

DELAWARES' LISTED FEDERAL ACTIONS

Delaware has defined its Coastal Management Area as the entire state for the purposes of the federally approved coastal management program. Specific geographical areas are provided for the purposes of interstate federal consistency.

DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS

Federal agencies proposing activities and development projects must submit a consistency determination to the DCMF where such projects are likely to affect Delaware's coastal resources. Under federal regulations this includes all functions of a federal agency performed by it or on its behalf, including: planning, construction, modification, or removal of public works, facilities, or other structures, and the acquisition, utilization, or disposal of land or water resources. [15 CFR §930.31]

FEDERAL LICENSES AND PERMITS

3.2.8.1 Department of Defense - Army Corps of Engineers

3.2.8.1.1 Construction of dams or ditches across navigable waters, or obstruction of navigable waters required under Section 9 and 10 of the Rivers and Harbors Act of 1899 (33 USC 401, 403).

3.2.8.1.2 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 USC 404, 405).

3.2.8.1.3 Occupation of sea wall, bulkhead, jetty, dike, levee, wharf, pier or other work built by the United States pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408).

3.2.8.1.4 Approval of plans for improvements made at private expense under USCOE supervision pursuant to the Rivers and Harbors Act of 1899 (33 USC 565)

3.2.8.1.5 Discharge of fill into the waters of the United States pursuant to the Clean Water Act of 1987, Section 404.

3.2.8.1.6 All actions for which permits are required pursuant to Section 103 of the Marine Sanctuaries Act of 1972 (33 USC 1413).

3.2.8.1.7 Construction of Artificial islands and fixed structures on the Outer Continental Shelf pursuant to Section 4(f) or the Outer Continental Lands (43 USC) not otherwise covered in an OCS plan.

3.2.8.1.8 Port Access Routes pursuant to 43 USC 1333(F)

3.2.8.2 Department of Transportation – U.S. Coast Guard

3.2.8.2.1 Construction or modification of bridges, causeways or pipelines over navigable water pursuant to 49 USC 1455.

3.2.8.3 Environmental Protection Agency

3.2.8.3.1 NPDES Permits and other permits for federal installations, discharges in contiguous zones and ocean waters, sludge runoff permits and agricultural waste disposal pursuant to Sections 401, 402, 403, 405, and 318 of the Clean Water Act of 1987.

3.2.8.3.2 Permits pursuant to the Resource Recovery and Conservation Act of 1976.

3.2.8.3.3 Permits pursuant to the Clean Air Act of 1990.

3.2.8.4 Federal Energy Regulatory Commission

3.2.8.4.1 Licenses and permits ordering interconnection of electric transmission lines; issuing certificates of public convenience and necessity for interstate natural gas transmission and terminals including approval of LNG sites; approvals for abandonment of natural gas pipelines; and licenses required for non-federal hydroelectric projects and associated transmission lines.

3.2.8.4.2 Licenses of outer continental shelf (OCS) construction and operations and other authorizations and exemptions by the Federal Energy Regulatory Commission under the Federal Power Act 16 U.S.C 792-823, as amended, for OCS activities including hydrokinetic energy activities.

3.2.8.5 Nuclear Regulatory Commission

3.2.8.5.1 Licensing and certification of the construction and operation of nuclear power plants and possession and use of by-products, source and special nuclear material, pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

3.2.8.6 Department of Energy

3.2.8.6.1 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 USC 717) and the Energy Reorganization Act of 1974.

3.2.8.6.2 Siting, construction and operation of non-nuclear power plants.

3.2.8.7 Department of Interior – Bureau of Ocean Energy Management, Regulation and Enforcement

3.2.8.7.1 Leases, permits, approval of outer continental shelf (OCS) exploration and development and production plans, and other authorizations by the Bureau of Ocean Energy Management, Regulation and Enforcement under the Outer Continental Shelf Lands Act (OCSLA) 43 U.S.C. 1331 et. seq., as amended, for OCS activities including oil and gas activities, alternative energy activities, and alternate uses of existing facilities.

