

**Routine Program Change Analysis for
Interstate Activities**
(6/1/07)

The Federal Consistency Regulations at 15 CFR 930 were revised in January 2001 to include a new Subpart I, Consistency of Federal Activities Having Interstate Coastal Effects. This subpart requires that an approved coastal management program list federal activities subject to interstate review. Specifically, the New Jersey Coastal Management Program is required to list Federal activities requiring permits, licenses or other regulatory approvals from Federal agencies, in another state, that it intends to review on a routine basis. This list must be submitted to, and approved by, OCRM. Prior to the January 2001 amendments, any Federal actions that had reasonably foreseeable effects on the resources and uses of New Jersey's coastal zone were subject to review under the Federal Consistency provisions of the Coastal Zone Management Act regardless of their location. The Department is submitting a listing of interstate activities it has determined have reasonably foreseeable effects on the resources and uses of New Jersey's coastal zone when located below the high tide line in the Delaware Bay within the State of Delaware and the Delaware River up to the "Trenton Makes" Bridge within the State of Pennsylvania. Prior to the January 2001 amendments described above, the Department reviewed the listed interstate activities regardless of their location pursuant to Section 307 of the Federal Coastal Zone Management Act. Because the listing of interstate activities is comprised of activities that had previously been subject to Federal Consistency review by the New Jersey Coastal Management Program, listing these activities as interstate activities reestablishes New Jersey's ability to review these activities in accordance with 15 CFR Subpart I.

The Department considers the addition of the interstate listings to constitute a Routine Program Change of the New Jersey Coastal Management Program. Pursuant to 15 CFR 923.84(a), the listing of interstate activities does not change or create new special management areas; does not change the boundaries of the New Jersey Coastal Management Program; and, does not change authorities and organization. However, the inclusion of an interstate listing does change the program approvability area of coordination, public involvement and national interest as it changes the Federal Consistency procedures of the Coastal Management Program. In addition, the interstate listing changes the uses subject to management because it changes the geographic area of uses reviewed by the New Jersey Coastal Management Program. Based on the above discussion, the Department does not consider the addition of an interstate listing as a substantial change to the New Jersey Coastal Management Program as it reestablishes the Department's ability to review federal activities it had once reviewed on a routine basis prior to January 2001.

The Federal Consistency regulations at 15 CFR 930.154 require that each state intending to conduct a consistency review of federal activities occurring in another State: (1) list those Federal agency activities and the general geographic location that the state intends to routinely review for consistency; (2) demonstrate coastal effects of the listed activities; and (3) include evidence of consultation with States in which the activity will occur as well as evidence of consultation with relevant Federal agencies.

(1) List of Federal agency activities subject to interstate consistency and geographic location

The New Jersey Coastal Management Program is listing the issuance of permits by the Army Corps of Engineers under Sections 9 and 10 of the Rivers and Harbors Act for the construction of structures such as dams or dikes, bulkheads, revetments, groins, jetties, piers, docks, artificial reefs, pipelines, cables and wind turbines and islands or activities such as dredging filling, mining, excavation and mooring of vessels in navigable waters and creation of artificial islands. Also listed is the issuance of a Section 404 authorization by the Army Corps of Engineers for the discharge of dredged and fill materials and other activities in the waters of the United States including wetlands. **Appendix A** contains a chart of the listed activities and their geographic location. The interstate activities that the New Jersey Coastal Management Program intends to review on a routine basis are located below the high tide line in the Delaware Bay within the State of Delaware and the Delaware River up to the “Trenton Makes” Bridge within the State of Pennsylvania. The high tide line of the Delaware Bay and River was selected because this line includes the areas subject to US Army Corps of Engineers jurisdiction under Sections 9 and 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. **Appendix B** contains maps depicting the geographic locations of the listed activities.

(2) Demonstration of coastal effects of the listed activities on the resources and uses of New Jersey’s coastal zone

Appendix C contains the Department’s Analysis of Reasonably Foreseeable Interstate Coastal Effects of Federal Actions Occurring in Pennsylvania and Delaware on New Jersey’s Coastal Zone.

(3) Evidence of consultation with relevant Federal agencies and States in which the activity will occur

Appendices C, D and E contain evidence that the Department consulted with Federal agencies and affected states, the comments received, and a summary of the comments relevant to the final listing. Specifically: **Appendix D** contains a copy of the Department’s August 13, 2003 letter to various Federal agencies and the program managers of coastal management programs of affected states, as well as a distribution list. **Appendix E** contains copies of all Federal agency and neighboring state comment letters. **Appendix F** contains a summary of comments received from the Delaware Coastal Management Program relevant to the proposed interstate listing, and an explanation of how the New Jersey Coastal Management Program considered or satisfied their comments.

Based on the comments received, the Department has decided to limit its interstate federal consistency listing to those activities listed in **Appendix A**. By limiting these activities, the Department believes that it has addressed the concerns of overburdening federally regulated entities and Federal agency regulatory programs. Further, the revisions are intended to address the concerns raised by the Delaware Coastal Management Program with respect to the size of dredging projects and the potential impacts of the proposed listing on their beach nourishment program.