

Guidance for Flood Risk Analysis and Mapping

Coastal Zone Management Act Consistency Determination Guidance

December 2020



FEMA

Requirements for the Federal Emergency Management Agency (FEMA) Risk Mapping, Assessment, and Planning (Risk MAP) Program are specified separately by statute, regulation, or FEMA policy (primarily the Standards for Flood Risk Analysis and Mapping). This document provides guidance to support the requirements and recommends approaches for effective and efficient implementation. Alternate approaches that comply with all requirements are acceptable.

For more information, visit the FEMA Guidelines and Standards for Flood Risk Analysis and Mapping [webpage](#) on FEMA.gov. Content on this webpage includes the Standards for Flood Risk Analysis and Mapping policy, related guidance, technical references, and other information about the guidelines and standards development process. All related documents and content can also be searched in the FEMA [Media Library](#).

Table of Revisions

The following summary of changes details revisions to this document subsequent to its most recent version in December 2020.

| Affected Section or Subsection | Date | Description |
|---------------------------------------|---------------|--|
| First Publication | December 2020 | Initial version of new guidance. The content was derived from the Guidelines and Specifications for Flood Hazard Mapping Partners, Procedure Memoranda, and/or Operating Guidance documents. |

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1.0 Topic Overview

1.1 Purpose

The FEMA Standards for Flood Risk Analysis and Mapping include Standard 643 which specifies, “Prior to the issuance of a preliminary FIRM panel covering a floodplain within the coastal zone, as defined by the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451-1464), the FEMA region shall submit to the coastal zone management program for the state or territory in which the project takes place a federal consistency determination that the project is consistent to the maximum extent practicable with the enforceable policies of the coastal management program.” The Consistency Review Process will be administered by the FEMA Region, coordinated by the Regional Risk Analysis Branch in consultation, as necessary, with the regional office Environmental and Historic Preservation (OEHP) and the Office of Chief Counsel (OCC).

This document provides guidance to inform procedures for documenting that the FEMA Mapping Program is consistent with the Coastal Management Plan (of the State or Territory in which a present or future flood hazard identification activity is taking place or will take place. This document is applicable to all ongoing and future regulatory flood hazard identification activities in which the scope of the study coincides partially or entirely with the coastal zone. Listed in this document are the responsibilities and documentation requirements to comply with FEMA Standard 643 to document consistency with the applicable Coastal Management Plan.

1.2 Overview of Coastal Zone Management Act Coastal Zone Management Act Compliance Responsibilities

The purpose of the Coastal Zone Management Act is to protect the coastal environment from growing demands associated with residential, recreational, commercial, and industrial uses. The Coastal Zone Management Act provisions help States develop coastal management programs to manage and balance competing uses of the coastal zone. Federal Agencies, including FEMA, must follow the Federal Consistency provisions as delineated in 15 CFR part 930.

The Coastal Zone Management Act requires that federal agency actions with reasonably foreseeable effects on any land or water use or natural resource of the coastal zone be consistent, to the maximum extent practicable, with the enforceable policies of a coastal state or territory’s federally approved Coastal Management Plan. Under the National Oceanic and Atmospheric Administration’s (NOAA) implementing regulations for the consistency requirement, there are four types of federal actions: federal agency activities, federal license and permit activities, outer continental shelf plans, and federal assistance to state and local governments. Of the four types of federal actions identified in the Coastal Zone Management Act requirements, “federal agency activities” is the only type relevant to the Flood Hazard Mapping Program.

FEMA is therefore responsible for ensuring that flood hazard determinations are consistent with the Coastal Management Plan of the state or territory in which the flood hazard exists.

2.0 Coastal Zone Management Act Coastal Zone Management Act Compliance for FEMA Flood Hazard Mapping Actions

According to NOAA regulations, the term “federal agency activity” means a proposal by a federal agency for action initiating an activity or series of activities when effects on any coastal use or resource are reasonably foreseeable (15 CFR 930.31(a)). Because it is reasonably foreseeable that FEMA flood hazard determinations may in some way influence future activity within the coastal zone, FEMA engages in the consistency determination process outlined in the Coastal Zone Management Act and NOAA’s implementing regulations.

