

NEW YORK STATE DEPARTMENT OF STATE

COASTAL MANAGEMENT PROGRAM

Policy Statement Supplement to Federal Consistency Assessment Form

Project: Fire Island Inlet to Moriches Inlet (FIMI) Stabilization Project

Applicant: U.S. Army Corps of Engineers, New York District

Applicable Policies: In accordance with the Coastal Management Program (CMP) policies of New York State, and based upon completion of the Federal Consistency Assessment Form (FCAF) 24 policies were identified as potentially applicable to the proposed project. These policies are presented below, followed by an explanation of project consistency. For those policies identified by the FCAF as potentially applicable, but which upon further evaluation are not applicable to the project, an explanation is provided. In addition, although not identified by the FCAF checklist, Policy 18 is addressed herein, because, based on review of the policy, it was considered relevant to the project.

Policy 2 Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters.

Numerous water dependent uses, such as marinas, beaches, parks and small business which support the summer tourism industry are located within the project area. The project will help to stabilize the barrier island, protecting it from storm damage. The project will enable existing water dependent uses and facilities to remain. The proposed project would be consistent with this policy.

Policy 7 Significant coastal fish and wildlife habitat will be protected, preserved, and where practicable, restored so as to maintain their viability as habitats.

All of Great South Bay and many adjoining marshes and natural areas are designated as Significant Coastal Fish and Wildlife Habitat (SCFWH). All or portions of the following specific SCFWH areas are within the project area: Great South Bay, Democrat Point, Moriches Bay and Smith Point County Park. Additional SCFWHs are located on the northern coastline of Great South Bay; however, these will not be directly affected by the project.

Policy 7 states that filling of shallows, grading, shoreline alteration and dredging are among generic activities most likely to affect protected habitats. These activities are integral to the proposed project which consists of dredging sand from offshore borrow areas for placement on the Atlantic shoreline of Fire Island from Fire Island Inlet to Moriches Inlet to create enhanced beach area and dunes for coastal storm risk management. No dredging will occur within State designated SCFWH. No filling or grading will occur within marshes or wetlands; fill placement is limited to the Atlantic shoreline only. Fill placement along the Atlantic shoreline of Fire

Island in the project area will create wider beaches and dunes to minimize breaching and overwashing and consequent damage to habitats and communities on the barrier island and along the south shore of Long Island. There will be no change in existing tidal exchange patterns, only a continuation of the non-storm induced conditions.

A comprehensive assessment of potential project impacts to threatened and endangered species and habitats was conducted and is presented in the Environmental Assessment (EA) prepared for the project. Refer to attachment D.

The proposed activities would be undertaken in a manner consistent with this policy.

POLICY 8 Protect fish and wildlife resources in the coastal area from the introduction of hazardous wastes and other pollutants which bio-accumulate in the food chain or which cause significant sublethal or lethal effect on those resources.

The material that may be obtained from the offshore borrow areas, consists primarily of clean, coarse-grained sand. The material has been dredged in the past, and prior sampling of this material has indicated that the material is suitable for use as down-drift beach nourishment material. The material that would be dredged and used for beach nourishment on the down-drift beaches would not contain hazardous wastes or other pollutants that would bioaccumulate in the food chain or cause significant sublethal or lethal effects on those resources. Sediment re-suspension is likely to cause temporary increases in turbidity; however, these increases would be limited in duration and spatial extent and are not expected to significantly affect fish or aquatic wildlife in the project areas. The proposed activities would not adversely affect fish and wildlife resources and would be undertaken in a manner consistent with this policy.

POLICY 11 Buildings and other structures will be sited in the coastal area so as to minimize damage to property and the endangering of human lives caused by flooding and erosion.

This policy relates to the placement of man-made structures. The project consists of non-structural measures for storm damage reduction, specifically beach nourishment and dune creation. This policy is not applicable to the project.

POLICY 12 Activities or development in the coastal area will be undertaken so as to minimize damage to natural resources and property from flooding and erosion by protecting natural protective features including beaches, dunes, barrier islands and bluffs.

The Long Island south shore barriers and their associated beaches, dunes, and nearshore areas are natural “defenses” that help preserve coastal lands and property from damage and reduce the danger to resources and property resulting from flooding and erosion.

The proposed activities would be conducted in the nearshore littoral zone and on the south shore barrier island beaches. These properties and their associated coastal processes ordinarily provide varying levels of risk management measures to the barrier island upland areas, the south shore bays, and Long Island south shore mainland. The natural physical functioning and integrity of the beaches, nearshore areas, and dunes immediately down drift are affected, resulting in increased vulnerability to storm damage to natural resources and property from coastal flooding and erosion. The purpose of the project is to implement temporary measures that will augment and restore the natural protective capabilities of the natural protective characteristics down drift of the inlet.

