriate entity, Federal agency or applicant for license or permit, to prepare a consistency determination or certification. This information is provided to the relevant State CMP, not to NOAA. Information is provided to NOAA only when there is a State objection to a consistency certification, when informal mediation is sought by a Federal agency or State, or when an applicant for a federal license or permit appeals to the Secretary of Commerce for an override to a State CMPs objection to a consistency certification. Last, in 1990, Congress required State CMPs to provide for public participation in their permitting processes, consistency determinations and similar decisions, 16 U.S.C. § 1455(d)(14), and NOAA regulations at part 930 implement that requirement.

Note: performance reports on Coastal Management Plan activities are approved under OMB Control No. 0648-0119.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

A. Consistency determinations/certifications and State objections/concurrences, subsequent evaluations of State CMPs pursuant to section 312 of the CZMA and, mediation to encourage settlement of disagreements between State CMPs and Federal agencies.

- 930.4 This regulation establishes a procedure for State CMPs seeking to impose conditions on Federal agencies or federal permittees without actually objecting to the consistency certification and triggering an appeal. The objective of the regulation is to ensure clarity between the State, Federal agency, and if relevant an applicant as to the specific nature of the State's concern and the Federal agency's or applicant's opportunity to respond to it.
- 930.35(c) This paragraph establishes procedures for Federal agencies to determine that there are no effects<sup>1</sup> to a State coastal zone related to a proposed federal activity and sets time periods for the issuance of such a "negative" determination by a Federal agency. If a State CMP wishes to have additional time in which to consider whether to object to the Federal agency's negative determination, this regulation requires the State to request such an extension of time in writing.
- 930.34(d) This paragraph is intended to enhance transparency and improve consultation amongst Federal agencies and State CMPs by requiring States make copies of the federally approved State CMPs available for public inspection. In addition, upon request, States are required to identify those enforceable policies of the State CMP applicable to a federal activity or applicant's project. There is no defined format for the identification and it may occur in any manner deemed appropriate by the State including telephone conversation, letter, fax, or email.
- 930.42(c) This provision is responsive to the 1990 amendments in which Congress required States to ensure public participation in review of consistency determinations. The contents of the public notice are set forth to provide uniformity in basic information provided by the State to the public about the consistency determinations.
- 930.43 This regulation provides the basic foundation for a State to exercise consistency authority to object to federal action affecting State coastal resources or the consistency certification. Because this objection document is a statement of the State's formal findings pursuant to the State CMP's enforceable policies in conformance with 16 U.S.C. § 1456(c)(1), it must contain certain elements to

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<sup>1</sup> In the CZMA context, effects can have adverse and/or beneficial impacts. For example, there may be a beneficial effect to a coastal resource, but that might have a negative effect on a coastal use (e.g., fishing). Hence, for the purposes of this information collection, "effects" is used with no distinction.

which the Federal agency can respond. This information is supplied to NOAA for use in its responsibilities to ensure that consistency objections are correctly made and to resolve conflicts between States and federal agencies.

930.57 This provision requires applicants to submit consistency certifications for required federal license or permit activities to the State CZMA agency.

Excerpted from this section:

“a) Following appropriate coordination and cooperation with the State agency, all applicants for required federal licenses or permits subject to State agency review shall provide in the application to the federal licensing or permitting agency a certification that the proposed activity complies with and will be conducted in a manner consistent with the management program. At the same time, the applicant shall furnish to the State agency a copy of the certification and necessary data and information.

(b) The applicant’s consistency certification shall be in the following form: “The proposed activity complies with the enforceable policies of (name of State) approved management program and will be conducted in a manner consistent with such program.”

930.58 This provision is the basic foundation for the implementation of 16 U.S.C. § 1456(c)(3) where a non-federal applicant for a federal license or permit is required to ensure that its proposed project is consistent with the enforceable policies of the State CMP. This information is provided by the applicant to the State and is the basis for State’s decision that the project is or is not consistent with the State CMP.

