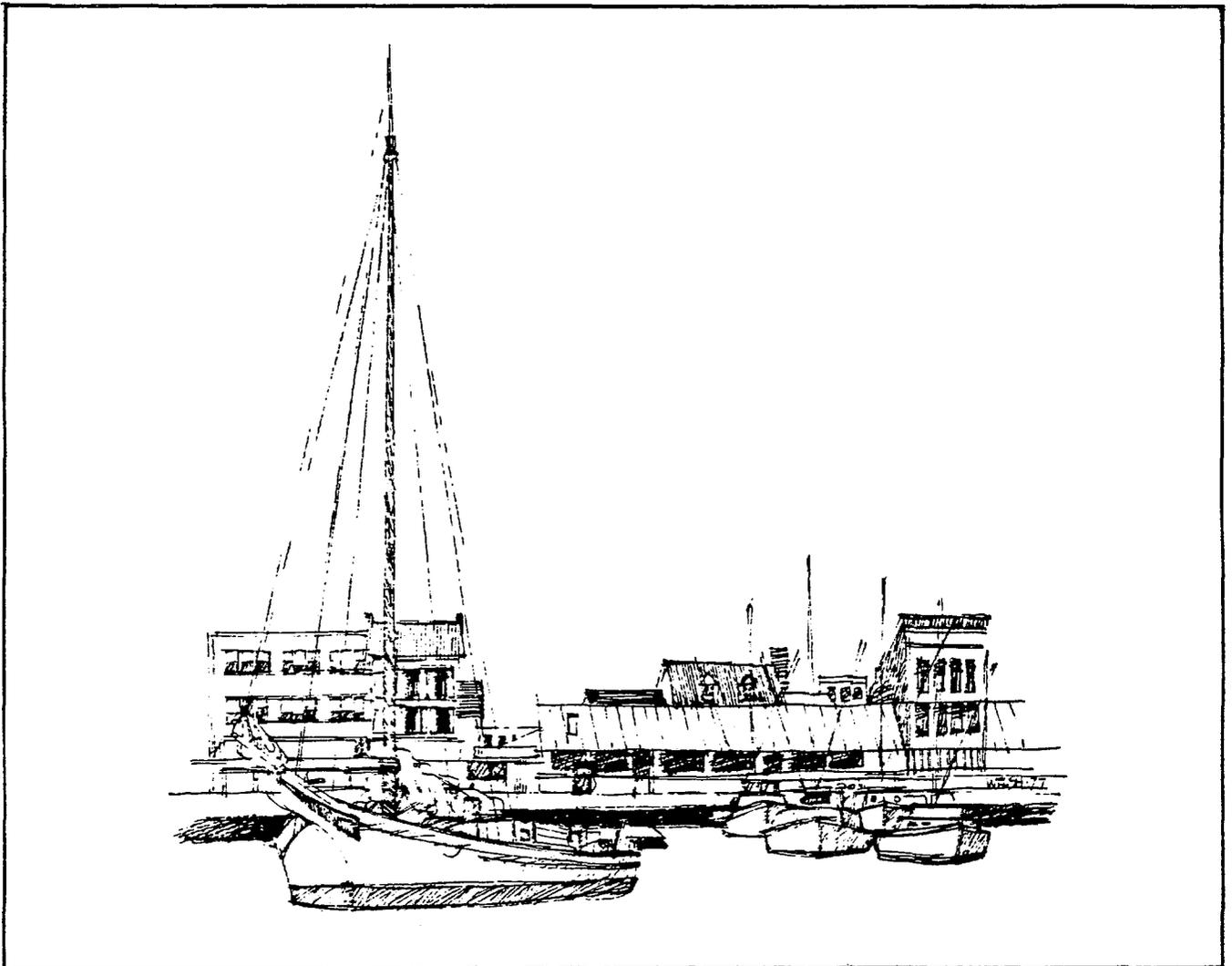


State of New Jersey Coastal Management Program - Bay and Ocean Shore Segment and Final Environmental Impact Statement



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management

The New Jersey Coastal Management Program - Bay and Ocean Shore Segment
was prepared in part with financial assistance from the National Oceanic and
Atmospheric Administration, Office of Coastal Zone Management, under the provisions
of Section 305 of the federal Coastal Zone Management Act (P.L. 92-583, as amended).

NEW JERSEY COASTAL MANAGEMENT PROGRAM
BAY AND OCEAN SHORE SEGMENT
AND
FINAL ENVIRONMENTAL IMPACT STATEMENT

August 1978

Prepared by:

State of New Jersey
Department of Environmental Protection
Division of Marine Services
Office of Coastal Zone Management
P. O. Box 1889
Trenton, New Jersey 08625

U.S. Department of Commerce
National Oceanic and Atmospheric
Administration
Office of Coastal Zone Management
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Brendan Byrne
Governor

Daniel J. O'Hern
Commissioner



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DANIEL J. O'HERN, COMMISSIONER
P. O. BOX 1390
TRENTON, N.J. 08625
609-292-2885

AUG 22 1978

Dear Reader:

I am pleased to present you with the New Jersey Coastal Management Program - Bay and Ocean Shore Segment and Final Environmental Impact Statement. As Governor Byrne indicates in his cover letter, the Department of Environmental Protection is the lead agency for coastal zone management in New Jersey.

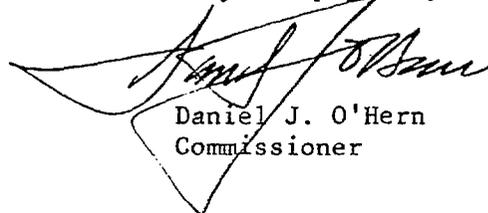
Preparation of this Coastal Management Program began under the leadership of former DEP Commissioners David J. Bardin and Rocco D. Ricci. I wish to express my gratitude to my predecessors and to Director Donald T. Graham of the Division of Marine Services and David N. Kinsey, Chief of the Office of Coastal Zone Management and his staff for their contributions to this work.

The Management System, including the specific responsibilities of this Department to meet the requirements of the federal Coastal Zone Management Act, are explained within the Program description. I am also directing that all Departmental decisions which affect the Bay and Ocean Shore Segment be consistent with the Coastal Management Program, to the extent permissible under existing statutes. In particular, the decisions of the Natural Resources Council on riparian lands management will be subject to my oversight and approval to insure that the Program's policies are implemented.

Insights, suggestions and criticism from a wide variety of public agencies, organizations and individuals have already contributed significantly to the preparation of this program for the Bay and Ocean Shore Segment. The planning and implementation of New Jersey's coastal program will be successful only if it is understood and supported by the public.

Each area of the state is special and important, but the coast is the area which presents perhaps the most challenging set of potential opportunities and conflicts. This Coastal Management Program - Bay and Ocean Shore Segment is a major step towards the maintenance and enhancement of this precious area.

Very truly yours,



Daniel J. O'Hern
Commissioner



UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Science and Technology
Washington, D.C. 20230

In accordance with the provisions of Section 102(2)(C) of the National Environmental Policy Act of 1969, we are enclosing for your review and consideration the Final Environmental Impact Statement prepared by the Office of Coastal Zone Management on the proposed New Jersey Coastal Zone Management Program.

Any written comments you may have should be submitted in duplicate to the person listed below by September 29, 1978.

If you have any questions about the enclosed statement, please feel free to contact:

Kathryn Cousins
3300 Whitehaven Street, N.W.
Washington, D. C. 20235
Phone: 202/634-4235

Thank you for your cooperation in this matter.

Sincerely,

Sidney R. Galler
Sidney R. Galler *21*
Deputy Assistant Secretary
for Environmental Affairs

Enclosures



STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
TRENTON
08625

BRENDAN T. BYRNE
GOVERNOR

August 28, 1978

Mr. Robert Knecht
Assistant Administrator for Coastal
Zone Management
U.S. Department of Commerce
National Oceanic and Atmospheric
Administration
3300 Whitehaven Street, N.W.
Washington, D.C. 20235

Dear Mr. Knecht:

The State of New Jersey submits the New Jersey Coastal Management Program - Bay and Ocean Shore Segment for approval under Section 306 (h) of the federal Coastal Zone Management Act.

This program is the culmination of a four-year process during which a wide range of agencies, interest groups and citizens have worked together to identify issues of concern, review draft recommendations and debate public policy on the coast. In the past year, for example, the Department of Environmental Protection held a series of public meetings and workshops to discuss the Coastal Management Strategy (September 1977), and, on the basis of the public comments, prepared the Draft Environmental Impact Statement (May 1978) for this program. At my direction, the Department of Environmental Protection then convened an even more extensive series of public hearings and informal workshops. The public comments made at those meetings, and in writing, led to further improvements included in this document.

I have reviewed this document and approved the management program for the Bay and Ocean Shore Segment as State policy. Accordingly, I have designated the Department of Environmental Protection as the single state agency to receive and administer implementation grants under Section 306 of the Coastal Zone Management Act.

I certify that the State of New Jersey has the legal authority necessary to implement the management program, and the the organizational structure necessary to implement the program is in place.

Mr. Robert Knecht
Page
August 28, 1978

I believe that this coastal management program will enable the wise management of one of the New Jersey's greatest assets, the coast.

Sincerely,

Christopher J. Fackman

ACTING GOVERNOR

ERRATA - August 28, 1978

page 121 - substitute the attached page 121 for the page printed
in the document

pages 306-315 - Appendix J: GLOSSARY was not printed in the
document. Copies are available from:

Office of Coastal Zone Management
NJ Department of Environmental Protection
P.O. Box 1889
Trenton, NJ 08625

Rationale

Hotels and motels enable New Jersey residents and tourists to visit the coast. They thereby support the tourist economy of the area. The buildings must be located, however, so they do not harm or threaten the resources which attract people to the coast.

4.3.6 Hotel-Casino Development

Policy

Hotel-casino development in Atlantic City shall be located in the city's traditional resort area (along the Boardwalk), to the maximum extent practicable. Hotel-casino development is discouraged in existing residential areas and in areas where access by public transportation between the proposed hotel-casino and the Boardwalk is limited. Hotel-casino development shall comply with the high-rise housing policy. Hotel-casino development and new residential development are encouraged in Atlantic City to ensure that the objectives of the 1976 constitutional referendum on casino gambling, including the stimulation of new construction and the revitalization of Atlantic City and its region, are achieved. The policies of the program shall be interpreted consistent with these objectives.

Rationale:

This hotel-casino location policy serves several purposes: (1) protecting Atlantic City's existing diverse neighborhoods, (2) facilitating public transportation solutions (such as bus, jitney, park-and-ride, or rail) to the problem of increased access to and in Atlantic City, (3) promoting pedestrian movements, (4) reducing pressure on vehicular systems, and (5) preserving the historic and low-rise residential character of the Gardiner's Basin and Inlet area.

4.3.7 Marinas

Policy

New or expanded marinas for recreational boating are conditionally acceptable if:

- (a) the demonstrated regional demand for recreational boating facilities cannot be met by the upgrading or expansion of existing marinas, and
- (b) the proposed marina includes the development of an appropriate mix of dry storage areas, public launching facilities, and berthing spaces, depending upon the site conditions and
- (c) the proposed marina provides adequate pump out stations for wastewater disposal from boats in a manner consistent with federal and state water quality laws and regulations.

NOTE TO READER/NEPA SUMMARY

The National Environmental Policy Act of 1969 (NEPA) mandates that an environmental impact statement be prepared as part of the review and approval process of major actions by Federal agencies. The action contemplated is approval of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment under Section 306(h) of the Federal Coastal Zone Management Act of 1972, as amended (CZMA). An immediate effect of approval is the qualification of the State for Federal matching funds for use in administering the Coastal Management Program for the Bay and Ocean Shore Segment. In addition, New Jersey will be eligible for continued funding under the Coastal Energy Impact Program (CEIP). The federal Coastal Zone Management Act stipulates that Federal activities affecting the coastal zone shall be, to the maximum extent practicable, consistent with an approved State coastal management program.

This document is organized as follows:

- Part I - Introduction - prepared by the Federal Office of Coastal Zone Management (OCZM) with the assistance of the State of New Jersey.
- Part II - New Jersey Coastal Management Program - Bay and Ocean Shore Segment - prepared by the state and relied upon by the Federal OCZM as a description of the proposed action.
- Parts III-VIII - Environmental Impacts - prepared by Federal OCZM with the assistance of the State of New Jersey.

The thirteen appendices which follow Part VIII are also part of the Program. Appendix M includes responses to general questions raised by the public on the Draft EIS.

For purposes of reviewing this proposed action, the key concerns are:

- whether the Bay and Ocean Shore Segment is consistent with the objectives and policies of the national legislation,
- whether the State management authorities are adequate to implement the segment,
- whether the award of Federal funds under Section 306(h) of the Federal Act will help New Jersey to meet those objectives, and
- whether there will be a net environmental gain as a result of Program approval and implementation.

The Federal Office of Coastal Zone Management believes the answers to these key questions are affirmative. The Office has widely circulated this document to all interested agencies and parties in order to receive the fullest expression of opinion on these questions.

This Program is of major significance, not only to New Jersey, but to the Nation. It is one of the first Programs submitted from an eastern coastal state. Further, the New Jersey coast represents a concentration of natural, historic, and economic attributes that is of national importance. The Federal Office of Coastal Zone Management thanks those participating in the review of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment and this environmental impact statement.

NEPA Summary

() Draft Environmental Impact Statement

(X) Final Environmental
Impact Statement

Department of Commerce, National Oceanic and Atmospheric Administration,
Office of Coastal Zone Management. For additional information about this proposed
action or this statement, please contact:

Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
Attn: Ms. Kathryn Cousins
Regional Manager, North Atlantic Region or
Richard S. O'Connor
Assistant Manager, North Atlantic Region
3300 Whitehaven Street, N.W.
Washington, D.C. 20235
Phone: 202/634/4235

1. Type of Action

Proposed Federal approval of New Jersey Coastal Management Program - Bay and
Ocean Shore Segment.

(X) Administrative

() Legislative

2. Brief Description of Action

It is proposed that the Secretary of Commerce approve the Coastal Zone Manage-
ment Program (Bay and Ocean Shore Segment) of the State of New Jersey pursuant to
P.L. 92-583. Approval would permit implementation of the proposed segmented
program, allowing program administration grants to be awarded to the State, and
require that Federal actions be consistent with the Program, to the maximum extent
practicable.

3. Summary of Environmental Impacts and Adverse Environmental Effects

Approval and implementation of the Program will allow the State to implement
more effectively existing State management within the Bay and Ocean Shore region.
The State will condition, restrict, or prohibit selected land and water uses in
some parts of the New Jersey coast, while encouraging development in other parts.
Each coastal municipality will retain primary responsibility for managing land use
along its coast. The impacts of the New Jersey Coastal Management Program - Bay
and Ocean Shore Segment will be generally beneficial, although there may be
some adverse, short-term economic impacts on some coastal users, and the Program
will entail the irreversible commitment of coastal resources.

4. Alternatives Considered

A. Federal Alternatives

The Assistant Administrator could delay or deny approval of the New
Jersey Coastal Management Program - Bay and Ocean Shore Segment under
the following conditions if:

1. The Program does not have the authorities necessary to implement the Program at the time of Section 306 segment approval.
2. The Program does not adequately achieve the goals of the Coastal Zone Management Act as expressed by Congress in Section 302 of the Act.
3. The national interest in the siting of facilities in the coastal zone were not adequately considered.
4. The Bay and Ocean Shore Segment could not be unified with the entire state coastal management program.

B. State Alternatives

1. The State could withdraw its application and not seek Federal assistance.
 2. The State could wait until the entire State Program is submitted.
 3. The State could wait until new legislation is adopted that recodifies the Wetlands Act, CAFRA and Riparian Laws.
 4. The State could reduce the coastal boundary under CAFRA jurisdiction.
 5. The State could wait until more precise policies using the Coastal Location Acceptability Method (CLAM) have been completed or mapped.
 6. The State could seek legislation delegating coastal zone management authority to localities.
5. A list of all Federal, State and Local Agencies and other parties from which comments were received is listed in the Appendix M.
 6. This FEIS was submitted to EPA on August 30, 1978.

TABLE OF CONTENTS

P a g e

| | |
|---|----|
| Governor's Letter | |
| Commissioner's Letter | |
| <u>Note to Reader/NEPA Summary</u> | i |
| <u>Table of Contents</u> | v |
| | |
| <u>PART I: INTRODUCTION</u> | 1 |
| | |
| <u>PART II: NEW JERSEY COASTAL MANAGEMENT PROGRAM - BAY AND OCEAN SHORE SEGMENT: DESCRIPTION OF THE PROPOSED ACTION</u> | 7 |
| | |
| <u>Chapter One: COASTAL MANAGEMENT IN NEW JERSEY</u> | 8 |
| Purpose | |
| Major Issues and Opportunities | |
| Coastal Management Efforts in New Jersey | |
| New Jersey Approach to the Federal Coastal Zone Management Program | |
| | |
| <u>Chapter Two: BOUNDARY - DEFINING THE COASTAL ZONE</u> | 14 |
| Introduction | |
| Inland Boundary - Bay and Ocean Shore Segment | |
| Seaward and Interstate Boundaries - Bay and Ocean Shore Segment | |
| | |
| <u>Chapter Three: A VISION OF THE COAST</u> | 20 |
| Introduction | |
| The Vision | |
| Basic Coastal Policies | |
| | |
| <u>Chapter Four: COASTAL RESOURCE AND DEVELOPMENT POLICIES</u> | 27 |
| 1.0 General | 27 |
| 1.1 Purpose | |
| 1.2 Authority | |
| 1.3 Jurisdiction | |
| 1.4 Severability | |
| 1.5 Review, Revision, and Expiration | |

TABLE OF CONTENTS - Cont.

| | Page |
|---|------|
| 2.0 Coastal Decision-Making Process | 30 |
| 2.1 General | |
| 2.2 Principles | |
| 2.3 Definition | |
| 2.4 Pre-Application Phase | |
| 2.5 Application or Project Review Phase | |
| 2.6 Information Requirements | |
| 3.0 Location Policies | 33 |
| 3.1 General | 33 |
| 3.2 Special Areas | 34 |
| 3.2.1 General | |
| 3.2.2 Shellfish Beds | |
| 3.2.3 Surf Clam Areas | |
| 3.2.4 Prime Fishing Areas | |
| 3.2.5 Finfish Migration Pathways | |
| 3.2.6 Submerged Vegetation | |
| 3.2.7 Navigation Channels | |
| 3.2.8 Shipwrecks and Artificial Reefs | |
| 3.2.9 Marine Sanctuaries | |
| 3.2.10 Beaches | |
| 3.2.11 Coastal Wetlands | |
| 3.2.12 High Risk Beach Erosion Areas | |
| 3.2.13 Dunes | |
| 3.2.14 Central Barrier Island Corridor | |
| 3.2.15 Historic Places | |
| 3.2.16 Specimen Trees | |
| 3.2.17 White Cedar Stands | |

TABLE OF CONTENTS - Cont.

| | Page |
|---|------|
| 3.2.18 Endangered or Threatened Wildlife or Vegetation Species Habitat | |
| 3.2.19 Critical Wildlife Habitats | |
| 3.2.20 Public Open Space | |
| 3.2.21 Steep Slopes | |
| 3.2.22 Farmland Conservation Areas | |
| 3.2.23 Bogs and Freshwater Wetlands | |
| 3.2.24 Ephemeral Stream Corridor | |
| 3.2.25 Special Hazards Areas | |
| 3.2.26 Excluded Federal Lands | |
| 3.2.27 Borrow Pits | |
| 3.3 Water Areas | 63 |
| 3.3.1 General Definition of Water Areas | |
| 3.3.2 General Policy on Uses of Water Areas | |
| 3.3.3 General Rationale for Water Areas Policy | |
| 3.3.4 Water Acceptability Table | |
| 3.3.5 Definitions of Water Body Types | |
| 3.3.6 Rationale for Policies by Water Body Types | |
| 3.3.7 Definitions of Water Uses | |
| 3.3.8 Water Acceptability Conditions by Water Uses | |
| 3.4 Water's Edge | 83 |
| 3.4.1 General Definition of Water's Edge | |
| 3.4.2 Natural Water's Edge | |
| 3.4.3 Retained Water's Edge | |
| 3.4.4 Filled Water's Edge | |
| 3.5 Land Areas | 90 |
| 3.5.1 General Definition of Land Areas | |
| 3.5.2 General Policy for Land Areas | |
| 3.5.3 Coastal Regions | |

TABLE OF CONTENTS - Cont.

| | Page |
|---|------|
| 3.5.4 Environmental Sensitivity | |
| 3.5.5 Development Potential | |
| 3.5.6 Definition of Acceptable Intensity of Development | |
| 3.5.7 Land Acceptability Tables | |
| 3.5.8 Determination of Location Acceptability | |
| 3.6. Policy on Location of Linear Development | |
| 3.7 General Location Policy | |
| 4.0 Uses Policies | 115 |
| 4.1 Purpose | |
| 4.2 Housing | |
| 4.3 Resort-Recreation | |
| 4.4 Energy | |
| 4.5 Public Facility | |
| 4.6 Industry-Commerce | |
| 4.7 Ports | |
| 4.8 Coastal Engineering | |
| 5.0 Resource Policies | 147 |
| 5.1 Purpose | |
| 5.2 Marine Fish and Fisheries | |
| 5.3 Water Quality | |
| 5.4 Surface Water Use | |
| 5.5 Groundwater Use | |
| 5.6 Runoff | |
| 5.7 Soil Erosion and Sedimentation Control | |
| 5.8 Vegetation | |
| 5.9 Wildlife | |
| 5.10 Air | |
| 5.11 Public Services | |

5.12 Public Access to the Shorefront

5.13 Scenic Resources and Design

5.14 Secondary Impacts

5.15 Buffers and Compatability of Uses

5.16 Solid Waste

5.17 Energy Conservation

5.18 Neighborhoods and Special Communities

5.19 Traffic

5.20 High Percolation Wet Soils

5.21 Wet Soils

5.22 Fertile Soils

5.23 Flood Hazard Areas

Chapter Five: MANAGEMENT SYSTEM - POLICIES ON DECISION-MAKING PROCESSES

| | |
|--|-----|
| | 164 |
| Introduction | 164 |
| Department of Environmental Protection | 165 |
| Division of Marine Services | 165 |
| - Coastal Area Facility Review Act (CAFRA) | |
| - Wetlands Act | |
| - Riparian Statutes | |
| - Shore Protection Program | |
| Other Programs in DEP | 167 |
| Division of Water Resources | |
| Division of Environmental Quality | |
| Division of Parks and Forestry | |
| Green Acres Program | |
| Division of Fish, Game and Shellfisheries | |
| Solid Waste Administration | |
| Office of the Commissioner | |
| Department of Energy | 173 |

TABLE OF CONTENTS - Cont.

