

Coastal Delaware

Coastal Fact Sheet # 1: SPECIAL INSERT Federal Consistency

Federal Consistency is one of the most important tools available to states for managing development activities within their coastal zones and is a cornerstone of the Delaware Coastal Management Program. Federal Consistency is a national program that was set up by the Coastal Zone Management Act of 1972. It requires federal actions that affect the designated coastal zone of a state to adhere to that state's Coastal Management policies. It also sets up a process for states to review these projects.

Hundreds of Federal actions occur in the State of Delaware each year. Some are high profile projects that stir public emotion, but most are routine, day-to-day operations of the federal government. Dredging of rivers and bays, beach nourishment, land acquisition, fisheries management, and oil and gas exploration are all direct federal activities that occur within Delaware. In addition, the federal government is responsible for issuing a wide-range of permits to individuals, corporations and local governments for activities such as wetland disturbances, bridges, docks and piers, pipelines, electric lines and pollutant discharges. These permits are usually referred to as indirect federal actions, because the federal agency is allowing the project to go forth, but not actually conducting the project.

Each of the above type of Federal activity is reviewed by Delaware's Coastal Management Program. It is through this process that coastal states protect their resources and guide coastal development in a manner consistent with the values and priorities of the state.

Delaware's Coastal Zone Management Area

Federal Consistency reviews are conducted only for projects that will likely affect the Coastal Zone of a state. In larger states like New Jersey and Virginia, the Coastal Zone is a strip of land near the coast. In Delaware, because no part of the state is more than 8 miles from tidal waters, the entire state is considered the Coastal Zone. This causes some confusion however, because Delaware has its own state coastal protection law, the Coastal Zone Act. This state law mainly prohibits industrial development in the State's "Coastal Zone," a strip of land bordering the Delaware River and Bay, the C&D Canal, Delaware's Inland Bays and the Atlantic Ocean (see figure 1). It is easy to be confused about the two distinct coastal zones in Delaware, but it is easy to remember that for Federal purposes (Federal Consistency included), the Coastal Zone is the entire state of Delaware.

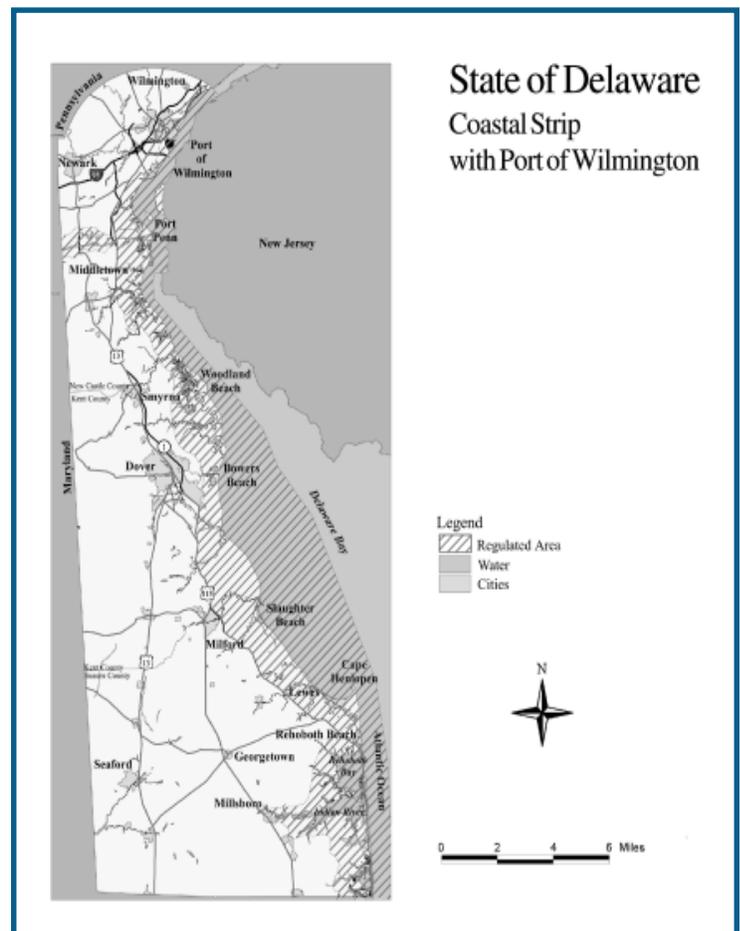


Figure 1.