FEMA Regions that have states or territories with a Coastal Management Plan are required to evaluate each relevant Coastal Management Plan and provide a consistency determination between that Coastal Management Plan and the FEMA Mapping Program to the relevant State Office administering the plan(s). If the state or territory does not have a Coastal Management Plan, then no action is necessary. FEMA Regions will subsequently provide and maintain written consistency determinations for each state or territory in their region at the time of or prior to the next publication of preliminary maps affecting any coastal use or resource in that state or territory. If a consistency determination has already been issued for the state an additional determination will not be needed; however the determination must be updated in response to changes in the FEMA Mapping Program or relevant Coastal Management Plan.

3.0 Guidance to Document Coastal Zone Management Act Coastal Zone Management Act and Coastal Management Plan Consistency

Documentation detailing the consistency of a given project with the state’s or territory’s Coastal Management Plan must be established and maintained by the FEMA Region in advance of the issuance of preliminary FIRMs potentially affecting any coastal use or resource, and provided to the state or territory prior to or contemporaneously with the issuance of a preliminary FIRM. Exceptions and alternative schedules for notification must be agreed upon by both the FEMA Regional Office and the appropriate State/Territorial agency. Documentation of this coordination should be included in any requests submitted for an exception to Standard 643.

In instances where preliminary maps have already been issued at the time this guidance is published, then the region will work with the appropriate state agency to determine the best time to issue the determination and address the requirements in the state-specific Coastal Zone Management Act Plan, on a case-by-case basis. Where no revised FIRMs are expected in FEMA’s Coordinated Needs Management Assessment (CNMS), a consistency determination will be made in the future when there is a newly proposed mapping action within the coastal zone. The priority will be to issue the determination with an action (i.e. release of Preliminary FIRMs); however, if a state or territory has a specific concern related to the consistency of existing FEMA maps with its Coastal Management Plan, consideration can be given to engaging in the consistency documentation process to address those concerns. In these cases, coordination will be required between the FEMA Region and the state or territory. Coordination with HQ will be needed to best determine the effective date of the determination and associated FEMA action.

Where preliminary maps have been issued but are not yet effective and the state agency supports a determination, consistency determinations may be submitted to the appropriate state agency no less than 90 days before the issuance of the Letter of Final Determination (LFD). FIRMs released after the issuance of Standard 643 should not become effective until coordination with the state has been documented.

FEMA's consistency determination is intended to be generally applicable to all present and future flood hazard identification activity in which the coastal floodplain is changed significantly due to a mapping update. Consistency determinations will be developed for each state or territory and will be applicable to all relevant flood hazard mapping activities. Unless otherwise agreed by the FEMA Regional Office and the states or territories, once a consistency determination has been developed, FEMA will not issue consistency determinations for future mapping actions unless the future mapping action is materially different in nature from past mapping actions. For example, mapping a V Zone relative to a flooding source where there was no previously mapped V Zone would be materially different, whereas changing the delineation of an existing V Zone would not. Rather, it is assumed that if the FEMA Mapping Program is deemed to be consistent with the state or territory Coastal Management Plan, and a subsequent mapping action is undertaken in accordance with FEMA Mapping Program requirements, then the mapping action is also in consistent with the Coastal Management Plan. However, the FEMA Region is responsible for maintaining an up-to-date consistency determination and will update their documentation according to Section 4 of this guidance in response to changes in the FEMA Mapping Program and/or relevant state or territory Coastal Management Plans. Consistency determinations are not required for Letters of Map Change (LOMCs).

4.0 Steps for Consistency Review

Documentation of consistency with a given state's or territory's Coastal Management Plan will be developed by the FEMA Region and documented in the determination template format outlined in Appendix 1, according to the timeline detailed in Sections 3 and 6 of this document. The content of a consistency determination should be informed by the Coastal Management Plan of the relevant state or territory, and in compliance with the criteria set forth in 15 CFR § 930.39. The Risk Analysis Branch at the FEMA Region will lead the consistency determination process, and should coordinate, as needed, with appropriate contacts in the Office of Chief Counsel and with the Regional Environmental Officer. Support can also be offered by the Senior Policy Advisor at FEMA HQ [HQ Risk Management Directorate (RMD) POC] to coordinate with the HQ Office of Environmental and Historic Preservation and Office of Chief Counsel. Coordination with FEMA HQ will be required if the review process appears to show that the FEMA Mapping Program is not consistent with the Coastal Management Plan of a state or territory.