Page

| | |
|---|-----|
| Other State Departments | 174 |
| Department of Agriculture | |
| Department of Community Affairs | |
| Department of Labor and Industry | |
| Department of the Public Advocate | |
| Department of Transportation | |
| Municipal and County Government | 175 |
| Regional and Interstate Agencies | 176 |
| Public Participation | 177 |
| Conflict Resolution - Appeals | 178 |
| <u>Chapter Six: MANAGING THE COAST: NATIONAL INTERESTS, CONSISTENCY OF FEDERAL ACTIONS AND REGIONAL BENEFIT DECISIONS</u> | 180 |
| Introduction | 180 |
| National Interests | 180 |
| Federal Consistency | 191 |
| Regional Benefit Decisions | 199 |
| <u>Chapter Seven: SPECIAL COASTAL RESOURCE AND DEVELOPMENT POLICY REQUIREMENTS OF THE FEDERAL COASTAL ZONE MANAGEMENT ACT</u> | 201 |
| Introduction | 201 |
| Geographic Areas of Particular Concern | 201 |
| Areas for Preservation and Restoration | 206 |
| <u>Chapter Eight: NEXT STEPS IN COASTAL MANAGEMENT IN NEW JERSEY</u> | 207 |
| Managing the Bay and Ocean Shore Segment | 207 |
| Completing the State's Management Program | 208 |
| Changing the Coastal Management Program | 210 |
| <u>Part III: PROBABLE IMPACTS OF THE PROPOSED ACTION ON THE ENVIRONMENT</u> | 211 |
| <u>Part IV: ALTERNATIVES TO THE PROPOSED ACTION</u> | 225 |
| <u>Part V: PROBABLE ADVERSE ENVIRONMENTAL EFFECTS WHICH CAN BE AVOIDED</u> | 231 |

TABLE OF CONTENTS - Cont.

| | Page |
|--|------|
| <u>Part VI: RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF THE ENVIRONMENT AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY</u> | 233 |
| <u>Part VII: IRREVERSIBLE OR IRRETRIEVABLE COMMITMENTS OF RESOURCES THAT WOULD BE INVOLVED IN THE PROPOSED ACTION SHOULD IT BE IMPLEMENTED</u> | 235 |
| <u>Part VIII: CONSULTATION AND COORDINATION</u> | 237 |

APPENDICES

| | |
|---|-----|
| A. Secretarial Findings Index | 241 |
| B. The Coastal Planning Process: 1973-1978 | 243 |
| C. Federal Agency Participation: 1975-1978 | 250 |
| D. Local Government Participation: 1975-1978 | 254 |
| E. Coastal Zone Boundary | 258 |
| F. Excluded Federal Lands | 278 |
| G. Memorandum of Understanding between DEP and DOE on Coastal Zone Management | 280 |
| H. Legal Authorities | 286 |
| I. Legal Commentary | 300 |
| J. Glossary | 306 |
| K. Data Sources for Location Policies | 317 |
| L. Using the Coastal Resource and Development Policies | 323 |
| M. Comments and Responses on the NJCMP-Boss and DEIS (May 1978) | 329 |

LIST OF FIGURES

| | |
|--|----|
| Figure 1 - New Jersey Bay and Ocean Shore Segment Boundary, 1978 | 15 |
| Figure 2 - New Jersey CAFRA Inland Boundary, 1973 | 16 |
| Figure 3 - Segment Inland Boundary | 18 |

TABLE OF CONTENTS - Cont.

| | Page |
|--|------|
| Figure 4 - Coastal Regions | 22 |
| Figure 5 - Dunes | 47 |
| Figure 6 - Central Barrier Island Corridor | 50 |
| Figure 7 - Water Body Types | 66 |
| Figure 8 - Natural Water's Edge | 84 |
| Figure 9 - Retained Water's Edge | 86 |
| Figure 10 - Filled Water's Edge | 89 |
| Figure 11 - Infill Diagram | 97 |
| Figure 12 - Outer Continental Shelf - Present and Potential Oil and Gas Leasing Areas | 127 |
| Figure 13 - Pine Barrens Exclusion Area | 129 |
| Figure 14 - Flood Hazard Areas | 162 |
| Figure 15 - Coastal Permit Jurisdiction | 166 |
| Figure 16 - Coastal Permit Process | 167 |
| Figure 17 - Higbee Beach GAPC | 203 |
| Figure 18 - Federal Agency Participation | 251 |
| Figure 19 - Wetlands Landward of CAFRA Boundary | 262 |
| Figure 20 - New Jersey Coastal Zone Region Proposed Coastal Zone - 1977 | 264 |
| Figure 21 - New Jersey Coastal Zone Boundary Index Map and Maps at 1:250,000 Scale | 265 |
| Figure 22 - Selected Salinity Data | 275 |
| Figure 23 - Major Federal Lands Excluded from the Bay and Ocean Shore Segment | 279 |

PART I

INTRODUCTION

The New Jersey Coastal Management Program - Bay and Ocean Shore Segment has been prepared to determine and describe New Jersey's strategy to manage the future protection and development of the coast. The State of New Jersey is seeking approval of the Program by the U. S. Department of Commerce to obtain the benefits of the federal Coastal Zone Management Act, which will aid State efforts to manage the often conflicting pressures facing the coast.

This document serves as a combined Coastal Management Program for the Bay and Ocean Shore Segment and as a Final Environmental Impact Statement, because federal approval of a state coastal management program is considered a "major action" requiring an environmental impact statement under the National Environmental Policy Act (NEPA). The New Jersey Department of Environmental Protection, Office of Coastal Zone Management (DEP-OCZM) prepared the Coastal Management Program, in part with funding provided by the National Oceanic and Atmospheric Administration (NOAA).

New Jersey is preparing its coastal management program in two phases. The geographic area addressed by this first part of the New Jersey Coastal Management Program includes a 1,382 square mile land area and related coastal waters in a region stretching from the Raritan Bay along the Atlantic oceanfront to the Delaware Bay. This is the area defined by the State Legislature in the Coastal Area Facility Review Act (CAFRA) of 1973, plus coastal wetland areas inland of the CAFRA boundary which are regulated under the Wetlands Act of 1970.

This document defines and explains the Coastal Resource and Development Policies and the management system the Department of Environmental Protection and the Department of Energy will use in managing activities in this Coastal Program Segment. The Coastal Policies are divided into three groups: (1) Location Policies evaluate specific types of coastal locations, such as wetlands and prime farm land; (2) Use Policies are directed at different uses of the coastal zone, such as housing and energy facility development; and (3) Resource Policies focus on controlling the effects of development, such as water runoff and soil erosion, and on the protection of natural and cultural resources.

The major choices and basic direction provided in the many specific policy statements are represented by four Basic Coastal Policies:

1. Protect the coastal ecosystem.
2. Concentrate rather than disperse the pattern of coastal residential, commercial, industrial, and resort-oriented development, and encourage the preservation of open space.
3. Employ a method for decision-making which allows each coastal location to be evaluated in terms of both the advantages and the disadvantages it offers for development.
4. Protect the health, safety and welfare of people who reside, work, and visit in the coastal zone.

The Coastal Management Program will be implemented through existing laws and agencies. The principal legal authority will be the coordinated use of the Coastal Area Facility Review Act (CAFRA), Wetlands and Waterfront Development (riparian) permit programs, shore protection program and the regulatory activities of the Department of Energy. The Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.) is New Jersey's major coastal law. In CAFRA, the Legislature entrusted the Department of Environmental Protection with the responsibility to regulate the location, design, and construction of housing developments of 25 or more units and most major industrial, sewer, and energy facilities in the legislatively-defined "Coastal Area". Since CAFRA took effect in September 1973, DEP has received 267 applications for CAFRA permits. To date, 179 applications have been approved, while 18 residential projects and one sanitary landfill have been denied CAFRA permits.

DEP also has authority to regulate certain activities on mapped coastal wetlands, under the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.). Virtually any development in a mapped tidal wetland must receive a Wetlands permit before construction can begin. In addition, certain activities are prohibited in the wetlands, including dumping solid waste, discharging treated or untreated sewage waste, storing or disposing of pesticides, applying persistent pesticides, and applying pesticides on significant stands of wetlands vegetation.

New Jersey's third major coastal law is the set of riparian statutes which apply to the lands now or formerly flowed by tidal waters. Under these statutes, DEP and the Natural Resource Council (an autonomous but closely related citizen body, with members appointed by the Governor with the consent of the State Senate) can sell or lease these lands, and manage most activities on the lands through the administration of the Waterfront Development permit program. Through the riparian statutes, DEP requires a permit for construction or alteration of facilities such as a dock, wharf, pier, bulkhead, bridge, pipeline or cable, and dredging and filling involving lands flowed by the tide.

New Jersey's fourth key coastal law concerns the shore protection program of state aid to municipalities to finance structural and non-structural solutions to shoreline erosion.

The policies and procedures outlined in Part II, Chapter Four have been adopted as rules by the Commissioner of Environmental Protection.

The Coastal Program will also rely upon the consistency of federal actions and actions of other agencies to carry out the Basic Coastal Policies, to the extent statutorily permissible. Finally, the Coastal Program will serve as guidance to municipal, county and regional agencies with coastal decision-making responsibilities.

The Draft Environmental Impact Statement (DEIS) issued in May 1978 was a revision of the Coastal Management Strategy for New Jersey-CAFRA Area submitted by DEP to the Governor, Members of the State Legislature, and the general public in the Fall of 1977. More than 80 individuals, groups, and agencies submitted comments on the Strategy either in writing or at one of the eight public meetings convened by DEP and attended by more than 300 people. Although the Basic Coastal Policies and the Use Policies remained substantially the same, the public comments led to numerous revisions and additions between the Strategy and the DEIS. The most significant change was the total reorganization and rewriting of the Location

Policy, defined in the Coastal Management Strategy as the Coastal Location Acceptability Method or CLAM. The individual comments and DEP responses to them were summarized in Appendix C and E of the DEIS and presented in greater detail in a separate document, Coastal Management Strategy-Public Comments and DEP Responses (May 1978).

The Draft EIS of the New Jersey Coastal Management Program-Bay and Ocean Shore Segment was distributed to, and reviewed by the public between May and July 1978. The review process and public comments are described in detail in Appendix M.

The award of federal funds will allow New Jersey to:

- a) continue to refine, develop and implement the Program's Coastal Resource and Development Policies, also referred to as the Coastal Location Acceptability Method (CLAM), including identification of more specific site locations appropriate for specific uses.
- b) undertake mapping programs which will chart the natural, social and economic land and water features of the coastal zone.
- c) promote appropriate uses of coastal resources, by encouraging acceptable economic development and undertaking projects such as the Beach Shuttle Service.
- d) increase coordination on coastal decision making among federal, state, and local governmental agencies.
- e) continue educational and information programs and projects to increase coastal awareness.
- f) develop more specific energy facility siting criteria and policies jointly with the New Jersey Department of Energy.
- g) coordinate with Atlantic City and Atlantic County officials in the planning and redevelopment of Atlantic City and its region.
- h) support and promote access to beaches and other waterfront areas.
- i) improve coastal management enforcement and monitoring programs in DEP.
- j) fully consider the national interests in the use of coastal resources.

History of the Federal Coastal Zone Management Act

The Coastal Zone Management Act of 1972 (P.L. 92-583) was passed in recognition of the importance of the coastal zone of the United States and the potentially adverse effects of intense pressures upon this national resource. The Act authorized a voluntary program of financial assistance to states to manage their coasts and is administered by the Secretary of Commerce, who in turn delegated this responsibility to the National Oceanic and Atmospheric Administration (NOAA), Office of Coastal Zone Management. The program was substantially modified by the Coastal Zone Management Act Amendments of 1976 (P.L. 94-370).

The CZMA opens by stating "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone" (Section 302(a)). The statement of Congressional findings goes on to describe how competition for the utilization of coastal resource brought on by the increased demands of population growth and economic expansion has led to the degradation of the coastal environment, including the "loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion." The CZMA then states, "the key to more effective protection and use of the land and water resources of the coastal zone is to encourage states to exercise their full authority over the land and waters in the coastal zone by assisting states ... in developing land and water use programs ... for dealing with coastal land and water use decisions of more than local significance" (Section 302(h)).

The state level of government has prime responsibility for achieving "effective management, beneficial use, protection, and development of the coastal zone" (Section 302(a)). Under Section 305 of the federal Act, up to four years of grants are available to 34 coastal states and territories (the Great Lakes States are included) to finance up to 80 percent of program development costs. General guidelines for the preparation of management programs are provided in 15 CFR 920.50.

After developing a management program, the state may submit its program to the Assistant Administrator for approval. If a program has deficiencies which can be remedied but prohibit full approval under Section 306, the state is eligible for additional funding under Section 305(d). Funds provided under this Section can be used for initial program implementation and continued program development efforts (15 CFR 920.61). If approved, the state is then eligible for annual grants under Section 306 to administer its management program.

NOAA-OCZM has published criteria to be used for approving state coastal management programs and guidelines for program administration grants (15 CFR Part 923, Federal Register 40 (6): 1683-1695). These criteria and guidelines set forth (a) the standards to be utilized by the Assistant Administrator in reviewing and approving coastal management programs developed and submitted by coastal states for approval, (b) procedures by which coastal states may qualify to receive program administration grants, and (c) policies for the administration by coastal states of approved coastal management programs. The Assistant Administrator will review the management program in accordance with the following general requirements:

- 1) That the management program is comprehensive. The Coastal Zone Management Act emphasizes that important ecological, cultural, historic and aesthetic values such as living marine resources, wildlife habitats, open space and nutrient rich areas are being lost or adversely affected by population growth and economic development in the coastal zone.
- 2) That the policies, standards, objectives and criteria upon which decisions pursuant to the program will be based are articulated clearly and are sufficiently specific to provide (i) a clear understanding of the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program; and

- 3) That there are sufficient policies of an enforceable nature to insure the implementation of and adherence to the management program.

As of August 1, 1978, 33 out of 34 eligible coastal states and territories had received program development grants and seven states (Washington, Oregon, California, Massachusetts, Wisconsin, Rhode Island, and Michigan) and two segments had received program approval under Section 306. The New Jersey Coastal Management Program - Bay and Ocean Shore Segment is one of several programs proposed for approval prior to October 1978.

The 1976 Amendments established a new assistance program called the Coastal Energy Impact Program (CEIP), consisting of grants, loans, and bond guarantees to states impacted by OCS oil and gas or other forms of energy development. In order to be eligible for assistance, a state must be receiving development (305) or administration (306) grants, or, in the Assistant Administrator's view, be developing a management program consistent with the policies and objectives contained in Section 303 of the Coastal Zone Management Act. Other sections of the Act provide grants to states to coordinate, study, plan, and implement interstate coastal management programs (Section 309); allow the Assistant Administrator to conduct a program of research, study, and training to support state management programs (Section 310) and provide grants to states to acquire lands for access to beaches and other public coastal areas (Section 315).

Besides the financial assistance incentive for state participation, the Coastal Zone Management Act stipulates that federal actions affecting the coastal zone shall be, to the maximum extent practicable, consistent with approved state management programs, the "federal consistency" requirement, Section 307(c)(1) and (2). The state must concur with any applicant's certification that a federal license or permit affecting land and water uses within the coastal zone is consistent with the state's coastal management program before the federal license or permit can be issued. Section 307 of the Coastal Zone Management Act requires that any outer continental shelf oil and gas activity described in an exploration, development or production plan be certified prior to any approval by the Department of Interior. All direct federal development activities and certain forms of federal assistance to state or local governments must also be consistent with the approved program. Section 307 further provides for mediation by the Secretary of Commerce when serious disagreement arises between a federal agency and a state with respect to the administration of a state's program and shall require public hearings in the concerned locality.

PART II

NEW JERSEY COASTAL MANAGEMENT PROGRAM - BAY AND OCEAN SHORE SEGMENT

DESCRIPTION OF THE PROPOSED ACTION

This Part presents the New Jersey Coastal Management Program - Bay and Ocean Shore Segment in eight chapters, as prepared by the State of New Jersey. Chapter One presents background information. Chapter Two defines the geographic scope of the Program. Chapter Three describes a vision of the future coast this program is designed to help create. Chapter Four presents the heart of the Program, the policies on what should or should not take place in the coastal zone. All of Chapter Four has been adopted, with appropriate revisions based on public comments, as an agency rule according to the provisions of New Jersey's Administrative Procedures Act. Chapter Five indicates how decisions will be made to carry out the Program. Chapter Six addresses the national interests, federal consistency, and uses of regional benefit. Chapter Seven addresses specific coastal resource and development policy concerns required under the federal Coastal Zone Management Act. Chapter Eight concludes with the next steps in the coastal management process in New Jersey. Several appendices in this document are also part of the Program.

Chapter One: COASTAL MANAGEMENT IN NEW JERSEY

Purpose

Major Issues and Opportunities

Coastal Management Efforts in New Jersey

New Jersey's Approach to the Federal Coastal Zone Management Program

Purpose

The Department of Environmental Protection (DEP) has prepared the New Jersey Coastal Management Program - Bay and Ocean Shore Segment to protect the state's coastal resources while accommodating needed future development. The Program provides the statements of policy which will be followed by DEP in making coastal decisions and which will guide other public and private actions affecting the coast. The Coastal Program is also designed to enable New Jersey to meet the requirements, and thereby reap the benefits of the federal Coastal Zone Management Act, particularly greater consistency between state and federal actions in the coastal zone and federal funds for New Jersey's coastal management efforts.

This document describes the Coastal Program for the Delaware and Raritan Bay and Atlantic Ocean Shore Segment of the New Jersey Coastal Zone. The Coastal Program for the Segment includes a boundary description, statements of policy, and a management system to apply the policies within the described boundary, as well as a discussion of the next steps in the coastal planning process. Most regulatory determinations will be made through the permit application process.

The Coastal Program also presents the standards DEP will use to determine the consistency of actions proposed in the coastal zone by federal, state, and local agencies. New Jersey's coastal policies will be used to determine the consistency with the approved program of federal activities, development projects, licenses, permits, and financial assistance to the State and local governments under Section 307 of the federal Coastal Zone Management Act. The Coastal Program will aid DEP when it is called upon to review federal domestic financial assistance applications under the A-95 Project Notification and Review Process, as well as Environmental Impact Statements prepared under the National Environmental Policy Act. From time to time, DEP is also likely to receive requests for advice or comments on the adequacy or appropriateness of plans and proposals by government agencies and private interests. The Coastal Policies provide a visible basis for offering an informed comment on the consistency of these plans and proposals.

State funding decisions that affect coastal resources will also be guided by the Coastal Program. In particular, several important State aid, and direct State financing programs administered by DEP involve decision-making in the Bay and Ocean Shore Segment: (1) the Green Acres Open Space Acquisition and Outdoor Recreation program of grants to local governments and direct DEP efforts, (2) the Shore Protection program of matching grants to local governments, and (3) the wastewater treatment facilities construction grants program.

This Coastal Management Program is a tool for making decisions, but it is not a panacea. It is important to understand that this document is not a detailed, rigid plan indicating only one activity which can or should take place on each site, block, or acre in the coastal zone. New Jersey has deliberately designed a program which accommodates the creativity, interests, and initiative of individual land owners, developers, citizens, and others, and recognizes the State's historic commitment to a strong role for local governments in land use decision-making. The Program, therefore, focuses on coastal resource management decisions with greater than local significance that the Legislature has entrusted to State agencies. The Coastal Program provides enforceable policies to form predictable and consistent decisions which will best manage New Jersey's coast.

Major Issues and Opportunities

Sand dunes, power plants, surf clams and tankers all share the resources of New Jersey's coast. Over the years, numerous competing and often conflicting activities have converged on the Jersey Shore. New Jersey residents and tourists from all regions of the country spend their vacations at the Jersey Shore which accounts for the vitality of New Jersey's second largest revenue-producing industry, tourism. Boaters, fishermen, divers, young and old enjoy the ocean breezes and salt air. Rapid development of the shore area to accommodate those seeking relief from hot summers in the city, as well as those desiring permanent residence in a healthy environment, however, has created many competing pressures for the coast's fragile resources. New Jersey's wetlands were disappearing until the passage of the Wetlands Act. The barrier islands are overbuilt. The shoreline is eroding. Fish and shellfish resources are under intense pressure from recreational, commercial and industrial interests. The energy industry continues to examine the coast for potential sites for energy facilities. How can the Jersey coast be maintained as a healthy ecosystem and guard against the depletion of natural resources, while accommodating those resort-oriented and other activities and facilities which belong on the coast? Recognizing the coast as one of the nation's and state's most important resources, coastal laws were passed in 1970 and 1973 at the state level in New Jersey and 1972 and 1976 at the federal level to provide funding, regulatory techniques and governmental and public focus on the management of coastal areas.

One of the major issues the Coastal Program addresses is water quality. The water bodies in the coastal area are crucial to the vitality of the coastal ecosystem and the protection of the health and safety of coastal and many inland residents. Proper management can alleviate problems of contaminated ground and surface water, stream turbidity and land and bank erosion. Good water quality is also essential to the fish and shellfishing industry, as well as to sport fishermen and boaters.

Recent storms and increased development have contributed to New Jersey's eroding shoreline. Beach restoration and preservation are essential for maintaining New Jersey's thriving tourist industry. Construction along the beach and waterfront areas can also limit public access to the shore. High-rises built in the past have obstructed some panoramic vistas, and some beachfront development interferes with passive and active coastal recreation.

The coast does not just include pristine areas. Many of the once thriving urban waterfronts in New Jersey are now vacant land and unused, poorly maintained docks. Atlantic City faces a unique set of development pressures from casino gambling and offshore oil and gas exploration.

Energy is one of the most complex issues facing the entire country. The Jersey coast currently has two operating nuclear plants and four more are under construction. The prospect of oil and gas exploration and development off New Jersey's coast is now a reality. New Jersey will have to grapple with the new demands which will be placed on the coast's resources by the activities and facilities associated with exploration, and later, possible development and production of offshore oil and gas.

Public concern for prudent coastal management reflects a general concern for the quality of life. People want to live in a healthy environment, and provide a healthy environment for all the other living resources which are part of the coastal ecosystem. However, the public often expresses concern over the morass of regulations at all levels of government directed toward management of public goods and resources. Often, the applications, fees, permits and time delays appear to overshadow the intended benefits of a resource management program.

Despite the federal and state legislation for coastal management in New Jersey, the coastal program faces several constraints. The real property tax system has led to inter-municipal rivalry for ratable-producing property. Construction and development often take precedence over concern for open space in some financially hard pressed municipalities. New Jersey's strong tradition of home rule has meant that some municipalities make individual development decisions with little regard for regional impacts, posing severe constraints for the proper management of coastal regions. In addition, the actions, or lack of action, of neighboring states can affect New Jersey's coast.

Coastal management in New Jersey is a delicate process, balancing fragile and sensitive environmental resources with development essential to the economy of the state. The public wants to work, live, and play, in the coastal zone, as well as to develop, restore and protect the coast. The agenda of coastal zone management ranges from dredge spoil disposal to offshore oil, from protection of surf clam beds to preservation of dunes. This requires a program that is dynamic and flexible to change, and, most important, responsive to the concerns of the citizenry while being sufficiently specific to indicate to public officials and private interests the implications of the program.

