

VDEQ 2004B

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## FEDERAL CONSISTENCY REVIEWS

### King William Reservoir Consistency Review

[State environmental impact reviews](#)

On December 27, 2004 the Office of Environmental Impact Review submitted a conditional concurrence to the federal consistency certification prepared for the proposed King William Reservoir Project .

[National Environmental Policy Act document reviews](#)

[KWR FCC Conditional Concurrence \(.pdf format\)](#)

[Appendix 1 Summary of Conditions \(.pdf format\)](#)

[Federal consistency reviews](#)

[Appendix 2 Summary of Public Comments \(.pdf format\)](#)

For additional information, contact Ellie Irons at (804) 698-4325, or Charlie Ellis at (804) 698-4488.

[Current projects](#)

As of December 15, 2004 the Office of Environmental Impact Review has completed the following tasks in regards to the King William Reservoir Project consistency review.

[Public notices](#)

[KWR Interim Status Report \(.pdf format\)](#)

[Links](#)

[KWR Letter to Reviewing Agencies \(.pdf format\)](#)

[Fact sheets & manuals](#)

For additional information, contact Ellie Irons at (804) 698-4325, or Charlie Ellis at (804) 698-4488.

[Contact us](#)

On October 20, 2004 the Office of Environmental Impact Review conducted a public hearing to solicit comments on the federal consistency certification prepared by the City of Newport News for the proposed King William Reservoir Project.

[KWR Public Hearing Court Transcript \(.pdf format\)](#)

For additional information, contact Ellie Irons at (804) 698-4325, or Charlie Ellis at (804) 698-4488.

### Coastal Zone Management Act Federal Consistency Workshops

For information regarding these workshops, please go to the following website:

[http://www.ocrm.nos.noaa.gov/czm/fedcon\\_workshops.html](http://www.ocrm.nos.noaa.gov/czm/fedcon_workshops.html)

Pursuant to the Coastal Zone Management Act, in 1986, the National Oceanic and Atmospheric Administration approved the [Virginia Coastal Resources Management Program](#). Accordingly, federal activities which are reasonably likely to affect any land or water use or natural resources of Virginia's designated coastal resources management area must be consistent with the enforceable policies of the Virginia Coastal Resources Management Program.

The Virginia Coastal Resources Management Program is a networked program with several agencies administering the enforceable policies; Virginia also has several advisory policies which were established to serve as a discretionary guide during project planning. The DEQ, as the lead agency for the Virginia Coastal Resources Management Program, is responsible for coordinating the Commonwealth's review of federal consistency determinations and certifications with cooperating agencies and responding to the appropriate federal agency or applicant.

At the federal level, the National Oceanic and Atmospheric Administration, through its Office of Ocean and Coastal Resource Management oversees DEQ's use of consistency, mediates consistency disputes, and processes appeals to the Secretary of Commerce.

### FEDERAL CONSISTENCY INFORMATION PACKAGE

Effective January 8, 2001, the National Oceanic and Atmospheric Administration revised the regulations implementing the federal consistency provisions of the Coastal Zone Management Act of 1972. This information package is intended to help federal agencies, applicants for federal permits, licenses, or approvals, and recipients of federal assistance to comply with the federal consistency requirements of the Coastal Zone Management Act, as amended.

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**Printer Friendly Version:** [Federal Consistency Information Package \(.pdf format\)](#)

#### AUTHORITY

The Virginia Coastal Resources Management Program was authorized by Virginia Executive Order Number Thirteen (86), and continued by subsequent Executive Orders, the most recent being Executive Order 23 (02).

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#### VIRGINIA'S DESIGNATED COASTAL MANAGEMENT AREA

Virginia's Coastal Management Area includes most of Tidewater Virginia, as defined by the Code of Virginia § 28.2-100 (see [map](#)), and all coastal waters of the United States territorial sea, extending to the three-mile limit of Virginia sovereignty. There are 83 jurisdictions in the coastal management area. The following 29 counties are located in the coastal management area (towns within these counties are also included):

Accomack, Isle of Wight, Northumberland, Arlington, James City, Prince George, Caroline, King George, Prince William, Charles City, King and Queen, Richmond, Chesterfield, King William, Spotsylvania, Essex, Lancaster, Stafford, Fairfax, Mathews, Surry, Gloucester, Middlesex, Westmoreland, Hanover, New Kent, York, Henrico, and Northampton.