Sand obtained from the offshore borrow area would be pumped to the beach areas to restore the natural protective features of the barrier island. The nourishment of beaches and dunes with appropriate material is an allowable activity pursuant to the coastal erosion hazard area regulations contained in 6 NYCRR Part 505 (see also Policy 35), and is a non-structural erosion control measure preferred over structural measures by the State in its tidal wetlands, erosion hazards, and coastal management program statutes and regulations (see Policies 17, 35, and 44). Restoring the natural protective characteristics of the barrier island (resulting in the protection of the barrier island itself, the bay-system and the mainland of Long Island) would be consistent with and further promote Policy 12, which is to minimize damage to natural resources and property by protecting the naturally occurring protective characteristics and the associated physical processes.

POLICY 13 The construction or reconstruction of erosion protection structures shall be undertaken only if they have a reasonable probability of controlling erosion for at least thirty years as demonstrated in design or construction standards and or assured maintenance or replacement programs.

The proposed project is a stabilization measure that will be incorporated into the overall Reformulation Study, which is a long-term (50-year) plan for storm damage reduction. The proposed project is designed to provide for non-overtopping of an event with an approximate 50-year return period designed for 50 years.

POLICY 14 Activities and development, including the construction or reconstruction of erosion protection structures, shall be undertaken so that there will be no measurable increase in erosion or flooding at the site of such activities or development, or at other locations.

The proposed project consists of a non-structural measure for coastal storm risk management for the barrier island and south shore of Long Island. No structures that would generate increases in

erosion or flooding will be constructed. The project is consistent with and would advance this policy.

POLICY 15 Mining, excavation or dredging in coastal waters shall not significantly interfere with the natural coastal processes which supply beach materials to land adjacent to such waters and shall be undertaken in a manner which will not cause an increase in erosion of such land.

The proposed action includes the removal of material from an offshore borrow source. The offshore borrow area is located in depths of 40-70 ft, where excavation and dredging has been demonstrated to have a negligible impact on the nearshore coastal processes, and will not cause an increase in coastal erosion. Best management practices will be followed during all dredging activities and the proposed dredging depth in the borrow areas will not reduce the flow of sediments to adjacent areas. Coastal processes along the shoreline sand placement areas will not be interfered with as only natural sands will be placed; no structures or shoreline hardening is proposed.

The proposed activities are consistent with this policy.

POLICY 16 Public funds shall only be used for erosion protective structures where necessary to protect human life, and new development which requires a location within or adjacent to an erosion hazard area to be able to function, or existing development; and only where the public benefits outweigh the long term monetary and other costs including the potential for increasing erosion and adverse effects on natural protective features.

The project will minimize breaching and overwashing of the barrier island and is a necessary measure for storm damage reduction on the barrier island as well as the south Shore of Long Island. The project will enhance and recreate natural protective features of a barrier island through beach renourishment and berm construction. Benefits to the human and natural environments outweigh the expenditures of public funds. This has been demonstrated through the completion of a comprehensive economic assessment of the FIMI project, which will also be conducted for the overall Reformulation Plan. The FIMI project is part of an overall long-term (50 year) project. The project is consistent with this policy

POLICY 17 Non-structural measures to minimize damage to natural resources and property from flooding and erosion shall be used whenever possible.

The proposed use of suitable dredged sand for beach nourishment and dune creation is a non-structural measure. The beach nourishment minimizes damage to natural resources and property from flooding and erosion by strengthening natural protective characteristics and providing the sediments necessary for these characteristics to function (see also Policies 12 and 15). The policy explanation states that consistency with this policy requires the use of such non-structural measures when they are appropriate and available. Given the need to provide temporary measures to the inlet down drift areas and the availability and appropriateness of beach nourishment in this highly eroded area, the proposed activities are fully consistent with and will this policy.

POLICY 18 To safeguard the vital economic, social and environmental interests of the State and of its citizens, proposed major actions in the coastal area must give full consideration to those interests, and to the safeguards which the State has established to protect valuable coastal resource areas.