Excerpted from this section:

“a) The applicant shall furnish the State agency with necessary data and information along with the consistency certification. Such information and data shall include the following:

(1) A copy of the application for the federal license or permit and

(i) All material relevant to a State’s management program provided to the Federal agency in support of the application; and

(ii) To the extent not included in paragraphs (a)(1) or (a)(1)(i) of this section, a detailed description of the proposed activity, its associated facilities, the coastal effects, and any other information relied upon by the applicant to make its certification. Maps, diagrams, and technical data shall be submitted when a written description alone will not adequately describe the proposal.

(2) Information specifically identified in the management program as required necessary data and information for an applicant’s consistency certification. The management program as originally approved or amended (pursuant to 15 CFR part 923, subpart H) may describe data and information necessary to assess the consistency of federal license or permit activities. Necessary data and information may include completed State or local government permit applications which are required for the proposed activity, but shall not include the issued State or local permits. NEPA documents shall not be considered necessary data and information when a Federal statute requires a Federal agency to initiate the CZMA federal consistency review prior to its completion of NEPA compliance. States shall not require that the consistency certification and/or the necessary data and information be included in NEPA documents. Required data and information may not include confidential and proprietary material; and

(3) An evaluation that includes a set of findings relating the coastal effects of the proposal and its associated facilities to the relevant enforceable policies of the management program. Applicants shall demonstrate that the activity will be consistent with the enforceable, policies of the management program. Applicants shall demonstrate adequate consideration of policies which are in the nature of recommendations. Applicants need not make findings with respect to coastal effects for which the management program does not contain enforceable or recommended policies.”

930.59 This provision allows for the consolidation of information relevant to multiple permits so that efficiency in the consistency process can be achieved. Consolidation is for the benefit of the permit applicant and does not prejudice the findings of consistency with State CMPs.

930.60 This provision provides for timely notification as to the completeness of

information provided under 930.58.

930.62 A State agrees with a federal permit applicant's consistency certification in one of two ways: 1) by letter stating its specific findings that the project is consistent with the State CMP; or 2) by the lapse of time after which the State is presumed to have concurred. This information is critical to all parties in the Federal permitting process. Without the State's concurrence the Federal agency cannot issue the requested permit. The concurrence letter is also the closing administrative document of the CZMA process and provides the rational basis for the State's action under the CZMA as well as its own State authorities.

930.63 Likewise, a State's objection to an applicant's consistency certification is its basis for rejecting the consistency findings of the applicant and may form the basis of the applicant's subsequent appeal to the Secretary of Commerce. This document is critical to the consistency process as it informs the applicant, the Federal agency and public of the enforceable policies with which the applicant is not consistent as well as the effects of the project on coastal uses or resources to which the State objects. The objection letter may or may not contain substantial technical information upon which the State CMP's decision was based and may provide some basis for any alternative the State believes would be consistent with the State CMP.

930.75 This requirement is a restatement of the requirement of State CMPs to provide information and copies of their enforceable policies to the affected members of the public and Federal agencies, in this case entities intending to develop mineral resources on the outer continental shelf (OCS) for which specific provision is made in 16 U.S.C. § 1456(c)(3)(B).

930.76 This request is the need for a consistency certification for persons to engage in certain activities on the OCS. These documents provide the foundation of the consistency process for OCS applicants. This section was revised to provide greater clarity and predictability to the submission of the necessary information.

**“930.76 Submission of an OCS plan, necessary data and information and consistency certification.**

(a) Any person submitting any OCS plan to the Secretary of the Interior or designee shall submit to the Secretary of the Interior or designee:

- (1) A copy of the OCS plan;
- (2) The consistency certification;
- (3) The necessary data and information required pursuant to § 930.58; and
- (4) The information submitted pursuant to the Department of the Interior's OCS operating regulations (*see* 30 CFR 250.203 and 250.204) and OCS information program regulations (*see* 30 CFR part 252).

(b) The Secretary of the Interior or designee shall furnish the State agency with a copy of the information submitted under paragraph (a) of this section, (excluding confidential and proprietary information).

