Delaware Department of Natural Resources and Environmental Control
Delaware Coastal Management Program

Initial Review: _____
Updated On: _____
Complete: _____
Official Use Only

Coastal Zone Management Act Federal Consistency Form

This document provides the Delaware Coastal Management Program (DCMP) with a Federal Consistency Determination or Certification for activities regulated under the Coastal Zone Management Act of 1972, as amended, and NOAA's Federal Consistency Regulations, 15 C.F.R. Part 930. Federal agencies and other applicants for federal consistency are not required to use this form; it is provided to applicants to facilitate the submission of a Consistency Determination or Consistency Certification. In addition, federal agencies and applicants are only required to provide the information required by NOAA's Federal Consistency Regulations.

Project/Activity Name:	Shoreline Damage Mitigation at Mispillion Inlet, Milford, Sussex County, Delaware, CAP Section 111

I. Federal Agency or Non-Federal Applicant Contact Information:

Contact Name/Title: Valerie Whalon, Ecologist

Federal Agency Contractor Name (if applicable): _____

Federal Agency: U.S. Army Corps of Engineers, Philadelphia District
(either the federal agency proposing an action or the federal agency issuing a federal license/permit or financial assistance to a non-federal applicant)

Mailing Address: 1650 Arch Street, 4th Floor Planning Division

City: Philadelphia State: PA Zip Code: 19103

E-mail: valerie.m.whalon@usace.army.mil Telephone #: 215-922-9179

II. Federal Consistency Category:

- (●) Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)
- ( ) Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)
- ( ) Federal Financial Assistance (15 C.F.R. Part 930, Subpart F)
- ( ) Federal License or Permit Activity (15 C.F.R. Part 930, Subpart D)
- ( ) Federal License or Permit Activity which occurs wholly in another state (interstate consistency activities identified in DCMP's Policy document)

III. Detailed Project Description (attach additional sheets if necessary):

USACE, Philadelphia District and Delaware Natural Resources and Environmental Control (DNREC) propose a beach fill to place sediment north of a dike on the north side of the Mispillion Inlet. The proposed beach nourishment will be a one-time placement that will provide a robust, sustainable, and environmentally sensitive solution for mitigating coastal erosion and enhancing shoreline resilience. Approximately 80,500 cubic yards of compatible sand will be trucked from a local quarry to a staging area likely a property of Mispillion River or Cedar Creek with a boat ramp. Sand would either be pumped using a sand bypass system or barged from the staging area. Heavy equipment would move the sand to the shoreline of Conch Bar, forming a protective berm that is 1,700 feet long, 150 feet wide, and a crest elevation of + 5 ft NAVD88.

See Attachment 1 sheet for additional information.

IV. General Analysis of Coastal Effects (attach additional sheets if necessary):

The beach fill would have temporary adverse effects and long-term beneficial effects on habitat at Mispillion Inlet. Construction would result in temporary disturbance of the existing eroded berm to the mean low water (MLW) and adjacent areas that provide wildlife habitat.

See Attachment 2 for more detail.

V. Detailed Analysis of Consistency with DCMP Enforceable Policies (attach additional sheets if necessary)**:**

Policy 5.1: Wetlands Management

With the exception of needing to route a pipeline through the salt marsh to pump the sand, no construction would occur in wetlands. Salt marsh would be avoided to the maximum extent practicable and best management practices, such as marsh mats, cribbing, and the use of lightweight equipment such as marsh buggies, would be used to minimize impacts on the salt marsh.

The project would have long-term beneficial effects on the salt marsh by protecting it for approximately 10 years. Without the project, there is the potential for the Mispillion River to breach which would result in the loss of salt marsh between the river and the Conch Bar beach.

Policy 5.2: Beach Management

The purpose of the proposed action is to prevent further shoreline erosion north of Mispillion Inlet. The project will restore and protect the beach at Conch Bar. Additionally, construction will comply with the requirements of 7 DE Admin. Code 5.2.13. Construction vehicles and pedestrian traffic will use designated dune crossovers. Impacts on vegetation would be avoided to the extent practicable and any impacted vegetation would be restored after construction. Construction activities would avoid DNREC and USFWS restoration and preservation projects at the Mipillion Inlet.

