CZMA, CONSISTENCY & THE OCS

Summary: Since the passage of the Coastal Zone Management Act of 1972 (CZMA), Congress has shown its intent to provide states the authority to review activities that affect states' coastal zones – the nation's economically and resource-rich coastal areas. Under the CZMA, coastal states have developed comprehensive programs to support responsible economic development and vibrant coastal communities while conserving the coastal environment. Section 307 (16 USC §1456), known as the federal consistency provision, grants states authority to review federal activities, licenses and permits that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone. These activities must be consistent to the maximum extent practicable with the enforceable policies of a coastal state's federally approved coastal management program. This has been a primary method of ensuring sustainable development of the nation's coasts and will be vital in proposed offshore activities, including oil and gas development and the development of alternative energy sources.

This white paper provides background on the process of the Minerals Management Service (MMS) in energy development on the outer continental shelf (OCS), the CZMA and consistency principles, and available resources for states in reviewing OCS activities.

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I. BACKGROUND ON MMS OCS PLANNING

Under the Outer Continental Shelf Lands Act (OCSLA), the Minerals Management Service (MMS) has authority to lease federal lands of the outer continental shelf (OCS) for oil and gas development. The OCSLA sets out the planning process for MMS for offshore oil and gas leasing through a 5-stage process: (1) establishment of a 5-year plan, (2) leasing, (3) exploration, (4) development and production, and (5) decommissioning.

Consistency is detailed more below but in general, states may review the following stages of oil and gas development under their CZMA consistency authority.

1. Development of MMS 5-year Plan - The 5-year Plan is the overarching federal plan for leasing which then leads to exploration, development, and production by companies.

2. Lease Sale (managed by MMS) - Consistency review applies to any size lease sale but it is the "bulk" lease sale that allows companies to bid for particular lease areas.
*notably, once the overall lease sale has been approved as consistent, the issuance of an individual lease from MMS to a company is not reviewed under consistency.

3. Plan of Exploration (company level w/MMS) - Once a company has a lease, this is the plan for how the company will explore in order to determine if they will develop from their lease site.

4. Plan of Development & Production (company level w/MMS) - This lays out the plan for producing oil from the lease site. Beyond the review of the plan, there may be major activities associated with this stage (such as a new pipeline) that would undergo separate review. But, if a company's activities stay within the reviewed/approved Plan of Development and Production, there is no further review under consistency.

5. Decommissioning (company level w/MMS) - (federal consistency review may be required, but not in all cases) There is likely review at this stage, especially if the rig is decommissioned as part of a rigs to reef program. However, decommissioning might also be included in the Plan of Development and Production in which case those activities are reviewed/approved under Stage 4.

In addition to review under the Coastal Zone Management Act (CZMA), the OCSLA contains several sections providing for cooperation with the states. Three sections are detailed here.

1. **Congressional Policy of Cooperation with States and Local Governments (43 U.S.C. §§1332(4)(c) and 1334(a)):** Congress declared national policy that coastal states and, through such states, affected local governments are entitled to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the OCS. OCSLA provides expressly that in administering its provisions, the Secretary of the Interior shall cooperate with relevant departments and agencies of affected states in the enforcement of safety, environmental, and conservation laws.

2. **General Cooperative Agreement Authority (43 U.S.C. 1345(e)):** OCSLA authorizes the Secretary of the Interior to enter into cooperative agreements with affected states for purposes which are consistent with OCSLA. Such agreements may include, but need not be limited to, the sharing of information, the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and state laws, regulations, and stipulations relevant to OCS operations both onshore and offshore.

3. **Oil and Gas Information Program (43 U.S.C. §1352):** OCSLA establishes an oil and gas information program under specified procedures. Section 1352(b)(2) requires the Secretary to make data summaries available to affected states and certain affected local governments. Section 1352(d) involves the transmittal of other information to affected states.