3.2.8.8 Federal Aviation Administration

3.2.8.8.1 Airport Layout Plans (FAA Order 5050.4A, paragraph 22(8)(d))

FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

Pursuant to 15 CFR Part 930, Subpart F, state and local governments submitting applications for federal assistance affecting Delaware's coastal zone management area shall certify that the projects are consistent with the policies of the DCMF. Federal assistance means assistance provided under a Federal program to an applicant agency through grant or contractual arrangements, loans, subsidies, guarantees, insurance, or other forms of financial aid. An applicant agency means any unit of state or local government that submits an application for federal assistance.

OCS EXPLORATION, DEVELOPMENT AND PRODUCTION ACTIVITIES

The federal regulations, 15 CFR Part 930, Subpart E, provides that Outer Continental Shelf (OCS) plans submitted to the U.S. Secretary of the Interior for OCS exploration, development and production, and all associated federal licenses and permits described in detail in such OCS plans, shall be subject to a federal consistency review.

3.4.2 OCS Activities Subject to Consistency

A certification of consistency for each activity described in detail in the OCS plan shall be attached to the OCS plan at the time it is submitted to the Secretary of the Interior. No federal official or agency shall grant any license or permit for any activity described in detail in the OCS plan until the State has received such certification and plan together and until the State has concurred or conclusive concurrence is presumed.

OCS plan license and permit actions not described in detail in the OCS plan are subject to the provisions for federal licenses and permits.

INTERSTATE CONSISTENCY LIST & GEOGRAPHIC LOCATION DESCRIPTIONS

4.4.1 Dredging and Dredged Material Disposal

4.4.1.1 Dredging, filling, mining, and excavation of 50,000 or more cubic yards, excluding beach nourishment projects

4.4.1.1.1 Applies to activities in New Jersey occurring below the high tide line of the Delaware River from the Commodore Barry Bridge south to the Delaware state line; and/or below the high tide line of the Delaware River and Bay from Artificial Island to Cape May

4.5.1.1.2 Applies to activities in Pennsylvania occurring below the high tide line of the Delaware River from the Commodore Barry Bridge south to Delaware state line.

4.4.1.2 Subsurface discharge of dredged and fill materials, relocation or redistribution of sediments of 50,000 or more cubic yards, excluding beach nourishment projects

4.4.1.2.1 Applies to activities in New Jersey below the high tide line of the Delaware River from the Commodore Barry Bridge south to the Delaware state line; below the high tide line of the Delaware River and Bay from Artificial Island to Cape May, NJ; and/or confined upland disposal facilities with the capacity to handle at least 50,000 cubic yards of dredged material that discharge directly into Delaware River or Bay.

4.4.1.2.2 Applies to activities in Pennsylvania occurring below the high tide line of the Delaware River from the Commodore Barry Bridge south to Delaware state line; and/or confined upland disposal facilities with the capacity to handle at least 50,000 cubic yards of dredged material that discharge directly into Delaware River.

4.4.2 Offshore Alternative Energy Development

4.4.2.1 Alternative Energy Development (i.e. siting, placement, construction and/ or decommissioning of wind, wave, and tidal energy capture technologies, excluding metrological towers and buoys)

4.4.2.1.1 Applies to activities in New Jersey occurring within the Delaware River and Bay from Artificial Island to Cape May and State ocean waters from 0-3nmi, extending from Hereford Inlet south to the tip of Cape May.

4.4.2.1.2 Applies to activities in Maryland occurring within State ocean waters from 0-3 nmi.

4.4.3 Introduction of Non-native Shellfish

4.4.3.1 Introduction of Non-native Shellfish involving placement of new substrate or manipulating existing substrate

4.4.3.1.1 Applies to activities in New Jersey occurring within Delaware River and Bay from Artificial Island to Cape May

4.4.3.1.2 Applies to activities in Maryland occurring within the Chesapeake Bay

4.4.3.1.3 Applies to activities in Virginia occurring within the Chesapeake Bay