(c) The person's consistency certification shall be in the following form:

The proposed activities described in detail in this plan comply with (name of State(s)) approved management program(s) and will be conducted in a manner consistent with such program(s).”

930.78 The concurrence documents the State's agreement that the proposed activities on the OCS are consistent with the State CMP. Without this concurrence document,

the Federal agency cannot issue the federal license or permit to the OCS applicant.

930.94 This rule provides a parallel process for State CMP review of federal assistance to State and local agencies. This procedure implements 16 U.S.C. § 1456(d) and parallels the other consistency procedures.

B. Unlisted activities and outside coastal zone notifications by States and de minimis activities

930.33(a)(3) This provision establishes a procedure for Federal agencies to obtain an exclusion from State agency review for de minimis activities (having a level of risk that is too small to be concerned with), other than development projects within the coastal zone. Pursuant to 16 U.S.C. § 1455(d)(14), NOAA regulations require the State agency to provide for public participation when reviewing the Federal agency's de minimis activity request. If the State agency objects to the Federal agency's de minimis finding then the Federal agency must provide the State agency with either a negative determination or a consistency determination.

930.34(c) Federal agencies are required to notify State CMPs of proposed Federal agency activities that the Federal agency determines will have reasonably foreseeable effects on the uses or resources of a State's coastal zone. Federal agencies are required to notify States of these activities regardless of whether the activity is listed in the State's CMP program document. The listing of federal agency activities merely puts Federal agency on notice that the State believes these activities, as a general matter, have coastal effects. In addition, if an activity is listed and Federal agency determines there are no reasonably foreseeable coastal effects, the Federal agency provides a negative determination. If the proposed Federal agency activity is not listed, and the Federal agency does not otherwise notify the State, and the State wants to review the activity, then this section provides the authority for the State to notify the Federal agency and for the Federal agency to respond. Since there is an affirmative duty on the part of Federal agencies to notify States of proposed activities that have coastal effects, there are few such State notifications needed.

930.54(a)(1) State CMPs are required to list federal license or permit activities that are subject to a State's federal consistency review. If a federal license or permit activity is not listed, and the State believes that the activity will have coastal effects, the State must notify the applicant, the approving Federal agency and Office of Ocean and Coastal Resource Management (OCRM) of its intent to review the activity and request OCRM approval for the review. OCRM approval is required to ensure that an unlisted activity should be subject to the CZMA federal consistency provision by finding whether the proposed activity will have reasonably foreseeable effects on any coastal use or resource. This section affords States the possibility of reviewing the unlisted activity. The CZMA requires that all federal license or permit activities that affect a State's coastal uses or resources are subject to consistency. Given the potentially large number of affected federal

approvals, State CMPs are required to list in their CMP Program Documents those federal license or permit activities that will have reasonably foreseeable effects on coastal uses or resources. The listing/unlisted procedures provide applicants and Federal agencies with notice and predictability of the federal authorizations that are subject to the consistency requirement and about which the State is most concerned. NOAA usually receives less than five, and often only one or two, unlisted activity requests each year for all 34 coastal States.

930.54(a)(2) This section encourages applicants for unlisted federal license, or for permits for activities that might affect a State's coastal uses or resources, to notify the State to give the State the opportunity to decide whether to review the activity. By coordinating early with the State, this section will help to reduce conflicts between States and applicants for unlisted federal approvals.

930.98(a) This section requires States to notify applicant agencies (State agencies or local governments applying for federal financial assistance) for activities that the State wants to review for consistency that are located outside of the State's coastal zone. The purposes for this section are the same as that provided above for listed/unlisted activities: providing applicant agencies and Federal agencies with notice and predictability of the federal approvals which are subject to the consistency requirement and about which the State is most concerned.

#### C. Public notice requirements for States and applicants

930.42(a), (b) This is a statutory requirement. It requires States to provide for public notice and comment on the State's review of a Federal agency's consistency determination. All States have approved public participation procedures for this section.