Coastal Management Efforts In New Jersey

In New Jersey, the Legislature has given increasing responsibility for coastal management to the state government. The State's active involvement in coastal management dates back to 1776 when it became owner of all tide-flowed lands, as a result of the American Revolution. During the past 200 years, the state's policies and practices have reflected the concerns and perception of the time. In the late 1800's and early 1900's for example, the State sold considerable amounts of riparian land to railroad and land development companies at bargain rates. In the early 1900's the State began to more actively regulate construction along the tidal waterfronts of New Jersey.

Within the past decade, however, as the public's environmental consciousness has grown, the State's role has increased. The Department of Environmental Protection, created in 1970, has had the lead responsibility for the state's coastal management activities. Through the Shore Protection Program, DEP has disbursed millions of dollars for shore protection structures and programs. In recent years, DEP has used that funding as an incentive to encourage municipalities to provide public access to adjacent waters and shorefront areas.

In 1970, the Legislature passed the Wetlands Act and, in 1973, the Coastal Area Facility Review Act (CAFRA). The two resulting regulatory programs, together with the State's responsibility to approve all activities on riparian land, solidified the State's role in coastal management. The pressures faced by the New Jersey coast for oil and gas, recreation, casino gambling, and many other activities, along with the opportunities provided by the federal Coastal Zone Management Act of 1972, have further intensified and concentrated the State's efforts to manage the coast.

New Jersey Approach to the National Coastal Zone Management Program

The federal Coastal Zone Management Act of 1972 (P. L. 92-583, as amended in 1976 by P.L. 94-370) established a voluntary national program to encourage coastal states to define and carry out comprehensive programs to manage coastal areas. Administered by the National Oceanic and Atmospheric Administration's Office of Coastal Zone Management (NOAA-OCZM) in the U. S. Department of Commerce, the basic national program offers states two chief incentives: First, funds for coastal planning and management, and second, an opportunity to increase the consistency of federal actions in a state's coastal zone with the state's own coastal policies.

It is important to note that unlike the Clean Air Act and the Federal Water Pollution Control Act, no direct federal coastal management standards or regulations will be imposed if New Jersey fails or declines to develop a federally acceptable coastal management program.

New Jersey began participating in the national coastal management program in June 1974, by receiving its first coastal planning, or program development, grant from NOAA-OCZM. Since 1974, federal grants have provided more than two-thirds of the funds, or approximately \$1.9 million, used by the Department of Environmental Protection and other state and county agencies for coastal planning. Federal approval of New Jersey's coastal management program entitles the State to continue receiving federal grants.

The federal Coastal Zone Management Act and the NOAA-OCZM regulations concerning the approval of management programs (15 CFR 923, Federal Register, Vol. 43, No. 41, March 1, 1978, pp. 8378-8431) define the framework, program approval standards, and options available to states in formulating a coastal management program. The New Jersey approach to the national program features submission of a management program for federal approval in two phases and reliance upon direct state controls to carry out the program.

The region defined by state law as the "Coastal Area" in the Coastal Area Facility Review Act of 1973, and commonly referred to as the "CAFRA Area", generally defines the geographic extent of the first phase, or segment, of New Jersey's coastal management program submitted for federal approval. Approximately 3,750 acres of Coastal Wetlands already regulated under the Wetlands Act, located inland of the CAFRA boundary, are also included in the geographic scope of the Bay and

Ocean Shore Segment. New Jersey's use of the option to pursue federal approval of the Segment recognizes the fundamental adequacy of the State's coastal management program in the major, Delaware Bay, Raritan Bay and Atlantic Ocean front portion of New Jersey's coastal zone.

This document constitutes the Bay and Ocean Shore Segment management program submission to NOAA-OCZM. The second phase, completing the management program for the entire coastline of the state as described in Chapter Seven, is expected to be submitted for federal approval in 1979.

State coastal management programs vary across the nation, and properly so given the diversity of resources and pressures facing the shorelines of the United States. One important distinction between state coastal programs is the approach to governmental decision-making. New Jersey's program has been fashioned by drawing upon New Jersey's pattern of selected State involvement in coastal land and water use decision-making, within a tradition of strong municipal land use decision-making.

The federal Coastal Zone Management Act offers a state three broad options for implementing its coastal program:

- Technique A - Local Implementation - Section 306(e)(1)(A)
- Technique B - Direct State Control - Section 306(e)(1)(B)
- Technique C - Case-by-Case Reviews - Section 306(e)(1)(C)

Technique A means that states may establish criteria and standards for local implementation, under state review and enforcement procedures. Technique B means that states may engage in direct regulation. Technique C means that states may operate through the administrative review of local plans, projects and regulations for consistency with statement management.

New Jersey opts for the direct state control approach (Technique B), relying upon existing state laws which entrust the Department of Environmental Protection and Department of Energy with direct state control over selected coastal areas and selected uses of coastal resources. This is the only feasible option under current New Jersey law.

In particular, the DEP enabling legislation, and the Coastal Area Facility Review Act (CAFRA), Wetlands Act, and riparian and shore protection statutes, as well as the Department of Energy Act, provide a strong mandate and basis for direct State agency involvement in key decisions involving the coastal region.

The strong direct State role does not mean that DEP will regulate every proposed use of coastal resources within the defined coastal zone. Local governments in the coastal zone will continue to be solely responsible for the considerable amount of land and water use decision-making in the coastal zone which has no regional impact, as defined by State law.

New Jersey's management program for the Bay and Ocean Shore Segment has three interrelated, basic elements: First, a boundary defining the general geographic scope of the program; Second, Coastal Resource and Development Policies defining the standards for making decisions on what activities may take place within the boundary; and Third, a management system defining the types of decisions subject to the program, and the process by which those decisions will be made. The Coastal Management Program, a guide to decision-making, resembles a tripod. All three

legs, or elements, must be firmly in place for the Program to stand and work. All three elements function together and must be read and understood together, especially because of New Jersey's direct state control approach.

For example, if read out of the context of the overall management program, the Coastal Resource and Development Policies could be applied to every land and water use decision in the coastal zone, from the location of a single gas station to a nuclear generating station. That is not the intent here. Rather, the Coastal Resource and Development Policies are to be applied as substantive standards for decision-making for only those selected coastal decisions defined in the management system, particularly on CAFRA, Wetlands, and riparian permit applications. The Coastal Policies could, however, because of their comprehensive nature, be used to guide other decisions not strictly subject to the New Jersey Coastal Program. The heart of the program remains, however, the combination of boundary definition, policy statements, and decision-making processes that in concert spell out New Jersey's approach to managing its coastal resources.

Chapter Two: BOUNDARY-DEFINING THE COASTAL ZONE

Introduction

Inland Boundary - Bay and Ocean Shore Segment

Seaward and Interstate Boundaries - Segment

Introduction

Different people and various interest groups hold different perceptions of the geographic extent of New Jersey's coastal resources. This chapter defines the boundary of the Bay and Ocean Shore Segment of New Jersey's coastal zone under the federal Coastal Zone Management Act. At this stage of New Jersey's participation in the national coastal management program, the geographic scope of the New Jersey Coastal Program submitted for federal approval is limited to this initial segment. New Jersey's coastal management program for federal purposes does not yet include the entire coastline of the state. The proposed boundary for the entire coastal zone is described in Appendix E. All federal lands are excluded from the coastal zone. Appendix F contains a list of the excluded federal lands.

The boundary for the Bay and Ocean Shore Segment must not be considered in a vacuum. It must be read and understood in concert with the Coastal Resource and Development Policies of Chapter Four and the Management System of Chapter Five that defines how decisions on uses of coastal resources will be made within the defined boundary under the Coastal Management Program.

Inland Boundary - Bay and Ocean Shore Segment

The geographic scope of the Bay and Ocean Shore Segment includes lands along New Jersey's Atlantic Ocean shoreline, lands along the bays behind the barrier islands, and lands along the Delaware Bay and Raritan Bay. This general description provides the basis for the term "Bay and Ocean Shore Segment", as depicted in Figure 1. The actual inland boundary of the Segment uses the CAFRA boundary and the Upper Wetlands Boundary, and is defined as:

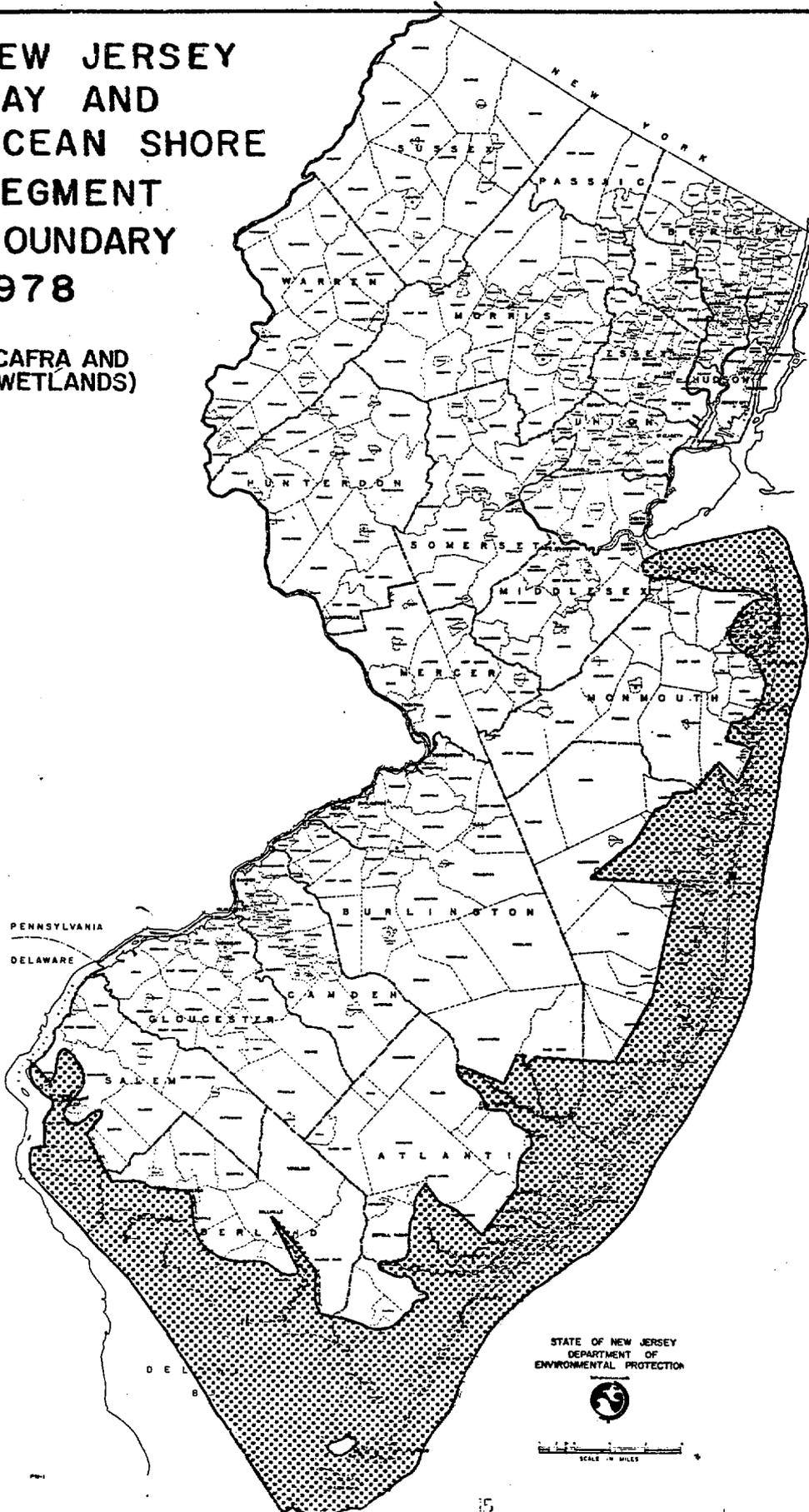
The landward boundary of the Coastal Area as defined in the Coastal Area Facility Review Act, or the Upper Wetlands Boundary of coastal wetlands located landward of the CAFRA boundary along tidal water courses that flow through the CAFRA Area, whichever is more landward, including State-owned tidelands.

In 1973, the Legislature enacted and the Governor signed into law the Coastal Area Facility Review Act (CAFRA). This law includes a statutory "Coastal Area" that generally describes the inland boundary of the Bay and Ocean Shore Segment, with the exception of certain additional wetlands areas as defined in this chapter. The inland boundary of the "Coastal Area" delineated under CAFRA in 1973 appears on Figure 2. It extends from the Raritan Bay east to Sandy Hook, south to Cape May Point and north and west up the Delaware estuary almost to the Delaware Memorial Bridge north of Salem. The total land area is 1,376 square miles or 17 percent of New Jersey's land area. The coastline is more than 215 miles in length, with 126 miles along the Atlantic oceanfront from Sandy Hook to Cape May. Inland the CAFRA boundary ranges from a few thousand feet from the ocean in Monmouth County, to 24 miles from the Atlantic Ocean around the Mullica River at Batsto in Burlington

Figure 1

NEW JERSEY BAY AND OCEAN SHORE SEGMENT BOUNDARY 1978

(CAFRA AND
WETLANDS)

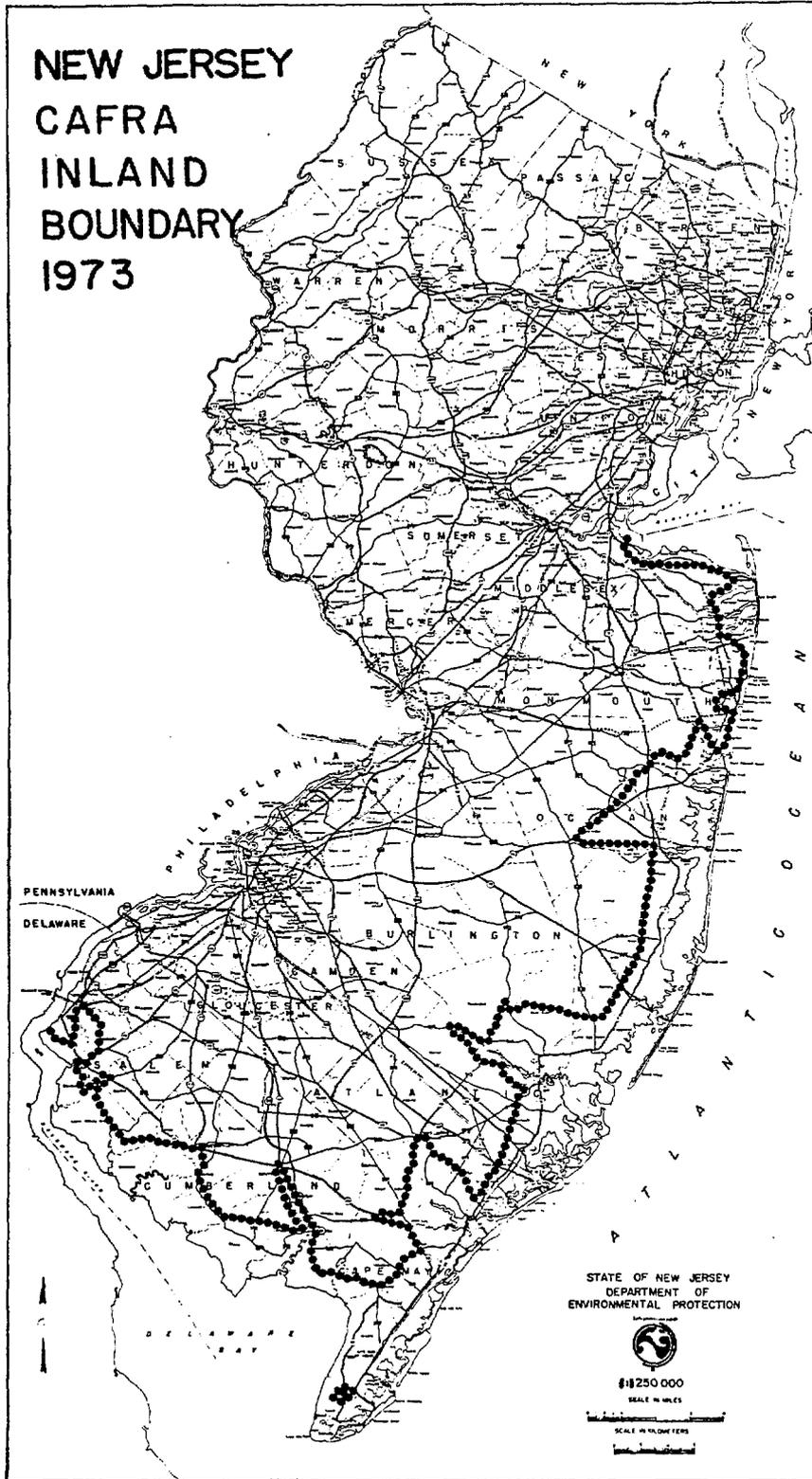


STATE OF NEW JERSEY
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



SCALE - IN MILES

Figure 2



County. Major roads and rights-of-way, such as the Garden State Parkway and county roads, define the inland boundary. The law excluded a small area around the Cape May County Airport from the "Coastal Area". A metes-and-bounds description of the "Coastal Area" may be found in the statute in Appendix H (N.J.S.A. 13:19-4). Maps indicating the CAFRA boundary on U.S. Geological Survey topographic quadrangle maps (scale of one inch = 2,000 feet or 1:24,000) are available for public inspection at the Trenton offices of DEP's Division of Marine Services.

The CAFRA Area features the stretch of barrier islands and headlands traditionally called the "Jersey Shore," long known as a recreation area for the state, northeastern United States, and Canada. This area includes all of the state's oceanfront beaches. Parts of the unique Pine Barrens, as well as the shores of the Delaware Bay and Raritan Bay are also included within the "Coastal Area". All of Atlantic City, which faces new opportunities and problems as a result of casino gambling and offshore oil and gas exploration, lies within the CAFRA Area.

While the statutory CAFRA Area does include considerable portions of the regulated coastal wetlands, DEP completed the rigorous delineation and mapping of coastal wetlands required by the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) after enactment of CAFRA. As a result, approximately 3,750 acres of selected coastal wetlands are found landward of the present CAFRA inland boundary, along tidal streams that are largely included within the CAFRA Area. This situation occurs primarily in Atlantic, Burlington, Cumberland, Monmouth and Salem counties. In order to comply with the inland boundary requirements of the federal Coastal Zone Management Act, these coastal wetlands must be included with this first segment of New Jersey's coastal management program. State-owned tidelands along these same tidal streams are also included by definition.

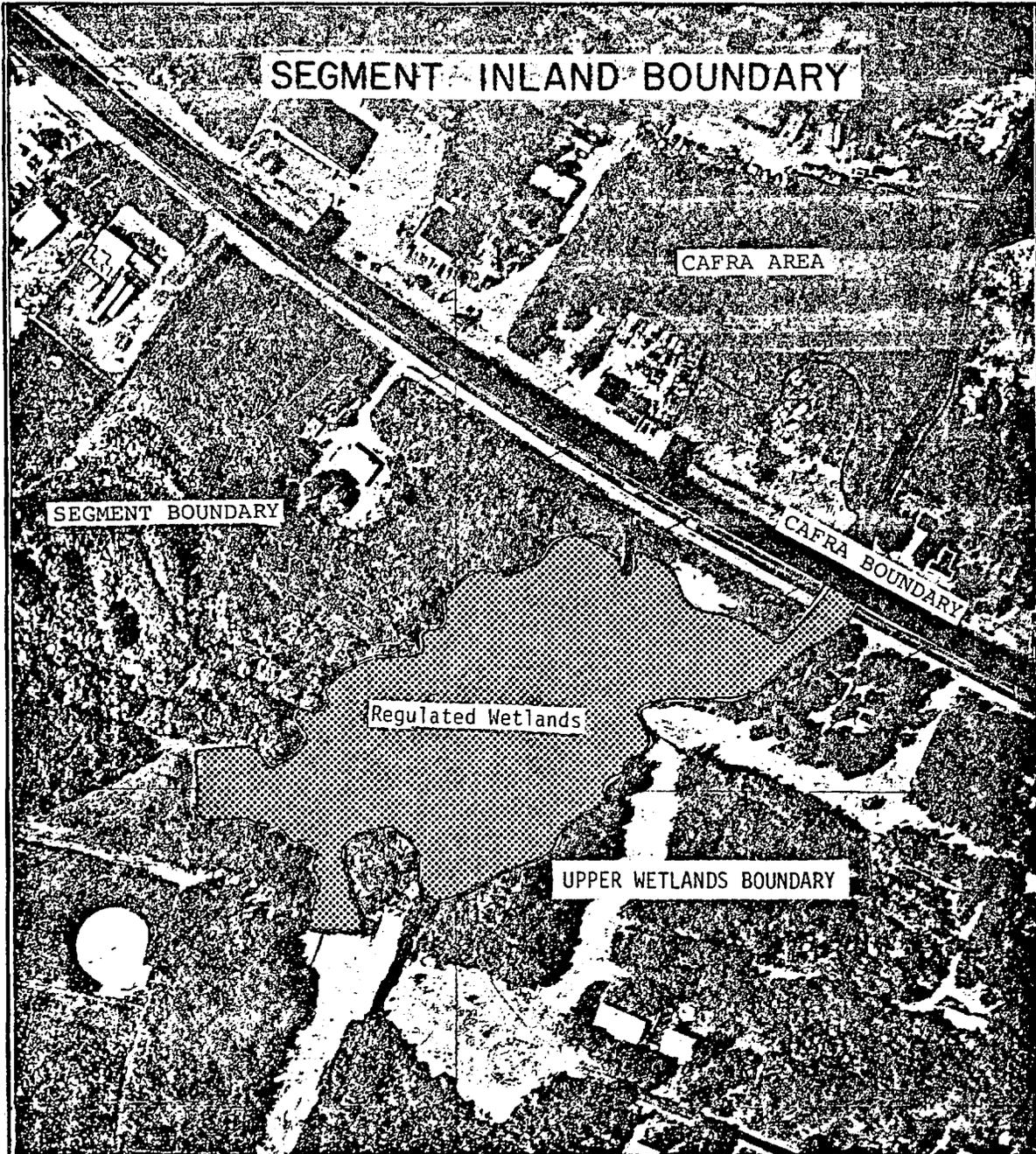
The Upper Wetlands Boundary defines land areas subject to the jurisdiction of the Wetlands Act, on photo-maps (scale of one inch = 200 feet or 1:2,400) on file at county court houses and available for inspection at the Trenton offices of DEP's Division of Marine Services. Appendix E lists the DEP Wetlands maps that include Coastal Wetlands areas considered to be within the inland boundary of the Bay and Ocean Shore Segment. Figure 3 shows an example of an area in Monmouth County where wetlands extend landward of the CAFRA boundary. As the inland boundary of the Segment is not exactly the same as the CAFRA inland boundary, the phrase "Bay and Ocean Shore" will be used to describe the geographic area that includes the CAFRA Area and these directly adjacent Wetlands, for the purposes of the federal Coastal Zone Management Act. This term will also be used to distinguish the Bay and Ocean Shore Segment from the waterfront areas of New Jersey's coastline along the Delaware and Hudson rivers.