The following 15 cities are located in Virginia's coastal management area:

Alexandria, Hampton, Portsmouth, Chesapeake, Hopewell, Richmond, Colonial Heights, Newport News, Suffolk, Norfolk, Virginia Beach, Petersburg, Williamsburg, Fredericksburg, and Poquoson.

Federal lands, the use of which is by law subject solely to the discretion of, or which is held in trust by the federal government, its officers or agents, are excluded from Virginia's coastal management area. However, activities on federal lands with any reasonably foreseeable coastal effects must be consistent with the Virginia Coastal Resources Management Program.

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## **ENFORCEABLE POLICIES COMPRISING VIRGINIA'S COASTAL RESOURCES MANAGEMENT PROGRAM**

- *Fisheries Management.* The program stresses the conservation and enhancement of finfish and shellfish resources and the promotion of commercial and recreational fisheries to maximize food production and recreational opportunities. This program is administered by the Marine Resources Commission (Code of Virginia § 28.2-200 thru 28.2-713) and the Department of Game and Inland Fisheries (Code of Virginia § 29.1-100 thru 29.1-570).

The State Tributyltin Regulatory Program has been added to the Fisheries Management program. The General Assembly amended the Virginia Pesticide Use and Application Act as it related to the possession, sale, or use of marine antifoulant paints containing Tributyltin. The use of Tributyltin in boat paint constitutes a serious threat to important marine animal species. The Tributyltin program monitors boating activities and boat painting activities to ensure compliance with Tributyltin regulations promulgated pursuant to the amendment. The Marine Resources Commission, the Department of Game and Inland Fisheries, and Virginia Department of Agriculture Services share enforcement responsibilities (Code of Virginia § 3.1-249.59 thru 3.1-249.62).

- *Subaqueous Lands Management.* The management program for subaqueous lands establishes conditions for granting or denying permits to use state-owned bottomlands based on considerations of potential effects on marine and fisheries resources, wetlands, adjacent or nearby properties, anticipated public and private benefits, and water quality standards established by the Department of Environmental Quality, Water Division. The program is administered by the Marine Resources Commission (Code of Virginia § 28.2-1200 thru 28.2-1213).
- *Wetlands Management.* The purpose of the wetlands management program is to preserve tidal wetlands, prevent their despoliation, and accommodate economic development in a manner consistent with wetlands preservation.

(i) The tidal wetlands program is administered by the Marine Resources Commission (Code of Virginia § 28.2-1301 thru § 28.2-1320).

(ii) The Virginia Water Protection Permit program administered by the Department of Environmental Quality includes protection of wetlands, both tidal and non-tidal. This program is authorized by Code of Virginia § 62.1-44.15.5 and the Water Quality Certification requirements of Section 401 of the Clean Water Act of 1972.

- *Dunes Management.* Dune protection is carried out pursuant to the Coastal Primary Sand Dune Protection Act and is intended to prevent destruction or alteration of primary dunes. This program is administered by the Marine Resources Commission (Code of Virginia § 28.2-1400 thru 28.2-1420).
- *Non-point Source Pollution Control.* Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to reduce soil erosion and to decrease inputs of chemical nutrients and sediments to the Chesapeake Bay, its tributaries, and other rivers and waters of the Commonwealth. This program is administered by the Department of Conservation and Recreation (Code of Virginia § 10.1-560 *et seq.*).
- *Point Source Pollution Control.* The point source program is administered by the State Water Control Board pursuant to Code of Virginia § 62.1-44.15. Point source pollution control is accomplished through the implementation of the National Pollutant Discharge Elimination System permit program established pursuant to Section 402 of the federal Clean Water Act and administered in Virginia as the Virginia Pollutant Discharge Elimination System permit program.
- *Shoreline Sanitation.* The purpose of this program is to regulate the installation of septic tanks, set standards concerning soil types suitable for septic tanks, and specify minimum distances that tanks must be placed away from streams, rivers, and other waters of the Commonwealth. This program is administered by the Department of Health (Code of Virginia § 32.1-164 thru § 32.1-165).
- *Air Pollution Control.* The program implements the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the attainment and maintenance of the National Ambient Air Quality Standards. This program is administered by the State Air Pollution Control Board (Code of Virginia § 10-1.1300).