Offshore oil and gas development has been limited since the 1980s by two different moratoria. A Congressional moratorium was first enacted in 1982 and was included for years in appropriations bills. It prohibited oil and gas leasing on most of the OCS, 3 miles to 200 miles offshore. Since 1990, it was supplemented by President George H. W. Bush's executive order, which directed the Department of the Interior not to conduct offshore leasing or preleasing activity in areas covered by the legislative ban until 2000. In 1998, President William Clinton extended the offshore leasing prohibition until 2012. President George W. Bush lifted the executive moratorium in June 2008 and the Congressional moratorium lapsed on September 30, 2008.

The only remaining moratorium language appears in Public Law 109-432, the Gulf of Mexico Energy Security Act of 2006 which precludes the Secretary of the Interior from offering for leasing, preleasing, or any related activity a limited area in the Gulf of Mexico, generally within 100 miles of Florida's coastline.

In response to high oil prices and the repealing of the Presidential Moratorium on OCS drilling and in anticipation of the lifting of the congressional moratorium, MMS announced on August 1, 2008, that it

would pursue a new 5-year plan for 2010 – 2015 even though the current MMS plan runs from 2007-2012. (73 Federal Register 45,065 (August 1, 2008)). Comments were due on this proposal on September 15, 2008. The next step for MMS is to release its draft plan, anticipated in early 2009.

On a parallel track, MMS is also developing its final rule for Alternative Energy Development on the OCS. With authority granted in the Energy Policy Act of 2005 (EPAct 2005), MMS has the discretionary authority to issue leases, easements, or rights-of-way for activities on the OCS that produce or support production, transportation, or transmission of energy from sources other than oil and gas. With the enactment of EPAct 2005, MMS began the long process of developing regulations for the emerging renewable energy industry. Its preliminary environmental impact statement (PEIS) was completed in November 2007; also that month, MMS announced an interim policy for authorization of the installation of offshore data collection and technology testing facilities in federal waters. MMS issued its Proposed Rule for Alternative Energy Uses of Existing Facilities on the OCS in July 2008 with comments due on September 8, 2008. The final rule is expected by the end of 2008. Examples of potential alternative energy projects include, but are not limited to: wind energy, wave energy, ocean current energy, solar energy, and hydrogen production. (Visit http://www.mms.gov/offshore/AlternativeEnergy/index.htm.)

II. BACKGROUND ON CZMA

An innovative federal-state partnership was born in the 1972 CZMA, offering a mechanism for federal and state managers to address important national coastal objectives. Over the past three decades, federal funding, matched by state dollars, has assisted states in reducing environmental impacts of coastal developments, resolving significant conflicts between competing coastal uses, and providing critical assistance to local governments in coastal planning.

The CZMA was enacted at a time when Congress was considering a national land use planning statute and enacting numerous sweeping environmental laws including the National Environmental Policy Act (NEPA), Clean Water Act (CWA), Clean Air Act (CAA), Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA). While no comprehensive national land use statute followed, the CZMA was seen as central to protecting natural resources while fostering wise development in the coastal zone.

The CZMA recognizes the competing uses for this unique area and that states (and in some states, local government) have the lead responsibility for planning and managing the coastal zone. The CZMA authorizes grants to states to develop and implement coastal management programs to address these pressures. Once a state program is federally approved, funds from a total of five accounts become available through the CZMA including three types of management grants, funds to address nonpoint source pollution, and support for participation in the National Estuarine Research Reserve System.

Along with federal funding, states with approved coastal programs have the authority to certify that all federal actions in or affecting its defined coastal zone be consistent with its federally approved coastal management program under section 307. Federal actions include not only construction projects, but also financial assistance and the issuing of federal licenses and permits. Historically, states have concurred with about 95% of the federal actions they have been asked to certify. It is widely believed that the existence of the consistency requirement and the uncertainty of the outcome of an appeal have led applicants to negotiate with states and to modify proposed actions early on, thereby reducing the number of appeals. However, there are no data on the number of proposed actions that have been altered because of the consistency process.

Although authorization for appropriations expired after FY1999, Congress continues to fund this program.

III. CONSISTENCY

Under section 307, coordination and cooperation, of the CZMA, states are granted the authority to review federal activities, funding, licenses and permits affecting the state coastal zone. In establishing this authority, Congress recognized that federal interests and activities need to be balanced with the sovereign interests of states in protecting their coastal resources.

