

## HAWAI'I'S LISTED FEDERAL ACTIONS

### FEDERAL AGENCY ACTIVITIES

All Federal agency activities and development projects affecting any coastal use or resource of Hawai'i's coastal zone management area as defined by HRS 205A-1.

### FEDERAL LICENSES AND PERMITS

*Department of Defense - U.S. Army Corps of Engineers:*

- Permits and licenses required under Sections 9, 10 and 11 of the Rivers and Harbors Act of 1899<sup>1</sup>
- Permits and licenses required under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972<sup>2</sup>
- Permits and licenses required under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments<sup>3</sup>

*Environmental Protection Agency:*

- Permits and licenses required under Sections 402 and 405 of the Federal Water Pollution Control Act of 1972 and amendments
- Permits and licenses required under the Clean Air Act of 1970 as amended

*Department of Transportation - U.S. Coast Guard:*

- Permits and licenses for construction of bridges under 33 USC 401, 491-507 and 523-534<sup>4</sup>
- Permits and licenses for deepwater ports under the Deepwater Port Act of 1974<sup>5</sup>

*Department of Transportation - Federal Aviation Administration:*

- Permits and licenses for construction and operation of airports

*Department of Agriculture:*

- Permits and licenses for use and occupancy of lands for hotels, resorts, summer homes, stores and facilities for industrial, commercial, educational or public uses on National Forestry Service lands under 16 USC 497

*Department of Commerce - National Marine Fisheries Service:*

- Permits and licenses required within Marine Sanctuaries under 16 USC 1401-1444
- Permits and licenses required under the Marine Mammal Protection Act of 1972
- Permits, licenses and approvals issued pursuant to the Fishery Conservation and Management Act of 1976

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<sup>1</sup> See Hawai'i CZM Program Federal Consistency Procedures for Federal Agency Activities, Federal Licenses and Permits, and Federal Assistance, that are applicable when the Governor or a Mayor Issues a Proclamation for Disaster or Emergency Relief Purposes (hereinafter *Emergency Proclamation Procedures*) below.

<sup>2</sup> See *Emergency Proclamation Procedures* below.

<sup>3</sup> See *Emergency Proclamation Procedures* below.

<sup>4</sup> See *Emergency Proclamation Procedures* below.

<sup>5</sup> See *Emergency Proclamation Procedures* below.

*Department of Interior - Minerals Management Service:*

- Permits and licenses required for drilling and mining on Outer Continental Shelf Lands
- Permits and approvals of exploration and operating plans pertaining to the extraction of leasable minerals
- Permits, licenses and approvals relating to viable coral communities pursuant to 43 CFR 6224

*Department of Energy - Federal Energy Regulatory Commission:*

- Licenses required for non-federal hydroelectric projects and associated transmission lines under Section 4(e) of the Federal Power Act (16 USC 797(e))
- Certificates required for the construction and operation of natural gas pipeline facilities. Defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act (15 USC 717 (c))
- The permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 USC 717f(b))

*Department of Energy - Economic Regulatory Administration:*

- Opinion and order for permission for delivery of imported liquified natural gas

*Nuclear Regulatory Commission:*

- Permits and licenses for construction and operation of nuclear facilities

Federal actions outside the coastal zone but requiring federal consistency determination:

- Federal actions in forest reserves which disturb land and water resources
- Federal actions in the archipelagic waters of the Hawaiian Islands which involve the placement of any material in or on such areas, or which involve the taking or removal of any material from such areas

**General Concurrence for Federal Permit Activities for Hawaiian Fishpond Restoration, Repair, Maintenance and Reconstruction**

U.S. Army Corps of Engineers permits required under:

Rivers and Harbors Act of 1899, Sections 9, 10 and 11

Marine Protection, Research and Sanctuaries Act of 1972, Section 103

Federal Water Pollution Control Act of 1972 and amendments, Section 404

I. Federal Permit Activities

CZM federal consistency general concurrence applies to the following Federal permit activities for the restoration, repair, maintenance and reconstruction of existing Hawaiian fishponds, subject to the applicable geographic area and the relevant conditions listed below. Federal permit activities which satisfy the conditions of the general concurrence are not subject to the consistency certification and review requirements of 15 CFR Part 930, Subpart D - Consistency for Activities Requiring a Federal License or Permit.