- *Coastal Lands Management.* This program is a state-local cooperative program administered by the Department of Conservation and Recreation's Division of Chesapeake Bay Local Assistance and 84 localities in Tidewater, Virginia established pursuant to the Chesapeake Bay Preservation Act; Code of Virginia § 10.1-2100 thru § 10.1-2114 and Chesapeake Bay Preservation Area Designation and Management Regulations; Virginia Administrative Code 9 VAC 10-20-10 *et seq.*

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## **ADVISORY POLICIES OF VIRGINIA'S COASTAL RESOURCES MANAGEMENT PROGRAM**

### **Advisory Policies for Geographic Areas of Particular Concern**

Although not required for the purposes of consistency, in accordance with 15 CFR § 930.39(c), the federal agency should consider the advisory policies (recommendations) of the Virginia Coastal Resources Management Program as well.

- *Coastal Natural Resource Areas.* These areas are vital to estuarine and marine ecosystems and/or are of great importance to areas immediately inland of the shoreline. Such areas receive special attention from the Commonwealth because of their conservation, recreational, ecological, and aesthetic values. These areas are worthy of special consideration in any planning or resources management process and include the following resources:
  - a) Wetlands
  - b) Aquatic Spawning, Nursery, and Feeding Grounds
  - c) Coastal Primary Sand Dunes
  - d) Barrier Islands
  - e) Significant Wildlife Habitat Areas
  - f) Public Recreation Areas
  - g) Sand and Gravel Resources
  - h) Underwater Historic Sites.
- *Coastal Natural Hazard Areas.* This policy covers areas vulnerable to continuing and severe erosion and areas susceptible to potential damage from wind, tidal, and storm-related events including flooding. New buildings and other structures should be designed and sited to minimize the potential for property damage due to storms or shoreline erosion. The areas of concern are as follows:
  - i) Highly Erodible Areas
  - ii) Coastal High Hazard Areas, including flood plains.
- *Waterfront Development Areas.* These areas are vital to the Commonwealth because of the limited number of areas suitable for waterfront activities. The areas of concern are as follows:
  - i) Commercial Ports
  - ii) Commercial Fishing Piers
  - iii) Community Waterfronts

Although the management of such areas is the responsibility of local government and some regional authorities, designation of these areas as Waterfront Development Areas of Particular Concern under the Virginia Coastal Resources Management Program is encouraged. Designation will allow the use of federal Coastal Zone Management Act funds to be used to assist in planning for such areas and in the implementation of such plans. The Virginia Coastal Resources Management Program recognizes two broad classes of priority uses for waterfront development Areas of Particular Concern:

- i) water access-dependent activities;
- ii) activities significantly enhanced by the waterfront location and complementary to other existing and/or planned activities in a given waterfront area.

### **Advisory Policies for Shorefront Access Planning and Protection**

- *Virginia Public Beaches.* Approximately 25 miles of public beaches are located in the cities, counties, and towns of Virginia exclusive of public beaches on state and federal land. These public shoreline areas will be maintained to allow public access to recreational resources.
- *Virginia Outdoors Plan.* Planning for coastal access is provided by the Department of Conservation and Recreation in cooperation with other state and local government agencies. The Virginia Outdoors Plan, which is published by the Department, identifies recreational facilities in the Commonwealth that provide recreational access. The Virginia Outdoors Plan also serves to identify future needs of the Commonwealth in relation to the provision of recreational opportunities and shoreline access. Prior to initiating any project, consideration should be given to the proximity of the project site to recreational resources identified in the Virginia Outdoors Plan.
- *Parks, Natural Areas, and Wildlife Management Areas.* Parks, Wildlife Management Areas, and Natural Areas are provided for the recreational pleasure of the citizens of the Commonwealth and the nation by local, state, and federal agencies. The recreational values of these areas should be protected and maintained.
- *Waterfront Recreational Land Acquisition.* It is the policy of the Commonwealth to protect areas, properties, lands, or any estate or interest therein, of scenic beauty, recreational utility, historical interest, or unusual features which may be acquired, preserved, and maintained for the citizens of the Commonwealth.
- *Waterfront Recreational Facilities.* This policy applies to the provision of boat ramps, public landings, and bridges which provide water access to the citizens of the Commonwealth. These facilities shall be designed, constructed, and maintained to provide points of water access when and where practicable.
- *Waterfront Historic Properties.* The Commonwealth has a long history of settlement and development, and much of that history has involved both shorelines and near-shore areas. The protection and preservation of historic shorefront properties is primarily the responsibility of the Department of Historic Resources. Buildings, structures, and sites of historical, architectural, and/or archaeological interest are significant resources for the citizens of the Commonwealth. It is the policy of the Commonwealth and the Virginia Coastal Resources Management Program to enhance the protection of buildings, structures, and sites of historical, architectural, and archaeological significance from damage or destruction when practicable.

