

**From:** [Thayer Broili](#)  
**To:** [Mike Murray](#)  
**Cc:** [Darrell Echols](#)  
**Subject:** Re: Fw: revisions to alt F and CZMA consistency  
**Date:** 10/12/2010 03:04 PM

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I agree with your analysis. Also, as a practical matter, they wouldn't comment until we had the more precise analysis of what is proposed and impacts anyway. Other than physical impacts related to infrastructure which will be handled in more detail later, the actions proposed in alternatives wouldn't seem to interact with CZMA management policies as Sandy surmises.

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**Mike  
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To Thayer Broili/CAHA/NPS@NPS, Darrell  
Echols/CAHA/NPS@NPS

10/11/2010 08:18 AM

cc

Subject Fw: revisions to alt F and CZMA consistency

Thayer and Darrell,

See below. My thought is that we have slightly reconfigured, but have not increased the size of, some of the parking areas. If anything, the total footprint is smaller. Therefore, I don't think a revised FCD is needed for the FEIS. In any case, when we do an EA for the infrastructure improvements, that would provide for a more precise analysis of potential impacts from construction and give the Coastal Resource Division another FCD opportunity before any construction were to occur.

What do you think?

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----- Forwarded by Mike Murray/CAHA/NPS on 10/11/2010 08:12 AM -----

**Sandra  
Hamilton/DENVER/NPS**

10/10/2010 11:00 AM

To Mike Murray/CAHA/NPS@NPS,  
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cc Doug Wetmore/DENVER/NPS@NPS  
Subject revisions to alt F and CZMA consistency

Hello All,

In reviewing the 2nd internal review draft FEIS, CH 5 and Appendix D (agency correspondence on the DEIS), I noticed where the May 7, 2010 NCDENR, Division of Coastal Management letter says on p. 3 "Should the proposed action be modified, a revised consistency determination could be necessary. This might take the form of either a supplemental consistency determination pursuant to 15 CFR 930.46, or a new consistency determination pursuant to 15 CFR 930.36...

What's your advice on whether the revisions to alt F "makes substantial changes in the proposed activity that are relevant to management program enforceable policies;" from ((a)(1) below? I'm thinking they don't, and we don't need a revised determination (only something in the admin record to show we considered it?) but would like your opinion. My reason for thinking this is that the NC coastal management program's enforceable pretty much relate to construction and dredge and fill and we haven't made changes relating to that. If anyone thinks that the alt F changes are "substantial changes relevant to management program enforceable policies" and necessitate a revised determination, then we need to determine how / when to accomplish a revised determination before the ROD. Thanks for your advice on this.

Here's the text of the CFR on revised consistency determinations:

**PART 930 - FEDERAL CONSISTENCY WITH APPROVED COASTAL  
MANAGEMENT PROGRAMS**

**subpart c - CONSISTENCY FOR FEDERAL AGENCY ACTIVITIES**

930.46 - Supplemental coordination for proposed activities.

Link to an amendment published at 71 FR 828, January 5, 2006.

(a) For proposed Federal agency activities that were previously determined by the State agency to be consistent with the management program, but which have not yet begun, Federal agencies shall further coordinate with the State agency and prepare a supplemental consistency determination if the proposed activity will affect any coastal use or resource substantially different than originally described.

Substantially different coastal effects are reasonably foreseeable if: (1) The Federal agency makes substantial changes in the proposed activity that are relevant to management program enforceable policies; or (2) There are significant new circumstances or information relevant to the proposed activity and the proposed activity's effect on any coastal use or resource.

(b) The State agency may notify the Federal agency and the Director of proposed activities which the State agency believes should be subject to supplemental coordination. The State agency's notification shall include information supporting a finding of substantially different coastal effects than originally described and the relevant enforceable policies, and may recommend modifications to the proposed activity (if any) that would allow the Federal agency to implement the proposed activity consistent with the enforceable policies of the management program.

State agency notification under this paragraph (b) does not remove the requirement under paragraph (a) of this section for Federal agencies to notify State agencies.

Read more: <http://cfr.vlex.com/vid/930-46-supplemental-coordination-proposed-19635542#ixzz11y1MrZfY>

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