930.61 This is a statutory requirement for States to ensure that the public has an opportunity to comment on an applicant's consistency certification for the applicant's federal license or permit application. For part 930, subpart D, unlike the public participation requirement under part 930, subpart C, where the State provides the public notice, the State may issue a notice, the State may include its notice in the Federal agency's notice, or the State may require that the applicant provide the notice.

#### D. Remedial action/supplemental review notices and requests by States

930.45, 930.65, 930.100

These sections provide States with the opportunity to request that a Federal agency take remedial action when the State believes that a Federal agency activity, a federal license or permit activity, or a federal assistance activity is no longer being undertaken in a manner consistent with the State's management program. These sections are not used very often.

930.46(b), 930.66(b), 930.101(b)

These sections provide States with the opportunity to seek a supplemental consistency review, under the applicable subpart, when the State believes that an activity previously reviewed by the State, but which has not yet begun, will have coastal effects substantially different than originally described. These sections are not used very often.

930.85(b), 930.85(c)

This section is essentially the “remedial action” section for part 930, subpart E. The section provides States with the opportunity to notify the Minerals Management Service of previously approved OCS plans that the State believes is no longer consistent with the State’s management program. This section is rarely used.

E. State Federal Consistency listing and coordination

930.53(c)(1) This section clarifies that States need to consult with applicable Federal agencies when the State wants to add a federal license or permit to its list of activities subject to consistency review. The State-Federal consultation needs to occur prior to the State’s submittal to OCRM for approval. This section furthers the State-Federal consultation and coordination that is required when the State developed its federally approved program and provides the State and Federal agency with the opportunity to resolve any issues prior to submission to OCRM.

930.154 This section exists for the reasons noted above for listed and unlisted activities: to provide applicants and Federal agencies with notice and predictability of the federal approvals which are subject to the consistency requirement and about which the State is most concerned. The listing required for this section is so that the application of “interState consistency” is carried out in a predictable, reasonable and efficient manner, and to ensure that neighboring States are provided the opportunity to comment on the potential application of consistency in their State by another State.

930.155(b), 930.154(d)

These sections exist for the reasons stated above: so that the application of “interState consistency” is carried out in a predictable, reasonable and efficient manner, and to ensure that neighboring States are provided the opportunity to comment on the potential application of consistency in their State by another State. Because of the potential for conflict when one State is reviewing a federal activity in another State, specific notification of proposed activities and a reviewing State’s intent should help to alleviate potential problems and ensure that a consistency review is carried out in a timely and transparent manner.

#### F. Mediation requests by States

- 930.112 This section implements a statutory provision that gives States and federal agencies the opportunity to request that the Secretary of Commerce mediate a serious dispute between a State and a Federal agency. There have been numerous requests for mediation over the years, which requires only a letter to the Secretary, but only one instance where the mediation was actually initiated. Usually, the Federal agencies opt for more informal mediation through OCRM.
- 930.113(b) This section requires that the Federal and State agencies party to the mediation provide the public with an opportunity to review public information related to the mediation.

#### G. Appeals to the Secretary by applicants and State responses

- 930.125 This section implements the statutory provision allowing applicants for federal licenses or permits or federal assistance to appeal a State's objection to the Secretary of Commerce. If, on appeal, the Secretary overrides the State's objection, then the applicable Federal agency can issue its approval. These regulations provide a reasonable, efficient and predictable process to conduct the appeal and develop an administrative record for the Secretary's decision. In the history of the CZMA (as of August 17, 2009) there have been 139 appeals filed, but only 44 decisions by the Secretary. Thirty-two appeals were dismissed by NOAA on procedural grounds and 62 were withdrawn after negotiations between State and applicant. One appeal is pending as of August 17, 2009).

NOAA will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

### **3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

Most of the information collected must be signed or certified; reports with no such requirements may be emailed.