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### **REVIEW PROCEDURE**

#### **1. Federal Agency Activities and Development Projects**

All federal development projects inside the coastal zone are automatically subject to consistency and require a Consistency Determination. However, there are no geographical boundaries. Consistency is triggered by the "reasonably foreseeable effects" test. Thus, any federal action outside the coastal zone which has the potential to affect Virginia's coastal uses and resources is subject to consistency review.

*Step 1.* The federal agency determines whether coastal effects are reasonably foreseeable. Effects can be direct, indirect, cumulative, or secondary. Also, effects are not limited to environmental impacts but include coastal uses such as public access and recreational uses. It is beneficial if the federal agency consults with agencies administering the enforceable policies early in the planning process to determine potential impacts of a proposal.

*Step 2.* (a) If there are no effects, the federal agency provides the Department of Environmental Quality with a negative determination at least 90 days prior to final approval (15 CFR § 930.35). (b) If there are effects, the federal agency submits a consistency determination to the Department of Environmental Quality at least 90 days prior to final approval. The Commonwealth has 60 days to review both consistency determinations and negative determinations and reserves the right, when necessary, to request an additional 15 days to complete its review. The 60-day review period begins when DEQ receives the consistency determination and supporting information required by § 930.39

(a).

*Step 3.* DEQ publishes the consistency determination for public review. In the absence of public comments, if prior consultation with agencies occurred prior to submittal of the negative determination and agencies concurred with the federal agency's determination, DEQ sends a response to the federal agency concurring with the determination. If agencies were not previously contacted by the federal agency, DEQ distributes the consistency determination to agencies administering the coastal policies. Federal agencies should provide 20 copies of the consistency document to DEQ for distribution unless the documents were sent directly to the reviewers.

*Step 4.* Reviewers send comments on federal agency determinations to DEQ. If reviewers indicate that the information is inadequate, DEQ attempts to obtain the additional information within the 60-day review period. If the federal agency is unable to provide the necessary information in a timely manner, DEQ may object based on insufficient information (§ 930.43(b)). In this case, DEQ's objection would describe the information necessary to determine consistency of the federal action with the enforceable policies of the Virginia Coastal Resources Management Program. A copy of each objection is sent to the Director of Office of Coastal Resources Management.

*Step 5.* If agencies have completed their reviews, DEQ prepares the Commonwealth's coordinated response to the federal agency. DEQ resolves any conflicts in reviewers' comments or seeks clarifications from reviewers before responding to the federal agency. DEQ requests time extensions when needed for agencies to complete their review.

*Step 6.* If there are effects, the Federal agency must conduct the activity in a manner that is consistent with the Virginia Coastal Resources Management Program to the maximum extent practicable as defined in 15 CFR § 930.32.

*Step 7.* If there is a dispute, DEQ will attempt to resolve the differences between the Federal agency and state agencies within the remaining portion of the 90-day notice period. At the end of the 90-day period, if resolution has not been reached, DEQ or the Federal agency can request mediation by the Secretary of Commerce or the Office of Coastal Resources Management.

**\*\*NOTE:** In instances where a project is subject to the requirements of the National Environmental Policy Act, DEQ encourages the federal agency to include its consistency determination in the National Environmental Policy Act document (preferably the Draft Environmental Impact Statement or Environmental Assessment) as a matter of administrative convenience as well as to provide environmental information to support the consistency determination. See 15 CFR § 930.37.

## **2. Review Procedure For Federal Permit, License, and Approval Activities**

All activities located within Virginia's designated coastal management area (Tidewater) requiring a federal permit, license, or approval must be consistent with Virginia's Coastal Resources Management Program.