Section 307 of the CZMA is a perfect example of federalism. In protecting the state interest, federal activities, licenses, and permits which may have a reasonably foreseeable effect on coastal resources or their use are required to be consistent to the maximum extent practicable with the federally approved enforceable policies of state Coastal Zone Management (CZM) programs. Additionally, section 307(b) also protects the national interest, providing that the Secretary of Commerce shall not approve a state CZM program unless the views of federal agencies affected by the program have been adequately considered. In addition to each state CZM program's requirement of receiving federal approval in order to exercise its consistency authority, each enforceable policy upon which the program relies must also receive federal approval. Lastly, the final arbiter of whether a federal license or permit may be issued is the Secretary of Commerce, who reviews appeals of state's federal consistency determinations.

However, when a participant disagrees with the federal agency proposing an action as to whether that action will be consistent with the participant's enforceable policies, there is an appeals process. If agreement is not reached during any of the steps in this process, a final determination is made by the Secretary of Commerce. To date, 40 consistency decisions have been subjects of these secretarial determinations, and an additional 61 have been settled or withdrawn after they reach the secretarial level but before a determination is made. Of the 40 decisions, 27 have been made in favor of the participant and 13 in favor of the applicant. The subject of 16 of these appeals has been offshore energy activities, and half of these (8) have been decided in favor of the participant. The most recent decision, filed in late 2002 with a secretarial decision announced in May 2005, was about a proposed natural gas pipeline opposed by the State of Connecticut. In this instance, the Secretary overrode the state determination. Currently, four appeals are pending.

1. Key Legal Decisions

Although the intent to balance state and federal interest was paramount in the construction of the CZMA, since its adoption in 1972 there have been numerous occasions where state and federal interest have conflicted. Prior to the 1990 amendments, section 307(c) applied only to federal actions and activities "directly affecting" a state's coastal zone. The 1990 amendments broadened what activities could be construed as "affecting" a state coastal zone by removing "directly." However, the broadening of the Act has not removed all conflict. Courts have struggled with what kinds of effects should trigger consistency. To understand the evolution of consistency in the courts, it is best to examine key cases before and after the 1990 amendments.

i. In *Secretary of the Interior v. California*, 464 U.S. 312 (1984), the state of California and others sued the Secretary of the Interior asserting that the sale of oil and gas leases on OCS tracts off the California coast could not be conducted without the Secretary of the Interior making a consistency determination under section 307(c)(1). The Secretary of the Interior argued that the proposed lease sale was not an activity "directly affecting" the California coastal zone and therefore was not subject to section 307(c)(1). The development of oil and gas OCS resources is divided by five stages outlined in the OCSLA. The second stage governs the sale of the lease, allowing the purchaser to only conduct limited preliminary activities on the OCS. The question in *Secretary of the Interior v. California* was whether these *preliminary* activities "directly affected" the coastal zone of California. The Supreme Court determined they did not, leaving many with lasting confusion after the *Secretary of the Interior v. California*. In a 5-4 decision, the Court decided that although OCS activities during the exploration and development stages were addressed in both OCSLA and CZMA, neither act required consistency review at the lease sale stage.

ii. In *California v. Norton*, 311 F.3d 1162 (9th Cir. 2002), the 9th Circuit Court of Appeals required the Department of the Interior to provide consistency determinations for lease suspensions it issued for 36 OCS leases off the California coast. In *California v. Norton*, the Ninth Circuit acknowledged that lease suspensions cannot be *categorically* exempt from CZMA review. Rather, the court applied the CZMA "effects test" here, determining the 36 lease suspensions did have coastal effects and were therefore subject to consistency review under the CZMA.

iii. In *Kean v. Watt* (D.N.J. 1982), the only significant effect of potential OCS development in the coastal zone of New Jersey was the financial impact the construction of OCS development would have on commercial fisherman. There was no evidence that the OCS development would result in environmental impacts to the coastal zone. In *Kean*, the federal district court held that federal activities outside the coastal zone that affect only commercial activities and not the environment within the coastal zone, did not directly affect the coastal zone and therefore did not trigger federal consistency review.

iv. Conversely, the federal district court rejected the finding in *Kean* in *Conservation Law Foundation v. Watt* (D.Mass.1983). In *Conservation Law Foundation v. Watt*, the court determined that the CZMA recognized economic development within Act's purposes and legislative history supported the consideration of both social and economic effects in the coastal zone.