Finally, as DEP completes its multi-year tidelands delineation program, the inland boundary of the Bay and Ocean Shore Segment may require further revision to include tidelands that may also be located landward of the present CAFRA boundary.

Seaward and Interstate Boundaries - Bay and Ocean Shore Segment

The seaward boundary of the Bay and Ocean Shore Segment and indeed the entire coastal zone is the outer limit of the United States territorial sea. This limit is three nautical miles from base lines established by international law and defined by the United States. The geographic jurisdiction of the Coastal Area Facility Review Act extends seaward to the State's territorial limit.

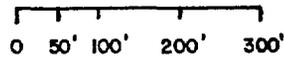
Figure 3 |



STATE OF NEW JERSEY
DEPARTMENT OF
ENVIRONMENTAL PROTECTION



SCALE
1 : 2,400



Source: EXCERPT OF D.E.P.
WETLANDS MAP
NO. 574 - 2154
MONMOUTH COUNTY

New Jersey has potential interstate coastal zone boundaries with Delaware, New York, and Pennsylvania, but the Pennsylvania boundary will not be addressed here as it does not affect the Bay and Ocean Shore Segment.

New Jersey's Bay and Ocean Shore Segment boundary with the State of Delaware through Delaware Bay and the Delaware River was established in 1933 by the U.S. Supreme Court in New Jersey v. Delaware (291 U.S. 361). The interstate boundary is generally along the ship channel in the middle of Delaware Bay. However, from a point near the northern tip of Artificial Island, in Lower Alloways Creek Township, Salem County, the interstate boundary between New Jersey and Delaware extends north at the mean low water line on the New Jersey shoreline, until the Delaware-Pennsylvania boundary. Resolution of potential conflicts between the coastal policies of Delaware and New Jersey will require continued coordination and work in the first year of Program approval, toward appropriate agreements between the coastal management programs of both states, Salem County and the affected municipalities.

The extensions on the open sea of New Jersey's boundaries with New York and Delaware are not yet determined. The issue of the lateral seaward boundary is receiving focused attention as a result of the 1976 amendments to the federal Coastal Zone Management Act, which created a Coastal Energy Impact Program to assist states financially to cope with the onshore effects of offshore oil and gas energy activities. Each state's share of this financial assistance depends in part upon the leased Outer Continental Shelf acreage adjacent to a particular coastal state. Adjacency is determined by the extension of the lateral seaward boundary of each state or the delineation of a resource allocation between states. The New Jersey Department of Environmental Protection and the New Jersey Department of Energy, the designated lead agency for administration of the Coastal Energy Impact Program in New Jersey, are taking steps to define the lateral seaward boundaries of New Jersey with Delaware and with New York.

CHAPTER THREE: A VISION OF THE COAST

Introduction
The Vision
Basic Coastal Policies

Introduction

This Chapter explains the general direction of coastal zone management in New Jersey by describing the desirable and likely future of eight regions within the Bay and Ocean Shore Segment. It also includes the Basic Coastal Policies which indicate the major choices represented by this program. The Chapter is intended to provide an overview which has shaped, and been shaped by, the much more specific set of Coastal Resource and Development Policies presented in Chapter Four and the Management System described in Chapter Five.

The type of projections attempted in this chapter must be prefaced by certain qualifications. First, events and situations change unpredictably. In the last five years, for example, New Jersey's coast has been changed by the doubling of gasoline prices and the radical shift in society's attitudes about energy, the beginning and promise of casino gambling in Atlantic City, the unacceptable ocean conditions and fishkill of 1976 and growing concern over ocean dumping, and the severe winter storms of 1978.

Second, coastal zone management is but one of many government programs affecting land and water use in the coastal zone. While DEP can issue a permit for construction or expansion of a marina with public launching ramps, it cannot require the relevant municipality to also issue the necessary approvals. Similarly, DEP can do everything in its power to facilitate the location of new industry and other development in coastal urban areas, but it cannot single-handedly make them economically viable, nor can it fully predict changes in technology, markets, or public taste which can quickly redefine what is possible.

Third, some development in the coastal zone is not directly affected by state governmental action. The use of federal lands, and the private construction of small housing developments and commercial establishments in some locations, for example, do not require a state coastal permit.

Fourth, predicting the future is always risky and subjective.

The Vision

This Coastal Management Program envisions a future coastal zone of New Jersey which will reflect the historic development of the region as part intense recreation area, part natural, undeveloped area, and part built-up areas. The patterns and intensity of development will be better managed in the future. For example, to minimize conflict between noncompatible uses, similar activities will be located near each other. New developments will be designed to take advantage of increased understanding of natural, as well as economic and social, processes and will therefore have a greater net positive impact on the coast and the entire state than some past development.

New developments will be heavily concentrated in, or immediately adjacent to, existing developed areas. Recreation and tourism will continue to be the largest industry in the coastal zone, and will perhaps expand as a result of development in Atlantic City. Other urban areas in the coastal zone may be revitalized as well, as a result of efforts to concentrate new construction, to develop urban waterfronts, and to encourage expansion of recreational activities in urban areas.

Other industries will be located in inland parts of the coast. Single family detached housing will continue to be common, but the coastal zone will have increasing numbers of cluster developments, contributing to more efficient settlement patterns.

The ocean waterfront from Sandy Hook to Cape May will be devoted almost exclusively to recreation and commercial fishing. An exception is the possible location of offshore pipeline crossings in a very small number of shorefront areas. The inland areas of the coastal zone nearest the ocean will continue to provide housing and commercial services for seasonal and year round residents. Portions of the coastal zone further inland will also provide housing and locations for some industries, as well as land for agriculture, preservation of plant and wildlife, and recreation.

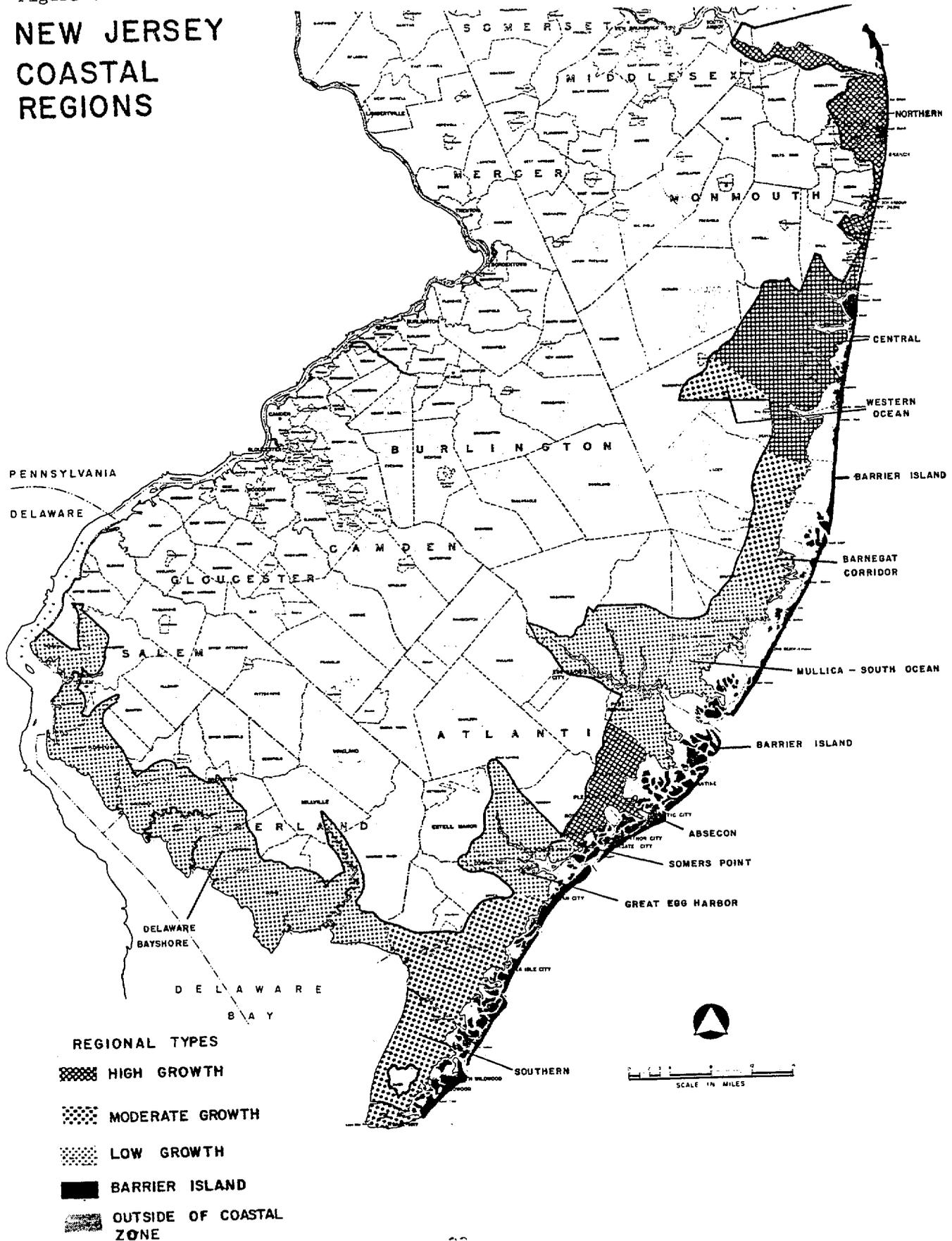
As this program is implemented and this vision becomes reality, some positive results will be immediate and directly visible, such as the halt in the indiscriminate high-rise construction along the Atlantic Ocean shoreline. Other changes in the coastal zone will be less visible, and perhaps take more time, such as changes in water quality making possible renewed swimming in now polluted waters, and a revised public attitude towards the value and need to protect the ocean and the coast.

DEP has categorized the Bay and Ocean Shore Segment into ten regions because the coastal zone is not uniform (see Figure 4). Descriptions of the regions make possible a more graphic, though still generalized, picture of its future. The regions are: Barrier Beach, Northern, Central, Western Ocean, Barnegat Corridor, Mullica-South Ocean, Absecon-Somers Point, Great Egg Harbor, Southern and Bay Shore. Also, different broad growth policies -- High, Moderate, and Low -- are appropriate for these regions and what should be the appropriate regional growth policy.

In deciding where the boundaries for the regions should be placed, DEP used several major data sources including: development patterns based on CAFRA and Wetlands permit applications since 1972, the State Development Guide Plan-Preliminary Draft (September 1977), prepared by the Department of Community Affairs; A set of maps called "The Coastal Area of New Jersey - Developed and Selected Environmentally Sensitive Areas", December 1975, prepared by DEP-OCZM; Economic Profiles of the individual counties (December 1975) prepared for DEP by the New Jersey Department of Labor and Industry, Division of Planning and Research in 1975-1976, and "Growth Centers and their Implication on Land Use Planning in the CAFRA Region", Department of Community Affairs, Division of State and Regional Planning (August 1976), prepared for DEP-OCZM. DEP also made great use of the Interim Land Use and Density Guidelines for the Coastal Area, prepared for DEP by Rivkin Associates in 1976. In addition, the New Jersey Department of Energy Draft Master Plan and various county planning studies completed for DEP in 1977-1978 assisted this regional analysis.

Figure 4

NEW JERSEY COASTAL REGIONS



BARRIER BEACH REGION - The Barrier Beach Region includes the Sandy Hook Spit south to Monmouth Beach, headlands from Monmouth Beach to Bayhead, and the barrier island chain of Island Beach, Long Beach, Little Beach, Brigantine, Absecon, Pecks, Ludlum Beach, Seven Mile Beach, and Four Mile Beach Island. The inland boundary of the parts of the Barrier Beach Region that do not have a west waterbody is the first cultural feature.

The islands, headlands, and spits are considered one region due to their oceanfront locations. The issues associated with these areas far outweigh the differences between them. The ocean shorefront in the northern part of the segment, for example, although it is not strictly speaking a barrier island, responds to development and natural events in a manner similar to the barrier island locations adjacent to the ocean or bay.

The future of the Barrier Beach Region will be a continuation of the present. Recreation will be the dominant use of this part of the coastal zone, and only small amounts of new development directly associated with recreation will be constructed. Such development will be located on sites which have been previously developed; undeveloped sites in this region will, for the most part, remain as open space. The focus of shore protection efforts will continue to shift from structural to nonstructural measures, including a halt to development most likely to be destroyed by storms or floods.

NORTHERN REGION - The northern region includes all of the CAFRA area north of the Manasquan River (the boundary between Monmouth and Ocean Counties), exclusive of the Barrier Island Region described above.

This section of the coastal zone is part of a more general suburban ring in the New York-Northern New Jersey Metropolitan area. Once a relatively undeveloped place of seasonal homes with a tourism-oriented economy, this region, like much of Monmouth and parts of Middlesex counties, became a "bedroom" suburb after World War II for more mobile and affluent people working in New York City. More recently, as industry and commerce have also suburbanized, this area has developed an economic base of its own. The region includes Asbury Park and Long Branch, which have experienced some of the decline typical of older Northeastern cities.

While designated a High Growth Region, this region is likely to change little in the foreseeable future. New developments will include housing development, possibly senior citizen developments, and light industry, and will occupy suitable sites which fill in largely developed areas. Initiatives at all levels of government may stimulate increased activity in Asbury Park and Long Branch.

CENTRAL REGION - The Central Region is bounded in the north by the Monmouth-Ocean County Boundary, on the west by State Highway 37 and the Garden State Parkway in the south by Cedar Creek, and in the east by the back bay waters. Since 1950, this High Growth Region has held the position of the fastest growing area in the state. Relatively young, formerly urban families and senior citizens have constituted the bulk of Ocean County's population growth over the past twenty years. Population is currently growing faster than employment. Retail trade for both summer visitors and year round residents is the largest single source of employment.

Due to the availability of large, easy to develop and relatively low cost tracts of land, the region is still experiencing a housing boom. This type of largely residential, commercial, and light industrial development is likely to continue. The pattern of development in the region will one day form a relatively smooth transition between the densely populated Northern Region and the largely undeveloped Mullica-Southern Ocean Region. The population of this Region will continue to include more older people and fewer people who commute to New York.

Ocean County also has two Moderate Growth Regions, the WESTERN OCEAN REGION, located west of the Garden State Parkway and southwest of State Highway 37 and the BARNEGAT CORRIDOR located south of Cedar Creek (the boundary between Berkeley and Lacey Township), north of State Highway 72, west of the back bay systems and east of the Garden State Parkway. The Western Ocean Region has both large undeveloped, forested lands as well as areas devoted to large scale senior citizen communities and ilmenite mining. This region is expected to extend slowly beyond the current reach of development, avoiding the heavily forested Central Pine Barrens areas. The Barnegat Corridor has experienced pockets of new development in the past decade, including installation of a regional sewage treatment system with collector systems to serve existing settled areas. Designation of this area as a Moderate Growth Region recognizes that a gradual pace of infill and some extension development is appropriate here, rather than the more intense and scattered development pattern acceptable in central and northern Ocean County. Additional residential development attracted by the regional center of Toms River is likely to be attracted to these two Moderate Growth Regions.

MULLICA-SOUTHERN OCEAN COUNTY REGION - This Low Growth Region is bounded to the north by Route 72, to the west by the CAFRA boundary, to the south by Route 561 in Atlantic County, and to the east by the back bay systems. This is the largely undeveloped Mullica Watershed. The environmental value of the watershed, its inclusion of parts of the Pine Barrens and the rural southern Ocean County character suggest that this area should remain largely undeveloped. Limited amounts of new development may occur near existing development along U.S. Route 9 and the Garden State Parkway interchanges.

ABSECON-SOMERS POINT REGION - The Absecon-Somers Point Region is bounded on the north by Route 561, to the west by the Garden State Parkway, to the south by the County Road Alternate 559 and to the east by the back bay water systems. This High Growth Region is likely to experience the most change of any part of the Bay and Ocean Shore Region if casino gambling in Atlantic City is successful in revitalizing the area. The Region will be devoted to housing, tourist industries and other light to moderate industry. Because the existing infrastructure of Atlantic City once supported a population much larger than the present population, new development in this region will be able to locate primarily in already developed, downtown areas of Atlantic City. Unless land prices in this Region reverse the upward trend which began after the Casino Referendum passed, housing and support facilities for people who work in Atlantic City may have to be located in surrounding towns.

GREAT EGG HARBOR RIVER BASIN REGION - This Low Growth Region includes those portions of Atlantic County southwest of County Road Alternate 559 and those portions of Cape May County east of State Highway 50, north of County Road 585, and west of U.S. Route 9. In both its current and likely future character, it resembles the

Mullica-South Ocean Region. It is a largely natural area which provides environmental benefits to the surrounding area and is unlikely to change significantly. As with both the Mullica-South Ocean and Absecon Regions, extensive success and growth of the casino industry could lead to unexpected rates of growth.

THE SOUTHERN REGION - The Southern Region is all of Cape May County within the CAFRA Area except that portion in the Great Egg Harbor River Basin Region and Barrier Island Region. Tourism accounts for approximately 90 percent of this Moderate Growth Region's economic base, and has also played a major role in the region's development pattern. The region's ocean front municipalities and, to a lesser extent, several of its Delaware Bay shore municipalities are very highly developed, while haphazard, low density sprawl is the rule on the mainland. Due to the region's relative isolation and the absence of economic bases other than tourism, there is little year-round employment. This seasonality accounts for the region's low annual income. The Southern Region will be relatively unchanged. Small amounts of new development will fill in isolated pockets of land and tourism will continue to be the dominant industry. A modest trend of converting summer homes into year-round housing particularly for senior citizens may expand.

BAYSHORE REGION - The Bayshore Region encompasses all of the Bay and Ocean Shore Region in Cumberland and Salem County and is designated a Low Growth Region. This region is the least developed part of the Bay and Ocean Shore Segment and includes large expanses of wetlands along Delaware Bay. These parts of the state are too far from major employment centers to have developed as suburbs. Unlike most other parts of the coastal zone, tourism has never played an important role in this area's economy. The Region is largely agricultural land, forests and wetlands, and sparsely populated with little existing infrastructure. The population and economic activity in these counties are concentrated in the small, manufacturing-oriented cities of Millville, Bridgeton and Salem, which lie near the inland boundary of the coastal zone.

This region is likely to remain largely undeveloped, and to continue to rely on agriculture and sand mining as major industries. Efforts to clean up the Delaware Bay and River may also revitalize the fish and shellfish industries. If additional energy facilities requiring location remote from large population centers are built in New Jersey, this Region offers potential sites. The Region will accommodate construction of small numbers of housing adjacent to existing development and possibly several larger developments and new industries. The large expanses of agricultural land, wetlands, forests, and the historical community of Greenwich will remain largely unchanged.

Basic Coastal Policies

Chapter Four of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment contains many specific Coastal Resource and Development Policies which DEP will use to make coastal land and water use decisions. The major choices and the basic direction represented by the specific policies are summarized by the following Basic Coastal Policies:

1. Protect the coastal ecosystem

The ecosystem of the Bay and Ocean Shore Segment is fragile and special, and is characterized by a combination of beaches and the ocean, tidal and inland wetlands, flood plains, estuarine areas, bays, stream and stream corridors, vegetation, and wildlife habitats. These natural features make the area a desirable place to visit, which in turn fosters the state's tourist industry. The same features make the coastal region a productive area for agriculture and commercial and recreational fishing. If the ecosystem is not protected, not only will natural resources and processes be harmed, but the economy of the area, and of the state, will suffer.

2. Concentrate rather than disperse the pattern of beneficial coastal residential, commercial, industrial, and resort development, and encourage the preservation of open space

The special characteristics of the coast attract many different types of development to an area which is limited in size. The concentration of development is the most efficient way to use this limited space because it allows a large variety of activities to be accommodated in the Bay and Ocean Shore Segment while minimizing conflicts which would occur between activities such as industry and recreation if they were located near each other. In addition, the concentration of development can be more useful to the public than a similar amount of open space scattered among many small parcels. The policy to concentrate development does not apply to nuclear generating stations and liquefied natural gas (LNG) facilities.

3. Employ a method for decision-making which allows each coastal location to be evaluated in terms of both the advantages and the disadvantages it offers for development

Traditionally, land and water use planning has focused exclusively on environmental features which offer disadvantages for development or which should be preserved. Each location, however, can also be evaluated in terms of the advantages it offers for development. A site near existing roads, for example, could be developed with less cost and environmental disturbance than a more isolated site. This policy insures that both types of factors will be considered in decision-making under the Coastal Program.

4. Protect the health, safety and welfare of people who reside, work and visit in the coastal zone

The last basic policy is a reminder that people use the coast for different purposes and have different needs and expectations. The quality of human life improves if needed development is built in a manner which respects the natural and built environment.

Chapter Four: COASTAL RESOURCE AND DEVELOPMENT POLICIES

- 1.0 General
- 2.0 Coastal Decision-Making Process
- 3.0 Location Policies
- 4.0 Use Policies
- 5.0 Resources Policies

Note to Reader

This chapter defines substantive coastal policies to guide public decisions about significant proposed development and management of resources in the Bay and Ocean Shore Region of New Jersey's coastal zone. A three step decision-making process is used in order to increase predictability and add more specificity to the coastal decision-making process.

The entire chapter has been adopted as administrative rules (N.J.A.C. 7:7E-1.1 et seq., effective September 28, 1978). The policies will be carried out using the legal authorities and organization described in Chapter Five: Management System. Appendix L, Using the Coastal Resource and Development Policies, provides examples of the use of the three step decision-making process.

1.0 General

1.1 Purpose

This chapter presents the substantive policies of the Department of Environmental Protection regarding the use and development of coastal resources, to be used by the Division of Marine Services in the Department primarily in reviewing permit applications under the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1 et seq., Wetlands Act, N.J.S.A. 13:9A-1 et seq., and Waterfront Development Permit Program, N.J.S.A. 12:5-3. The rules also provide a basis for recommendations by the Department to the Natural Resource Council on applications for riparian grants, leases, or licenses. In 1977, the Commissioner of DEP submitted to the Governor and Legislature the Coastal Management Strategy for New Jersey-CAFRA Area (September 1977), prepared by the Department as required by CAFRA, N.J.S.A. 13:19-16, and submitted for public scrutiny in late 1977. The Department revised the Coastal Management Strategy based on extensive public comments and in May 1978 submitted the revised Strategy for public review as the New Jersey Coastal Management Program - Bay and Ocean Shore Segment. In August 1978 the Governor submitted the revised New Jersey Coastal Management Program - Bay and Ocean Shore Segment for federal approval. By adopting these policies as administrative rules, according to the Administrative Procedures Act, the Department aims to increase the predictability of the Department's coastal decision-making by limiting administrative discretion, as well as to ensure the enforceability of the coastal resource and development

policies of the coastal management program of the State of New Jersey prepared under the federal Coastal Zone Management Act. Further, the Department interprets the "public health, safety, and welfare" clause in CAFRA (N.J.S.A. 13:19-10f) and the Wetlands Act (N.J.S.A. 13:9A-4d) to include a full consideration of the national interests in the wise use of coastal resources.