*Step 1.* Virginia, with the Office of Coastal Resources Management approval, determines activities with coastal effects:

- a. listed versus unlisted activity
- b. inside versus outside coastal zone

*Step 2.* For a listed activity (see below) occurring in Tidewater, the applicant must submit a Consistency Certification to the responsible federal agency and the DEQ. The applicant must provide DEQ with the necessary data and information (15 CFR § 930.58) to allow the agencies administering the enforceable policies to assess the project's effects. The review of listed activities outside of the coastal zone and unlisted activities inside or outside the coastal zone will be reviewed on a case-by-case basis following the procedures for unlisted activities pursuant to 15 CFR § 930.54.

*Step 3.* DEQ establishes deadlines and distributes the documents to reviewers. If the only applicable enforceable policies are permit programs under the jurisdiction of Virginia's laws, the issuance of the permits constitute Virginia's concurrence with the consistency certification. No additional consistency review is necessary in such cases. However, if there are applicable enforceable policies, other than permits or in addition to permits, DEQ will coordinate a consistency review for those activities. The six-month review begins upon receipt of the required information.

*Step 4.* DEQ publishes the public notice pursuant to 15 CFR § 930.61. In some instances, DEQ requires that the applicant publishes the notice or may combine the notice with the notice by the Federal agency (if the Federal agency agrees). Public participation may include public hearings.

*Step 5.* DEQ responds within 90 days either concluding the review or providing an update of the status of the review. No further action is necessary if the Commonwealth concurs. For projects still under review, DEQ will notify the federal agency and the applicant of the status of the review and the basis for further delay. DEQ will respond within the 6-month legal deadline.

*Step 6.* The federal agency cannot issue its approval if Virginia objects.

*Step 7.* The Applicant may work with DEQ and state agencies administering the enforceable policies to remove the Commonwealth's objection or appeal the objection to the Secretary of Commerce within 30 days of the objection. If the Secretary overrides Virginia's objection, the Federal agency may approve the project.

### **3. Review Procedure for Federal Assistance Projects**

Any state agency or local government applying for federal financial assistance (grant or contractual arrangements, loans, subsidies, guarantees, insurance or other forms of financial assistance) to conduct activities in Tidewater which can affect coastal resources or uses must certify that the proposed activity will be conducted in a manner which is consistent with the Virginia Coastal Resources Management Program.

*Step 1.* Virginia, with the Office of Coastal Resources Management approval, determines activities with coastal effects ([see below](#)).

*Step 2.* Applicants for federal assistance submit application and necessary information to DEQ pursuant to Executive Order 12372 "Intergovernmental Review of Federal Programs."

*Step 3.* For listed activities, DEQ conducts the review concurrently with the intergovernmental review. If none of the enforceable policies are applicable, no further action is required for the purposes of consistency. If the applicable enforceable policies are administered through permit programs, DEQ may issue a conditional concurrence contingent upon the applicant obtaining all applicable permits. If the applicant claims an exemption from the Commonwealth's permitting process, DEQ contacts the agencies administering the enforceable policies to ensure the project is consistent with the enforceable policy although a permit is not required.

*Step 4.* DEQ determines coastal effects of unlisted activities inside the coastal zone during the intergovernmental review process. No further action is taken for the purposes of consistency for projects with no coastal effects. For projects with coastal effects, DEQ informs the applicant and the Federal agency that the project will be reviewed under the federal consistency provisions of the Coastal Zone Management Act.

*Step 5.* The federal agency may not issue funding until Virginia has concurred that the project is consistent with the Virginia Coastal Resources Management Program.

*Step 6.* The Applicant can work with state agencies to remove the Commonwealth's objection or appeal the objection to the Secretary of Commerce within 30 days of the objection.

### **4. Review Procedure for Outer Continental Shelf Activities**

Any Outer Continental Shelf plan submitted to the Secretary of the Interior, or designee, which describes in detail federal license or permit activities affecting any coastal use or resource must ensure that such activities will be conducted in a manner which is consistent with Virginia's Coastal Resources Management Program. The procedure for reviewing Outer Continental Shelf plans is similar to the procedure for reviewing Federal Permit, License, and Approval Activities ([see above](#)).