- (a) Restoration, reconstruction, repair and maintenance of fishpond walls and sluice gates, including but not limited to the placement, movement, manipulation and temporary stockpiling of necessary materials.
- (b) Placement, movement, manipulation and temporary stockpiling of small stones ('ili'ili) or rubble for interiorwall fill.
- (c) Silt removal by hand and/or mechanized equipment from within fishponds.
- (d) Vegetation removal by hand and/or mechanized equipment from within fishponds and from fishpond walls.

- (e) Periodic post-restoration maintenance activities required to facilitate the long-term use, management and operation of fishponds.
- (f) Use of hand and/or mechanized equipment to conduct fishpond restoration activities.
- (g) Placement of temporary structures within fishponds which are necessary to conduct restoration activities.
- (h) Placement and use of aquaculture pens, nets, and/or cages within fishponds.
- (i) Use of harvesting equipment within fishponds.

## II. Geographic Area

The geographic areas covered by this general concurrence include coastal land areas, shoreline areas, and nearshore ocean waters within the State of Hawai‘i where existing Hawaiian fishponds are located. The specific geographic area is defined by the type of fishpond.

Fishponds are categorized into six main types according to the “Hawaiian Fishpond Study” (DHM Planners, Inc. and Public Archaeology Section, Applied Research Group, Bernice Pauahi Bishop Museum, June 1989; based on information by William K. Kikuchi, 1973, Hawaiian Aquacultural System). Each fishpond type is specific to a particular geographic area. Refer to Figure 1, which provides a conceptual diagram and geographic area of each type of fishpond.

Type I - Loko Kuapā: A fishpond of littoral water whose side or sides facing the sea consist of a stone or coral wall usually containing one or more sluice gates.

Type II - Loko Pu‘uone: An isolated shore fishpond usually formed by the development of barrier beaches building a single, elongated sand ridge parallel to the coast and containing one or more ditches and sluice gates.

Type III - Loko Wai: An inland freshwater fishpond which is usually either a natural lake or swamp, which can contain ditches connected to a river, stream, or the sea, and which contain sluice gates.

Type IV - Loko I‘a Kalo: An inland fishpond utilizing irrigated taro plots.

Type V - Loko ‘Ume Iki: A fishtrap which is similar to a Type I – Loko Kuapā and has various combinations of inward and outward leading lanes.

Type VI - Kaheka and Hapunapuna: A natural pool or holding pond.