1.2 Authority

These rules are adopted under the general powers of the Department, N.J.S.A. 13:1D-9, as well as the Department's specific rule-making and coastal management powers under the Coastal Area Facility Review Act, N.J.S.A. 13:19-17, the Wetlands Act, N.J.S.A. 13:9A-1 et seq., and the riparian statutes, N.J.S.A. 12:5-1 et seq. These rules are consistent with the purpose and intent of the 90 Day Construction Permit Law and regulations, P.L. 1975, c. 232, and N.J.A.C. 7:1C-1 et seq. These rules complement the adopted rules that implement the Wetlands Act, N.J.A.C. 7:7A-1.0 et seq., and the rules that define the permit application procedures under CAFRA, N.J.A.C. 7:7D-2.0 et seq. The Coastal Resource and Development Policies are derived from the legislative intent of the CAFRA, Wetlands, and riparian statutes, and, in the case of the Coastal Area Facility Review Act, the rules define the standards for approval, conditional approval, or denial of permit applications more precisely than the findings required by N.J.S.A. 13:19-10 and 11.

1.3 Jurisdiction

1.3.1 General

These rules shall apply to five categories, as defined in Section 1.3.2-1.3.7, of actions or decisions by the Department on uses of coastal resources within or significantly affecting the Bay and Ocean Shore Region of the coastal zone: (a) coastal permits, (b) consistency determinations, (c) financial assistance, (d) DEP management actions affecting the coastal zone, and (e) DEP planning actions affecting the coastal zone.

1.3.2 Geographic Scope of Bay and Ocean Shore Region

These rules shall apply geographically to the Bay and Ocean Shore Region which is defined as the Coastal Area (CAFRA) defined by N.J.S.A. 13:19-4 and Regulated Wetlands listed at N.J.A.C. 7A-1.13 that are landward of the inland CAFRA boundary along a tidal watercourse that flows through the Coastal Area. The Region is a segment of New Jersey's coastal zone under the federal Coastal Zone Management Act.

1.3.3 Coastal Permits

These rules shall apply to waterfront development permits (N.J.S.A. 12:5-3), Wetlands permits (N.J.S.A. 13:9A-1 et seq.) and CAFRA permits (N.J.S.A. 13:19-1 et seq.) within the Bay and Ocean Shore Region.

1.3.4 Consistency Determinations

These rules shall apply to decisions on the consistency or compatibility of proposed actions by federal, state, and local agencies with the Coastal Resources and Development Policies, including but not limited to determinations of federal consistency under Section 307 of the federal Coastal Zone Management Act, determinations of consistency or compatibility under the Coastal Energy Impact Program under Section 308 of the federal Coastal Zone Management Act, comments on Draft and Final Environmental Impact Statements prepared under the National Environmental Policy Act, and comments on other public and private plans, programs, projects and policies.

1.3.5 Financial Assistance Decisions

These rules shall apply to state aid financial assistance decisions by DEP under the Shore Protection Program and Green Acres Program within the Bay and Ocean Shore Region, to the extent permissible under existing statutes and regulations.

1.3.6 DEP Management Actions

These rules shall apply, to the extent statutorily permissible, to management actions in or affecting the coastal zone by various divisions of the Department, in addition to coastal permits, including regulatory actions by the Division of Water Resources, the Division of Environmental Quality, and the Solid Waste Administration.

1.3.7 DEP Planning Actions

These rules shall provide the basic policy direction for DEP's future planning actions in the Bay and Ocean Shore Region as the lead state coastal management agency under Section 306 of the federal Coastal Zone Management Act.

1.4 Severability

If any provision of these rules or the application of these rules to any person or circumstances is held invalid, the remainder of the rules and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

1.5 Review, Revision, and Expiration

The Department shall periodically review these rules, consider the various national, state, and local interests in coastal resources and developments seeking coastal locations, and propose and adopt appropriate revisions to these rules. The Department expects to propose revisions to the rules in 1979 in the course of completing the management program for the State's coastal zone and integrating the revision with the present rules for the Bay and Ocean Shore Region. Under the requirements of the federal Coastal Zone Management Act, the Department expects to conduct an annual review of the rules and expects to revise, amend or readopt the rules before the five year deadline under Executive Order No. 66 for periodic review of administrative rules.

2.0 Coastal Decision-Making Process

2.1 General

Decisions on uses of coastal resources shall be made using the three step process comprising the Location Policies (Section 3.0), the Use Policies (Section 4.0), and the Resources Policies (Section 5.0) of these rules. Depending upon the proposed use, project design, location, and surrounding region, different specific policies in each of the three steps may be applicable in the coastal decision-making process. The Coastal Resource and Development Policies address a wide range of land and water types (locations), present and potential land and water uses, and natural, cultural, social and economic resources in the coastal zone. DEP does not, however, expect each proposed use of coastal resources to address all Location Policies, Use Policies, and Resource Policies. Rather, the applicable policies are expected to vary from proposal to proposal.

2.2 Principles

The Coastal Resource and Development Policies represent the consideration of various conflicting, competing, and contradictory local, state, and national interests in diverse coastal resources and in diverse uses of coastal locations. Numerous balances have been struck among these interests in defining these policies, which reduce but do not presume to eliminate all conflicts among interests. One reason for this intentional balancing and conflict reducing approach is that coastal management involves explicit consideration of a broad range of concerns, in contrast to other resource management programs which have a more limited scope of concern. Decision-making on individual proposed actions using the Coastal Resources and Development Policies must therefore consider all three steps in the process, and weigh, evaluate, and interpret inevitably complex interests, using the framework established by the policies. In this process, interpretations of terms, such as "prudent", "feasible", "minimal", "practicable", and "maximum extent", as used in a specific policy or combinations of the policies, may vary, depending upon the context of the proposed use, location, and design. Finally, these principles should not be understood as authorizing arbitrary decision-making or unrestrained administrative discretion. Rather, the limited flexibility intentionally built into the Coastal Resource and Development Policies provides a mechanism for incorporating professional judgment by DEP officials, as well as recommendations and comments by applicants, public agencies, special interest groups, corporations, and citizens into the coastal decision-making process.

2.3 Definitions

The Coastal Resource and Development Policies are stated in terms of actions that are encouraged, required, acceptable, conditionally acceptable, discouraged, or prohibited. Some policies include specific conditions that must be met in order for an action to be deemed acceptable. Within the context of the Coastal Resource and Development Policies and the principles defined above in Section 2.2, the following words have the following meanings.

- (a) "action", "activity", "development", "project", "proposal", or "use" are used interchangeably to describe the proposed use of coastal resources that is under scrutiny using the Coastal Resource and Development Policies.
- (b) "site", "location", "area", or "surrounding region" means the geographic scope of the proposed use of coastal resources that is under scrutiny using the Coastal Resource and Development Policies, including both the primary, or direct site of a proposed use as well as the appropriate surrounding area or region that may be affected by or affects the proposed use and that must be evaluated as part of the coastal decision-making process, as well as alternative sites.
- (c) "prohibited" means that a proposed use of coastal resources is unacceptable and will be rejected or denied.
- (d) "discouraged" means that a proposed use of coastal resources is likely to be rejected or denied as DEP has determined that such uses of coastal resources should be deterred and developers should be dissuaded from proposing such uses. A coastal policy discouraging a use may specify mitigating conditions that may be met in order for a use to be deemed acceptable, but a presumption exists that the proposed use is unacceptable.
- (e) "conditionally acceptable" means that proposed use of coastal resources is likely to be acceptable provided that conditions specified in the policy are satisfied.
- (f) "acceptable" means that a proposed use of coastal resources is likely to be approved.
- (g) "encouraged" means that a proposed use of coastal resources is acceptable and further is a use, by its purpose, location, design, or effect, that DEP has determined should be fostered and supported in the coastal zone, through favorable consideration of other aspects of the location, design, or effect of the use in terms of the weighing process of the Coastal Resource and Development Policies.

2.4 Pre-Application Phase

At an optional pre-application conference with a prospective applicant, DEP shall employ the Coastal Resources and Development Policies as a basis for a candid, informal and non-binding evaluation of the merits of a proposed use, location and design.

2.5 Application or Project Review Phase

DEP shall employ the Coastal Resource and Development Policies as the standards for issuing actual decisions, making determinations, and carrying out management and planning actions that affect the coastal zone. Decisions may be issued with conditions or pre-conditions as reasonably necessary to carry out the spirit and intent of the Coastal Resource and Development Policies.

2.6 Information Requirements

Applicants for coastal permits shall comply with the adopted procedural rules and regulations that define the information to be submitted as part of applications for Waterfront Development, Wetlands, and CAFRA Permits. Applicants shall submit information to DEP indicating and documenting how the proposed use complies with the applicable Coastal Resource and Development Policies. This information shall be submitted at least in a discrete section of the application, or its accompanying environmental impact statement (EIS) if applicable, that is identified by the heading "Compliance with Coastal Resource and Development Policies". At the pre-application phase, mapped information for a site and its surrounding region shall be submitted at least at a scale of 1:24,000 (1 inch = 2,000 feet). At the application phase, mapped information shall be submitted at least at a scale of 1:24,000 and at larger scale(s), such as 1:2,400 (1 inch = 200 feet), appropriate for the size and complexity of the site and its surrounding region. Information describing the site and surrounding region, including alternatives, in terms of the Coastal Resource and Development Policies, shall be mapped to the maximum extent practicable. Approximate data sources referred to in the Coastal Resource and Development Policies, such as soil surveys, may be supplemented by site-specific data presented by an applicant in the environmental impact statement.

3.0 LOCATION POLICIES

- 3.1 General
- 3.2 Special Areas
- 3.3 Water Areas
- 3.4 Water's Edge Areas
- 3.5 Land Areas
- 3.6 Policy on Location of Linear Development
- 3.7 General Location Policy

3.1 General

3.1.1 Purpose

The coastal land and water areas of New Jersey are diverse. The same development placed in different locations will have different impacts on the coastal ecosystem and built environment as well as different social and economic implications. Different policies are therefore required for different locations. This section defines the Location Policies of the Coastal Program. This presentation of the policies is lengthy and detailed because the coast is large, varied, and complex. The method of applying the policies is, however, relatively simple.

3.1.2 Classification of Land and Water Types

The Location Policies classify all land and water features of the coastal zone into at least one category and assign a policy on the use of each type of location in each category. The Location Policies contain four broad categories: (a) Special Areas, (b) Water Areas, (c) Water's Edge Areas, and (d) Land Areas. Special Areas are Water, Water's Edge, or Land Areas that merit more focused attention as they constitute a highly valued natural resource, serve important purposes of human use, or form a significant natural hazard. The policies in the Special Areas supplement the more general Location Policies, and take precedence in case of policy conflict.

3.1.3 Mapping and Acceptability Determination

The Location Policies provide a logical series of six steps for determining the acceptability for use of a coastal location. At each step the locations shall be mapped, to the maximum extent practicable, by an applicant, at least at a scale of 1:24,000 (1 inch = 2,000 feet) at the pre-application phase.

Step 1 - Identify and map site and surrounding region (the same step should be carried out for the evaluation of alternative sites)

Step 2 - Identify and Map Special Areas

Step 3 - Identify and Map Water Areas

Step 4 - Identify and Map Water's Edge Areas

Step 5 - Identify and Map Land Areas

Step 6 - Determine Location Acceptability

Mapping at each step serves to identify geographically the extent of a policy's applicability to a specific site and surrounding region. The acceptability of a location is then determined by synthesizing and evaluating the applicable policies, before evaluating the proposed use in terms of the Use Policies (Step 7) and Resource Policies (Step 8). The final DEP decision is Step 9.

3.2 Special Areas

3.2.1 General

Certain Specific Water, Water's Edge and Land Areas merit focused attention and special management policies. This section defines a broad range of Special Areas and indicates the applicable Location Policies.

3.2.2 Shellfish Beds

3.2.2.1 Definition

Shellfish Beds are defined as estuarine bay or river bottoms (tidelands) presently supporting commercial or recreational quantities of hard clams, soft clams, oyster or bay scallops. This category includes: open, seasonally open, and specially restricted water quality classes as shown in NJDEP Condemned Area Charts 1 through 10, prepared by and available from DEP. Source areas for transplanting (relays) programs and depuration processing are included, as well as natural or artificial oyster seed (spat) setting beds. Maps of shellfish beds can be found in H. Haskin (1963) "Distribution of Shellfish Resources in Relation to New Jersey Intracoastal Waterway". Shellfish beds presently closed due to water pollution are considered within this definition once the beds are reopened to shellfishing. Natural blue mussel beds on open bay and inlet bottoms are also included in the definition of Shellfish Beds.

3.2.2.2 Policy

Coastal development which would directly discharge untreated domestic sewage, or industrial wastes, toxic or carcinogenic agents or significantly alter salinity regime, or natural water flow patterns

during the construction or operation of development is prohibited. Water dependent development which requires dredging adjacent to shellfish beds is discouraged unless the activity is managed so as not to cause significant mortality of the shellfish resulting from increase in turbidity and sedimentation, resuspension of toxic chemicals, or to otherwise interfere with the natural functioning of the shellfish beds. Dredging within shellfish beds is prohibited. Maintenance dredging of existing navigation channels is conditionally acceptable in these areas provided that oyster and clam transplant and relay programs, and/or depuration facilities are used.

3.2.2.3 Rationale

Estuarine shellfish are harvested by both commercial and recreational fishermen, with the sport group concentrating on hard clams. Oysters, bay scallops and soft clams are predominantly commercial species. Commercial dockside landing values in New Jersey for 1976 were \$3.17 million for estuarine mollusks, with an estimated retail industry value of \$7.94 million. The commercial harvest is estimated to support employment of 1,500 persons in fishing, distribution, processing, and retail. Sport clammers numbered 17,000 in 1976. In addition to direct human consumption, shellfish play an important role in the overall ecology of the estuary. Young clams are important forage foods for a variety of finfish such as winter flounder, crabs and migratory waterfowl especially the diving species.

3.2.3 Surf Clam Areas

3.2.3.1 Definition

Waters within the State of New Jersey three nautical mile territorial sea which can be demonstrated to support significant commercially exploitable quantities of surf clams, or beds important for reproductive replacement of fishery stocks. This includes Sea Clam Research Sanctuaries established by the N.J. Bureau of Shellfisheries, under the authority of N.J.S.A. 50:1-5 and adopted as N.J.A.C. 7:26-7.6, June, 1974. Waters open for harvesting or condemned for harvesting are delineated on NJDEP Condemned Area Charts 1 through 10.

3.2.3.2 Policy

Development which would result in condemnation of surf clam stocks is prohibited. Development that would lead to closing productive surf clam areas to commercial surf clamming or result in significant mortality of concentrations of surf clams is acceptable only at less productive surf clam areas. Development within Surf Clam Areas is conditionally acceptable only if the development is of national interest and no prudent and feasible alternative sites exist.

3.2.3.3 Rationale

The surf clam fishery is New Jersey's single most important fishery with dock-side landing values (wholesale) of \$10.8 million during 1976 and estimated retail value of \$27 million. The industry annually generates monies in excess of the retail value, supports employment of over 300 full and part time people in fishing and 1,000 - 1,500 in canning, processing, distribution and industry services. Significant areas of productive water are presently closed due to water pollution. In addition, the massive marine fish kill during the summer of 1976 was estimated to have resulted in the loss of \$65 million in sea clam stocks over a seven year period. Surf clam harvesting within New Jersey's territorial sea is regulated by NJDEP. The Mid-Atlantic Regional Fisheries Management Council regulates sea clamming within the Fishery Conservation Zone (200 mile limit). Harvesting is required to be compatible with these agencies, as appropriate. Harvest quotas and other management measures have been adopted for sea clamming (surf clams and ocean quahogs) within the Fishery Conservation Zone.

3.2.4 Prime Fishing Areas

3.2.4.1 Definition

Prime Fishing Areas include tidal water areas and water's edge areas which have a demonstrable history of supporting a significant local quantity of recreational fishing activity. The area includes all coastal jetties and groins and public fishing piers or docks. Prime Fishing Areas also include all red line delineated features within the State of New Jersey's three mile territorial sea illustrated in: B.L. Freeman and L.A. Walford (1974) Angler's Guide to the United States Atlantic Coast Fish, Fishing Grounds and Fishing Facilities, Section III and IV.

3.2.4.2 Policy

Permissible uses of Prime Fishing Areas include recreational and commercial finfishing and shellfishing, as presently regulated by NJDEP Division of Fish, Game, and Shellfisheries, scuba diving and other water related recreational activities.

Prohibited uses include sand or gravel submarine mining which would alter existing bathymetry to a significant degree so as to reduce the high fishery productivity of these areas. Disposal of domestic or industrial wastes must meet applicable State and federal effluent limitations and water quality standards. Development which would preclude existing public access to the shoreline is prohibited.

3.2.4.3 Rationale

Natural bathymetric features, such as the Shrewsbury Rocks and important sand ridges, and artificial structures act as congregation areas for many species of finfish, shellfish, and a diversity of invertebrate species which are essential to marine ecosystem functioning. These areas are heavily utilized by recreational and commercial fishermen. Over 2.7 million people annually participate in marine sport fishing and shellfishing in New Jersey. This represents the highest number of participants in any state, from Maine to Maryland. Of that total, 1.6 million reside in New Jersey, with the remaining number coming mostly from Pennsylvania and New York (792,000 and 300,000 respectively.) The Mid-Atlantic Regional Fisheries Management Council manages fishing activities seaward of the State's coastal zone.

3.2.5 Finfish Migratory Pathways

3.2.5.1 Definition

Waterways (rivers, streams, creeks, bays and inlets) which can be demonstrated to serve as passageways for anadromous fish to or from seasonal spawning areas, including juvenile anadromous fish which migrate in autumn and those listed by H. E. Zich (1977) "New Jersey Anadromous Fish Inventory" NJDEP Miscellaneous Report. No. 41, and including those portions of the Hudson and Delaware Rivers within the coastal zone boundary are defined as Finfish Migratory Pathways. Species of concern include: alewife (river herring) (Alosa pseudoharengus), blueback herring (Alosa aestivalis), American shad (Alosa sapidissima), and striped bass (Morone saxatilis).

3.2.5.2 Policies

Development, such as dams, dikes and spillways or chemical water quality barriers, that block movement of anadromous species is discouraged, unless acceptable mitigation measures, such as fish ladders, erosion control, and oxygenation are used. Mitigating measures are required for any development which would result in: lowering dissolved oxygen levels, releasing toxic chemicals, raising ambient water temperature, impinging or suffocating species, causing siltation, or raising turbidity levels during spring migration periods. Water's edge development which incorporates migration access structures, such as functioning fish ladders, will be encouraged, provided that the NJDEP, Division of Fish, Game, and Shellfisheries approves the design of the access structure.

3.2.5.3 Rationale

Striped bass are one of New Jersey's most prized sport fish and are actively sought wherever they occur in New Jersey. This species spawns in the Delaware, Hudson and Maurice Rivers. American Shad, once much more numerous and formerly an important commercial species, continue to make an annual spawning run in the Delaware River, where there is an active sport fishery. A much reduced commercial fishery exists in Delaware Bay. Herrings are important forage species and spawn annually in many of New Jersey's tidal tributaries. Herrings are fished during spring runs, for direct human consumption and for use as bait.

3.2.6 Submerged Vegetation

3.2.6.1 Definition

This special area includes estuarine water areas supporting rooted vascular seagrasses such as widgeon grass (Ruppia maritima) and eelgrass (Zostera marina). Eelgrass beds are limited to shallow portions of Sandy Hook Bay, Shrewsbury River, lower Barnegat Bay and Little Egg Harbor. Widgeon grass is for the most part limited to shallow areas of upper Barnegat Bay. Generalized maps of the distribution of the above species for Little Egg Harbor, and a method for delineation, are available from DEP in the DEP-OCZM sponsored study, in R.E. Good. et al. Analysis and Delineation of the Submerged Vegetation: A Case History of Little Egg Harbor (1978). In areas outside of Little Egg Harbor, a developer will be required to survey this resource until DEP completes additional surveys.

3.2.6.2 Policy

Destruction of submerged vegetation beds is prohibited. Mitigation measures are required for all upland developments which would result in erosion or increased turbidity that would adversely affect this special area. Trenching for energy pipelines and submarine cables of national significance will be conditionally acceptable, provided there is no prudent or feasible alternative site, and if the site is restored to original bathymetry and replanted with pre-development vegetation species, if these species have not colonized the site after three years.

3.2.6.3 Rationale

New Jersey's estuarine waters are relatively shallow, rich in nutrients and highly productive. The submerged vegetation of these shallow waters serve important functions, as suspended sediment traps, important winter forage for migratory waterfowl, nursery areas for juvenile finfish, bay scallops and blue-claw crabs, and by nourishing fishery resources through primary biological productivity (synthesis of basic organic material) through detrital food webs in a similar manner to salt marsh emergent Spartina cord grasses. In addition, seagrasses absorb wave energy and help stabilize silty bay bottoms. The value of seagrasses was dramatically illustrated during the 1930's when a disease epidemic virtually eliminated eelgrass from the eastern U.S. Atlantic ocean coastline. The number of finfish, shellfish, and waterfowl drastically decreased, threatening their survival. The oyster industry of the Atlantic coast was ruined. Bays became choked with silt and sewage, as new mud flats were formed.

3.2.7 Navigation Channels

3.2.7.1 Definition

Navigation channels include water areas in tidal rivers and bays presently maintained and marked by U.S. Coast Guard with buoys or stakes, as shown on NOAA/National Ocean Survey Charts: 12314, 12312, 12311, 12304, 12318, 12323, 12337, 12337, and 12343. Navigation channels also include channels marked with buoys, dolphins, and stakes, and maintained by the State of New Jersey.

3.2.7.2 Policy

Maintenance dredging of existing navigation channels is encouraged. Development which would cause terrestrial soil and shoreline erosion and siltation in navigation channels shall utilize appropriate mitigation measures. Development which would result in loss of navigability is prohibited.

3.2.7.3 Rationale

Navigation channels are essential for commercial and recreational surface water transportation, especially in New Jersey's back bays where water depths are very shallow. Channels play an important ecological role in providing estuarine circulation and flushing routes, and migration pathways and wintering and feeding habitat for a wide diversity of finfish, shellfish, and waterfowl.

3.2.8 Shipwrecks and Artificial Reefs

3.2.8.1 Definition

This Special Area includes all permanently submerged remains of vessels lying within the ocean waters of the State of New Jersey three mile territorial sea, but outside of Navigation Channels, whether sunk intentionally or unintentionally. Known sites include those shown either on National Ocean Survey (N.O.S.) Charts listed in the definition above of the Navigation Channel Special Area, or listed in: W. Krotee and R. Krotee Shipwrecks Off the New Jersey Coast (1966). Also included in this category are artificial fishing reefs which serve the same natural function as a habitat for living marine resources.

