

August 21, 2026

The Coastal States Organization (CSO) respectfully submits these comments to the National Oceanic and Atmospheric Administration (NOAA) in response to its notice to solicit additional input for a performance evaluation of the California Coastal Management Program.¹ Since 1970, CSO has served to represent the interests of the nation's coastal states, commonwealths, and territories on federal legislative, administrative, and policy issues relating to coastal, Great Lakes, and ocean management. The nation's coastal communities depend on the unique economic and natural resources of the coastal zone for jobs, commerce, a healthy environment, and cultural heritage. Likewise, the national economy relies on a safe, thriving coastal zone for energy, maritime commerce and transportation, food production, national defense, tourism and recreation, and much more. State and territory coastal programs partner with coastal communities, the federal government, tribal governments, and industry for the effective management, beneficial use, protection, and development of the coastal zone through the federal-state partnership established under the Coastal Zone Management Act (CZMA).²

This notice of additional public meetings for a state's performance evaluation two years after the last public meeting marks a significant departure from past CZMA implementation with potentially serious implications for every coastal state and territory nationwide:

1. NOAA's notice reopening a substantially completed program evaluation deviates from established review procedures without clear statutory, regulatory, or procedural basis, raising concerns that changes to the evaluation process are occurring without adequate transparency, consultation with states, or legal process.
2. The only publicly available rationale for reopening the review, which is not reflected in NOAA's notice, raises concerns that the evaluation may depart from the scope of review prescribed in the CZMA, which limits NOAA's evaluation to the "extent to which the state has implemented and enforced the program approved by [NOAA], addressed ... coastal management needs [established by Congress], and adhered to the terms of any grant...."³

The same legal requirements for 312 evaluations apply to all states with federally approved coastal management programs. The CZMA confines evaluations to how states implement their approved program and comply with CZMA funding requirements. Under the CZMA states can and often do help accelerate administration priorities where the state program's policies are aligned with administration goals. However, CSO strongly opposes any action by any administration to curtail states' participation in the National Coastal Zone Management Program or receipt of annual CZMA funding based on strict alignment solely with the priorities of that administration.

¹ Nat'l Oceanic & Atmospheric Admin., *Evaluation of the California Coastal Management Program; Notice of Public Meetings; Request for Comments*, 91 Fed. Reg. 38,674 (Jun. 26, 2026).

² 16 U.S.C. § 1450 *et seq.*

³ 16 U.S.C. § 1458(a).

I. The CZMA works for states, the federal government, communities, and industry.

The CZMA's framework for federal/state coordination has proven effective for over 50 years, supporting vibrant coastal communities and economies by balancing growth and development with the responsible management of natural resources. The CZMA provides an important legal and policy foundation for joint federal-state coastal and ocean management, providing an integrated, participatory approach for strengthening working waterfronts, planning and siting energy development, and protecting ocean, coastal, and estuarine habitat. The CZMA is used by states to balance competing uses for ocean and coastal resources, including energy, maritime commerce, fisheries, aquaculture, recreation, conservation, and defense. It strengthens the local and regional economy while protecting coastal communities and environments.

Federal consistency is the linchpin of the CZMA's vital federal-state-industry coordination. Through the CZMA, Congress recognized that the most effective approach to further the national interest in a thriving coastal zone is to ensure that federal activities and permits address applicable state requirements early in the process of project planning and development. Coordination and consultation through the federal consistency process ensures a predictable and transparent process for all stakeholders, heads off conflict, averts litigation, and balances competing uses for limited resources.

Thousands of federal activities and permits undergo federal consistency review every year, with states concurring with at least 95% of the determinations and certifications they receive.⁴ Overwhelmingly, states utilize pre-decision collaboration and conditional concurrences to facilitate safe, efficient, and responsible review and development. Only 51 consistency decisions have ever been appealed to the Secretary of Commerce since the CZMA was enacted in 1972.⁵ The oil and gas industry has benefitted from the efficiency of the federal consistency review process, with states reviewing over 16,000 OCS plans since 1972 and concurring with nearly all of them.⁶

Through the CZMA, Congress affirmed that under the U.S. Constitution, states have the primary role for managing natural resources and land and water use, relying on state-developed enforceable policies rather than a uniform federal regulatory scheme to guide coastal management decisions. Congress structured the Act to encourage states to develop and implement comprehensive coastal management programs that advance the shared national objectives identified in the Act while reflecting the distinct resources, economies, legal authorities, and public priorities of each state's coast.⁷

The CZMA sets out procedures for considering the views of federal agencies in state coastal management programs through the program adoption and amendment process, and for giving effect to state policies in federal activities through federal consistency review. When a state adopts a coastal management program or amends it through the program change process, NOAA verifies that the state adequately considers the national interest in priority coastal dependent uses set out by Congress. This NOAA vetting process includes substantial input from all federal agencies, regulated industry, local governments, and the public. The enforceable policies of state coastal management programs reflect that balance of state concerns and national interests.

