



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by Norwalk Cove Marina, Inc.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of appeal.

SUMMARY: This announcement provides notice that the Department of Commerce (DOC) has received a “Notice of Appeal” filed by Norwalk Cove Marina, Inc., (Appellant) requesting that the Secretary override an objection by the New York State Department of State to a consistency certification for a proposed project to dispose of dredged material in the Central Long Island Sound Dredged Material Site.

DATES: Written comments and requests for a public hearing will be considered if received no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Comments or requests for a public hearing must be submitted by:

- *Electronic Submission:* Submit all electronic public comments or requests for a public hearing via the Federal eRulemaking portal. Go to www.regulations.gov and enter NOAA-HQ-2021-0059 in the search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA.

NOAA intends to post publicly available materials and related documents comprising the appeal record electronically, at www.regulations.gov, under docket number NOAA-HQ-2021-0059.

FOR FURTHER INFORMATION CONTACT: For further questions about this notice, contact Bethany Henneman, NOAA Office of the General Counsel, Oceans and Coasts Section, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, (301) 300-0027, bethany.henneman@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On May 19, 2021, the Secretary of Commerce (Secretary) received a “Notice of Appeal” filed by Norwalk Cove Marina, Inc., pursuant to the Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. The “Notice of Appeal ” is taken from an objection by the New York State Department of State to a consistency certification for a pending permit application to the U.S. Army Corps of Engineers to dispose of approximately 24,500 cubic yards of dredged material in the Central Long Island Sound Disposal Site.

Under the CZMA, the Secretary may override the New York State Department of State’s objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or otherwise necessary in the interest of national security. To make the determination that the proposed activity is “consistent with the objectives or purposes of the CZMA,” the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the national interest furthered by the proposed activity outweighs the activity’s adverse coastal effects, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the proposed activity to be conducted in a manner consistent with the enforceable policies of the applicable coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is “necessary in the interest of national security,” the Secretary must find that a national defense or other national security

interest would be significantly impaired if the proposed activity is not permitted to go forward as proposed. 15 CFR 930.122.

Request for Public and Federal Agency Comments

We encourage the public and interested federal agencies to participate in this appeal by submitting written comments and any relevant materials supporting those comments using the method specified in the “addresses” section of this notice. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g. name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Opportunity for Public Hearing

The Secretary may hold a public hearing on this appeal, either in response to a written request for a public hearing or upon her own initiative. You may submit a request for a public hearing using the method specified in the “addresses” section of this notice. A written request for a public hearing must include an explanation for why you believe a public hearing would be beneficial and aid the decision-maker. If a hearing is held, advance notice of the time, date, and location of the public hearing will be published in the Federal Register. The public and federal agency comment period will also be reopened for a 10-day period following the hearing to allow for additional input.

Public Availability of Appeal Documents and Decisions

NOAA intends to provide access to publicly available materials and related documents comprising the appeal record on the following website:

www.regulations.gov, under docket number NOAA-HQ-2021-0059.

(Authority: 15 CFR 930.128(a))

Adam Dilts,

Chief, Oceans and Coasts Section, Office of the General Counsel,

National Oceanic and Atmospheric Administration.

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