

# APPENDIX F

## COASTAL ZONE MANAGEMENT ACT CONSISTENCY CERTIFICATION

# **FEDERAL AGENCY COASTAL ZONE MANAGEMENT ACT (CZMA) CONSISTENCY CERTIFICATION**

## **INTRODUCTION**

This document provides the Commonwealth of Virginia with the Virginia Port Authority (VPA) Determination under CZMA Section 307 and 15 C.F.R. Part 930 sub-part C. The information in this Consistency Determination is provided pursuant to 15 C.F.R. Section 930.39.

Pursuant to Section 307 of the Coastal Zone Management Act, 16 U.S.C. § 1456, as amended, its implementing regulations at 15 C.F.R. Part 930, this is a Federal Consistency Determination for activities described within the Environmental Assessment for Commonwealth Mainline Safety Relocation Project (CRMSRP).

### **Proposed Federal Agency Action**

The Federal Highway Administration has allocated Safe Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU) funds for the CRMSRP. The VPA proposes to construct approximately 5.5 miles of railroad in the medians of the existing Western Freeway (Route 164) and I-664; extending from the APM Marine Terminal currently under construction in Portsmouth, past the current Route 164/I-664 interchange in Suffolk, and ending at the existing Commonwealth Railway main rail line at a point southwest of the intersection of Pughsville Road and I-664 in Chesapeake. The proposed project also includes a new highway grade separation overpass to be constructed on Route 17. Approximately 4.3 miles of the existing railroad within the cities of Chesapeake and Portsmouth will be abandoned, thereby eliminating 14 at-grade crossings and provide significant safety improvements to Portsmouth and Chesapeake.

The VPA has evaluated the Build Alternative and No-Build Alternative for potential effects to the land or water uses or natural resources of the Commonwealth's coastal zone within the context of the statutes listed in the Virginia Coastal Resources Management Program.

### **Federal Consistency Review**

Statutes addressed as part of the Virginia Coastal Resources Management Program consistency review and considered in the analysis of the proposed action are discussed in the following table.

<i>Statute</i>	<i>Scope</i>	<i>Consistency</i>
<p><b><i>Fisheries Management</i></b></p> <p>Virginia Administrative Code 28.2-200 to 28.2-713 (Virginia Marine Resources Commission) and 29.1-100 to 29.1-570 (Department of Game and Inland Fisheries)</p>	<p>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.</p>	<p>No finfish or shellfish occur in the proposed project corridor; therefore none will be impacted by the Build Alternative.</p>
<p><b><i>Subaqueous Lands Management</i></b></p> <p>Virginia Administrative Code Section 28.2-1200 to 28.2-1213</p>	<p>Establishes the 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 Virginia Department of Environmental Quality.</p>	<p>No subaqueous lands occur in the proposed project corridor; therefore none will be impacted by the Build Alternative.</p>
<p><b><i>Wetlands Management</i></b></p> <p>Virginia Administrative Code Section 28.2-1301 to 28.2-1320 (Marine Resources Commission) and 62.1-44.15.5 and Section 401 of the Clean Water Act (Department of Environmental Quality)</p>	<p>Preserves tidal wetlands, prevent their destruction, and accommodates economic development in a manner consistent with wetlands preservation. Also, establishes a Water Quality Certification program consistent with Section 401 of the Clean Water Act.</p>	<p>The Build Alternative could potentially impact approximately 9.8 acres of wetlands in 22 discrete areas along the proposed railroad corridor. Wetlands impacted will be mitigated at a 2:1 ratio for forested wetlands, 1.5:1 ratio for scrub shrub wetlands, and a 1:1 ratio for emergent wetlands to ensure no net loss of wetland function and value. Wetland impacts and mitigation are further described in Chapter 3 of the EA.</p>
<p><b><i>Dunes Management</i></b></p> <p>Virginia Code 28.2-1400 through 28.2-1420 (Marine Resources Commission)</p>	<p>Provides for protection of primary dunes as contained in the Coastal Primary Sand Dune Protection Act.</p>	<p>The Build Alternative would not adversely affect beach and shore management, nor impact any primary dunes as defined by the Coastal Primary Sand Dune Act. There are no sand-covered beaches or sand dunes in the vicinity of this project.</p>
<p><b><i>Non-point Source Pollution Control</i></b></p> <p>Virginia Code Sections 28.2-1400 to 28.2-1420 (Department of Conservation and Recreation)</p>	<p>Requires soil disturbing activities be designed to reduce soil erosion and to decrease inputs of chemical nutrients into state waters.</p>	<p>The proposed action could result in minor soil erosion, in the short-term, as related to construction activities. Best management practices for preventing and controlling erosion would be implemented and are described in Chapter 3.0 of the EA.</p>