## III. Conditions

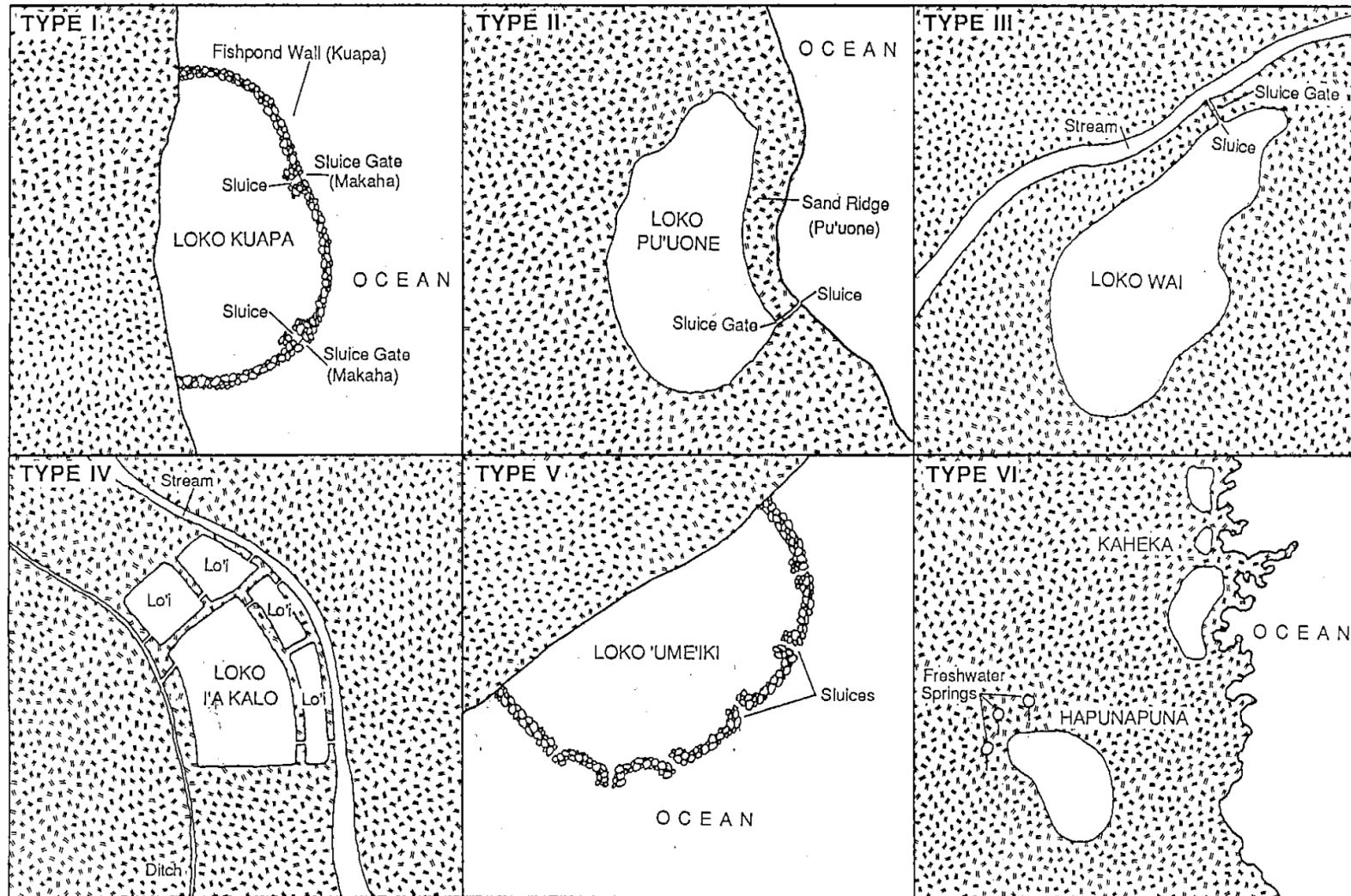
1. Copies of U.S. Army Corps of Engineers permit applications for activities covered by this general concurrence must be sent by the applicant to the Hawai‘i CZM Program for the purpose of monitoring adherence to the required conditions.
2. Fishpond restoration activities shall be conducted in compliance with applicable State of Hawai‘i water quality standards and requirements of Hawai‘i Revised Statutes (HRS) Chapter 342D Water Pollution and Hawai‘i Administrative Rules (HAR) Chapter 11-54 Water Quality Standards, which are federally approved enforceable policies of the Hawai‘i CZM Program.
3. Fishpond restoration activities shall be conducted in compliance with applicable State of Hawai‘i water pollution control requirements of HRS Chapter 342D Water Pollution and HAR Chapter 11-55 Water Pollution Control, which are federally approved enforceable policies of the Hawai‘i CZM Program.

