

## Environmental Management Procedure (EMP) 4.4.6.9 Tab 3

### Subject: Federal Consistency Determinations (FCD)

1. Purpose: This EMP establishes the procedures for complying with the Coastal Zone Management Act and preparation of Federal Consistency Determinations (FCDs).
2. Document Control: This is a controlled document. Controlled documents are updated as required, reviewed at least annually, and re-dated if changed. Any documents to include blank forms appearing in paper form are not controlled and should be checked against the file version prior to use on the:

JBLE – Eustis Environmental website: <http://www.jble.af.mil/Units/Army/Eustis-Enviromental/>

3. References:
  - A. JBLE Instruction 32-101, Environmental Management
  - B. EMP Dictionary
  - C. EMP 4.4.6.9 NEPA
4. Scope: This EMP applies to all Activities and personnel, including military, civilians, vendors, suppliers, and contractor personnel who enter JBLE-Eustis. The definition of an Activity can be found in JBLE I 32-101.
5. Roles and Responsibilities:
  - A. Activities. Project proponents provide information about the project to the CED/EE.
  - B. CED/EE.
    - (1). Determines whether an FCD is required for a given project.
    - (2). Consults with Virginia Department of Environmental Quality (VDEQ).
    - (3). Prepares and processes FCDs.
6. Procedures:
  - A. Each project requiring an FCD will be evaluated to determine whether the project will affect Virginia's coastal zone and demonstrate how such projects are performed in a manner that is consistent with the Virginia's Coastal Resources Management Program. Specifically, projects are determined as consistent by demonstrating compliance with the enforceable laws, regulations and policies that protect coastal resources related to the following:
    - (1). Tidal and Nontidal Wetlands
    - (2). Fisheries
    - (3). Subaqueous Lands
    - (4). Dunes and Beaches
    - (5). Point Source Air Pollution

- (6). Point Source Water Pollution
  - (7). Nonpoint Source Water Pollution
  - (8). Shoreline Sanitation
  - (9). Coastal Lands
- B. The following general format and content for an FCD is used though regulatory changes may occur requiring additional information. This format will explain why a project is consistent.

**Coastal Zone Management Act (Coastal Zone Management Act)**

**Federal Consistency Determination  
for  
(Project Name)**

- 1) This document provides the Commonwealth of Virginia with the US Army Garrison, Fort Eustis, VA Federal Consistency Determination under Coastal Zone Management Act section 307(c)(1) [or (2)] and 15 CFR Part 930, sub-part C, for the proposed project of repairing shoreline affected by serious erosion. The information in this Federal Consistency Determination is provided pursuant to 15 CFR Section 930.39.
- 2) Describe the purpose and details of the project.
- 3) This project is being assessed in accordance with the provisions of the National Environmental Policy Act (NEPA) and its subsequent federal and agency-specific regulations including Title 40 of the Code of Federal Regulations part 1500-1508 and Title 32 of the Code of Federal Regulations Part 989. This is being accomplished through the preparation of environmental impact assessment documentation.
- 4) The Virginia Coastal Resources Management Program contains the following applicable enforceable policies:

<b>Applicable Enforceable Policies</b>	<b>Federally Proposed Action's Effect</b>
<p><i>Fisheries Management.</i> 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</p>	<p>Describe the effect(s) on fisheries management or why there is no effect.</p>

<p>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).</p>	
<p><i>Subaqueous Lands Management.</i> The management program or 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).</p>	<p>Describe the effect(s) on subaqueous lands management or why there is no effect.</p>
<p><i>Wetlands Management.</i> 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. The tidal wetlands program is administered by the Marine Resources Commission (Code of Virginia § 28.2-1301 thru § 28.2-1320). 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.</p>	<p>Describe the effect(s) on wetlands management or why there is no effect.</p>
<p><i>Dunes Management.</i> 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).</p>	<p>Describe the effect(s) on dunes management or why there is no effect.</p>
<p><i>Non-point Source Pollution Control.</i> Virginia's Erosion and Sediment Control Law requires soil-disturbing projects to be designed to</p>	<p>Describe the effect(s) on non-point source pollution control or why there is no effect.</p>

<p>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 <i>et seq.</i>).</p>	
<p><i>Point Source Pollution Control.</i> 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.</p>	<p>Describe the effect(s) on point source pollution control or why there is no effect.</p>
<p><i>Shoreline Sanitation.</i> 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).</p>	<p>Describe the effect(s) on shoreline sanitation or why there is no effect.</p>
<p><i>Air Pollution Control.</i> 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).</p>	<p>Describe the effect(s) on air pollution control or why there is no effect.</p>
<p><i>Coastal Lands Management.</i> This program is a state-local cooperative program administered by the Chesapeake Bay Local Assistance Department 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 <i>et seq.</i></p>	<p>Describe the effect(s) on coastal lands management or why there is no effect.</p>

C. The FCD is submitted to VDEQ which has 60 days to review the FCD and determine whether it concurs with the Army's determination.

D. When an Environmental Assessment (EA) is required (based on NEPA and its regulations) an FCD is included as an appendix to the EA and the documents are submitted to VDEQ concurrently.