2. **Process/Disagreement and Appeal**

i. **Process**

To apply consistency under the CZMA, first, a state must have a CZM program approved by the Secretary of Commerce (Secretary). Once a CZM program is approved, any

applicant seeking a federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resources of the coastal zone of that state must provide a certification that the proposed activity complies with the state CZM policies. This notice must be provided in the application to the license or permitting agency and must also be provided to the state or designated agency with all the necessary information and data. At that point, public notice of certifications and possible public hearings are executed according to state specific procedures.

At the earliest practicable time, the state or designated agency must notify the federal agency concerned whether the state concurs, conditionally concurs, or objects to the certification submitted. If the state fails to notify the federal agency within six months after receipt of the copy of the applicant's certification and all necessary information, state concurrence is presumed. Additionally, the Secretary may find, either on his own initiative or upon appeal by the applicant, that the proposed activity is consistent with the objectives of section 307 or is necessary in the interest of national security. This exercise of authority of the Secretary is only to be used after providing reasonable opportunity for detailed comments from the federal agency involved and the state.

Similarly, under section 307, any person who submits to the Secretary of the Interior a plan for the exploration or development of, or production from, any area which has been leased under the OCSLA and regulations under such Act shall submit certification that each activity described in the plan complies with the enforceable policies of a state's approved management plan if the proposed plan affects any land or water or natural resource of that coastal state. This certification must also be submitted to the state and the state must concur with the certification and notify the Secretary and the Secretary of the Interior for a license or permit to be issued. Should the state fail to respond to the Secretary and the Secretary of the Interior with a concurrence, objection, or written statement describing the status of review and basis for delay in final decision, within three months of receiving the certification, a concurrence is presumed. Again, the Secretary may permit the activity should he deem the activity consistent with the CZM program of the state regardless of state approval, or in the interest of national security.

Also, when state and local governments submit applications for federal assistance under other federal programs, which fall in or outside the coastal zone, affecting any land or water use of the coastal zone must indicate the views of the appropriate state or local agency as to the relationship of the activities to the approved management program. Federal agencies are not to approve proposed projects that are inconsistent with the enforceable policies of a coastal state's management program, unless the Secretary finds the project consistent with the CZM program of the state or necessary in the interest of national security.

Section 307 notes that the section should not be construed to diminish either federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control

of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor limit the authority of Congress to authorize and fund projects. Also, section 307 is not intended to supersede, modify, or repeal existing laws applicable to the various Federal agencies. It is also not intended to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, or the International Boundary and Water Commission, United States and Mexico. Additionally, section 307 is not intended to affect any requirement of the Federal Water Pollution Control Act (CWA), the Clean Air Act (CAA), or affect a requirement established by the Federal, state, or local governments pursuant to the CWA or CAA acts.

Similarly, if a state's CZM program includes requirements to shorelands which would be subject to federally supported national land use programs, the Secretary is required to obtain the concurrence of the Secretary of the Interior (or other Federal official designated to administer the national land program) to the portion of the proposed plan that affects the inland areas.

ii. **Disagreement and Appeal**

Should a serious disagreement arise between any federal agency and coastal state in either the development or administration of a plan, the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in the agreement. The process of mediation includes public hearings in the local area of concern.

In the case of an appeal, the Secretary will collect a fee of not less than $200 for minor appeal and not less than $500 for major appeals from the disputing party. The Secretary may waive the fee if the disputing party files a fee waiver and the Secretary determines that party is unable to pay. Additionally, the Secretary shall collect other fees as necessary to recover the full cost of administering and processing appeals.