4. Best management practices, such as silt containment devices and turbidity control measures, shall be implemented during fishpond restoration activities to minimize impacts on surface and ocean water quality. This condition is necessary to ensure consistency with Hawai'i CZM Program coastal ecosystems policies established in HRS Chapter 205A Coastal Zone Management (HRS §205A-2(b)(4)(A) and HRS §205A-2(c)(4)), which is a federally approved enforceable policy.
5. Materials used for fishpond restoration, reconstruction and repair may be from on-site and/or off-site, and shall be clean and free of waste products, debris, or any potentially hazardous materials. This condition is necessary to ensure consistency with Hawai'i CZM Program coastal ecosystems policies established in HRS Chapter 205A Coastal Zone Management (HRS §205A-2(b)(4)(A) and HRS §205A-2(c)(4)), which is a federally approved enforceable policy.
6. Whenever active fishpond restoration activities are occurring, work areas shall be monitored for endangered, threatened or indigenous species protected by the State of Hawai'i under HRS Chapter 195D Conservation of Aquatic Life, Wildlife, and Land Plants, and HAR Chapter 13-124 Indigenous Wildlife, Endangered and Threatened Wildlife, and Introduced Wild Birds, which are federally approved enforceable policies of the Hawai'i CZM Program. If any protected endangered, threatened or indigenous species are present in the vicinity of the restoration area, work shall cease until the animal has left the area.
7. Fishpond restoration activities shall be conducted in compliance with applicable State of Hawai'i conservation district requirements established in HRS Chapter 183C Conservation District and HAR Chapter 13-5 Conservation District, which are federally approved enforceable policies of the Hawai'i CZM Program.
8. The State Historic Preservation Division (SHPD) shall be consulted prior to beginning fishpond restoration and any requirements of SHPD shall be complied with. This condition is necessary to ensure consistency with HRS Chapter 6E - Historic Preservation, which is a federally approved enforceable policy of the Hawai'i CZM Program.
9. Fishpond restoration activities shall be conducted in compliance with special management area and shoreline setback area requirements of the respective county in which the fishpond restoration occurs. This condition is necessary to ensure consistency with HRS Chapter 205A Coastal Zone Management (HRS Chapter 205A, Part II and Part III), which is a federally approved enforceable policy of the Hawai'i CZM Program.
10. Public access along the shoreline shall not be precluded by any fishpond restoration activities. If restoration work involves an area used for public shoreline access and if safe public access cannot be maintained during restoration, then provisions shall be made to ensure that public access is provided by alternative routes and/or means. This condition is necessary to ensure consistency with federally approved Hawai'i CZM Program enforceable policies for ensuring and managing public access established in HRS Chapter 205A Coastal Zone Management (HRS §205A-2(b)(1)(A) and HRS §205A-2(c)(1)(B)) and HRS Chapter 115 Public Access to Coastal and Inland Recreational Areas.

#### IV. General Concurrence Procedures

- (a) Federal permit activities which satisfy the conditions of the general concurrence are not subject to the consistency certification and review requirements of 15 CFR 930, Subpart D - Consistency for Activities Requiring a Federal License or Permit.
- (b) Copies of federal license and permit applications for activities subject to the general concurrence must be sent by the applicant to the Hawai'i CZM Program for the purpose of monitoring adherence to the required conditions.

Figure 1  
HAWAIIAN FISHPOND TYPES



“Hawaiian Fishpond Study”

DHM Planners, Inc. and Public Archaeology Section, Applied Research Group, Bernice Pauahi Bishop Museum, June 1989

## **FEDERAL FINANCIAL ASSISTANCE**

The State of Hawai‘i does not participate in the intergovernmental review process authorized by Presidential Executive Order 12372. Therefore, applicant agencies shall submit applications for federal assistance from programs identified on the Hawai‘i list of federal assistance programs (below) to the Hawai‘i CZM Program for federal consistency review pursuant to 15 CFR 930.94(b). In addition to the federal assistance application, an evaluation of the relationship of the proposed activity and any reasonably foreseeable coastal effects to the enforceable policies of the Hawai‘i CZM Program shall be provided pursuant to 15 CFR 930.94(c). The Hawai‘i CZM Program will issue its concurrence with or objection to the application for federal assistance within 60 days from receipt of the applicant agency’s federal assistance application and consistency evaluation; unless an extension period of 15 days or less is added to the review time by notification to the applicant agency. The review time may be extended for longer periods by agreement between the applicant agency and the Hawai‘i CZM Program.