**4. Describe efforts to identify duplication.**

In Question 2 above, in referring to 15 CFR 930.43, we have described the efforts to avoid duplication of information collection which include provisions requiring copies of information provided to other Federal agencies to also be sent to NOAA.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

Not applicable.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Without these regulations implementing the consistency provision of the CZMA at 16 U.S.C. § 1456, NOAA could not fulfill its obligations under that statute or its mission to assure consistency of Federal agency activities, federal license or permit activities and federal assistance activities with State CMPs.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

There are no inconsistencies.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice published on July 1, 2009 (74 FR 31404) solicited public comment. None was received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

Not applicable.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

The information provided to NOAA is a matter of public record except that information which is protected as proprietary under [FOIA](#) or applicable State law. This information is contained in the applicable regulations.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

There are no sensitive questions.

**12. Provide an estimate in hours of the burden of the collection of information.**

*Responses, burden hours and labor costs are summarized in Table 1, following #13.*

Except for the following provisions of these regulations, the information is being gathered for other purposes by other entities, municipal, State or Federal.

**A. State objection and concurrence to consistency certifications or determinations.**

We estimate annually approximately: 500 Federal agency consistency determinations, 1,600 applications/certifications for federal licenses or permits, and 100 outer continental shelf (OCS) oil and gas plan certifications, totaling 2,200 submissions. These reviews generate, therefore, approximately 2,200 concurrence or objection letters under these rules. Additional requirements may include the provision of copies of the State enforceable policies to applicants.

The number of hours necessary for States to provide consistency concurrence or objection letters varies widely because the nature of proposed activities affecting the coastal zone varies widely. For instance a concurrence or objection letter for an OCS Plan of Exploration may require 20-30 hours of review and preparation, whereas a concurrence or objection letter for a project to install a dock at a private residence may require 1 hour or less. On average, NOAA estimates that State preparation of objection or concurrence letters will require 8 hours each. **Therefore, NOAA estimates that the preparation of concurrence/objection letters for Federal agency activities and federal license or permit activities by the 34 coastal States will require, collectively, approximately 17,600 hours.** Using an hourly rate of \$25 (equivalent of a GS-12) multiplied by 17,600 hours equals \$440,000 annually for the collective 34 coastal States.

The 500 submissions to States by federal agencies (paragraph 1) are not covered under the Paperwork Reduction Act; only the States' responses are covered. However, the applications/certifications for federal licenses or permits and the 100 OCS certifications generating the States' concurrence or objection letters are included in the burden of this information collection request. Thus, **1,700 x 8, or 13,600 hours are estimated for the non-federal applications, etc., for which the States write concurrence or objection letters.** At \$25 per hour, annual cost to the applicants would be \$340,000.

The concurrence or objection to the applications for federal assistance are, generally, much easier than the categories described above, and NOAA estimates that **2 hours will be required to prepare each of 600 estimated letters and therefore NOAA estimates that approximately 1,200 hours will be spent collectively for an estimated 600 concurrence or objection letters by the 34 coastal States to provide.** At a rate of \$25 per hour, multiplied by 1,200 hours, the approximate annual cost for the 34 coastal States is \$30,000. **The applicants' burden is**

**estimated to be approximately the same (2 hours x 600, or 1,200), and the annual cost, thus, also \$30,000.**

*Total responses for this section:* 1,700 Federal Agency/License or Permit and Assistance applications and 2,200 responses to the 1,700 non-federal applicants and to the 500 federal applicants not covered by PRA, plus 600 concurrences or objections to the applications for federal assistance, and 600 state responses to the concurrences or objections = 5,100 responses. *Total hours:* 500 x 8 hours = 4,000; 1700 x 2 x 8 hours = 27,200; 600 x 2 x 2 hours = 2,400 hours, totaling 33,600 hours.

*Total labor costs:* 33,600 hours x \$25 = \$470,000.

A (1). Federal Agency/License or Permit and Assistance - States	2,200
A (1). Federal Agency/License or Permit and Assistance - Non-Federal Applicants	1,700
A (2). Federal Assistance Applications - States	600
A (2). Federal Assistance Applications - Applicants	600

#### B. State requests for review of unlisted activities

NOAA receives approximately 3 requests to review unlisted activities per year from the participating State CMPs. These requests can vary in complexity depending on the nature of the activity the State wishes to review and the complexity of the anticipated effects on coastal resources. NOAA estimates the range would be similar to concurrence or objection letters from 2-6. On average, **NOAA estimates that such letters will require approximately 4 hours and therefore among the 34 coastal States, collectively, 12 hours annually.** At an hourly rate of \$25, when multiplied by 12 hours, NOAA estimates that the annual cost to the 34 coastal States is \$300.