Policy 5.3: Coastal Waters Management (includes wells, water supply, and stormwater management. Attach additional sheets if necessary)

The proposed project would result in intake of water in Cedar Creek or Mispillion River and turbidity in Cedar Creek, Mispillion River, or the Delaware Bay.

There is the potential that a pipe would be used to transport sand from the staging area to the beach. If so, water would be needed to slurry the truck hauled sand and a temporary water intake in Cedar Creek or Mispillion River would be required. Approximately 30 million gallons of water would be pumped over 2-6 weeks. This would result in negligible impacts on Cedar Creek and Mispillion Inlet.

Turbidity would be insignificant due to the temporary and localized nature. Many factors affect turbidity associated with a beach fill, including weather and grain size. The purpose of the project is to stabilize the shoreline and maintain sand on the beach. Sand would be placed in the intertidal zone, above the swash zone, any sand entering the water would settle out quickly. Finer solids water would filter through the sand, which would also help to improve clarity. The work area would return to natural conditions once the work is completed. Seasonal restrictions (likely from mid-March to mid-September) would help to avoid impacts on listed species. Additionally, the truck hauled sand would be an approved, permitted, and clean source.

Policy 5.4: Subaqueous Land and Coastal Strip Management

The proposed project is meant to protect the natural environment of the coastal strip. It will not result in development, manufacturing, or industry of any type.

Policy 5.5: Public Lands Management

The proposed project is meant to protect the public lands. It will not result in development, manufacturing, or industry of any type.

Policy 5.6: Natural Lands Management

One of the purposes of the proposed project is to preserve a natural area for habitats for plant and animal species.

Policy 5.7: Flood Hazard Areas Management

The proposed project is consistent with flood hazards area management.

Policy 5.8: Port of Wilmington

The proposed project will have no effect on the Port of Wilmington.

Policy 5.9: Woodlands and Agricultural Lands Management

The proposed project will have no effect on woodlands or agricultural lands.

Policy 5.10: Historic and Cultural Areas Management

USACE has determined that the proposed project will have No Effect on historic properties eligible for or listed on the NRHP.

Policy 5.11: Living Resources

The proposed project could have temporary impacts on living resources but long-term beneficial effects on living resources. Seasonal restrictions and best management practices would be used to avoid and minimize temporary impacts on construction. In the longterm, the beach nourishment would have beneficial effects by preserving the beach and shoreline of Conch Bar and protecting the habitat of the wildlife that use it, including horseshoe crabs and migratory shorebirds.

Policy 5.12 Mineral Resources Management

The beach nourishment would use an permitted approved quarry sand source and would not affect mineral resources.

Policy 5.13: State Owned Coastal Recreation and Conservation

The proposed action would maintain and protect the state-owned beaches at the Mispillion Inlet.

Policy 5.14: Public Trust Doctrine

The proposed project will not affect public trust doctrine including the right of navigation and fishing on Cedar Creek, Mispillion River, and Delaware Estuary.

Policy 5.15: Energy Facilities

There are no energy facilities associated with hte proposed project.

Policy 5.16: Public Investment

By maintaining and protecting the state-owned beaches and important natural and living resources at the Mispillion Inlet, the proposed project would protect public investments.

Policy 5.17: Recreation and Tourism

The project is fully federally funded to mitigate shoreline erosion caused by a federal navigation project and would protect state-owned lands that can be used recreation.

Policy 5.18: National Defense and Aerospace Facilities

There are national defense or aerospace facilities associated with the proposed project.

Policy 5.19: Transportation Facilities

By preventing a breach and associated future shoaling of nearby Cedar Creek and Mispillion Inlet, the proposed action would help to maintain passage for the operations of Delaware Launch Services, the only launch service that provides safe transport of personnel and supplies to tanker vessels anchored in Delaware Bay and the nearby Atlantic Ocean.

Policy 5.20: Air Quality Management

It is currently estimated that the project would have de minimis effects on air quality.