### **10.760 Water and Waste Disposal, DOA**

Activities not subject to federal consistency review by CZM Hawai‘i:

- Non-construction activities related to public works and economic development facilities
- Acquisition of real property
- Acquisition of machinery and equipment
- Design and engineering
- Alternative analysis of economic development facilities

### **11.300 Grants for Public Works and Economic Development Facilities, EDA**

Activities not subject to federal consistency review by CZM Hawai‘i:

- Non-construction activities related to public works and economic development facilities
- Acquisition of real property
- Acquisition of machinery and equipment
- Design and engineering
- Alternative analysis of economic development facilities

### **15.605 Sport Fish Restoration, USFWS**

Activities not subject to federal consistency review by CZM Hawai‘i:

- Research
- Operation and maintenance (except dredging)
- Sport fish population management
- Program coordination

### **15.916 Outdoor Recreation – Acquisition, Development and Planning, NPS**

Activities not subject to federal consistency review by CZM Hawai‘i:

- Non-construction activities related to outdoor recreation projects
- Acquisition of real property and rights-of-way
- Feasibility, alternative analysis, technical studies and data collection
- SCORP: preparation of new plans and revising and updating existing plans

## **20.205 Highway Planning and Construction, U.S. Department of Transportation, Federal Highway Administration (FHWA)<sup>6</sup>**

The following types of activities funded under this program are not subject to federal consistency review:

- Non-construction activities related to highway planning and construction
- Acquisition of real property and rights-of-way
- Feasibility, alternative analysis, technical studies and data collection
- Road maintenance and repairs including removal of existing pavement, resurfacing, pavement preventive maintenance, striping and markings, replacing signage, and repairs to sidewalks and curbs.
- Reconstruction, rehabilitation and widening of roadways within established rights-of-way.
- Installation of sidewalks within established rights-of-way, e.g., Safe Routes to School.
- Installation of ADA curbs and ramps.
- Roadway improvements including installation of lighting, traffic signals, signage, pedestrian signals and crosswalks, and traffic management devices.
- Installation of drainage improvements for existing roadways within established rights-of-way.
- Repairs and improvements to existing bridges, including seismic retrofitting of bridges. Note: Construction of new bridges and widening of existing bridges requires federal consistency review.

## **20.500 Federal Transit-Capital Improvement Grants, DOT**

The following types of activities funded under this program are not subject to federal consistency review:

- Non-construction activities related to mass public transportation service
- Acquisition of real property and rights-of-way
- Acquisition of rolling stock
- Acquisition of equipment
- Acquisition of buses and bus facility equipment
- Alternatives analysis of transportation systems
- Coordinating transit service with highway and other transportation

## **Hawai'i CZM Program Federal Consistency Procedures for Federal Agency Activities, Federal Licenses and Permits, and Federal Assistance, that are applicable when the Governor or a Mayor Issues a Proclamation for Disaster or Emergency Relief Purposes**

Pursuant to Act 111, Session Laws of Hawai'i (SLH) 2014, emergency powers are conferred on the Governor of the State of Hawai'i, and the mayors of the counties, to deal with disasters or emergencies; to ensure the administration of state and federal programs providing disaster relief; to protect the public health, safety and welfare; and to preserve the lives and property of the people of the State of Hawai'i. These procedures are intended to expedite federal, state, and county actions that are necessary to respond to, or provide relief for, disaster or emergency situations while addressing Coastal Zone Management Act federal consistency requirements. Whenever the governor or a mayor, issues a proclamation for disaster or emergency relief purposes, federal, state, and county agencies engaged in actions described below may carry out emergency response activities without CZM consistency review and concurrence, that would otherwise be subject to review for federal agency activities (15 CFR Part 930, Subpart C), federal licenses or permits (15 CFR Part 930, Subpart D), or federal assistance (15 CFR Part 930, Subpart F).