#### C. Public Notice requirements

The total number of required public notices of the State consistency review of applications for federal license or permits, federal assistance and federal activities is less than the total number of concurrence or objection letters in A. above because many of the notices for federal license or permit activities are included in the Federal agency's public notice and the States are not required to provide separate public notice for federal assistance activities. The public notice format is simple and straight forward and each State may use whatever format is used for all other public notices. Therefore, NOAA assumes that the preparation of such notices is highly standardized and requires minimal time in each State. NOAA estimates that each State will take 1 hour to prepare a public notice for projects subject to consistency review and thus **for an estimated 1,300 responses, the total number of hours spent annually by the 34 coastal States will be approximately 1,300.** Using the hourly rate of a GS-10 earning approximately \$19 per hour, the annual costs for the 34 coastal States of providing public notice of their consistency review is approximately \$ 247,000 annually.

#### D. Remedial Action and Supplemental Review

These provisions are rarely used. NOAA estimates that no more than 3 requests for remedial or

supplemental will be requested of NOAA annually. It is difficult to estimate the number of hours involved by a State because the provisions are so rarely used. However, NOAA estimates **2-6 hours would be required to prepare such requests. A total annualized number could be approximately 12 hours.** Using an hourly rate of \$25, the labor costs among the collective 34 coastal States is approximately \$300 annually.

#### E. Listing Notice/Coordination

NOAA estimates that such listing coordination would take approximately 1 hour per listing change. Using an hourly rate of \$25, the annual cost of listing notices among the 34 coastal States is \$25. The “interstate” listing requires substantially more effort by the States. For such interstate listing, listing coordination would take approximately 30 hours per listing change. At the GS-13 hourly rate of approximately \$30 per hour, the annual cost of listing notices among the 34 coastal States per State is \$900. **Estimating one listing change and one interstate listing, the total hours are estimated to be 31,** with a total labor cost of \$925.

#### F. Mediation

NOAA receives approximately 0-2 requests for Secretarial mediation annually and of these, none carries through the entire mediation process. The request for mediation does not require a significant effort and NOAA estimates that such requests may require as little as 2 hours of each requester. **Therefore the time burden for mediation will be approximately 4 hours annually for the collective 34 coastal States.** As the wage costs of the persons requesting mediation is approximately the equivalent of a GS-14 costing approximately \$36 per hour, the annual cost of requesting mediation is \$144 among the 34 coastal States.

#### G. Appeals to the Secretary of Commerce

In the history of the CZMA (as of August 17, 2009) there have been 139 appeals filed, but only 44 decisions by the Secretary. Thirty-two appeals were dismissed by NOAA on procedural grounds and 62 were withdrawn after negotiations between State and applicant. One appeal is pending as of August 17, 2009). On average, that is roughly two per year.

Notices of appeal requirements were changed in 2006 to respond to shorter appeal processing times required by the Energy Policy Act of 2005. Notices of appeal must identify all issues the appellant will raise in later briefs. NOAA estimates Notices of Appeal will require approximately 10 hours. Preparation of briefing materials can vary widely from the pro se appellant seeking to restore a hurricane damaged single family dwelling to an appellant with a complex project such as an outer continental shelf oil and gas project. In these circumstances, preparation of briefs and other materials can range from as few as 5 hours to 1500 hours for each of the two parties, the applicant and the State. An average appeal is one of moderate complexity for which NOAA estimates 210 hours of supplemental briefing work may be required.