Policy 5.21: Water Supply Management

There is the potential that a pipe would be used to transport sand from the staging area to the beach. If so, water would be needed to slurry the truck hauled sand and a temporary water intake in Cedar Creek or Mispillion River would be required. Approximately 30 million gallons of water would be pumped over 2-6 weeks. This would result in negligible impacts on Cedar Creek and Mispillion Inlet and would not result in lower water levels. Seasonal restrictions would help to avoid impacts of the water intake on fisheries. Additionally, the project would provide other ecological, recreational, and aesthetic benefits.

Policy 5.22: Waste Disposal Management

There is no permanent onsite waste or sewage disposal system associated with the project. Any waste generated during construction would be hauled away and disposed appropriately off the site. All hazardous materials used at the construction site would be stored with secondary containment. No hazardous materials would be generated during construction. If hazardous materials were spilled during construction, they would be cleaned up appropriately and expeditiously.

Policy 5.23: Development

No new development would be associated with the proposed action.

Policy 5.24: Pollution Prevention

The use of hazardous materials during construction would be minimized to the extent possible. All hazardous materials used at the construction site would be stored with secondary containment. No hazardous materials would be generated during construction. If hazardous materials were spilled during construction, they would be cleaned up appropriately and expeditiously.

Policy 5.25: Coastal Management Coordination

The proposed project was initially coordinated with State and Federal agencies at the JPP meeting on 16 November 2023. The project team has continued to coordinate with scoping letters and additional meetings with USFWS.

VI. JPP and RAS Review (Check all that apply)**:**

Has the project been reviewed in a monthly Joint Permit Processing and/or Regulatory Advisory Service meeting?

☒ JPP ☐ RAS ☐ None

*If yes, provide the date of the meeting(s): 16 November 2023

VII. Statement of Certification/Determination and Signature (Check one and sign below)**:**

☒ **FEDERAL AGENCY CONSISTENCY DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity is consistent to the maximum extent practicable with the enforceable policies of the Delaware Coastal Management Program.

OR

☐ **FEDERAL AGENCY NEGATIVE DETERMINATION.** Based upon the information, data, and analysis included herein, the federal agency, or its contracted agent, listed in (I) above, finds that this proposed activity will not have any reasonably foreseeable effects on Delaware's coastal uses or resources (Negative Determination) and is therefore consistent with the enforceable policies of the Delaware Coastal Management Program.

OR

☐ **NON-FEDERAL APPLICANT'S CONSISTENCY CERTIFICATION.** Based upon the information, data, and analysis included herein, the non-federal applicant for a federal license or permit, or state or local government agency applying for federal funding, listed in (I) above, finds that this proposed activity complies with the enforceable policies of the Delaware Coastal Management Program and will be conducted in a manner consistent with such program.

Signature:	Valerie Whalon		
Printed Name:	Valerie Whalon	Date:	May 20, 2026

Pursuant to 15 C.F.R. Part 930, the Delaware Coastal Management Program must provide its concurrence with or objection to this consistency determination or consistency certification in accordance with the deadlines listed below. Concurrence will be presumed if the state's response is not received within the allowable timeframe.

Federal Consistency Review Deadlines:

Federal Activity or Development Project (15 C.F.R. Part 930, Subpart C)	60 days with option to extend an additional 15 days or stay review (15 C.F.R. § 930.41)
Federal License or Permit (15 C.F.R. Part 930, Subpart D)	Six months, with a status letter at three months. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.63)
Outer Continental Shelf Activity (15 C.F.R. Part 930, Subpart E)	Six months, with a status letter at three months. If three month status letter not issued, then concurrence presumed. The six month review period can be stayed by mutual agreement. (15 C.F.R. § 930.78)
Federal Financial Assistance to State or Local Governments (15 C.F.R. Part 930, Subpart F)	State Clearinghouse schedule

OFFICIAL USE ONLY:

Reviewed By:	Fed Con ID:	Date Received:
Public notice dates: to	Comments Received: ☐ NO ☐ YES *[attach comments]*	
Decision type: *(objections or conditions attach details)*	_ Decision Date:	