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<sup>6</sup> See *Emergency Proclamation Procedures* below.

**a) Federal Agency Activities (15 CFR Part 930, Subpart C)**

Federal agency activities that are necessary to respond to a disaster or emergency situation, for which the Governor or a mayor has issued a proclamation for relief purposes, are considered to be emergency activities for the purposes and procedures provided in the federal consistency regulations at 15 CFR § 930.32(b).

**b) Hawai‘i List of Federal Licenses and Permits Subject to Federal Consistency Review**

U.S. Army Corps of Engineers permits required under:

- Rivers and Harbors Act of 1899, Sections 9, 10 and 11;
- Marine Protection, Research and Sanctuaries Act of 1972, Section 103;
- Federal Water Pollution Control Act of 1972 and amendments, Section 404.

Whenever the Governor or a mayor issues a proclamation for disaster or emergency relief purposes, these U.S. Army Corps of Engineers permits may be issued to state and county agencies for emergency response activities without CZM consistency review and concurrence. For monitoring purposes, state and county agencies shall inform the Hawai‘i CZM Program, as soon as practicable, of emergency activities authorized by these permits. If a state or county agency requires additional federal permit authorization after the proclamation has expired or after 1 year from the date of the proclamation, whichever date comes first unless another date is otherwise mutually agreed to by the Hawai‘i Coastal Management Program and the Corps, then the state or county agency shall comply with the applicable federal consistency review requirements and procedures.

Department of Transportation, U.S. Coast Guard:

- Permits and licenses for construction of bridges under 33 USC 401, 491-507, and 523-534;
- Permits and licenses for deepwater ports under the Deepwater Port Act of 1974.

Whenever the Governor or a mayor issues a proclamation for disaster or emergency relief purposes, these U.S. Army Corps of Engineers permits may be issued to state and county agencies for emergency response activities without CZM consistency review and concurrence. For monitoring purposes, state and county agencies shall inform the Hawai‘i CZM Program, as soon as practicable, of emergency activities authorized by these permits. If a state or county agency requires additional federal permit authorization after the proclamation has expired or after 1 year from the date of the proclamation, whichever date comes first unless another date is otherwise mutually agreed to by the Hawai‘i Coastal Management Program and the Corps, then the state or county agency shall comply with the applicable federal consistency review requirements and procedures.

**c) Hawai‘i List of Federal Assistance Programs Subject to Federal Consistency Review**

Department of Transportation, Federal Highway Administration (FHWA)  
20.205 Highway Planning and Construction.

The following types of activities funded under this program are not subject to federal consistency review:

- Non-construction activities related to highway planning and construction;
- Acquisition of real property and rights-of-way;
- Feasibility, alternative analysis, technical studies and data collection;
- Road maintenance and repairs including removal of existing pavement, resurfacing, pavement preventive maintenance, striping and markings, replacing signage, and repairs to sidewalks and curbs;
- Reconstruction, rehabilitation and widening of roadways within established rights-of-way;
- Installation of sidewalks within established rights-of-way, e.g., Safe Routes to School;
- Installation of ADA curbs and ramps;
- Roadway improvements including installation of lighting, traffic signals, signage, pedestrian signals and crosswalks, and traffic management devices;
- Installation of drainage improvements for existing roadways within established rights-of-way;
- Repairs and improvements to existing bridges, including seismic retrofitting of bridges.

Note: Construction of new bridges and widening of existing bridges requires federal consistency review.

State and county activities required to provide disaster or emergency relief in response to a proclamation issued by the Governor or a mayor. For monitoring purposes, state and county agencies shall inform the Hawai'i CZM Program, as soon as practicable, of emergency activities that received funding under this federal assistance program. If a state or county agency requires additional funding from this federal assistance program after the proclamation has expired or after 1 year from the date of the proclamation, whichever date comes first unless another date is otherwise mutually agreed to by the Hawai'i Coastal Management Program and the Federal agency, then the state or county agency shall comply with the applicable federal consistency review requirements and procedures.