3.2.8.2 Policy

Acceptable uses include recreational and commercial finfishing and shellfishing, scuba diving, research and expansion of artificial reefs by the deposition of additional weighed non-toxic material, provided it can be demonstrated that additional material will not wash ashore, or interfere with either navigation as regulated by U.S. Coast Guard or commercial fishing operations.

Prohibited uses include commercial salvage of wrecks, submarine sand or gravel mining which would destroy ecological or physical stability, and sewage or industrial waste disposal.

3.2.8.3 Rationale

Shipwrecks serve as critical habitat for benthic finfish and lobsters, and other invertebrates which prefer shelter in hard substrates otherwise uncommon in New Jersey's marine waters. These areas function as congregation areas for migratory species and support extensive recreational fishing by private boats, commercial party boats, and commercial lobstering. Shipwrecks are also fragile historic and cultural resources. Scuba diving club members from New Jersey and other states visit these resources.

3.2.9 Marine Sanctuary

3.2.9.1 Definition

A marine sanctuary is a specific geographic area located within ocean waters, from the highest extent of tidal action seaward to the outer edge of the Continental Shelf, which has been designated by the Secretary of Commerce after approval by the President of the United States. Any sanctuary within New Jersey's coastal zone would not become effective if within 60 days of designation the Governor disapproved. Under Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532), a marine sanctuary can be established for the purpose of preserving or restoring marine areas for various values. To date, there are no designated marine sanctuaries within New Jersey. The Office of Ocean Management within NOAA is presently reviewing all recommendations, including those within the Mid-Atlantic states. DEP-OCZM submitted six recommendations to NOAA in 1977, including the Hudson Canyon, Shrewsbury Rocks, Great Bay estuary, shipwrecks, inlets, and offshore sand ridges. Designation of one or more of these areas as marine sanctuaries in New Jersey's nearshore and offshore areas requires joint actions by the Governor of New Jersey and the U.S. Secretary of Commerce, and could take place during 1979.

3.2.9.2 Policy

Management principles in the selected areas will serve to preserve and protect the areas, as well as indicate what actions are not permissible in the area. Non-permissible uses will be dependent on the five basic purposes for designation, which include: habitat areas, species areas, research areas, recreational and esthetic areas, and unique or exceptional areas. After designation, activities not

or restricted, but in general all other uses are allowed. Final policy in marine sanctuaries must be approved jointly by the Governor of New Jersey and the U.S. Secretary of Commerce.

3.2.9.3 Rationale

Certain portions of the Atlantic Ocean and adjacent estuaries are of special national and regional value which could be adversely impacted by development likely to take place in the future, especially activities related to offshore oil and gas development. It is in the long-term interest of the people of the Nation to identify, protect, and manage these special areas.

3.2.10 Beaches

3.2.10.1 Definition

Beaches are gently sloping areas of unconsolidated material, typically sand, that extend landward from the water to the area where a definite change takes place either in material or physiographic form, or to the line of vegetation. The upland limit of beaches is typically defined by the vegetation line or the first cultural feature, such as a road, seawall, or boardwalk. Beaches are divided into the "wet beach", the area at and below the mean high water line, and the "dry beach", the area above the mean high water line. The wet beach area is impressed with the Public Trust Doctrine.

3.2.10.2 Policy

- (a) Unrestricted public access to beaches is encouraged. Coastal development that unreasonably restricts public access to beaches is prohibited
- (b) New, expanded, or rebuilt development, with paving and/or structures, is prohibited on beaches, unless the proposed development is (i) publicly funded and (ii) has no prudent or feasible alternative on a non-beach location.

3.2.10.3 Rationale

Undeveloped beaches are vital to the New Jersey resort economy. Unrestricted access for recreational purposes is desirable so that the beaches can be enjoyed by all residents and visitors of the state. Public access will be required for any beaches obtaining state funds for shore protection purposes. Beaches are subject to coastal storms and erosion

from offshore currents. Public health and safety considerations require that structures be excluded from beaches to prevent or minimize loss of life or property from storms and floods, except for some shore protection structures and linear facilities, such as pipelines, when non-beach locations are not prudent or feasible. Wet sand beaches have been designated a Geographic Area of Particular Concern (GAPC) under the federal Coastal Zone Management Act.

3.2.11 Coastal Wetlands

3.2.11.1 Definition

Coastal Wetlands are low-lying marsh, swamp, meadow and flat land areas subject to tidal action as delineated by DEP on official maps at a scale of 1:2,400 (1 inch = 200 feet) listed at N.J.A.C. 7:7A-1.13. Coastal Wetlands extend beyond the Bay and Ocean Shore Region along the Delaware River and its tributaries and along the Raritan Bay, but do not extend north of the Raritan Bay.

3.2.11.2 Policy

- (a) In general, development of all kinds is discouraged in wetlands, unless DEP can find that the proposed development meets the following four standards (see N.J.A.C. 7:7A-1.5 and 1.7):
 - (i) Requires water access or is water oriented as a central purpose of the basic function of the activity (this policy applies only to development proposed on or adjacent to waterways),
 - (ii) Has no prudent or feasible alternative on a non-wetland site,
 - (iii) Will result in minimum feasible alteration or impairment of natural tidal circulation, and
 - (iv) Will result in minimum feasible alteration or impairment of natural contour or the natural vegetation of the wetlands.
- (b) In particular, dumping solid or liquid wastes and applying or storing certain pesticides on wetlands are prohibited (see N.J.A.C. 7:7A-1.2).
- (c) Under State law, the activities of the State Mosquito Control Commission and county mosquito control commissions are exempted from the coastal wetlands policy (a) above.

3.2.11.3 Rationale

The environmental values, and fragility of coastal wetlands have been officially recognized in New Jersey since the passage of the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq.) Coastal wetlands are undoubtedly the most environmentally valuable land areas within the coastal zone.

Coastal wetlands contribute to the physical stability of the coastal zone by serving as: (a) a transitional area between the forces of the open sea and upland areas by absorption and dissipation of wind driven storm waves and storm surges, (b) flood water storage areas, thus reducing inland damage, and (c) sediment and pollution traps. Also, wetlands perform naturally the wastewater treatment process of removing phosphorous and nitrogenous water pollutants, unless the wetlands are stressed.

The biological productivity of New Jersey's coastal wetlands is enormous and critical to the function of estuarine and marine ecosystems. The emergent cord grasses and associated algae mats convert inorganic nutrients into organic vegetative material through the process of photosynthesis which is the critical basis for estuarine and marine food webs. The primary biological productivity of New Jersey's coastal wetlands is greater than that of terrestrial corn and wheat fields on a per acre basis. However, this value was not widely known and was formerly overlooked. The principal direct dietary beneficiaries of organic wetland detritus are bacteria and protozoan, which are in turn fed upon by large invertebrates. Important finfish, shellfish, and waterfowl and other resources feed upon these invertebrates. New Jersey's Coastal Wetlands are prime wintering habitat annually for hundreds of thousands of migratory waterfowl. Approximately two-thirds of marine finfish and shellfish are known to be estuarine and, therefore, wetlands-dependent.

DEP encourages both the restoration of degraded wetlands as a mitigation measure for certain types of approved wetlands development and the creation of new wetlands in non-sensitive areas. The Division of Marine Services has previously required restoration of temporarily disturbed wetlands and will continue to do so in a case-by-case basis. The construction of new vegetated wetlands is a highly technical activity requiring a great degree of precision and understanding of the estuarine system.

3.2.12 High Risk Beach Erosion Area

3.2.12.1 Definition

High Risk Beach Erosion Areas are ocean shorelines that are eroding and/or have a history of erosion, causing them to be highly susceptible for further erosion and damage from storms. High Risk Beach Erosion Areas may be identified by any one of the following characteristics:

- (a) Lack of beaches
- (b) Lack of beaches at high tide
- (c) Narrow beaches
- (d) High beach mobility
- (e) Foreshore extended under a boardwalk
- (f) Low dunes or no dunes
- (g) Escarped foredune
- (h) Gaps in dune fields
- (i) Steep beach slopes
- (j) Cliffed bluffs adjacent to beach
- (k) Insufficient dune or bluff vegetation
- (l) Exposed, damaged or breached jetties, groins or seawalls
- (m) High long-term erosion rates
- (n) Pronounced downdrift effects of groins (jetties)

High Risk Beach Erosion Areas extend inland to the first cultural feature, established dune field, or area likely to be eroded in less than 50 years, whichever is the shortest distance, and include overwash areas where sand is carried over and through dunes during storm surges.

3.2.12.2 Policy

- (a) Development in High Risk Beach Erosion Areas is prohibited, except for shore protection measures that satisfy the Use Policies for Shore Protection (see Section 4.0) and the Special Area Policy on Dunes (See Section 3.2.13).
- (b) Development in areas adjacent to High Risk Beach Erosion Areas that would contribute to further beach erosion updrift (depending upon the direction of littoral drift) is prohibited.

3.2.12.3 Rationale

As a result of continuing rising sea levels and active storm-induced sand movement and offshore currents (littoral drift), the Atlantic coastline of New Jersey is a retreating shore. Coastal erosion

also affects the bayshores of New Jersey. The rate of retreat, or erosion, is not uniform, and varies locally depending upon the nature and magnitude of coastal processes operating within individual parts of the shoreline. Certain parts of the shoreline have a higher risk for further erosion. Development other than restoration measures should be sharply restricted in these areas in order to protect public safety and prevent loss of life and property.

In 1977, The Center for Coastal and Environmental Studies at Rutgers University completed a study commissioned by DEP-OCZM, entitled, Coastal Geomorphology of New Jersey, which analyzed the problems of shoreline erosion, classified the shoreline and identified thirteen specific examples of high risk erosion areas:

1. Cumberland County - Delaware Bay Shore (developed portions along bayshore)
2. Middle Township (developed portions of bayshore), Cape May County
3. Cape May City
4. Northern Wildwood (where Hereford Inlet fronts beach)
5. Strathmere (Putnam Avenue to end of developed island)
6. Ocean City (3rd St. to 18th St.)
7. Ocean City (E. Atlantic Blvd. to Newcastle Rd.)
8. Atlantic City (where Absecon Inlet fronts beach, Oriental Ave. to Parkside)
9. Barnegat Light (8th to 4th St.)
10. Loch Arbour to Elberon
11. Long Branch
12. Sea Bright and Monmouth Beach
13. Raritan Bay (developed portions along bayshore)

In addition, the southern half of Sea Isle City can be considered a High Risk Beach Erosion Area after the winter storms of 1978.

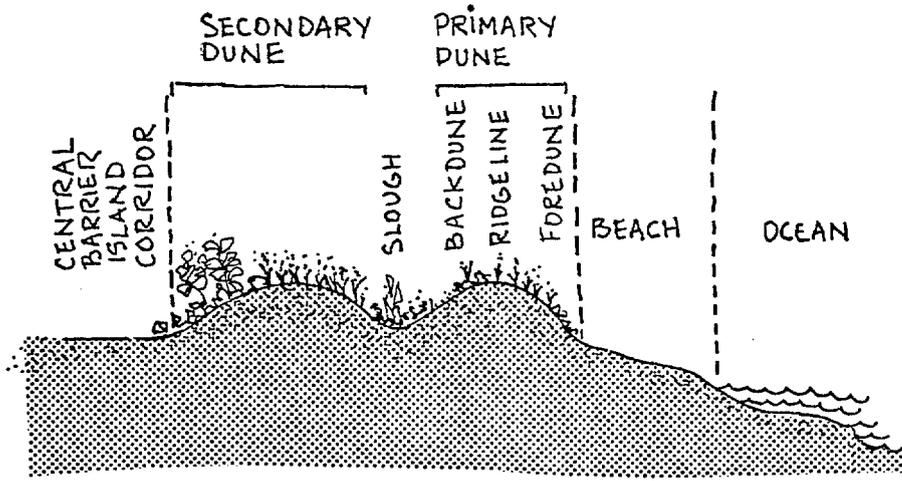
Overwash is one of several basic mechanisms by which barrier islands naturally migrate landwards over decades, in addition to the creation of inlets and migration of dunes. Overwash areas indicate a clear risk of further beach erosion.

3.2.13 Dunes

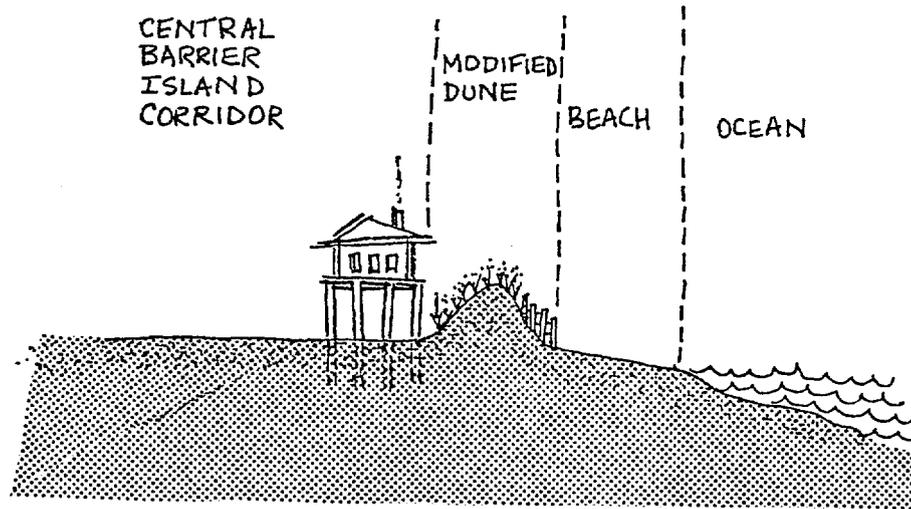
3.2.13.1 Definition

Dunes are formations of partially stabilized, vegetated, drifting sand roughly paralleling and upland from the beaches on ocean and bay shores. The

Figure 5



NATURAL DUNES



DEVELOPED DUNES

inland limit of dunes is defined topographically. Typically, the land surface rises above a beach as a foredune, flattens on a ridge line, and then falls as a back dune. This is the primary dune. Sometimes the surface rises and falls again one or more times, creating secondary or tertiary dunes. The term dune includes all areas between the inland limit of the dry, sandy beach and the foot of the most inland dune slope. Two types of dune areas exist along the New Jersey shoreline: natural dunes and developed dunes. Natural dunes modified, but not totally destroyed by man, are defined as "developed dunes" (See Figure 5).

3.2.13.2 Policy

- (a) Development on dunes is prohibited with the exception of the construction of very limited pedestrian walkways which do not unreasonably damage the structure of the dunes, such as pathways supported above the dune surface.
- (b) Development that destroys dunes must restore and revegetate the natural dune area, based on a long range plan for the area.
- (c) The stabilization of existing dunes and the creation of new dunes compatible with natural beach profiles are encouraged.
- (d) Development adjacent to High Risk Beach Erosion Areas and developed dunes is conditionally acceptable provided that the dune form and volume are adequate to protect the proposed inland development.

3.2.13.3 Rationale

Dunes serve as valuable physical storm wave protection, wildlife habitat, aesthetic and educational resources. The number and extent of dunes and barrier beach vegetation have diminished along New Jersey's Atlantic coastline, due largely to extensive and intensive development on barrier islands. Most of New Jersey's dunes are located either in publicly-owned areas such as Sandy Hook (Gateway National Recreation Area), Island Beach State Park, Little Beach in the Brigantine National Wildlife Refuge, and Higbee Beach in Cape May County (proposed for state acquisition), as well as adjacent to the developed parts of barrier island. Additional small but significant remaining dune areas are in public ownership at Sea Girt at the State Police Academy, Ocean Crest State Park (undeveloped) at Ocean City, Strathmere Natural Area at Corson's Inlet, and Cape May Point State Park. Avalon has a 10 block stretch of primary and secondary dunes with thick, mature barrier island vegetation.

3.2.14 Central Barrier Island Corridor

3.2.14.1 Definition

The Central Barrier Island corridor is that portion of barrier islands and spits or peninsulas (narrow land areas surrounded by both bay and ocean waters and connected to the mainland) that lies upland and between the Coastal Wetlands, Beaches, Retained Water's Edge and Filled Water's Edge areas that line the ocean and bay sides of a barrier island or spit. The Central Barrier Island Corridor excludes Dunes Special Area and begins at the foot of the most inland slope of Dunes. The Central Barrier Island Corridor also excludes wash-over areas. Central Barrier Island Corridor does not apply to the headlands of northern Ocean County, Monmouth County, and the tip of Cape May County, which are part of the mainland (See Figure 6).

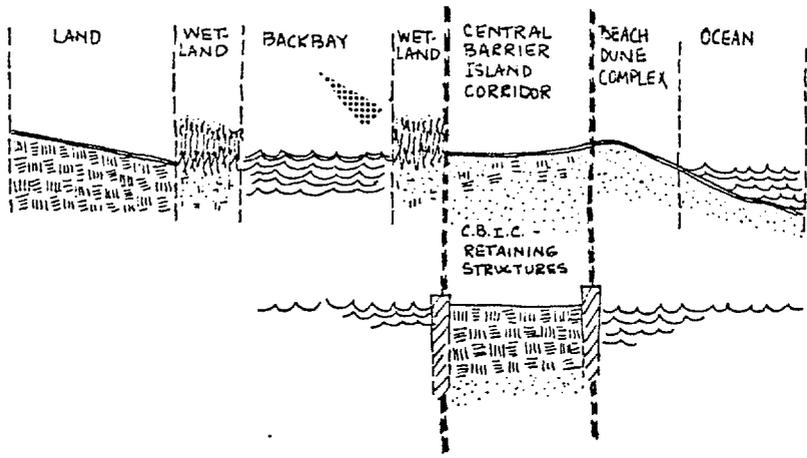
3.2.14.2 Policy

New or expanded development within the Central Barrier Island Corridor is conditionally acceptable provided that the criteria for High Development Potential are met, as defined in the policy for Land Areas (see Section 3.5.5). The acceptable density of new development shall be determined using the high-rise policy for residential structures.

3.2.14.3 Rationale

All of New Jersey's barrier islands and spits, except for Pullen Island in the Brigantine National Wildlife Refuge, are developed to varying degrees, largely as a result of incremental decisions made beginning more than one hundred years ago. Because the public facilities (roads and utilities) necessary to support urban and resort development already exist, and should be protected on New Jersey's barrier islands, and because development pressure is intense on barrier islands, the acceptability for development is to be determined by the Location Policy's criteria for residential development on Land Areas. Use of the high development potential criterion will generally accept infill projects and discourage extensions of development on barrier islands and spits. The high-rise policies will limit sharp increases in density on the presently developed islands.

The policy recognizes the diversity of New Jersey's barrier islands, from Absecon Island with the resort city and urban center of Atlantic City to Long Beach Island with largely single-family seasonal homes.



CENTRAL BARRIER ISLAND CORRIDOR - CROSS-SECTION

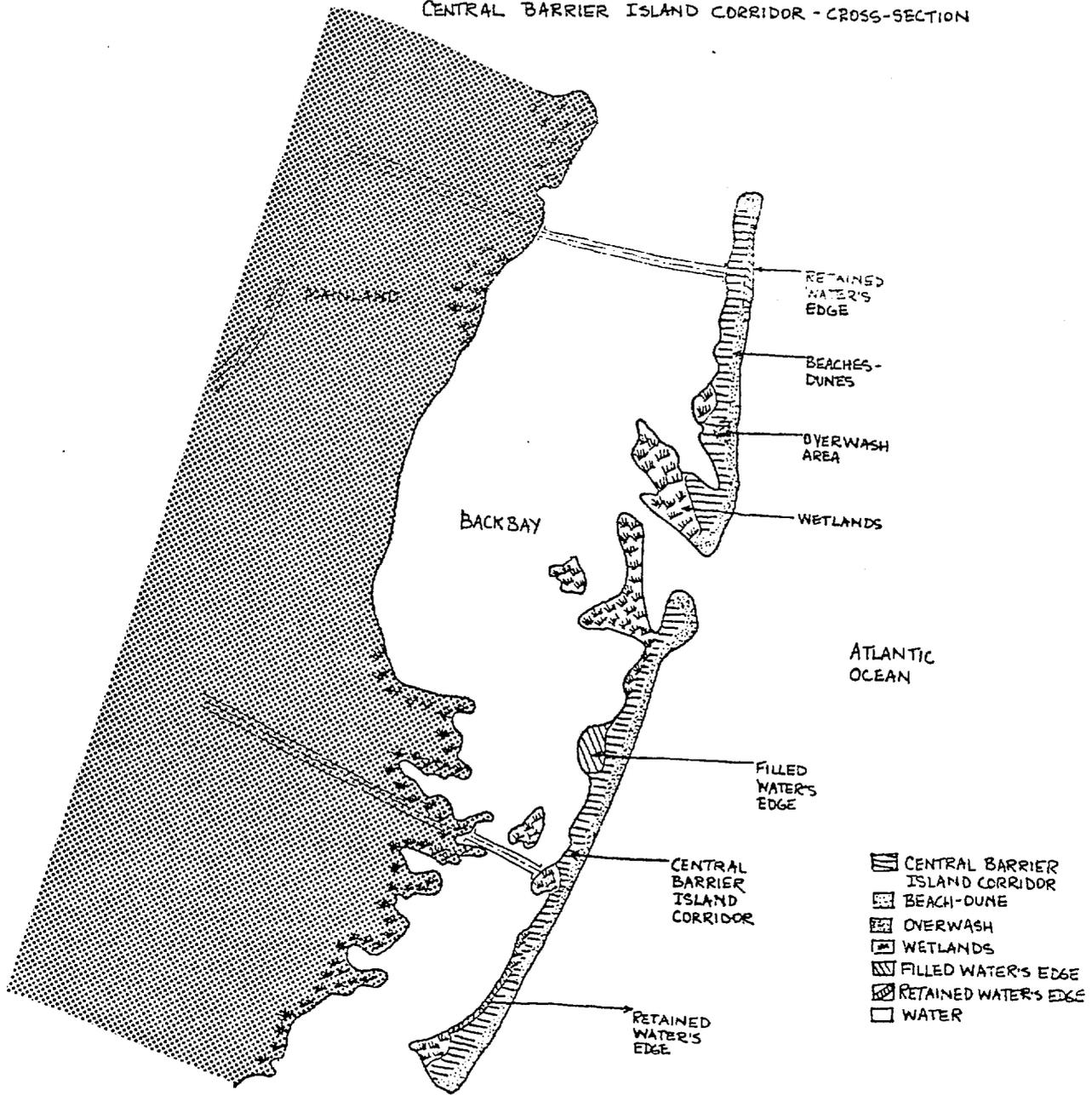


FIGURE 6. CENTRAL BARRIER ISLAND CORRIDOR

Implementation of the policy is expected to reinforce the existing character of New Jersey's developed barrier islands and not add appreciably to the public service costs and emergency evacuation (in times of hurricanes) problems of these islands.