Attachment 1: Description of Tentatively Selected Plan (TSP)

The Tentatively Selected Plan (TSP) for the Continuing Authorities Program (CAP) Section 111 Shore Damage Mitigation Project for the Mispillion Inlet, Milford, Sussex County, Delaware is a one-time beach nourishment on the Conch Bar. As the least cost alternative that meets the project's purpose and need, the TSP directly addresses the authority of Section 111. It provides a necessary level of protection to the federal channel, ensuring its continued viability and safe use. The plan is supported by the U.S. Army Corps of Engineer's non-federal sponsor, the Delaware Department of Natural Resources and Environmental Control (DNREC) and is considered the most prudent and feasible solution. Additional information on the CAP Section 111 authority and plan formulation process is provided in the Environmental Assessment (EA).

1.0 Study Area (Planning Area)

The study area lies within the Delaware Bay shoreline of the State of Delaware. The study area includes the Mispillion Inlet and adjacent shorelines near Milford, Sussex County, Delaware, approximately 20 miles due west of Cape May Point, NJ. Mispillion Inlet forms the confluence of the Mispillion River and Cedar Creek with Delaware Bay (Figure 1). The Mispillion Inlet Federal navigation project includes a pair of jetties and a channel with dimensions of 80 feet (width) and 6 feet depth below mean lower low water (MLLW). Inside of the inlet, the Cedar Creek Federal navigation project branches off to the southwest.

Figure 1. Detailed Image of the Mispillion Inlet Federal Navigation Project

2.0 Plan Accomplishments

The implementation of the TSP will achieve the following key accomplishments:

- **Protects Critical Infrastructure:** By constructing a durable sand berm, the plan prevents a potential breach over the existing dike and protects the integrity of the Mispillion River Federal Navigation Project.
- **Prevents Habitat Loss:** The plan halts shoreline erosion into the adjacent marsh, preserving this valuable ecosystem from being lost to open water and preventing shoaling of the channel.
- **Ensures Long-Term Reliability**: The beach fill is designed to protect the shoreline for a 10-year project life span.
- **Maintains Economic Use of the Harbor**: By securing the integrity of the federal channel and preventing erosion-related damages, the plan ensures the continued operation of the Port of Milford, which supports a significant commercial fishing fleet and other maritime activities.

3.0 Plan Components

The TSP consists of the following primary components:

- **Sand Source:** A sufficient quantity of suitable sand will be sourced from a local, approved quarry. It is assumed that at least two approved quarry would be available within 30 miles of the project area. The material will be transported via truck to a staging area on Cedar Creek. Two methods could be used to transport sand from the staging area to Conch Bar, hydraulic pumping or barging (mechanical). With pumping, the material would be loaded into a hopper, mixed into a slurry, and pumped to the beach. It is assumed that the slurry would be composed of 1part solids to 1.5 parts liquids (i.e., 200,000 cy of slurry), and would require a pump capable of pumping 1,490 gallons per minute.
- **Beach Fill Placement:** Approximately 80,500 cubic yards of sand will be placed along 1,700 feet of shoreline on Conch Bar, north of the rock dike. The sand will be graded to create a 150-foot-wide berm with a crest elevation of +5 feet NAVD88.
- **Construction and Staging**: All construction activities, including truck hauling routes, material stockpiling, and equipment staging, will be performed in a manner that minimizes disruption to public access and impacts to the local environment.

Additional information on the TSP can be found in the EA.

Attachment 2: Summary of the Impacts of the TSP on Coastal Resources

The No Action Alternative would have adverse effects on habitat, by allowing beach erosion to continue. A Mispillion River breach would also result in a loss of salt marsh which also serves as important habitat (see Figure 1).

Figure1. Projected Shoreline Changes over 50-years (2025—2075)

Under the TSP, constructing a beach fill, by placing large volumes of sand immediately north of the rock dike along Conch Bar and the southern end of Big Stone Beach would have temporary adverse effects and long-term beneficial effects on habitat at Mispillion Inlet.