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### **PUBLIC PARTICIPATION**

DEQ ensures that consistency reviews comply with the public participation requirements of Section 306(d)(14) of the Coastal Zone Management Act of 1972, as amended, and 15 CFR § 930.2, § 930.42, and § 930.61. Virginia utilizes several different procedural options to notify the public of projects under review. These options include: joint federal/state notices, publications in local newspapers, notices published in the Virginia Gazette, electronic notices published on DEQ's web site

and Federal agencies' websites, and joint federal/state public hearings.

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## **FEDERAL CONSISTENCY DETERMINATION OUTLINE**

This document is an outline for Federal agencies to use when making a Consistency Determination under the Coastal Zone Management Act, sections 307(c)(1) and (2). Although not required for the purposes of consistency, in accordance with 15 CFR § 930.39(c), the federal agency should consider the advisory policies (recommendations) of the Virginia Coastal Resources Management Program as well.

### ***Coastal Zone Management Act (Coastal Zone Management Act) Consistency Determination***

This document provides the Commonwealth of Virginia with the [name of applicant's] Consistency Determination under Coastal Zone Management Act section 307(c)(1) [or (2)] and 15 CFR Part 930, sub-part C, for the [name of federal activity]. The information in this Consistency Determination is provided pursuant to 15 CFR section 930.39. This activity includes:

[Describe the Federal agency activity or reference relevant pages of National Environmental Policy Act document].

The [name of Federal agency] has determined that the [activity] affects the land or water uses or natural resources of Virginia in the following manner:

[Provide analysis of effects or reference relevant pages of National Environmental Policy Act document].

The Virginia Coastal Resources Management Program contains the following applicable enforceable policies:

[List and/or briefly describe the State's applicable enforceable policies and describe any reasonably foreseeable effect on each enforceable policy].

Based upon the following information, data, and analysis, the [name of Federal agency] finds that the [activity] is consistent to the maximum extent practicable with the enforceable policies of the Virginia Coastal Resources Management Program.

[Provide information, comprehensive data, and analysis supporting the determination of consistency with the applicable enforceable policies.].

Pursuant to 15 CFR § 930.41, the Virginia Coastal Resources Management Program has 60 days from the receipt of this letter in which to concur with or object to this Consistency Determination, or to request an extension under 15 CFR § 930.41(b). Virginia's concurrence will be presumed if its response is not received by the [name of Federal agency] on the 60th day from receipt of this determination. The State's response should be sent to [provide Federal agency contact information].

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## **FEDERAL CONSISTENCY CERTIFICATION OUTLINE**

This document is an outline for non-Federal applicants to use when making a consistency certification under the Coastal Zone Management Act, sections 307(c)(3)(A) and 307(d). Although applicants are not required to make findings with respect to the coastal effects of the advisory policies, applicants shall demonstrate adequate consideration of policies which are in the nature of recommendations (see 15 CFR 930.58(a)(3)).

### ***Coastal Zone Management Act Consistency Certification***



This document provides the Commonwealth of Virginia with the [name of applicant's] Consistency Certification and necessary data and information under Coastal Zone Management Act section 307(c)(3)(A) and 15 CFR Part 930, sub-part D, for the [name of activity].

**Certification:**

[Name of applicant] certifies that the proposed activity complies with the enforceable policies of Virginia's Coastal Resources Management Program and will be conducted in a manner consistent with the Virginia Coastal Resources Management Program.

**Necessary Data and Information:**

1. [Describe the Federal License or permit activity or reference relevant pages of the Federal application, any associated facilities, and coastal effects. Provide materials which will facilitate evaluation of coastal effects.]

2. [Provide additional information required by the State pursuant to 15 CFR § 930.58(a)(2) and 930.58(a)(3). For example, the location of the project must be clearly identified on a U.S. Geological Survey topographic map or its equivalent and a site plan provided for development projects. The certification must fully describe the project and, in particular, aspects of the project that may cause direct or indirect environmental impacts. Description of the site must be thorough and include information on existing conditions. The purpose of this section is to make the reviewer aware of what is being proposed, important design features, how the facility will be operated, and the purpose of the facility.]

3. [Provide an evaluation that includes a set of findings relating the probable coastal effects of the proposed project and its associated facilities to the relevant enforceable policies of the Virginia Coastal Resources Management Program.]