The FEMA Regional Regional Analysis Branch will conduct their consistency review according to the following procedure:

4.1 Regional Risk Analysis Branch Determination

The FEMA Regional Risk Analysis Branch will determine whether a review has been conducted to address consistency between the Mapping Program and the Coastal Management Plan of each state or territory under their region's jurisdiction. If a previous review has been conducted, it will

be reviewed to ensure that it is still effective and current. If it is, no further action is needed. If it requires updates, or if a review has not been completed in the past, the process for consistency determinations continues.

4.1.1

For states or territories with no Coastal Management Plan, no action is needed.

4.2 Regional Risk Analysis Branch Review

The FEMA Regional will review the Coastal Management Plan of each state or territory for which a consistency determination is required and compare it against the FEMA Mapping Program.

4.2.1

NOTE: The consistency review process is different for every state and territory with a Coastal Management Plan. The procedure for this review will therefore be influenced by the individual Coastal Management Plan, but the overall objective of determining consistency and the ultimate outcome remain the same. The Regional Environmental Officer is the best resource for guidance on specific provisions and procedures of Coastal Management Plans at the region. With consultation from Office of Chief Counsel the determination process may also include review and determination of consistency for other applicable statutes or administrative rules, as needed.

4.3 Coordination, As Needed

As needed, the FEMA Regional Risk Analysis Branch will coordinate with appropriate points of contact from the Office of Chief Counsel and Office of Environmental Planning and Historic Preservation to answer questions and determine what documentation is needed to satisfy the requirements of the consistency review. Similar coordination, if needed, may be sought with the appropriate points of contact from FEMA's Risk Management Directorate Headquarters..

4.4 Consistency Determination Documentation

The consistency determination will be documented in written form according to the determination template included in Appendix 1 of this document. All other documentation deemed necessary may also be included with the determination letter.

4.4.1

Regions can reach out to the points of contact at FEMA's Headquarters in Risk Management for examples from other regions, if needed.

4.5 Consistency Determination Distribution

The Consistency Determination, once completed and documented, will be shared with the appropriate state or territorial agency.

4.6 Consistency Determination Review

The Consistency Determinations will be reviewed regularly and will be updated as needed when significant changes are made to the Mapping Program or to any of the applicable states' or territories' Coastal Management Plans.

4.6.1

Significant change to the Mapping Program include impactful changes to methodologies, products, etc. This does not include regular updates to the Guidelines and Standards Policy or map changes resulting from updated analyses or third party requests for map changes.

4.7 In the event of Potential Inconsistency

In the event that the FEMA Regional Risk Analysis Branch's consistency review shows that the mapping action may be inconsistent with the Coastal Management Plan of any state or territory, then the FEMA Region will coordinate with the Risk Management at FEMA headquarters in advance of any final determination, and will coordinate the path forward to determine consistency of the mapping action with the Coastal Management Plan. This coordination allows for multiple points of contact to identify if there are actions, policies, or procedures that may need to be modified to achieve consistency.

5.0 Resources for Additional Information

- Coastal Zone Management Act of 1972
(https://coast.noaa.gov/data/czm/media/CZMA_10_11_06.pdf)
- NOAA Office for Coastal Management, CZMA Overview (<https://coast.noaa.gov/czm/act/>)
- Bureau of Ocean Energy Management, What is "Federal Consistency?"
(<https://www.boem.gov/environment/environmental-assessment/coastal-zone-management-act>)

6.0 Triggering Actions

A Coastal Zone Management Act consistency determination will need to be conducted for any state or territory in which a Coastal Management Plan exists, and a consistency determination has not yet been conducted. Consistency determinations must be updated as needed to respond to changes in a state or territory's Coastal Management Plan or changes to the FEMA Mapping Program.