Construction would result in temporary disturbance of the existing eroded berm to the mean low water (MLW). Sand would either be pumped using a sand bypass system or barged from a staging area to the north side of the inlet. The staging area will likely be a property on Cedar Creek or

Mispillion River with a boat ramp. Heavy equipment would be used to move the sand on the staging area and on the north side of the inlet. Vessel mooring, pipeline, and heavy equipment would avoid areas of natural, stable/uneroded habitat. Seasonal restrictions would be used to avoid impacts on shorebirds, horseshoe crabs, and diamondback terrapins. See subsequent sections on rare, threatened, and endangered species for more information on seasonal restrictions.

Under the TSP, a beach fill would result in a temporary impacts and long term beneficial effects on terrestrial animals such as shorebirds, ghost crabs, and diamondback terrapins, that use the upper beach, the intertidal zone, or adjacent areas. Construction activities could disturb and disrupt nesting, nursing, or breeding. Most larger animals would such as shorebirds and crabs would avoid the impact for foraging or breeding. However, construction activities might result in shorebirds abandoning nests or bird or terrapin eggs or hatchlings being trampled. These impacts would be avoided by implementing seasonal restrictions, as described in rare, threatened, and endangered species.

The beach fill will restore beach habitat and improve habitat for shorebirds, horseshoe crabs, and diamondback terrapins. Sand would be placed along gradually sloping profile that would be resilient to storms, promote shoaling and beach nourishment. Berm construction will improve habitat for shorebirds, horseshoe crabs and other wildlife in the nourishment. Additionally, some sand may move beyond the area and replenish beaches to the north.

The TSP would have temporary effects on aquatic habitat with the intake of water, and a temporary increase in turbidity from beach fill placement. There is the potential that a pipe would be used to transport sand from the staging area to the beach. If so, water would be added to the sand to form a slurry; therefore, temporary water intake in Cedar Creek or Mispillion River would be required. It is estimated that a total of 120,000 CY or 24,240,000 gallons of water would need to be added to 80,500 CY of sand for a total of 40,400,000 gallons of slurry would be needed. Seasonal restrictions for anadromous fish and eels would help to avoid entrainment early life stages of these anadromous fish.

A beach fill under the TSP would have temporary adverse effects and long-term beneficial effects on aquatic species at Mispillion Inlet. Construction would result in temporary disturbance of the existing eroded berm in the intertidal zone. This could result in turbidity in nearshore waters and the burial and smothering of benthic organisms in the intertidal area. The nearshore intertidal zone is highly dynamic and is characterized by variations in abiotic factors. The nearshore community is resilient and expected to recover within one or two seasons because the sediment used in the beach fill would be compatible with existing. Placing material doing periods of low tide would help to reduce impacts such as turbidity.

The effects of turbidity caused by the TSP will be insignificant due to the temporary and localized nature. Many factors affect turbidity associated with a beach fill, including weather and grain size. The purpose of the project is to stabilize the shoreline and maintain sand on the beach. Sand would be placed in the intertidal zone, above the swash zone, any sand entering the water would settle out quickly. Finer solids water would filter through the sand, which would also help to improve clarity. The work area would return to natural conditions once the work is completed.

The beach fill will restore beach habitat and improve habitat for shorebirds, horseshoe crabs, and diamondback terrapins. Sand would be placed along gradually sloping profile that would be resilient to storms, promote shoaling and beach nourishment. While the material placement would change the size and slope of the berm, it is meant to mimic and restore natural conditions in an area that was eroded due to the Federal navigation project. Using compatible material would encourage recolonization by benthic community. Berm construction will improve habitat for shorebirds, horseshoe crabs and other wildlife in the nourishment. Additionally, it would help to prevent a breach of the Mispillion River, in turn preventing loss of the saltmarsh between the river and the beach.

Constructing a beach fill under the TSP would have temporary adverse impacts and long-term beneficial impacts on rare, threatened and endangered species. Construction noise and activity would cause a temporary disturbance to these species, which would be avoided with time-of-year restrictions. The beach fill would have long-term beneficial impacts on these species by providing suitable habitat.