



STATE OF DELAWARE

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

DIVISION OF CLIMATE, COASTAL AND ENERGY

STATE STREET COMMONS

100 W. WATER STREET, SUITE 7B

DOVER, DELAWARE 19904

**COASTAL
PROGRAMS**

PHONE
(302) 739-9283

August 27, 2024

Michael Yost
USACE Philadelphia District
1203 College Park Drive, Suite 103
Dover, DE 19904

**RE: Delaware Coastal Management Program — Federal Consistency Determination
Concurrence for USACE SPGP-20 Reissue (FC 2024.0035)**

Dear Mr. Yost,

The Delaware Department of Natural Resources and Environmental Control (DNREC) Coastal Management Program (DCMP) has completed its review of the above referenced project, dated and received by this office on June 11, 2024. On August 8, 2024, the DCMP extended its review period by 15 days. The review request was submitted on behalf of the U.S. Army Corps of Engineers, Philadelphia District (USACE).

PROPOSED ACTION

The USACE proposes to reissue the Delaware State Programmatic General Permit-20 (SPGP-20), which authorizes certain existing and proposed piers, docks, mooring piles, boat lifts, breakwaters, and the replacement of existing serviceable bulkhead structures in navigable waters of the United States within the geographic boundaries of the Philadelphia District Corps of Engineers in the State of Delaware. The proposed reissuance includes additional special conditions and minor clarifications.

FEDERAL CONSISTENCY UNDER THE COASTAL ZONE MANAGEMENT ACT

Pursuant to the Coastal Zone Management Act (CZMA) of 1972, as amended, each federal agency activity within or outside the coastal zone that can have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state management programs. The National Oceanic and Atmospheric Administration (NOAA) is

required to review and approve a proposed state management program for it to become effective. Under the CZMA implementing regulations, Federal Consistency with Approved Coastal Management Programs (15 CFR 930), subpart C, federal agencies are advised to provide state agencies with a consistency determination at the earliest practicable time in the planning or reassessment of an activity, and before the federal agency reaches a significant point of decision-making in its review process. The term “consistent to the maximum extent practicable” in 15 CFR 930.32 means fully consistent with the enforceable policies of a management program unless full consistency is prohibited by existing law applicable to the federal agency.

PUBLIC PARTICIPATION

In accordance with 15 CFR §930.42, the public was invited to participate in the review of the USACE SPGP-20 Reissue. Public notice of this proposed action was published in the Delaware State News, The News Journal, and DNREC public notices list service on July 10, 2024. The public was given 20 days to comment on this notice. No public comments were received in response to this notice.

FEDERAL CONSISTENCY ANALYSIS

The DCMP coordinates the review of consistency determinations with agencies administering the enforceable and advisory policies of the program. The proposed activity is to be implemented in a manner consistent with the enforceable policies of the DCMP under 7 DE Admin. Code 2201, Section 5.0. The following agencies participated in this review:

DNREC, Division of Air Quality
DNREC, Division of Fish and Wildlife
DNREC, Division of Water
DNREC, Division of Watershed Stewardship
Department of State, State Historic Preservation Office

CONCURRENCE

Based on its review and pursuant to 15 CFR 930, the DCMP concurs that the USACE SPGP-20 Reissue as proposed is consistent to the maximum extent practicable.

Pursuant to 15 CFR 930.46, USACE shall notify the DCMP of any proposed modifications to activities after receiving a decision from the DCMP. Modifications will be subject to supplemental federal consistency review if effects to any coastal use or resource will be substantially different than originally described.

Please be advised that this federal consistency review does not negate the need for other authorizations that may be required.

Thank you for the opportunity to evaluate this federal activity. If you have any questions, please contact me or Mike Snyder of my staff at (302) 739-9283.

Sincerely,



Kimberly B. Cole, Administrator
Delaware Coastal Management Program

KBC/mts

cc: File FC 2024.0035
Tina Merrill, DAQ
Danielle Minter, DFW
Matt Jones, DW
Elaine Webb, DWS
Gwen Davis, SHPO