

# Lake Michigan Coastal Program

Indiana Department of Natural Resources

## Federal Consistency



***The purpose of the Lake Michigan Coastal Program is to preserve, protect, restore and where possible to develop the resources of the coast for this and succeeding generations and to achieve wise use of the land and water resources of the coastal region, giving full consideration to ecological, cultural, historic and esthetic values as well as to needs for economic development.***

# Strategies

- *Provide technical and programmatic assistance to ensure that the Lake Michigan coastal area is thriving for future generations*
- *Collaborate in planning for and managing coastal resources in the coastal program area and to support partnerships between federal, state, and local agencies and organizations*
- *Providing funding opportunities in the form of a pass-through grant program*

# Pre-test Q & A...

This Federal Law acknowledges the importance of state regulations in the Coastal Zone areas throughout the country.

# What is SECTION 307 OF THE COASTAL ZONE MANAGEMENT ACT OF 1972?

Federal Consistency is designed to do  
this...

What is conform direct and indirect federal activities with state law to the maximum extent practicable?

Actions can include Federal Agency,  
Federal Permit and Licenses, and  
Federal Funding Actions

What are the “Triggering Events” that require Federal Consistency Review?

# Where does Federal Consistency Apply in Indiana?

# Program Area

- Whiting
- East Chicago
- Hammond
- Highland
- Munster
- Dyer
- Schererville

- Gary
- Griffith
- Merrillville
- Crown Point
- Lake Station
- New Chicago
- Hobart
- Winfield

- Ogden Dunes
- Dune Acres
- Burns Harbor
- Portage
- Porter

- Beverly Shores
- Chesterton
- Valparaiso

- Michiana Shores
- Long Beach
- Michigan City
- Town of Pines
- Trail Creek



# Examples of “Triggering Events”

- Federal Agency Action
- Federal Permit/License
- Federal Funding

# What is a Coastal Effect?

any reasonably foreseeable effect on any coastal use or resource resulting from a Federal agency activity, federal license or permit activity, or Federal Financial support (15 C.F.R. § 930.11(g))

# How to Determine Coastal Effects

- Federal Agency Action
  - Listed Action in State Guidance
  - Federal Agency Decides
- Federal Permit/License
  - Listed in State Guidance
  - “Presumed”
- Federal Financial Assistance
  - Listed in State Guidance
  - “Presumed”

# Federal Agency Actions - Example

## Section III: Lists of Federal Activities Subject to Federal Consistency

### Table A. Federal Agency Activities and Development Projects

#### Department of Defense- Secretary of the Army and the Army Corps of Engineers –

- Constructing, maintaining and improving channels or subsurface tunnels
- Dredging, storing, testing, sampling, dewatering, and disposing of dredged material
- Selection of storage, dewatering, and disposal sites for dredged material
- Building, maintaining, and repairing breakwaters, jetties, barriers, harbors, piers, docks
- Placing pipes or pipelines on, over, or under the lake bottom

Note – the above list is an excerpt from a larger list. Please reference the complete list to check if an Activity requires review.



# Federal Agency Items

Items Required for Federal Consistency Review:

- 1) Contact Person & Contact Information
- 2) Project Overview – Map, description of work, etc.
- 3) Consistency Determination Letter

Or

Application for Equivalent State Permit

# Federal Permit/License Action - Examples

## Table B. Federal License and Permit Actions

### Department of Defense- Secretary of the Army, and Army Corps of Engineers

- Permits for construction of dams or dikes in or over navigable waters required under Section 9 of the Rivers and Harbors Act of 1899, 33 USC 401
- Permits for the construction of structures (i.e. piers, wharves, breakwaters, bulkheads, jetties, weirs, transmission lines, pipes, or pipelines) in, under, or over navigable waters required by Section 10 of the Rivers and Harbors Act of 1899, 33 USC 403
- Permits for excavating or dredging from navigable waters, or for the alteration or modification of the course, location, condition, or capacity of such waters, required by Section 10 of the Rivers and Harbors Act of 1899, 33 USC 403

Note – the above list is an excerpt from a larger list. Please reference the complete list to check if an Activity requires review.



# Federal Permit/License Item - Examples

Items Required for Federal Consistency Review:

- 1) Contact Person & Contact Information
- 2) Project Map
- 3) Copy of Federal License/Permit Application
- 4) Consistency Determination Letter

OR

If the same activity requiring a federal license or permit also requires a state permit, the issuance of a permit by the state will include and constitute a consistency decision.

# Federal Funding Action - Examples

## Table C. Federal Assistance

Numbers refer to the Catalog of Federal Domestic Assistance Programs. Program descriptions can be found at the Catalog's website at <https://www.cfda.gov/>

### Department of Defense

- **12.100 Aquatic Plant Control**, 33 USC 610
- **12.101 Beach Erosion Control Projects** (Rivers and Harbors Act of 1962, Section 103, as amended, 33 U.S.C. 426e-g)
- **12.104 Flood Plain Management Services** (Flood Control Act of 1960, Section 206, as amended, 33 U.S.C. 709a)
- **12.105 Protection of Essential Highways, Highway Bridge Approaches, and Public Works** (Flood Control Act of 1946, Section 14, 33 U.S.C. 701r, as amended)

Note – the above list is an excerpt from a larger list. Please reference the complete list to check if an Activity requires review.