Preparation of appeal documents varies widely and may range from the pro se homeowner to the large company with sophisticated legal support. To estimate the costs, NOAA has reviewed the history of appeals and determined that about half are filed by homeowners and half are filed by

large/sophisticated companies. Since NOAA estimated above, that 2 appeals are filed annually, for the purposes of determining the wage rate costs, NOAA assumes 2 appeals will be filed; one by a pro se homeowner and one by a large/sophisticated company. NOAA estimates the wage rate of the pro se homeowner at the equivalent of a GS-14 or \$36 per hour. Therefore the costs of one appeal by a pro se homeowner are estimated to be \$7,560 annually for the entire program. Since States must participate in the appeal process and file equivalent documents, burden and labor costs would be doubled to account for State submissions. **Burden for 2 appeals and 2 states' participation, at 210 hours per response, would total 840 hours.** The individual and equivalent State costs would then be \$15,120. NOAA estimates the cost of a large/sophisticated company, is approximately \$200 per hour x 210 = \$42,000, again, doubled to account for State submissions and thus totaling \$84,000.

**Total annualized respondents would be 2,334 (2300 non-State, non-Federal respondents and 34 States), responses would be 6,414, and hours would be 35,799. See Table 1 below.**

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

Miscellaneous recordkeeping/reporting costs are shown in Table 1 on the following page. These are costs for copying and mailing documents, totaling \$9,024.

**Table 1: Burden and Costs**

Submission Type	Responses	Hours per Response	Total Hours	Labor Cost	Misc Cost per Response	Total Misc. Cost
A (1). Federal Agency/License or Permit and Assistance - <i>States</i>	2,200	8	17,600	\$440,000	\$1	\$ 2,200
A (1). Federal Agency/License or Permit and Assistance - <i>Non-Federal Applicants</i>	1,700	8	13,600	\$340,000	\$1	\$ 1,700
A (2). Federal Assistance Applications - <i>States</i>	600	2	1,200	\$ 30,000	\$1	\$ 600
A (2). Federal Assistance Applications - <i>Applicants</i>	600	2	1,200	\$ 30,000	\$1	\$ 600
B. Unlisted Activity Requests – <i>States are only respondents</i>	3	4	12	\$ 300	\$1	\$ 3
C. Public Notices – <i>States are applicants</i>	1,300	1	1,300	\$247,000	\$3	\$ 3,900
D. Remedial Action Requests – <i>States are only respondents</i>	3	4	12	\$ 300	\$1	\$ 3
E. Listing Notice/Coordination – <i>States are only respondents</i>						
State listing	1	1	1	\$ 25	\$4	\$ 4
Interstate listing	1	30	30	\$ 900	\$4	\$ 4
F. Mediation Requests - <i>States are only respondents</i>	2	2	4	\$ 144	\$1	\$ 2
G (1). Secretarial Appeals – <i>Individual appeal</i>	1	210	210	\$ 7,560	\$2	\$ 2
Secretarial Appeals – <i>state response</i>	1	210	210	\$ 7,560	\$2	\$ 2
G (2). Secretarial Appeals – <i>Business appeal</i>	1	210	210	\$ 42,000	\$2	\$ 2
G (2). Secretarial Appeals – <i>State response</i>	1	210	210	\$ 42,000	\$2	\$ 2
<b>Totals</b>	<b>6,414</b>		<b>35,799</b>	<b>\$1,187,789</b>		<b>\$ 9,024</b>

**14. Provide estimates of annualized cost to the Federal government.**

Since most of the submission requirements are for non-Federal entities, the costs to the Federal Government are few. The costs for the Federal Government are mostly to receive and respond to the unlisted activity requests, remedial action requests, mediation requests and Secretarial appeal requests. There are, generally, no costs associated with the Secretarial appeals since NOAA recovers its costs from the appellant, pursuant to 16 U.S.C. § 1456(i). For response costs for the other nine items, the cost is an estimate of a percentage (.05%) of an FTE for a GS-14, which provides an estimated annual cost of \$4,000.

**15. Explain the reasons for any program changes or adjustments.**

No changes or adjustments were made. NOTE: in ROCIS, the costs were rounded off for the previous submission. Thus, although there was no change in costs, they appear to have increased by \$24.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

No publication is planned.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not applicable.

**18. Explain each exception to the certification statement.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not employ statistical methods.