⁴ Eva Lipiec, Cong. Research Serv., R45460, [Coastal Zone Management Act \(CZMA\): Overview and Issues for Congress](#) 10 (2026). Based on a historic survey of tens of thousands of federal consistency reviews, states report objecting to between 0.1% and 5% of activities reviewed.

⁵ Nat'l Oceanic and Atmospheric Admin., [Appeals to the Secretary of Commerce Under the Coastal Zone Management Act \(CZMA\)](#) (2026).

⁶ 84 Fed. Reg. 8628, 8632.

⁷ Through the CZMA, "there is no attempt to diminish state authority through federal preemption. The intent of this legislation is to enhance state authority by encouraging and assisting the states to assume planning and regulatory powers over their coastal zones." S. Rep. No. 92-753, at 1 (1972).

II. NOAA's Process for Reopening the Present Review Has Deviated from CZMA Requirements and Established Procedure

NOAA oversees program approval and implementation consistent with Congress's objectives, but it may not substitute administration policy preferences for state policy judgments embodied in an approved coastal management program.⁸ NOAA and case law have recognized that, once a state obtains program approval, the CZMA limits NOAA's role to ensuring that the state has "implemented and enforced the program" as developed by the state and approved by NOAA.⁹ "If the rule were otherwise, the states could have little confidence in the continuing validity of the initial approval. As the relevant federal personnel and policies changed, the states would be subject to repeated review and pressure to change an already approved coastal program."¹⁰

Section 312 of the CZMA requires NOAA to conduct ongoing, independent assessments of the states' implementation of approved coastal management programs.¹¹ Historically, NOAA has completed comprehensive "312 evaluations" of state coastal management programs every five to ten years. During each review, NOAA coordinates closely with the state to review relevant documents and survey stakeholders to identify target areas for evaluation, convene key NOAA Office for Coastal Management staff and external advisors, conduct a site visit including meetings with program staff and group discussions with stakeholders, and host a public meeting, in accordance with NOAA regulations¹² and detailed technical guidance.¹³ The CZMA confines review to how the state has (1) implemented and enforced the program as approved by NOAA; (2) addressed the coastal management needs identified in CZMA Section 303(2)(A)-(K); and (3) adhered to the terms of any grant, loan, or cooperative agreement.¹⁴ NOAA develops draft findings and provides them to the state for review, and the state's comments are considered in the development of final evaluation findings. The CZMA requires NOAA to issue final evaluation findings within 120 days of its public meeting.¹⁵

NOAA has reopened a 312 evaluation of California's Coastal Management Program after substantially completing a full review and developing draft findings two years ago. The draft evaluation findings issued in 2025 were positive, but NOAA did not issue final evaluation findings within 120 days of the Aug. 28, 2024 public meeting, as the CZMA requires.¹⁶ Instead, 667 days later, NOAA issued this unprecedented new notice without explanation or legal justification for reopening a substantially completed review.¹⁷ If the notice is instead an extension of the 2024 review, it offers no explanation for why a pending review may be held open for two years without final evaluation findings. No CSO member state has records of NOAA ever reopening a 312 evaluation after it has issued draft evaluation findings.

⁸ *California Coastal Com'n v. Mack*, 693 F. Supp. 821 (N.D. Cal. 1988) ("Notably, the Act nowhere authorizes NOAA to withdraw program approval on the basis of NOAA's determination that the plan as originally approved no longer complies with the CZMA's requirements").

⁹ *Id.*, at 826; see also Nat'l Oceanic & Atmospheric Admin., *Coastal Zone Management Act Program Change Procedures*, 84 Fed. Reg. 38118, 38121 (Aug. 6, 2019).

¹⁰ *Id.*

¹¹ *Codified at* 16 U.S.C. § 1458.

¹² 15 C.F.R. Part 923, Subpart L.

¹³ See Nat'l Oceanic & Atmospheric Admin., [Evaluation Process: Coastal Zone Management Act Evaluations](#) (Jun. 2021).

¹⁴ 16 U.S.C. § 1458(a).

¹⁵ 16 U.S.C. § 1458(b); 15 CFR 923.133(b)(7).

¹⁶ *Id.*

¹⁷ NOAA regulations indicate that the agency may conduct "issue or problem-specific evaluations between scheduled evaluations ... to follow-up on potentially serious problems or issues identified in the most recent scheduled evaluation." 15 CFR § 923.133(b)(9). NOAA does not indicate that it is conducting a separate review under this authority, and no "potentially serious problems or issues" were identified in the 2025 draft findings.