Delaware's Coastal Management Policies Include:

- ◆ Air Quality
- ◆ Beaches
- ◆ Coastal Waters
- ◆ Flood Hazard Areas
- ◆ Historic and Cultural Areas
- ◆ Living Resources
- ◆ Mineral Resources
- ◆ Port of Wilmington
- ◆ Public Investment
- ◆ Recreation and Tourism
- ◆ Subaqueous Lands
- ◆ Transportation Facilities
- ◆ Waste Disposal
- ◆ Water Supply
- ◆ Wetlands
- ◆ Woodlands and Agricultural Lands

Delaware's Coastal Management Policies

The Delaware Coastal Management Program has an approved set of policies that are used to review projects for Federal Consistency. These policies are composed of pre-existing state laws, regulations and executive orders. Because the goals of the Coastal Management Program are to balance the use, preservation and development of coastal resources, these policies cover a surprising range of coastal issues. A complete list of policies used for Federal Consistency reviews can be found at: www.dnrec.state.de.us/dnrec2000/Divisions/Soil/dcmp/fedcon.htm

Delaware's Federal Consistency Program

Applicants for federal consistency submit a statement of "consistency" to the Delaware Coastal Management Program, along with a complete project description and analysis of impacts. The statement of consistency tells the Coastal Management Program that the applicant has reviewed the Coastal Management Program policies and believes that the project adheres to them.

The Delaware Coastal Management Program usually has up to six months to review a project, but review can take less or more time, depending on the complexity of the project or the completeness of the original application.

Federal Consistency reviews are conducted by Delaware Coastal Management Program staff and are often coordinated with other state and federal agencies. Once a review is complete, the applicant receives either a "consistency concurrence" or "denial of consistency concurrence." The "consistency concurrence" means that the Coastal Management Program agrees that the proposed project is in keeping with its' policies and the project may proceed. A denial of consistency concurrence means that the project may not proceed unless it is modified to adhere to the Coastal Management Policies.

Public Involvement

Public involvement is an integral part of the Federal Consistency process. Each application goes on public notice for either 20 or 30 days, depending on the type of project. During this time, comments regarding the project are accepted by the Coastal Management Program. Any comments received are taken into consideration while reviewing the project. Public notices for new Coastal Management Federal Consistency applications are placed in the classified section of The News Journal and The Delaware State News every Wednesday and Sunday (see Figure 2).

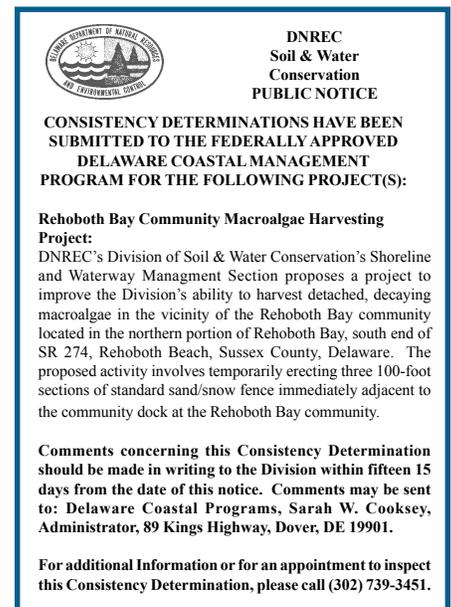


Figure 2. Example of a Federal Consistency application Public Notice.



For more information about Federal Consistency, please contact:
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www.dnrec.state.de.us/dnrec2000/Divisions/Soil/dcmp/fedcon.htm