The project will reduce the frequency and degree of breaches and overwashes of the barrier island and thereby afford coastal storm risk management to the barrier as well as communities on the south shore of Long Island. In addition, Fire Island Inlet and Moriches Inlet are regionally important navigation inlets that must be stabilized and maintained. The areas adjacent to the inlet on the barriers support regionally important water-dependent and water-related uses, including commercial fishing and recreational boating facilities, public parklands, and other uses. The physical character of the barriers must be maintained to protect these uses. Given the need to maintain the inlets and the physical integrity of the south shore barriers by nourishing down drift beaches, the proposed activities are consistent with and will advance this policy.

POLICY 19 Protect, maintain, and increase the level and types of access to public water related recreation resources and facilities.

The beach areas in the proposed project area support a variety of public recreational activities (see also Policies 18 and 20). A temporary reduction in off-season, public access to the work site during the construction season would occur. Buffer areas approximately 1,000 feet in length will be closed during construction activities for safety reasons. As beach placement activities are completed within each 1,000-foot compartment, the buffer is shifted accordingly. Public use of the beach area would be restored at that time. The proposed activities would be undertaken in a manner consistent with this policy. Also, over the ten-year project life the proposed activities would advance the policy to protect, maintain, and increase public access to and use of public water-related recreation resources and facilities.

POLICY 20 Access to publicly-owned foreshore and to lands immediately adjacent to the foreshore or the water's edge that are publicly-owned shall be provided and it shall be provided in a manner compatible with adjoining uses.

The lands and waters adjacent to and at the sites of the proposed activities are publicly owned and accessible underwater lands and parklands that support a variety of public uses are present in the area (see also Policies 18 and 19). Based on the Policy 19 analysis above, the proposed activities would be undertaken in a manner consistent with and would advance this policy.

POLICY 21 Water dependent and water enhanced recreation will be encouraged and facilitated, and will be given priority over non-water-related uses along the coast.

The majority of lands and waters within the project area are publicly owned and currently support a variety of public water dependent uses such as fishing, boating and beaching. The project will protect and enhance these uses in the long term, with only staggered short term loss of use during construction, as described under Policy 19. The proposed project is consistent with and will advance this policy.

POLICY 22 Development when located adjacent to the shore will provide for water-related recreation whenever such use is compatible with reasonably anticipated demand for such activities, and is compatible with the primary purpose of the development.

The project is not “development” per se, but is a non-structural coastal storm risk management measure. Water related recreation is a primary land use in the project area and will remain as such. The project will protect and enhance these water dependent recreational uses in the long term, with only staggered short term loss of use during construction, as described under Policy 19. The proposed project is consistent with and will advance this policy.

POLICY 23 Protect, enhance and restore structures, districts, areas or sites that are of significance in the history, architecture, archeology or culture of the State, its communities, or the Nation.

The Fire Island Light Station is the only property within the study area that is listed on the National Register. A number of other structures, each more than 50 years of age, which may possess the requisite characteristics and integrity to be eligible for the National Register are visible from the beach (JMA 1998:185), including: the Robert Moses State Park Tower; approximately ten houses in the communities of Corneille Estates, Ocean Bay Park, Seaview, Cherry Grove, and Fire Island Pines; the former Point O' Woods Life Saving Station; and the community of Point O' Woods (JMA 1998:188 189). The project will afford additional coastal storm risk management to the Fire Island Light Station, as well as the other identified structures.

The project will not affect archaeological site or marine resources, such as shipwrecks. The project will protect cultural resources and is consistent with this policy.

POLICY 28 Ice management practices shall not interfere with the production of hydroelectric power, damage significant fish and wildlife and their habitats, or increase shoreline erosion or flooding.

Although identified as a potentially relevant policy on the FCAF checklist, this policy is not applicable to the project as there are no provisions for ice management included in the proposed activities.

POLICY 30 Municipal, industrial, and commercial discharge of pollutants, including but not limited to, toxic and hazardous substances, into coastal waters will conform to State and National water quality standards.

Although identified as a potentially relevant policy on the FCAF checklist, this policy is not directly applicable to the project as no pollutants will be discharged. The project is likely to result in sediment re-suspension and associated increases in turbidity during dredging in the borrow areas and during sand placement along the shoreline. These turbidity increases will be temporary and will not result in a violation of this policy.

POLICY 35 Dredging and dredge spoil disposal in coastal waters will be undertaken in a manner that meets existing State dredging permit requirements and protects significant fish and wildlife habitats, scenic resources, natural protective features, important agricultural lands and wetlands.

No scenic resources or agricultural lands are located near the proposed project area; therefore, no such resources or lands will be affected by the proposed activities.

The proposed dredging of clean, relatively coarse-grained accumulated sand offshore borrow area approximately ¾ mile to three miles offshore, will not adversely affect significant coastal fish and wildlife habitats (see Policy 7), natural protective characteristics (see Policies 12, 14, 15, 17, and 18), or wetlands (see Policy 44).