<i>Statute</i>	<i>Scope</i>	<i>Consistency</i>
<p><b><i>Point Source Pollution Control</i></b></p> <p>Virginia Code 62.1-44.15 (State Water Control Board)</p>	<p>Point source water pollution control is accomplished by implementation of the National Pollutant Discharge Elimination System (NPDES) permit Program pursuant to Section 402 of the Clean Water Act. Administered in Virginia as the VPDES Permit Program.</p>	<p>No point source discharges into surface water or effects to public drinking water supplies would occur from the Build Alternative.</p>
<p><b><i>Shoreline Sanitation</i></b></p> <p>Virginia Code Sections 32.1-164 through 32.1-165 (Virginia Department of Health)</p>	<p>Regulates the installation of septic tanks, sets standards concerning soil types suitable for septic tanks, and specifies minimum distances for placement from streams, rivers and other state waters.</p>	<p>No businesses or residential properties that may contain septic tanks will be impacted by the proposed corridor. No new septic tanks will be installed as part of the Build Alternative.</p>
<p><b><i>Air Pollution Control</i></b></p> <p>Virginia Code Section 10-1.1300 (State Air Pollution Control Board)</p>	<p>Implements the federal Clean Air Act to provide the legally enforceable State Implementation Plan for the attainment of the National Ambient Air Quality Standards.</p>	<p>The Build Alternative will have beneficial impacts to air quality by eliminating at-grade crossings and reducing air emissions from automobiles idling at railroad crossings. The build alternative will allow for faster train speeds which will also lessen air emissions. Air Quality is further discussed in Chapter 3 of the EA.</p>
<p><b><i>Coastal Lands Management</i></b></p> <p>Virginia Code Sections 10.1-2100 and Virginia Administrative Code 10-20-10 et seq. (Chesapeake Bay Local Assistance Department and 84 localities in Tidewater, Virginia)</p>	<p>A state-local cooperative program pursuant to the Chesapeake Bay Preservation Act and Chesapeake Bay Preservation and Management Regulations to regulate activities in the Chesapeake Bay Resource Management Areas. The main goal of this program is protect and restore coastal resources, habitats, and species of the Commonwealth. These include, but are not limited to, wetlands, subaqueous lands and vegetation, sand dune systems, barrier islands, underwater or maritime cultural resources, riparian forested buffers, and endangered or threatened species</p>	<p>Portions of the project area are located within designated Chesapeake Bay Preservation Areas; however, linear construction projects including utilities, public roads and railroads are considered exempt from review under the Chesapeake Bay Ordinance, and therefore, no mitigation is required.</p>

The proposed project will be conducted in accordance with all pertinent federal and State permits and other authorizations including applicable enforceable regulatory programs of the Virginia Coastal Resources Management Program. Based on review of the consistency determinations provided in the above table, the proposed project is consistent with the CZMA.

Pursuant to 15 C.F.R. § 930.41, the Commonwealth of Virginia Clearinghouse has 60 days from receipt of this document in which to concur with or object to this Consistency Determination or to request an extension, in writing, under 15 C.F.R. § 930.41(b). Virginia's concurrence will be presumed if its response is not received by 1 CES/CEVQA on the 60<sup>th</sup> day from receipt of this determination.