# Federal Funding Items

Items Required for Federal Consistency Review:

- 1) Contact Person & Contact Information
- 2) Copy of Funding Application
- 3) Project Map
- 4) Consistency Determination Letter

# Exempted Activities

- Federal General License Activities \*
- State General License Activities
- Section 106
- Financial Assistance
  - training,
  - outreach,
  - publications,
  - inventories,
  - equipment acquisition

# Federal Consistency Contact

The submittal should be sent to:

**Environmental Review** Coordinator

Indiana Department of Natural Resources

402 W. Washington St., Room W273

Indianapolis, IN 46204

OR

[environmentalreview@dnr.in.gov](mailto:environmentalreview@dnr.in.gov)

Applicant Submits Consistency Determination to LMCP 60 Days prior to action

Federal Agency Action  
Federal Financial Assistance  
Federal Consistency Flow Chart

Public Comment Period (10 Days)

**LMCP Internal Process**  
Environmental Unit assigns Fed Consistency Project Number (FCP), distributes via email to reviewers, publishes to website in LMCP Federal Consistency Register, provides notice to interested parties

Agency Review Process (60 Days)

Public Comment to Supplement Information (5 Days)

Environmental Unit Issues Initial Determination (w/in 40 days)

**Final Determination**  
(w/in 60 Days)

Applicant May Request Informal NRC Review (w/in 10 days)

Project Proceeds with State Permit Process

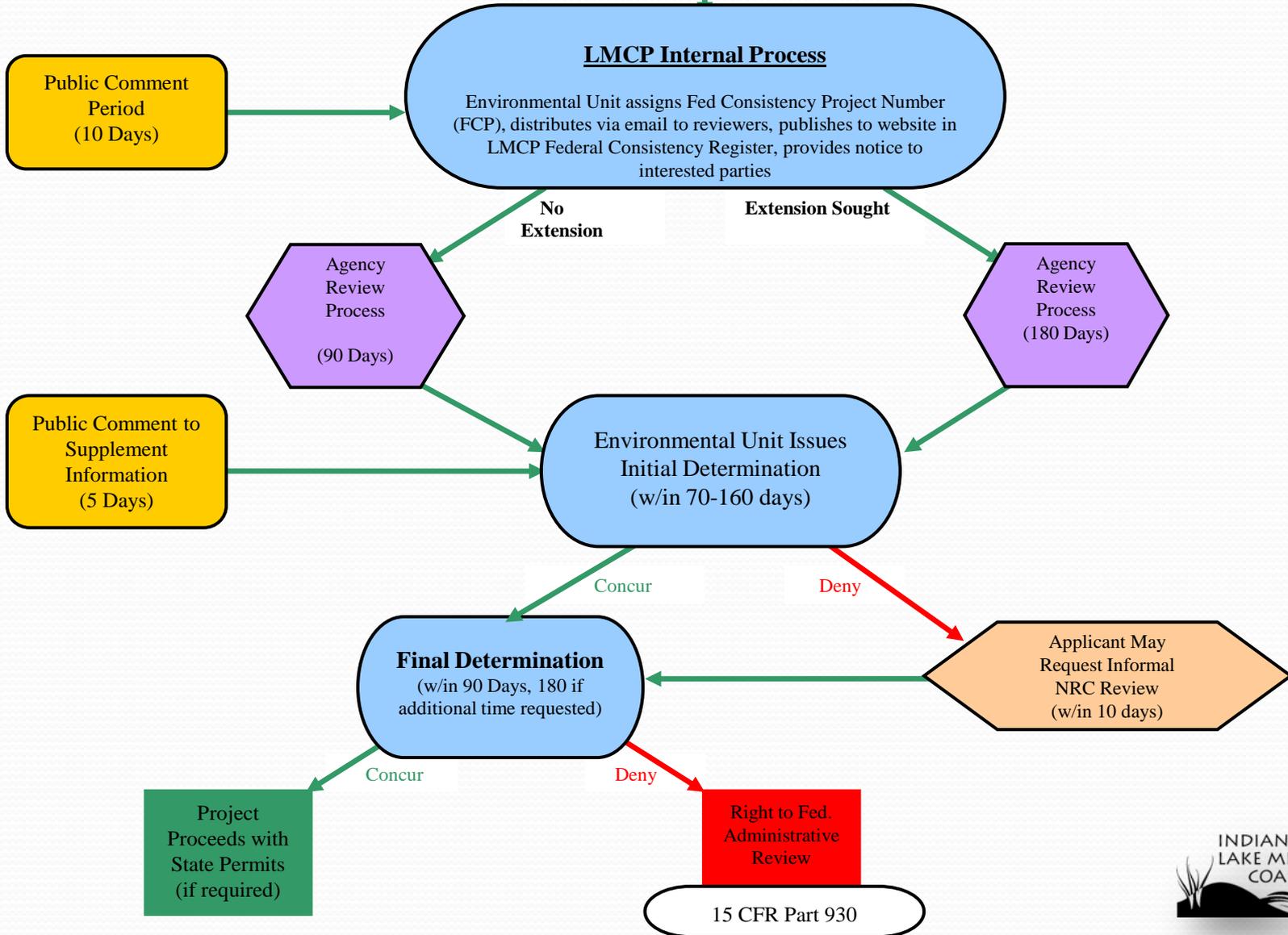
Right to Fed. Administrative Review

15 CFR Part 930



Applicant Submits Consistency Determination to Environmental Unit 90 Days prior to action

**Federal Permit Action  
Flow Chart**



# Summary

- Federal Consistency is a Federal Law that recognizes State Rights
- Each Coastal State maintains a list of “Trigger Events”
- Indiana Federal Consistency Process incorporated into DNR Environmental Review
- Process runs concurrent with Federal timelines

# Additional Information

<http://www.in.gov/dnr/lakemich/6041.htm>