3.2.15 Historic Resources

3.2.15.1 Definition

Historic resources include objects, structures, neighborhoods, districts, and man-made or man-modified features of the landscape, including archaeological sites, which either are on or are eligible for inclusion on the State or National Register of Historic Places. The criteria for eligibility are defined by the U.S. Department of Interior, Heritage Conservation and Recreation Service.

3.2.15.2 Policy

- (a) Development that detracts from, encroaches upon, damages, or destroys the value of historic resources is discouraged, unless it causes minimal practicable degradation of the resource.
- (b) Development that incorporates historic resources in adaptive reuse is encouraged.
- (c) Scientific recording and/or removal of the historic resources or other mitigation measures must take place, if the proposed development would irreversibly and/or adversely affect historic resources.

3.2.15.3 Rationale

The range of historic resources along the coast is broad and diverse, from the oceanfront Victorian "gingerbread" architecture, to examples of New Jersey's maritime heritage, to colonial homes, to Indian artifacts. The public interest requires the preservation of both representative and unique examples of historical and archaeological (cultural) resources of the coast, in order to provide present and future generations with a sense of the people, who lived, worked, and visited the coast in the past. DEP's Office of Historic Preservation maintains an up-to-date list of properties on the New Jersey State Register of Historic Places (N.J.S.A. 13:1B-15.128 et seq.) and the National Register of Historic Places. As the State Historic Preservation Officer, the Commissioner of DEP, and staff of DEP's

Office of Historic Preservation and Office of Environmental Review advise DEP's Division of Marine Services on the historic resources aspects of coastal decisions.

3.2.16 Specimen Trees

3.2.16.1 Definition

Specimen trees are the largest (diameter at 4.5 feet above ground) known individual trees of each species in New Jersey as listed by DEP-Bureau of Forestry (see New Jersey Outdoors, September-October 1977 for a listing of specimen trees). A specimen tree site is the area directly beneath the crown, also known as the drip line. In addition, large trees approaching the diameter of the known largest tree shall be considered Specimen Trees.

3.2.16.2 Policy

Development is prohibited that would significantly reduce the amount of light reaching the crown, alter drainage patterns within the site, adversely affect the quality of water reaching the site, cause erosion or deposition of material in or directly adjacent to the site, or otherwise injure the tree. The site of the tree extends to the outer limit of the buffer area necessary to avoid adverse impacts, or 50 feet from the tree, whichever is less.

3.2.16.3 Rationale

Many interested citizens have assisted DEP, over decades, in locating specimen trees. This process includes reporting large trees that can be considered specimens even though they may not be the largest in New Jersey of a species. Specimen trees are an irreplaceable scientific resource. Often these trees have also been associated with historical events.

3.2.17 White Cedar Stands

3.2.17.1 Definition

Low lying areas supporting Atlantic White Cedars (*Chamaecyparis thyoides*), where white cedars compose a significant percentage of stems within a given area. Generalized location maps of white cedar stands can be found in J. McCormick and L. Jones, The Pine Barrens Vegetation (1973), and forest type maps within the N.J. Bureau of Forestry.

3.2.17.2 Policy

Development that adversely affects White Cedar Stands is prohibited.

3.2.17.3 Rationale

White cedar stands, as well as other lowland swamp forests, play an important role in purifying water in coastal streams, retarding runoff, providing scenic value, and serving as a rich habitat for many rare and endangered plant and animal species, as well as game species, such as deer. White cedars also act as forest fire breaks. White cedar stands most commonly occur in flood plains and in the fringe areas of drainage ways and bogs, which are frequently underlain with saturated organic peat deposits. This material is particularly unsuited for development unless highly altered. Many of these locations are Natural Water's Edge Areas.

White cedar is New Jersey's most valuable timber species and grows in discrete stands. The wood has a long tradition of maritime and local craft uses. Unfortunately, white cedars have been eliminated from much of their previous range in New Jersey.

3.2.18 Endangered or Threatend Wildlife or Vegetation Species Habitats

3.2.18.1 Definition

Land, Water's Edge, or Water Areas known to be the habitat of any wildlife (fauna) or vegetation (flora) identified as "endangered" or "threatened" species on official federal or state lists of endangered or threatened species are considered a special area. The definition also includes a sufficient buffer area to insure continued survival of the species. DEP intentionally restricts dissemination of data showing the geographic distribution of these species habitats, in order to protect the habitats.

3.2.18.2 Policy

Development that would adversely affect the habitats of endangered or threatened species is prohibited. DEP will review proposals on a case-by-case basis.

3.2.18.3 Rationale

Endangered and threatened species are organisms which are facing possible extinction in the immediate future due to loss of suitable habitat, past over-exploitation through human activities or natural

causes. Extinction is an irreversible event and represents a loss to both future human use, education research and to the interrelationship of all living creatures with the ecosystem.

At present (1978), the official list of endangered wildlife (fauna) species in New Jersey, available from DEP, Division of Fish, Game and Shellfisheries (see N.J.A.C. 7:25-11.1), includes the following species: Shortnose sturgeon, Blue-spotted salamander, Eastern tiger salamander, Bog turtle, Bald Eagle, Peregrine Falcon, Osprey, Cooper's Hawk, and Indiana Bat, as well as various marine mammals and marine reptiles. Additional species have threatened status. At present (1978), no official state or federal list exists of endangered or threatened vegetation (flora) species, although the Smithsonian Institution did in 1975 submit a report to the U.S. Fish and Wildlife Service identifying fifteen species of New Jersey plants for consideration for adoption on federal lists (see 40 FR 27863-27864, July 1, 1975).

3.2.19 Critical Wildlife Habitats

3.2.19.1 Definition

Critical Wildlife Habitats are specific areas known to serve an essential role in maintaining wildlife (fauna), particularly in wintering, breeding, and migrating. Rookeries for colonial nesting birds such as herons, egrets, ibis, terns, gulls, and skimmers, stopovers for migratory birds, such as the Cape May Point region, and natural corridors for wildlife movement merit a special management approach through designation as a Special Area. Ecotones, or edges between two types of habitats, are a particularly valuable Critical Wildlife Habitat. Many Critical Wildlife Habitats, such as salt marsh water fowl wintering areas, and muskrat habitats, are singled out as Water or Water's Edge Areas.

3.2.19.2 Policy

Development that would adversely affect Critical Wildlife Habitats is discouraged, unless: (a) minimal feasible interference with the habitat can be demonstrated, (b) there is no prudent or feasible alternative location for the development, and (c) the proposal includes appropriate mitigation measures. DEP will review proposals on a case by case basis.

3.2.19.3 Rationale

The State of New Jersey, as custodian of a particular portion of the national wildlife heritage, has the obligation of stewardship on behalf of the people of the state and nation to perpetuate wildlife species within its borders for the use, education, research, and enjoyment by future generations.

3.2.20 Public Open Space

3.2.20.1 Definition

Public Open Space constitute land areas owned and maintained by state, federal, county and municipal agencies or non-profit private groups (such as conservation organizations and homeowner's association) and dedicated to conservation of natural resources, public recreation, or wildlife protection or management. Public Open Space also includes State Forests, State Parks, and State Fish and Wildlife Management Areas and designated Natural Areas (N.J.S.A. 13:1B-15.12a et seq.) within DEP-owned and managed lands.

3.2.20.2 Policy

- (a) New or expanded public or private open space development is encouraged at locations compatible or supportive of adjacent and surrounding land uses.
- (b) Development that adversely affects existing public open space is discouraged.
- (c) Development within existing public open space, such as campgrounds and roads, is conditionally acceptable, provided that the development complies with the Coastal Resource and Development Policies and is consistent with the character and purpose of the public open space.

3.2.20.3 Rationale

As the rapid urbanization of New Jersey continues and leisure time increases, open space will play an increasingly important role in maintaining a desirable living environment for the residents of New Jersey. Even though the supply of open space has decreased under the growing pressure for development, the State's expanding population will require more public open space to satisfy its needs.

Not only is open space the basic resource for recreation facility development, it also performs other worthwhile functions. Open space can create public spaces in densely settled areas, shape urban growth, provide buffers for incompatible uses, retain contiguous farmland, insure the preservation of wildlife corridors, increase the economic value of adjacent land, and preserve distinct architectural, historic, and geologic sites.

The distribution of open space should not only be centered around the preservation of unique areas, but must also respond to the needs of people. Where possible, open spaces should be contiguous both visually and physically to promote a sense of continuity and to afford users continued movement through the public open spaces.

3.2.21 Steep Slopes

3.2.21.1 Definition

Steep slopes are areas with slopes greater than 10%.

3.2.21.2 Policy

- (a) Development on steep slopes greater than 15% is prohibited, unless the regrading of a very small part of a site is essential to the overall landscaping plan for the site, in which case the grading shall be done to less than a 10% slope.
- (b) Development on steep slopes between 10-15% is discouraged, unless:
 - (i) limited stabilization structures and measures, such as terracing and paving, are consistent with the natural character of the site, to the maximum extent practicable,
 - (ii) The design of the development is compatible with the slope characteristics of the site in visual, physical, and engineering terms,
 - (iii) minimal feasible site disturbance and maximum practicable revegetation take place.

3.2.21.3 Rationale

Only a few Steep Slopes Areas exist in the relatively flat Coastal Plain of New Jersey. Steep slopes occur in the Bay and Ocean Shore Region along

certain tributaries of the Delaware River, and the Raritan River, in the northeastern portion of Monmouth County known as the Highlands, which is bounded by Sandy Hook Bay and the Navesink River. Slope maps are available from NJDEP/OCZM based on U.S.G.S. Topographic Quadrangle sheets (1:24,000 scale). Isolated steep slope areas are also found near headwaters of coastal streams.

Preservation of steep slopes controls soil erosion, protects up-slope lands, minimizes pollution surface waters, and reduces flooding. When vegetation is stripped, rainfall strikes surface soils causing soil particle movement through surface water flow and gravity, which result in increased surface runoff and downstream flooding. When this silty water enters a surface water body, increased turbidity and sedimentation usually follow which can cause reduction of productivity and flood water storage capacity. Aesthetics are also affected when erosion occurs and topsoil is lost.

3.2.22 Farmland Conservation Areas

3.2.22.1 Definition

Large, contiguous areas of 20 acres or more (in single or multiple tracts) with soils of classifications in the Capability Classes I, II and III as mapped by the U.S. Department of Agriculture, Soil Conservation Service, in National Cooperative Soil Surveys, and Special Soils for Blueberries and Cranberries, which are actively farmed, suitable for farming, or forested, and located in Cape May, Cumberland or Salem Counties are defined as Farmland Conservation Areas. The Farmland Conservation Areas should not be confused with the Farmland Preservation Demonstration Project in Burlington County.

3.2.22.2 Policy

- (a) Farmland Conservation Areas shall be maintained and protected for open space or farming purposes to the maximum extent practicable.
- (b) Continued, renewed, or new farming is encouraged in Farmland Conservation Areas.
- (c) Conversion of Farmland Conservation Areas to development is acceptable only when the predominant surrounding pattern of development is urban or suburban and continued, renewed, or new farming is likely to produce unacceptable urban-agricultural conflict.

3.2.22.3 Rationale

Farmland Conservation Areas are an irreplaceable natural resource essential to the production of food and fiber, particularly in the "Garden State." Conservation of large, contiguous areas of these lands for farming serves both private and public interests, particularly in terms of ready access to locally-grown food, jobs and open space preservation. At the same time, the policy here recognizes the desirability of minimizing conflicts between farm and urban areas.

Only the three southern counties within the Bay and Ocean Shore Region have significant Farmland Conservation Areas located in a manner generally compatible with present or future farming. In Cape May County, approximately 39.8% of the county's soils qualify as Capability Classes I and II (including areas outside of the coastal zone boundary). Some of these irreplaceable soil resources have already been converted to urban uses. Other areas which are of a sufficiently large scale to make farming feasible should be reserved for farming purposes, provided that rural-urban conflicts are minimized.

3.2.23 Bogs and Freshwater Wetlands

3.2.23.1 Definition

Bogs and freshwater wetlands are local, natural or man-made, vegetated undrained topographic depressions with the seasonal high water table at surface, fed by groundwater, usually underlain with peat and other organic material. Water in bogs is acidic, nearly free of dissolved nutrients.

3.2.23.2 Policy

Development that would adversely affect the natural functioning of the bog or ephemeral pond environment is prohibited.

3.2.23.3 Rationale

Bogs, while limited in extent in the Bay and Ocean Shore Region, are the habitat for many rare and endangered species of plants and animals. Bogs are inappropriate development sites due to poor drainage and load bearing capacity of the underlying soils. Bogs also assist in flood control.

3.2.24 Ephemeral Stream Corridor

3.2.24.1 Definition

The Ephemeral Stream Corridor is the area adjacent to an ephemeral or intermittent stream, as indicated on USGS topographic quadrangles or National Cooperative Soil Survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service, that has a depth to seasonal high water table of less than or equal to one foot.

3.2.24.2 Policy

Coastal development that would adversely affect the natural functioning of Ephemeral Stream Corridors is prohibited. In particular, paving, filling, effluent discharge, vegetation disturbance, and disturbance of drainage patterns are prohibited.

3.2.24.3 Rationale

Ephemeral Stream Corridors serve vital functions in the water cycle of the coastal ecosystem. These areas serve as groundwater discharge areas that help maintain the quality of the water regimen of streams, and directly protect the quality of coastal waters. Ephemeral Stream Corridors may only be approximately depicted using USGS or SCS maps. Site surveys may well be required.

3.2.25 Special Hazard Areas

3.2.25.1 Definition

Special Hazard Areas include areas with a known actual or potential hazard to public health, safety, and welfare, or to public or private property, such as the navigable air space around airports and potential evacuation zones around major industrial and energy facilities.

3.2.25.2 Policy

Coastal development that would increase the potential danger of Special Hazard Areas is discouraged, unless appropriate mitigating measures are adopted.

3.2.25.3 Rationale

Management of the coastal zone requires a concern for development that would directly or indirectly increase potential danger to life and property. Mitigating measures such as height limits near airports and evacuation plans for industrial facilities may adequately address the concern in this area.

3.2.26 Excluded Federal Lands

3.2.26.1 Definition

Excluded Federal Lands are those lands that are owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the United States of America, its officers or agents, and are excluded from New Jersey's Coastal Zone as required by the federal Coastal Zone Management Act.

3.2.26.2 Policy

Federal actions on Excluded Federal Lands that significantly affect the coastal zone (spillover impacts) shall be consistent with the Coastal Resource and Development Policies, to the maximum extent practicable.

3.2.26.3 Rationale

While the federal Coastal Zone Management Act requires that federal lands be excluded from a state's coastal zone, it is important that New Jersey's Coastal Resource and Development Policies explicitly note the location of these special areas in order that the spillover impacts of actions in these areas may be properly evaluated.

3.2.27 Borrow Pits

3.2.27.1 Definition

Borrow pits are topographic depressions resulting from the extraction of unconsolidated sediments. They may be wet or dry depending on whether the extraction extends below the water table.

3.2.27.2 Policy

- (a) The conservation of wet borrow pits is encouraged for water amenity and wildlife habitats provided that:
 - (i) Unstabilized slopes at the water's edge are not more than 1:3 and are planted with adapted vegetation.
 - (ii) Slopes greater than 1:3 are stabilized with either rip-rap or bulkheads of environmentally suitable materials.

- (iii) Unstabilized slopes are maximized and stabilized slopes minimized to the maximum extent practicable.
- (b) The use of borrow pits as detention areas for runoff is acceptable provided that the applicant can demonstrate:
 - (i) That the input of nutrients to well borrow pits will not cause eutrophication to standing water.
 - (ii) That the input of other contaminants will not cause unacceptable surface or ground water degradation.
 - (iii) That the percolation rate can accommodate peak storm runoff or that an overflow is provided that satisfies the runoff policy.

If these conditions cannot be met, site grading shall be used to direct surface runoff away from borrow pits.

- (c) Extensive filling of large wet borrow pits is discouraged.
- (d) Filling of small wet borrow pits, areas of large wet borrow pits, and dry borrow pits is acceptable providing:
 - (i) The fill sediments are non-toxic and of a sediment size suitable for proposed uses. Some dredge spoil sediments could satisfy this condition.
 - (ii) That impacts on surrounding ground and surface water movement are acceptable.
- (e) Dry borrow pits may be acceptable as solid waste landfill sites providing:
 - (i) The fill is chemically inert or if the fill is chemically active that the pit is lined and the leachate collected and treated before release to ground or surface water.
 - (ii) That impacts on surrounding ground or surface water movement are acceptable.
 - (iii) The fill is compatible with surrounding land uses.

3.2.27.3 Rationale

Borrow pits are man-made land forms that offer special opportunities and constraints to development and therefore merit special policies, rather than being included in the Land Areas policy. Lakes and ponds of varying depth and area form in pits where extraction has cut through the water table. These lakes are valuable as open space and wildlife habitats. These lakes should be incorporated into recreation or residential developments. Wet pits often require special development and management practices to preserve their open space value. Surrounding slopes may be steep and liable to slump and erosion. Stabilization may be required.

Borrow pit lakes typically have little or no flow, being fed only from ground water, and are very sensitive to inputs of nutrients, heavy metals, pesticides, petrochemical wastes and other contaminants. There is little or no flushing to remove contaminants. Evaporation tends to concentrate even small inputs over a period of time. Eutrophication and biomagnification of toxicity are particular problems. If wet borrow pits are used as runoff detention areas, therefore special care is needed to maintain water quality.

Large wet borrow pits have high amenity and habitat value and should be preserved where possible. Small wet borrow pits and dry pits may, however, unreasonably obstruct optimum site plans. In these cases, filling may be acceptable providing the fill is clean and offers sufficient load bearing capacity for the proposed use. Also, the surrounding hydrologic systems must not be unacceptably disturbed. Filling these areas offers an opportunity for land disposal of some dredge spoils.

The disposal of solid waste in the coastal area is a growing problem. The type of waste varies widely, with building rubble, domestic and industrial waste and the less usable sediments from dredging operations all requiring disposal. Dry borrow pits offer disposal opportunities if the filling is compatible with surrounding uses and the chemical, biological and physical impacts of the fill and leachate can be contained and mitigated.

3.3 Water Areas

3.3.1 General Definition of Water Areas

Areas below the mean high water line, including intertidal areas, and nontidal permanent surface water features are classified as "Water Areas". Water Areas include various specific types of basins and channels.

3.3.2 General Policy on Uses of Water Areas

The location policy for coastal Water Areas varies according to the depth of the water basin, flow of the water channel, and proposed use of the water areas. For this reason, specific water basin and water channel types and specific uses of water areas are defined below. Specific coastal policies are articulated in a Water Acceptability Table for specific uses, considering both the advantages and disadvantages (sensitivity and development potential) of various types of locations, using the Coastal Location Acceptability Method (CLAM). In addition to the Water Areas policies presented here, proposed coastal development must also comply with applicable state and federal surface and ground water quality statutes and regulations.

3.3.3 General Rationale for Water Areas Policy

The sensitivity of water areas to environmental impacts depends primarily on the assimilative capacity of the specific water area. Assimilative capacity indicates the amount of adverse impact or pollutants that a water body can absorb and neutralize before it begins to display a significant reduction in biological diversity, chemical, or physical water quality. Two factors -- water volume and flushing rate (the rate that water in a channel or basin is replaced) -- are used in CLAM to determine the approximate assimilative capacity of water basins and water channels respectively. Other factors may also be important in reaching a specific decision. Water volume depends upon the surface area and depth of a water body. The Location Policy for Water Areas considers flushing rate in terms of six types of water channels and two types of bays.

3.3.4 Water Acceptability Table

The Water Acceptability Table indicates the Coastal Management Program's location policy toward the introduction of the various uses into each of the coastal water body types. This table uses the following key:

P = The use is prohibited (except in areas where the State of New Jersey has conveyed a riparian grant, in which case the use is discouraged, although a waterfront development permit is required for use of the water area).

WATER ACCEPTABILITY TABLE

| Key | Ocean | | Open Bay | | | Semi-Enclosed and Back Bay | | | Inland Basin | Man-Made Harbor | Large Rivers | Medium Rivers Creeks & Streams | | Intermittent Streams | Guts | Inlets | Canals | |
|---------------------------|-------|----------|----------|----------|---------|----------------------------|----------|---------|--------------|-----------------|--------------|--------------------------------|---------|----------------------|------|--------|--------|---|
| | 18'+ | 0' - 18' | 18'+ | 6' - 18' | 1' - 6' | 18'+ | 6' - 18' | 1' - 6' | 6'+ | 1' - 6' | 0' - 1' | 6'+ | 1' - 6' | 0' - 1' | | | | |
| 1. Aquaculture | C | C | C | C | C | C | C | / | C | P | C | C | C | / | / | D | P | P |
| 2. Boat Ramps | / | C | / | C | C | C | C | C | C | E | D | D | C | C | D | C | C | D |
| 3. Retaining Structures | D | D | D | D | D | D | D | D | D | D | D | D | D | D | D | D | D | D |
| 4. Docks and Piers | D | C | D | C | C | C | C | C | D | E | E | C | C | C | / | C | D | D |
| 5. Dredging-Maintenance | / | / | C | C | C | C | C | / | P | E | C | C | C | / | / | C | E | E |
| 6. Dredging-New | D | P | D | D | D | D | D | D | P | D | D | D | D | D | / | D | D | C |
| 7. Spoil Disposal | C | C | P | P | C | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 8. Dumping | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 9. Filling | / | D | / | P | D | P | D | D | P | P | D | D | D | P | P | D | P | P |
| 10. Piling | D | C | D | C | C | C | C | C | D | C | C | C | C | C | / | C | C | D |
| 11. Mooring | P | P | D | D | C | C | C | / | P | C | C | C | C | / | / | C | D | D |
| 12. Sand and Gravel | C | P | P | P | P | P | P | P | P | P | C | C | P | / | / | P | C | P |
| 13. Bridges | / | / | D | D | D | D | D | D | P | P | C | C | C | C | C | C | D | C |
| 14. Cable Routes | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | D | D | D |
| 15. Overhead Lines | / | / | P | P | P | P | P | P | P | P | D | C | C | C | C | C | P | P |
| 16. Pipeline Routes | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | D | C |
| 17. Dams and Impoundments | / | / | / | / | / | P | D | D | / | / | P | D | D | D | P | P | P | P |
| 18. Pipes | C | D | C | C | D | C | C | D | C | C | C | C | D | D | D | C | D | C |
| 19. Miscellaneous | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C | C |

D = The use is discouraged

C = The use is conditionally acceptable, subject to the conditions identified in the next section

E = The use is encouraged

/ = The use is impractical

The rationale for the policies is provided by waterbody type in Section 3.3.6.

3.3.5 Definitions of Water Body Types

The water areas of the coastal zone have been classified into twelve water body types, as defined below. Some Special Area policies, such as Navigation Channels, also apply to Water Areas. In addition, some water body types are further classified according to the depth of the water body type, or its bathymetry (see Figure 7).