312 evaluations are resource-intensive undertakings for both NOAA and coastal states, requiring significant staff time, public coordination, and document preparation. The resources devoted to each evaluation necessarily compete with other program administration responsibilities. States need confidence that 312 evaluations will proceed according to established procedures, reach a timely conclusion, and provide final, actionable findings. Reopening a substantially complete evaluation creates greater cost and uncertainty.

The circumstances surrounding the reopening of this substantively complete evaluation raise serious concerns that the evaluation process may be used improperly to support predetermined conclusions imposed on the agency, potentially beyond the statutory scope of 312 evaluation. Although the notice is silent as to the basis for reopening the evaluation, contemporaneous public documents indicate that NOAA's actions follow a directive from the Secretary of Commerce and an executive order that contemplated revoking state coastal program approvals. The executive order and a public letter setting out the Secretary's rationale are enclosed.

In August 2025, an executive order titled "Enabling Competition in the Commercial Space Industry" established a policy priority to "substantially increase[e] commercial space launch cadence and novel space activities by 2030 [by] streamlin[ing] commercial license and permit approvals...."¹⁸ Pursuant to that priority, the order directed the Commerce Secretary to "conduct an evaluation of relevant States' compliance under the Coastal Zone Management Act..., the effect of any lack of compliance on the development of spaceport infrastructure, and whether State approvals under that Act should be revoked."¹⁹

Then, shortly prior to NOAA's present notice, the Commerce Secretary published a letter declaring that a review conducted by NOAA pursuant to the executive order had found that NOAA's 312 process has given "*no* consideration of the economic needs of costal [sic] states' management" and "*inadequate* consideration" for "federal views for coastal development," asserting that "states have been given a free pass under the CZMA."²⁰ The letter directs potentially extensive changes to NOAA's 312 review process, starting by reopening "a full formal review" of the California Coastal Management Program.²¹ The rationale offered for reevaluating California's program cites "obstructing technological innovation, economic development, and related federal efforts," departing from the national priorities subject to review under Section 312.²²

Any concerns on the part of the Commerce Secretary regarding NOAA's implementation of its continuing evaluation responsibilities would affect all coastal states. However, the findings of the NOAA spaceport review cited in the letter have not been made public. NOAA should release the report on which these assertions are based so that all coastal states may evaluate its implications for the changes that the Commerce Secretary has directed.

III. NOAA Should Apply Section 312 Consistently, Transparently, and within the Scope of Review Established by Congress

If NOAA intends to revise its approach to 312 evaluation, any update to its regulations or technical guidance would require close coordination with state coastal programs in compliance with CZMA and Administrative Procedure Act requirements. By contrast, any isolated departure from established evaluation procedures to single out an individual state would undermine the integrity of the national coastal management program. NOAA's evaluation should in all cases adhere to the scope of review authorized by the CZMA: the extent to

¹⁸ E.O. 14,335, [Enabling Competition in the Commercial Space Industry](#) (Aug. 19, 2025).

¹⁹ *Id.*

²⁰ [Letter from H. Lutnick, Commerce Sec'y, to K. Hassett, Dir. White House Nat'l Econ. Council](#) (May 21, 2026). (@CommerceGov, <https://x.com/CommerceGov/status/2057623061382209583>; emphasis original).

²¹ *Id.*

²² 16 U.S.C. § 1458(a).

which the state has implemented and enforced the approved program, addressed the shared national priorities identified by Congress, and complied with grant terms.²³

In the present evaluation, NOAA should adhere to establish procedure, including by making submitted comments publicly available and providing a meaningful response to substantive comments in its final evaluation findings. NOAA should also make the complete administrative record available for public review, including the NOAA report underlying the decision to reopen the evaluation and the draft evaluation findings prepared before the reopening. If NOAA's final evaluation findings depart from the draft evaluation findings or rely on new standards, factors, or considerations, NOAA should clearly justify the basis for those changes.

States voluntarily participate in the CZMA's national coastal management program because they share the national objectives identified by Congress in the CZMA to balance competing coastal uses and protect coastal resources. That federal-state partnership relies on the expectation that NOAA's continuing evaluations will be conducted fairly and impartially pursuant to the standards and procedures established by Congress in the CZMA and in the agency's regulations. Such an approach supports the cooperative federalism framework at the heart of the CZMA, encourages state investment in maintaining approved coastal management programs, and upholds the trust necessary for continued state participation in the national coastal management program.

Enclosed: E.O. 14,335, *Enabling Competition in the Commercial Space Industry* (Aug. 19, 2025).
Letter from H. Lutnick, to K. Hassett (May 21, 2026).

²³ *Id.*