The requirements for this consistency documentation apply to all projects which will produce a preliminary Flood Insurance Rate Map in a state or territory with a Coastal Management Plan. The requirements do not apply to Letters of Map Change or Conditional Letters of Map Change.

The documentation must be provided with enough time remaining in the project process to modify the action, if need be, to establish consistency. Therefore, in general, the consistency determination must be completed by the FEMA Region at the time of preliminary FIRM issuance. For situations where this is not possible and a consistency determination is needed, the determinations will be issued no less than 90 days before a Letter of Final Determination. FEMA Regions may explore options to perform their determinations on a different timeline, and project proponents should coordinate with their FEMA Region to determine exceptions.

Appendix 1: Coastal Management Plan Consistency Determination Template

U.S. Department of Homeland Security

FEMA Region [Num]

[Address]

[City, State ZIP]



FEMA

[Date]

[State/Territory Agency Representative]

[State /Territory Agency]

[State/ Territory Agency Address]

[City, State/Territory ZIP]

The purpose of this Consistency Determination is to advise State/Territory authorities of a federal action and the determination of the Federal Emergency Management Agency on the consistency of such action with the provisions of a State Coastal Management Program in accordance with the Coastal Zone Management Act of 1972, as amended. The federal action that has been identified has been the identification of hazard areas on Flood Insurance Rate Maps and Flood Insurance Studies throughout the State, conducted in accordance with FEMA’s Risk Mapping, Assessment and Planning project lifecycle for flood risk projects.

I. Background

A. Flood Hazard Identification and Risk Assessment

The NFIP was launched by the National Flood Insurance Act of 1968, under which Congress directed FEMA to identify and publish information for flood-prone areas and subdivide them into flood risk zones to provide the data necessary for FEMA to determine the appropriate minimum floodplain management criteria and to rate flood insurance policies (42 U.S.C. § 4101). This data is then transferred onto Flood Insurance Rate Maps (44 C.F.R. § 59.1). Through the NFIP, property owners in participating communities are able to insure their property against future flood losses. Through its Flood Hazard Mapping Program, FEMA identifies flood hazards, assesses flood risks, and collaborates with States, Territories, and communities to provide accurate flood hazard and risk data to guide them to mitigation actions. FEMA has no land use authority under the NFIP. Instead, participation in the NFIP is voluntary for states and other communities, and such participation requires that each community apply minimum standards for any development that occurs within the SFHA as identified on FIRMs.

B. Consistency Determination Requirements of the Coastal Zone Management Act

The Coastal Zone Management Act, (16 U.S.C. § 1451-1464) requires that federal agency actions with reasonably foreseeable effects on any land or water use or natural resource

of the coastal zone be consistent, to the maximum extent practicable, with the enforceable policies of a coastal state's or territory's federally approved Coastal Management Program. "Federal agency activities," as described by National Oceanic Atmospheric Administration's (NOAA) implementing regulations for consistency requirements, is the relevant type of federal action under the Flood Hazard Mapping program to examine for consistency under the NOAA implementing regulations. A federal action is subject to the Coastal Zone Management Act federal consistency requirements if the action will affect a coastal use or resource as detailed within the NOAA regulations. Therefore, FEMA Flood Hazard Mapping Actions are subject to this requirement, and their consistency with the Coastal Zone Management Act and the Coastal Management Program of the relevant states or territories must be established. Given the alignment of the objectives of the Coastal Zone Management Act and the NFIP flood hazard mapping program, we anticipate that FEMA's activities under its mapping program are likely to also be consistent with the respective states' or territories' Coastal Management Programs.

II. Consistency Determination

Determination Letter will include summary of policy review and determination that the federal action is consistent with the enforceable policies and provisions of the Coastal Management Plan, and that the amount of detail in this evaluation of the enforceable policies, activity description and supporting information is commensurate with the expected coastal effects of the federal action. This approach will require the Region to review the State/Territory/Tribal specific Coastal Management Plan for relevant requirements for inclusion in this section.

III. Conclusion

Request for agreement or disagreement with the determination within a specified time.