3. **Examples of Consistency Benefitting States**

The coastal states of the U.S. and their courts have approached consistency in different ways since 1972. Consistency can be used in a positive way, with or without litigation, to ensure that states maintain jurisdiction over impacts to their coastal zones.

i. In *Cape May Greene, Inc. v. Warren*, 698. F.2d 179 (3d Cir. 1983), the Third Circuit Court of Appeals examined whether the Federal Government can deny, limit, or condition assistance to an activity that is consistent with a state's coastal management program. In *Cape May Greene*, the Environmental Protection Agency (EPA) had conditioned funding for an indispensable sewage treatment plant on the denial of new

hookups to development in the contiguous floodplain and sensitive lands although both the local comprehensive plan and the state coastal management plan had designated the area zoned for development. The New Jersey Department of Environmental Protection had previously approved residential development within the floodplain, determining it to be in compliance with the state CZM program. The EPA's finding that the land was unsuitable for septic tank placement would effectively prohibit new development. The court found that the EPA had acted arbitrarily and capriciously, specifically noting the EPA failed to act consistently with the state's coastal program to the maximum extent practicable. The court stated, "[w]hen federal assistance is provided for what is essentially a state or local activity, the congressional preference for having policies initiated at the state level must be respected."

ii. Recently, the Virginia Department of Environmental Quality (Virginia) objected to a consistency analysis conducted by the Department of the Army (Army) regarding the Implementation of the 2005 Base Realignment and Closure (BRAC) in several Virginia counties. In its objection, Virginia articulated a concern that the proposed BRAC was in conflict with National Ambient Air Quality Standards (NAAQS) in the National Capital Interstate Air Quality Control Region (AQCR). In its response, the Army acknowledged its affirmative role under the CZMA to ensure BRAC complies with Virginia's CZM program to the maximum extent practicable. In that acknowledgement, the Army agreed to comply with the requests of Virginia to comply with the requirements of Virginia's CZM program. Here, Virginia successfully contested proposed activity it felt was in conflict with the state CZM program, assuring a balance of state and federal interests regarding the Virginia coastal zone.

IV. CONCLUSION

As the nation explores new development in renewable energy, states, federal agencies, and courts will need to grapple with the balancing of federal and state rights. Effective use of a strengthened CZMA will ensure some of our nation's most valuable resources are preserved for generations to come.

RESOURCES & RELEVANT ENVIRONMENTAL LAWS:

Coastal Zone Management Act (CZMA):

The CZMA was passed by Congress in 1972 to preserve the unique values of coastal lands and water by encouraging states to devise land and water use plans for coastal protection. This Act is the foundation of coastal zone management in the states, allowing individual coastal states to devise coastal management programs (CZMs) that best address their unique needs. Once a CZM is approved, the coastal state receives federal funding for implementation of the CZM. Once a state has an approved CZM, according to section 307 of the CZMA, states are granted the authority to review Federal activities, licenses and permits within that state coastal zone to assure consistency with the CZM.

Full text: http://coastalmanagement.noaa.gov/about/media/CZMA_10_11_06.pdf
http://coastalmanagement.noaa.gov/czm/czm_act.html

Submerged Lands Act (SLA) of 1953:

Enacted in 1953, SLA grants states title to natural resources located within three miles of the state coastline. For the purposes of the Act, "natural resources" includes oil, gas, and all other minerals.

Full text: http://www.mms.gov/aboutmms/pdffiles/submerged.pdf

Outer Continental Shelf Lands Act (OCSLA):

OCSLA was enacted in 1953 and grants the Secretary of the Interior authority for the administration of mineral exploration and development of the Outer Continental Shelf (OCS) and provides guidelines for implementing an OCS oil and gas exploration and development program. The Secretary of the Interior designated the MMS as the administrative agency responsible for the mineral leasing of submerged OCS lands and for the supervision of offshore operations after lease issuance. Under section 307 of the CZMA states with approved CZM programs have the authority to review Federal activities, licensing, and permitting in the OCS that affects the state coastal zone.

Full text: http://epw.senate.gov/ocsla.pdf
http://www.mms.gov/aboutmms/OCSLA/ocslahistory.htm

Energy Policy Act (EPAct) of 2005:

EPAct 2005 provides tax incentives and loan guarantees for energy production of various types in the U.S. and authorizes the Department of the Interior to grant leases for activities that involve the production, transportation, or transmission of energy on OCS lands from sources other than gas and oil (Section 388), including renewable energy. Under section 307 of the CZMA states with approved CZM programs have the authority to review Federal activities, licensing, and permitting in the OCS that affects the state coastal zone.