[Contact appropriate agencies administering the enforceable programs of the Virginia Coastal Resources Management Program to help determine relevant enforceable policies.]

By this certification that the [project] is consistent with the Virginia Coastal Resources Management Program, Virginia is notified that it has six months from the receipt of this letter and accompanying information in which to concur with or object to [applicant's name] certification. Pursuant to 15 CFR § 930.63(b), if Virginia has not issued a decision within three months following commencement of State agency review, it shall notify [name of applicant] and the Federal agency of the status of the matter and the basis for further delay. The State's concurrence, objection, or notification of review status shall be sent to: [provide applicant and Federal agency's contact information].

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**LISTED ACTIVITIES**

**Listed Federal Agency Activities**

Federal agencies and their activities for which consistency determinations must be prepared if the activities can have any reasonably foreseeable effects on Virginia's coastal uses and resources. Whether an activity is listed or not, it is the Federal agency's responsibility to provide the Virginia Coastal Resources Management Program with consistency determinations for Federal agency activities affecting the coastal zone.

- All federal development projects inside the coastal zone are automatically subject to consistency and require a Consistency Determination
- National Marine Fisheries Service - Fishery Management Plans
- Army Corps of Engineers - Public works projects including but not limited to dredging, breakwaters, navigation aids, reservoirs, beach nourishment, etc.
- Air Force, Army, or Navy - Location, acquisition, and design of new or expanded defense installations and related activities
- Fish and Wildlife Service - Acquisition and management, including development of master plans for National Wildlife Refuges
- National Park Service - Acquisition and management, including development of Master Plans for National Parks and Seashores

- Coast Guard - Location, acquisition, and design of new or expanded facilities as well as closure of existing facilities
- Federal Aviation Administration - Construction, maintenance, and demolition of federal aids to navigation
- General Services Administration - Disposal of surplus federal land, property acquisition, and building construction

**Listed Federal Permit, License, Approval Activities**

- Federal permits or licenses which require Federal Consistency reviews if the permitted activity affects land or water uses in the coastal zone.
  - Army Corps of Engineers
    - Section 9 or 10 permits pursuant to the Rivers and Harbors Act
    - Section 404 permit pursuant to the Clean Water Act
    - Section 103 permit pursuant to the Marine Protection, Research, and Sanctuaries Act
  - Federal Energy Regulatory Commission
    - Licenses for non-federal hydroelectric projects pursuant to Section 4 of the Federal Power Act
    - Abandonment of gas pipelines pursuant to Section 7 of the Natural Gas Act
    - Certificates authorizing construction and operation of facilities for the transportation and/or storage of natural gas pursuant to Section 7 of the Natural Gas Act
  - Economic Regulatory Commission
    - Options for permission to deliver or receive imported liquefied natural gas
  - Bureau of Land Management and Minerals Management Service
    - Permits for pipeline rights-of-way for oil and gas transmission on the Outer Continental Shelf
  - Coast Guard
    - Licenses for the construction and operation of deepwater ports pursuant to the Deepwater Port Act
    - Permit for construction and modification of bridge structures across navigable waters of the United States
  - Federal Aviation Administration
    - Permits and licenses for the construction, operation, or alteration of airports
  - Environmental Protection Agency
    - National Pollutant Discharge Elimination System permits pursuant to sections 402 and 403 of the Clean Water Act
    - Ocean dumping permits

- Section 102 permits, designation of ocean dumping and incineration sites, pursuant to the Marine Protection, Research, and Sanctuaries Act

○ Nuclear Regulatory Commission

- Permits and licenses required for the construction and operation of nuclear power plants

○ Interstate Commerce Commission

- Abandonment of rail lines

○ National Park Service

- Expenditures of Land and Water Conservation Funds and National Historic Preservation Funds

**Listed Federal Assistance Activities**

Federally funded state and local government activities for which consistency certifications must be submitted if the activity directly affects the coastal zone.

- Department of Housing and Urban Development - Community Development Block Grants
- United States Department of Agriculture Rural Development - Loans and Grants
- Fish and Wildlife Service - Wildlife Management Plans
- National Park Service - Parks and Recreation Development Plans
- Historic Site Preservation Plans - Waterfront Development Activities

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