The proposed dredging activities would take place in waters greater than 6 feet deep, and are therefore not required to meet the regulatory standards contained in the State's tidal wetlands land use regulations in 6 NYCRR Part 661. However, the use of the dredged material for beach nourishment in the areas adjacent to the Atlantic Ocean tidal wetland littoral zone would require a tidal wetlands permit (see Policy 44). The sand placement area is within state designated significant fish and wildlife habitats. The State tidal wetlands regulations in 6 NYCRR Part 661 indicate that the use of the dredge material for beach nourishment in an area adjacent to tidal

wetlands is a generally compatible use; however, such a use is dependent on several character and resource values and the effects such nourishment and its associated dredged materials might have on intertidal wetlands and adjacent areas. The material to be dredged and used to nourish the beaches is compatible with the material currently on the beaches. The nourishment of beaches and dunes where necessary and appropriate is an activity that may be authorized pursuant to the coastal erosion hazard area regulations in 6 NYCRR Part 505 (see also Policy 12).

The project will be implemented in such a manner as to avoid adverse impacts to these habitats during construction to the extent practicable. Long term benefits to significant fish and wildlife habitats are anticipated as the placement of the beach fill would lead to larger and wider beach areas that could be used for breeding and nesting by shorebirds.

There is an overriding need to maintain the physical character of the barrier island and its associated natural protective characteristics, as well as the natural resource values of these characteristics. An Environmental Assessment has been prepared for the project which details the potential impacts to natural and cultural resources. In addition, all required permits, such as a NYSDEC Tidal Wetlands Permit, Section 401 Water Quality Certificate, Clean Water Act Section 404 permit, will be acquired and all permit conditions will be complied with. Consultation and coordination with State and Federal resource agencies (US Fish & Wildlife Service, NOAA Fisheries, National Park Service and State Natural Resource agencies) will be conducted and species specific seasonal restrictions and mitigation measures will be put in place. The proposed activities will be conducted in a manner consistent with this policy.

POLICY 38 The quality and quantity of surface water and groundwater supplies will be conserved and protected, particularly where such waters constitute the primary or sole source of water supply.

The project will not affect water supply sources. Temporary increases in turbidity may occur during dredging and sand placement activities; however, these will be limited to construction periods and will be limited in spatial extent and duration. Best management practices will be implemented to minimize impacts. The project is consistent with this policy.

POLICY 40 Effluent discharged from major steam electric generating and industrial facilities into coastal waters will not be unduly injurious to fish and wildlife and shall conform to State water quality standards.

Although identified as a potentially relevant policy on the FCAF checklist, this policy is not directly applicable to the project as no electric generating station or industrial facilities are proposed.

POLICY 41 Land use or development in the coastal area will not cause national or State air quality standards to be violated.

The project will result in mobile air emissions sources during construction only. No stationary sources are proposed. A conformity analysis is being conducted for the project and any required mitigation measures to offset temporary emissions increases will be implemented. A detailed air impact analysis is included with the EA prepared for the FIMI Stabilization project. The project is consistent with this policy.

POLICY 43 Land use or development in the coastal area must not cause the generation of significant amounts of the acid rain precursors: nitrates and sulfates.

Refer to the response to Policy 41; the project is consistent with this policy.

POLICY 44 Preserve and protect tidal and freshwater wetlands and preserve the benefits derived from these areas.

As demonstrated above in the Policy 35 analysis, the proposed beach nourishment activities would take place in an area adjacent to the Atlantic Ocean littoral zone and an intertidal wetland area. The proposed beach nourishment activity is a generally compatible use according to the tidal wetlands land use regulations in 6 NYCRR Part 661. The proposed activity is one of the preferred non-structural erosion control measures identified in the State erosion hazard area regulations, the Coastal Policies contained in the State's Coastal Management Program document, the State tidal wetlands land use regulations, and Article 42 of the Executive Law and its implementing regulations in 19 NYCRR Part 600. Nourishing areas downdrift of stabilized inlets has been recommended by State Task Forces and others (see Policy 18 analysis). The beach nourishment activities will result in physical changes to the intertidal area that will adversely affect some invertebrates at the site of the beach nourishment activities for approximately 3 months while the projects are being undertaken (see Policy 35 analysis). However, these adverse effects would not be significant, would be temporary, and would not result in significant adverse effects nor significantly impair the benefits derived from the tidal wetland areas. The proposed activities would be undertaken in a manner consistent with this policy.