Full text: http://www.epa.gov/oust/fedlaws/publ_109-058.pdf
http://www.ferc.gov/legal/fed-sta/ene-pol-act.asp

MMS Alternative Energy Program:

Under OCSLA, MMS has the authority to lease federal lands of the OCS for oil and gas development.

http://www.mms.gov/offshore/AlternativeEnergy/index.htm

5-year OCS Leasing Plan:
MMS determines the areas for OCS oil and gas development in five year increments. A 5-year program consists of a schedule of oil and gas lease sales indicating the size, timing and location of proposed leasing activity the Secretary determines will best meet national energy needs for the 5-year period following its approval. An area must be included in the current program in order to be offered for leasing.

http://www.mms.gov/5-year/

Gulf of Mexico Energy Security Act:
Signed into law on December 20, 2006, the Act significantly opens areas of OCS in the Gulf of Mexico for oil and gas leasing activities (requires leasing in 8.3 million acres in the GOM, including 5.8 million acres that were previously held under Congressional moratoria); bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Planning Area, and a portion of the Central Planning Area, until 2022; and establishes revenues sharing with Gulf producing states and the Land & Water Conservation Fund for coastal restoration projects.

Full text: **http://www.govtrack.us/congress/bill.xpd?bill=s109-3711**

Federal Oil and Gas Royalty Management Act of 1982 (FOGRAMA):
FOGRAMA was enacted in 1982 and requires that oil and gas facilities be built in a way that protects the environment and conserves Federal resources. MMS is required to comply with FOGRAMA to the maximum extent practicable in the coastal zone.

Full text: http://www.mrm.mms.gov/laws_R_D/PubLaws/PDFDocs/97-451.pdf

National Environmental Policy Act (NEPA):
NEPA was enacted in 1970 and focuses on the establishment of a U.S. national policy promoting the enhancement of the environment, with its most significant effect establishing the requirement for environmental impact statements (EISs) for major U.S. federal government actions. States with approved CZM programs can require a NEPA EIS to determine whether a proposed Federal action will impact the state coastal zone.

Full text: http://www.ehso.com/Laws_NEPA.htm
http://www.epa.gov/Compliance/nepa/
http://www.fedcenter.gov/programs/nepa/

Endangered Species Act (ESA):
ESA was enacted in 1973 and requires a permit for the taking of any protected species. It requires that all Federal actions not significantly impair or jeopardize protected species or their habitats. Under section 307 of the CZMA proposed Federal action must comply with the ESA.

Full text: http://www.fws.gov/laws/lawsdigest/ESACT.html

The Federal Water Pollution Control Act (CWA):
The CWA was enacted in 1972 to provide a system of nationally uniform, technology-based standards imposed on individual water pollution sources through a permit system, aimed to make the nation's waters fishable and swimmable and to eliminate the discharge of pollutants into navigable waters. Proposed Federal action within a state coastal zone must be consistent with the CWA.

Full text: http://www.epa.gov/npdes/pubs/cwatxt.txt

http://www.epa.gov/oecaagct/lcwa.html

Clean Air Act (CAA):

The CAA was enacted in 1970 to provide National Ambient Air Quality Standards (NAAQSs), determine criteria for air pollutant that endangers public health or welfare, and allows states to designate air quality control regions and develop State Implementation Plans (SIPs). Proposed Federal action in a state coastal zone must be consistent with the CAA requirements of that state.

Full text: http://www.epa.gov/air/caa/
http://www.epa.gov/air/caa/peg/

Marine Mammal Protection Act (MMPA):

The MMPA was enacted in 1972 and prohibits, with certain exceptions, the taking of marine mammals in United States waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S. Congress defines "take" as "harass, hunt, capture, or kill, or attempt to harass, hunt, capture or kill any marine mammal." It is questionable whether this Act is considered an enforceable policy of approved state CZM programs.

Full text: http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf
http://www.nmfs.noaa.gov/pr/laws/mmpa/