



Proposal to Change the New Hampshire Coastal Program's List of Federal Assistance Programs Subject to Federal Consistency Review



Background:

The New Hampshire Coastal Program's (NHCP's) current list of federal assistance programs subject to federal consistency review, developed pursuant to 15 C.F.R. § 930.95(a), includes five Federal Department of Transportation programs. The five Federal Department of Transportation programs, in order of Catalog of Federal Assistance (CFDA) number, are listed in Appendix A. Of these five programs, the Highway Planning and Construction (HPC) Program (CFDA 20.205), commonly known as the Federal-Aid Highway Program, is the program under which the vast majority of activities in New Hampshire's Coastal Zone are proposed.

HPC Program funds may be used for a variety of activities including, in part, construction of capital improvement projects, such as highways and bridges, traffic management and control improvements, planning, research and development, engineering and design, right-of-way acquisition, and wetland and natural habitat mitigation. In New Hampshire, the primary applicant for federal assistance under the HPC Program is the New Hampshire Department of Transportation (NHDOT).

Because many of the activities authorized under the HPC Program (e.g., planning, research and development, painting, paving, guardrail and signage installation) do not typically have reasonably foreseeable effects on any coastal use or resource, the NHCP has worked with NHDOT to better understand the nature of the activities authorized under the HPC Program and to determine whether these activities are likely to have reasonably foreseeable coastal effects. The ultimate goal of this effort is to ensure that only those activities proposed by NHDOT under the HPC Program that have reasonably foreseeable coastal effects are subject to federal consistency review by the NHCP.

Identification of Proposed Change:

After reviewing with NHDOT the categories of activities authorized under the HPC Program as well as the specific activities that NHDOT typically conducts under the HPC Program, the NHCP has determined that the majority of activities in New Hampshire's Coastal Zone authorized under the HPC Program do not have reasonably foreseeable coastal effects. As a result, the NHCP is proposing to modify its list of federal assistance programs subject to federal consistency review. The modified list of Federal Department of Transportation programs subject to federal consistency review, in order of CFDA number, is provided in Appendix B. The modified list includes only six categories of activities under the HPC Program that NHCP finds likely to have reasonably foreseeable coastal effects. The six categories include: highway construction or reconstruction; bridge construction, reconstruction, replacement or rehabilitation; construction of truck weigh stations or rest areas; construction of bus storage or maintenance facilities; work that alters the hydrology of freshwater perennial streams, tidal

waters or tidal wetlands; and work in tidal waters or tidal wetlands to mitigate the impacts of an existing transportation facility.

The NHCP finds that the proposed modification of its list of federal assistance programs subject to federal consistency review constitutes a change to its federally approved coastal management program. The proposed program change pertains to the Coordination, Public Involvement and National Interest program area (15 C.F.R. Part 923, Subpart F) established in the program development and approval regulations (15 C.F.R. Part 923, Subparts B, C, D, E, and F), as it changes how the NHCP will administer federal consistency. The NHCP is not proposing any other changes to its federally approved coastal management program.

Analysis of Why the Proposed Change is Not Substantial:

The NHCP has determined that the proposed change does not result in a substantial change to one or more of the coastal management program approvability areas established in 15 C.F.R. Part 923, Subparts B, C, D, E, and F. Furthermore, the proposed change does not add new programs to NHCP's existing list of federal assistance programs subject to federal consistency review. It merely modifies an existing federal assistance program already subject to federal consistency review by specifically identifying only those activities authorized under the program that have been deemed by the NHCP to likely have reasonably foreseeable effects on any coastal use or resource. Finally, the proposed change is consistent with the provisions of Subpart F (Consistency for Federal Assistance to State and Local Governments) of the federal consistency regulations. As a result, the NHCP finds that the proposed change constitutes a Routine Program Change and not a Program Amendment, as described in NOAA's Final Program Change Guidance, dated July 1996.

Implications of the Proposed Change:

This proposed Routine Program Change will ensure that applicant agencies, specifically NHDOT, will no longer be required to submit information to the NHCP, pursuant to 15 C.F.R. § 930.94, for proposed activities that do not have reasonably foreseeable coastal effects. This will reduce workload for both NHDOT and NHCP staff, as well as for staff at the New Hampshire Office of Strategic Initiatives, New Hampshire's designated single point of contact to review and coordinate proposed federal financial assistance, pursuant to Executive Order 12372 (Intergovernmental Review of Federal Programs).

If approved by NOAA-OCM, the proposed Routine Program Change will be reflected in Appendix C, Section III (Federal Financial Assistance Activities) of the NHCP's *Guide to Federal Consistency* (<https://www.des.nh.gov/organization/commissioner/pip/publications/wd/documents/wd-05-21.pdf>), which was approved by NOAA's Office of Ocean and Coastal Resource Management on January 16, 2009.

View the NHCP's public notice regarding this proposed Routine Program Change at the website https://www.des.nh.gov/organization/divisions/water/wmb/coastal/public_notices.htm.

Appendix A.

The following is the New Hampshire Coastal Program's current list of Federal Department of Transportation assistance programs subject to federal consistency review:

- 20.106 Airport Improvement Program
- 20.205 Highway Planning and Construction
- 20.316 Railroad Rehabilitation and Improvement Financing Program
- 20.500 Federal Transit – Capital Investment Grants
- 20.505 Metropolitan Transportation Planning and State and Non-Metropolitan Planning and Research

Appendix B.

The following is the New Hampshire Coastal Program's proposed list of Federal Department of Transportation assistance programs subject to federal consistency review:

20.106 Airport Improvement Program
20.205 Highway Planning and Construction*

*Activities funded, wholly or in part, by the Federal Department of Transportation's Highway Planning and Construction Program (CFDA 20.205), commonly referred to as the Federal-Aid Highway Program, are excluded from federal consistency review by the NHCP except for the following:

- Highway construction or reconstruction
- Bridge construction, reconstruction, replacement or rehabilitation
- Construction of truck weigh stations or rest areas
- Construction of bus storage or maintenance facilities
- Work that alters the hydrology of freshwater perennial streams, tidal waters or tidal wetlands
- Work in tidal waters or tidal wetlands to mitigate the impacts of an existing transportation facility

20.316 Railroad Rehabilitation and Improvement Financing Program
20.500 Federal Transit – Capital Investment Grants
20.505 Metropolitan Transportation Planning and State and Non-Metropolitan Planning and Research