3.3.5.1 Ocean

This basin type has two depth levels (0'-18' and 18'+) and includes all areas of the Atlantic Ocean out to the limit of New Jersey's territorial sea, three nautical miles from the shoreline. The ocean extends from the marine boundary with the State of New York in Raritan Bay and Sandy Hook Bay south to the marine boundary with the State of Delaware in Delaware Bay, near Cape May Point.

3.3.5.2 Open Bay

This basin type has three depth levels (0'-6', 6'-18', and 18'+) and is defined as a large, somewhat confined estuary with a wide unrestricted inlet to the ocean and with a major river mouth discharging directly into its upper portion. Delaware Bay, Raritan Bay, Sandy Hook Bay, and Upper New York Bay are the only representatives of this water body type in New Jersey.

3.3.5.3 Semi-enclosed and Back Bay

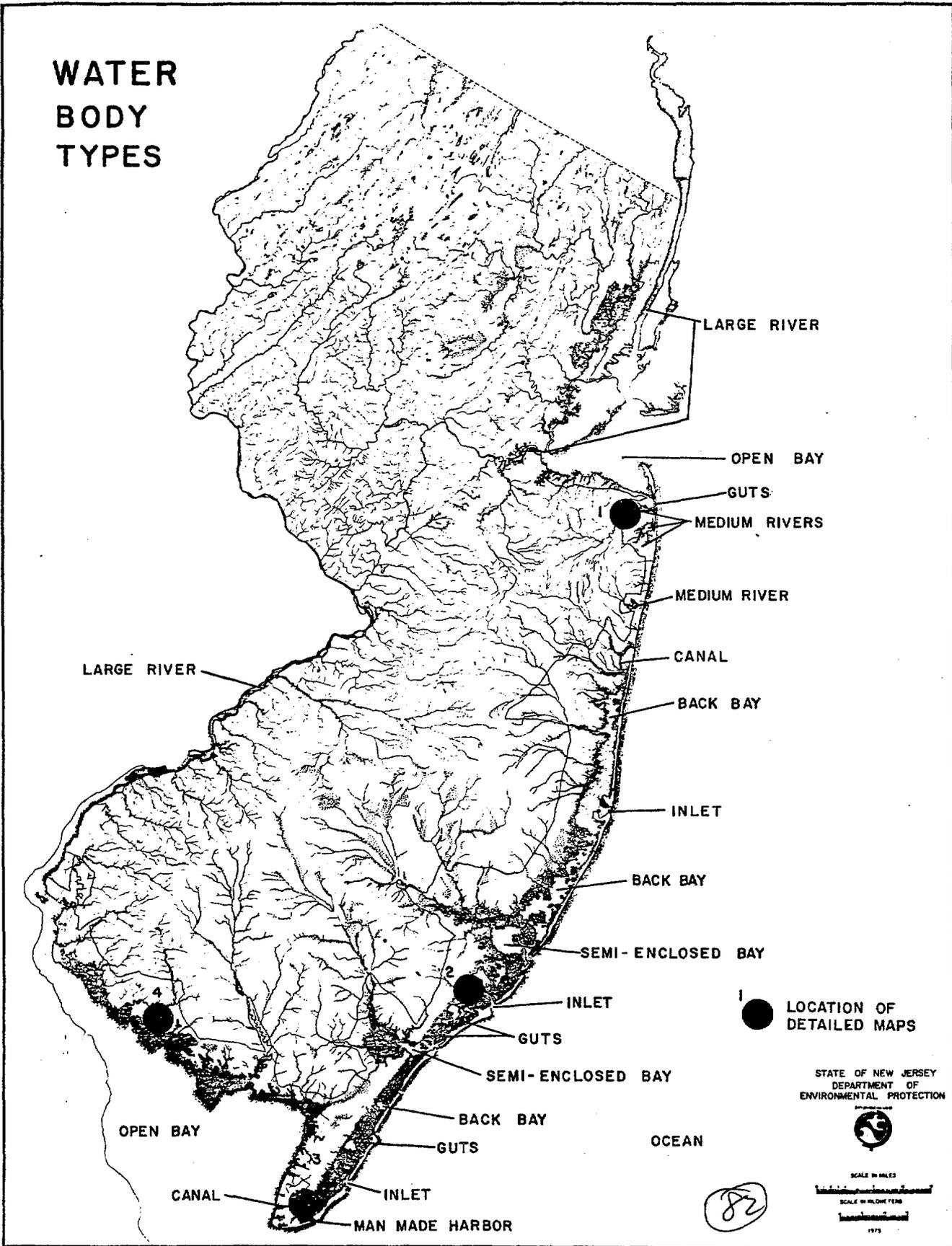
This basin type is a partially confined estuary with direct inlet connection and some inflow of freshwater. Semi-enclosed bays differ from back bays in depth, degree of restriction of inlet and level of freshwater inflow, but the initial location policy is identical for two water body types. Great Bay and Great Egg Harbor are examples of semi-enclosed bays, Barnegat Bay, Little Egg Harbor, the Shark River estuary and other bays in Atlantic and Cape May Counties are back bays. This combined water body type has three depth levels (0-1/2', 1/2'-6', and 6'+).

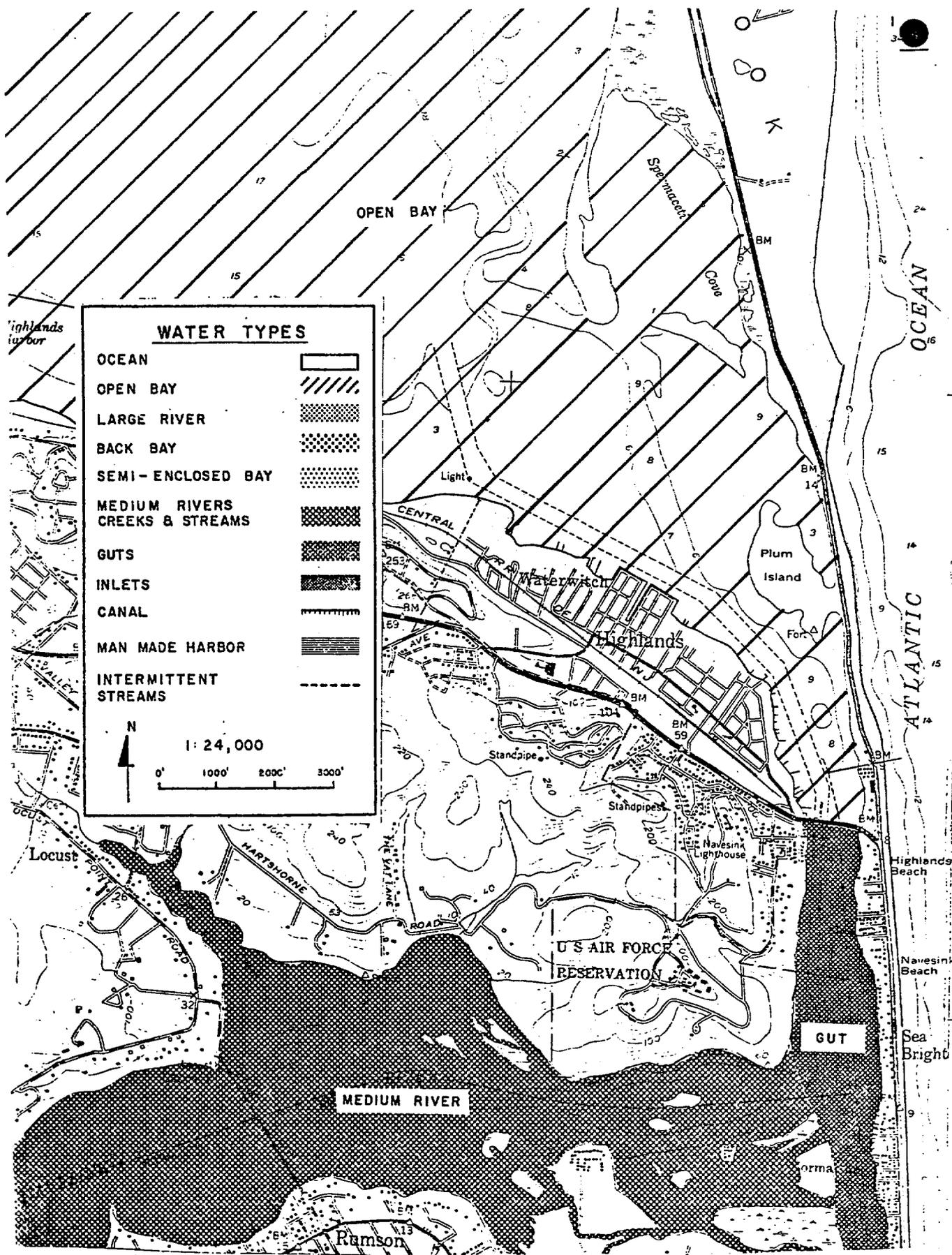
3.3.5.4 Inland Basins

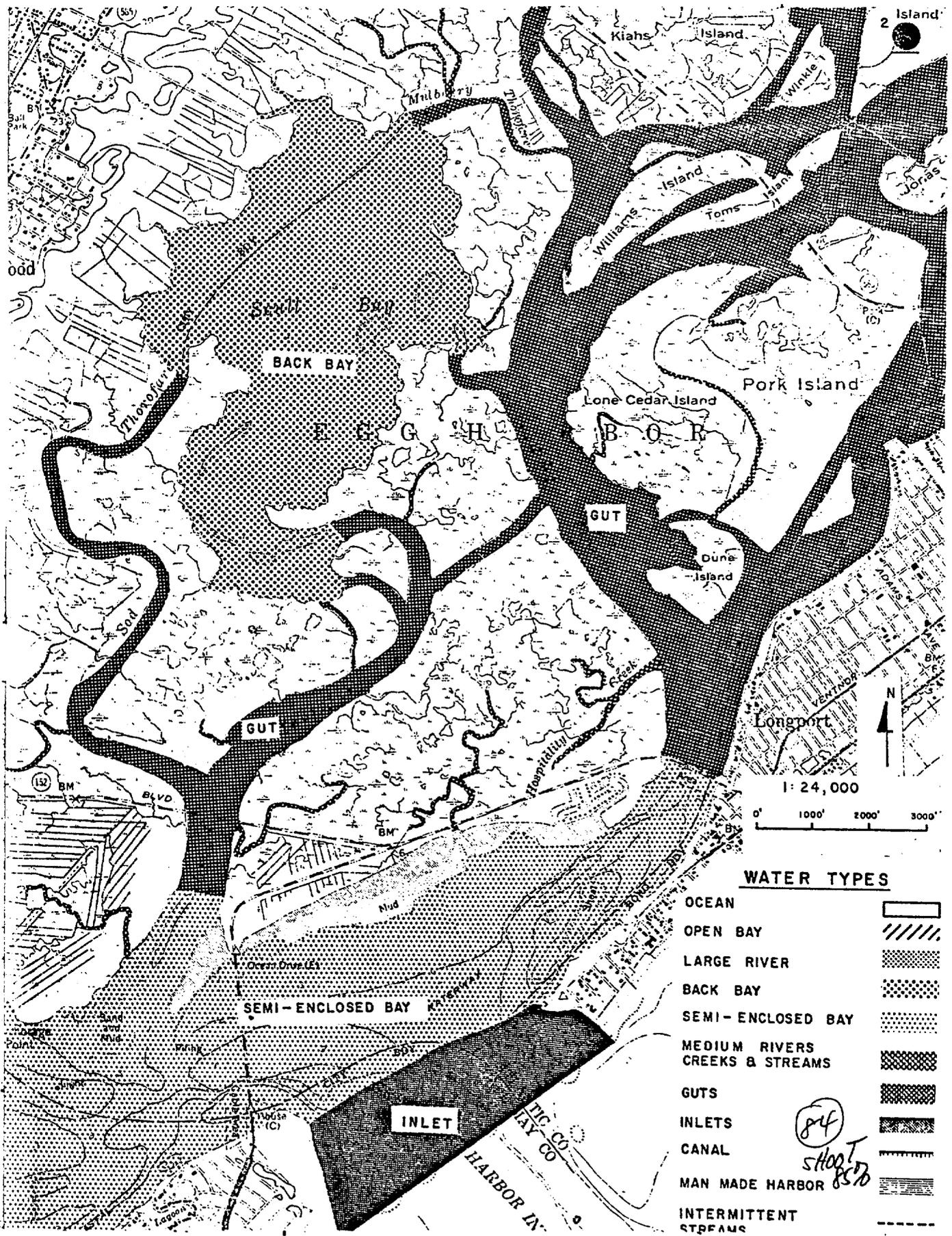
This basin type includes enclosed freshwater basins, both shallow and deep, with little or insignificant flow, such as lakes, ponds, and reservoirs.

Figure 7 |

WATER BODY TYPES







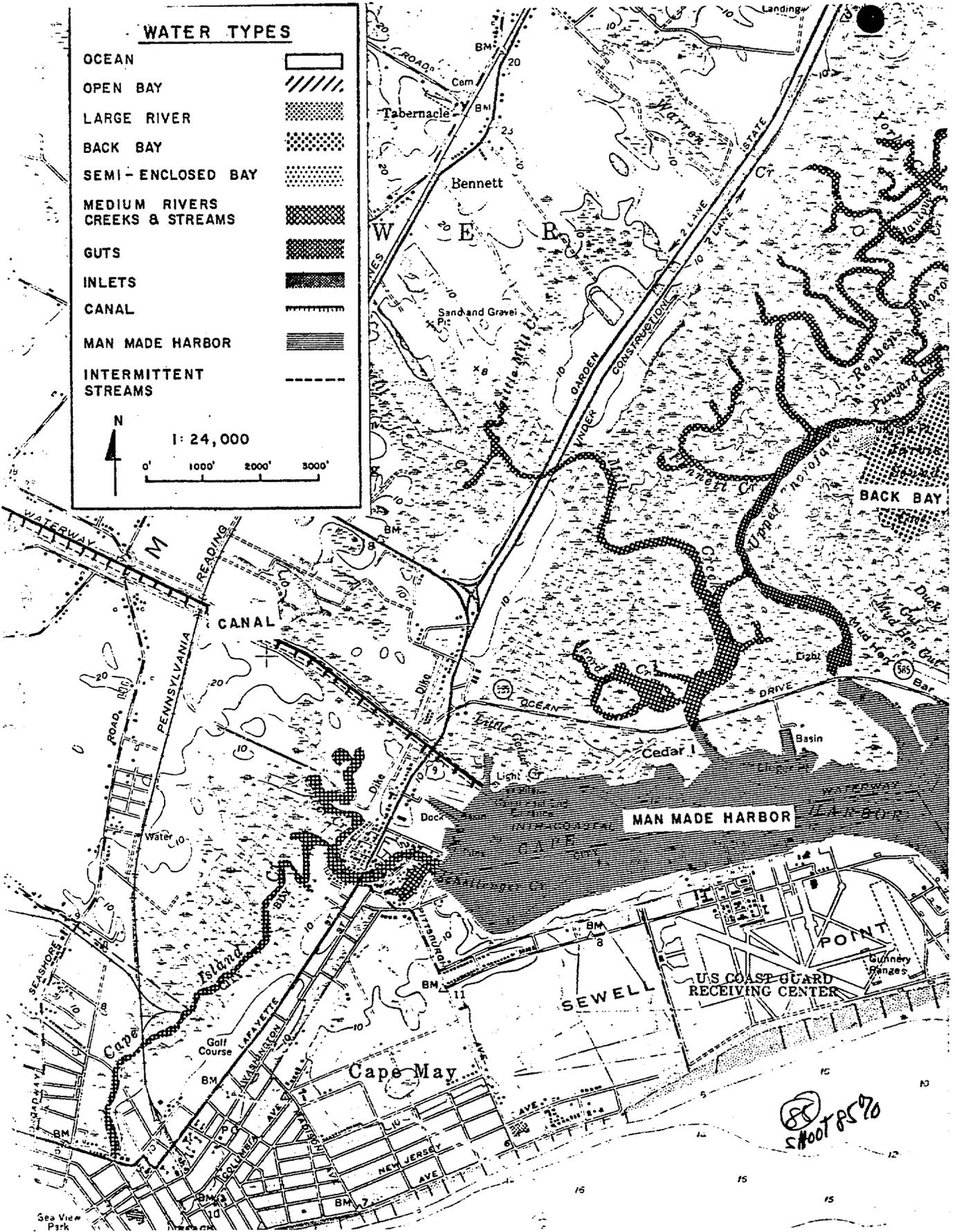
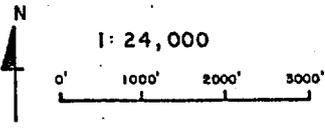
WATER TYPES

- OCEAN 
- OPEN BAY 
- LARGE RIVER 
- BACK BAY 
- SEMI-ENCLOSED BAY 
- MEDIUM RIVERS
CREEKS & STREAMS 
- GUTS 
- INLETS 
- CANAL 
- MAN MADE HARBOR 
- INTERMITTENT
STREAMS 

84
shoot
8570

WATER TYPES

- OCEAN 
- OPEN BAY 
- LARGE RIVER 
- BACK BAY 
- SEMI-ENCLOSED BAY 
- MEDIUM RIVERS
CREEKS & STREAMS 
- GUTS 
- INLETS 
- CANAL 
- MAN MADE HARBOR 
- INTERMITTENT
STREAMS 



3.3.5.5 Man-Made Harbor

This basin type includes existing ports, marine terminals, marinas and other semi-enclosed water bodies protected by man-made structures, such as a breakwater. This type also includes the water area of existing dead end lagoons, both linear and branched.

3.3.5.6 Large River

This channel type includes flowing waterways with watersheds greater than 1,000 square miles, which means the Delaware, Hudson, and Raritan Rivers.

3.3.5.7 Medium Rivers, Streams and Creeks

This channel type includes waterways with a watershed area of less than 1,000 square miles. This includes watercourses such as the Navesink, Manasquan, Toms, Wading, Mullica, Great Egg, Maurice, Cohansey, Salem and Rancocas and smaller streams. This water body type has three depth levels (0'-1/2', 1/2'-6', and 6'+)

3.3.5.9 Intermittent Streams

This channel type includes ephemeral streams that appear intermittently, depending upon the season, the depth of the water table, and precipitation, with watersheds of less than one square mile.

3.3.5.10 Guts

This channel type includes tidal waterway connections between two estuarine bodies of water. Also known as thorofares, guts have no significant freshwater drainage.

3.3.5.11 Inlets

This channel type includes natural narrow connections between estuaries and the ocean.

3.3.5.12 Canals

This channel type includes man-made canal between water bodies, specially the Cape May Canal and the Bay Head-Manasquan Canal.

3.3.6 Rationale for Policies by Water Body Type

3.3.6.1 Ocean

The largest water body found within the coastal zone is the Atlantic Ocean. The vast volume of water together with strong wind induced mixing, surface and subsurface currents, and tidal pulse make the ocean the water body most able to assimilate human induced stresses. The assimilative capacity of the ocean is not unlimited, nor are all the benthic and pelagic and surface organism equally resilient to stresses. The high energy marine system simultaneously provides opportunity for various uses such as recreation and waste disposal and imposes several constraints to human structures.

Marine waters are divided into two depth categories: the shallower portion is most commonly thought of as the surf zone, which is of national recreational value. Uses which would impact the recreational values are consequently discouraged from these location. Uses located within deeper portions have less potential to adversely impact coastal resources or induce impacts such as ocean shoreline instability.

3.3.6.2 Open Bays

Open bays include Delaware Bay and Raritan/Sandy Hook/Lower Bay Complex. These are the largest estuarine systems within the New Jersey coastal zone. All estuaries provide essential nursery habitat for marine finfish and shellfish while providing organic nutrients for marine/estuarine food webs.

Open bays have traditionally been used as commercial shipping entrances to the New Jersey/New York harbors and New Jersey/Pennsylvania/Delaware harbors, and have consequently suffered from extensive human perturbations, with the northern area being more severely disturbed.

Open bays have large rivers discharging into their upper portions. Although a less rigorous environment than the coastal sea, surface wave action can be high during strong wind conditions. Open bays are extensively used for commerce and recreation, although recreation and commercial fin and shellfish has been constrained by sewage pollution.

These water bodies are subdivided into three categories based solely on water depth. The criteria of depth was used as this factor is closely related to dilution potential.

3.3.6.3 Semi-Enclosed and Back Bays

Semi-enclosed water bodies are the estuaries behind barrier beach islands with restricted, indirect, or shallow inlets to the open ocean. This category includes all non-riverine estuarine water bodies including embayments and back bays.

These areas are more sensitive to human disturbance, because of the very limited to moderate freshwater inflow, slower tidal flushing, and smaller water body volume.

The semi-enclosed estuaries are critical to the protection and perpetuation of the coastal ecosystem. Their physically protected geography allows more sensitive or fragile organisms to survive than in the more rigorous ocean and open bays. The vast majority of important marine finfish, shellfish and aquatic birds utilize these areas as critical nursery habitats. The contiguous coastal wetlands perform the essential role of photosynthesis, resulting in natural organic material export into the coastal sea through the action of tidal and storm induced flushing.

These estuarine water bodies are subdivided into three categories based solely upon the criteria of relative water depth. Deeper water portion are the areas most intensively used by man for water surface activities such as navigation. Deeper water areas have a greater physical ability to dilute pollutants and biological detoxified toxic agents. This assimilative capacity is not unlimited however. Shallow water area generally have less potential dilution and flushing.

3.3.6.4 Inland Basins

This category includes lake, ponds, and reservoirs virtually all of which in the unglaciated coastal plain of southern New Jersey are man-made (impoundments). These types are relatively small water bodies with no tidal influence or salinity. Many inland basins are groundwater fed, while others are known to serve as surface aquifer recharge areas.

Inland basin have a severely limited ability to flush pollutants owing to limited freshwater inflow and lack of tidal inundation. Pollutants which enter these areas can precipitate to the bottom, remaining a continuing source of contamination. Certain basins also serve as potable surface water sources.

Due to the limited extent of this type, no depth subdivision are made.

3.3.6.5 Man-made Harbors

This category includes all created water body features that were previously land or water's edge features, including marine terminals, major ports, marinas and lagoons, whether linear or branched.

Man-made harbors were created for the purpose of facilitating navigation, for commercial or recreational purposes. Harbors are non-natural water features with dredged bottoms and bulkheaded shorelines. Since these areas have been previously devoted to intensive human use, which helps generate monies to local economic and recreational use, policies perpetuating these values are appropriate.

3.3.6.6 Large Rivers

Large rivers include the Delaware, Hudson and Raritan Rivers. These water bodies have a long history of intensive human use, especially in commerce. These economic interests must be accommodated. Large rivers are all drained by watersheds in excess of 1,000 square miles, and are tidally influenced within the Bay and Ocean Shore Segment. These factors allow for flushing of pollutants, although extensive portions of each are presently over-stressed with sewage and industrial wastes.

3.3.6.7 Medium Rivers, Creeks, and Streams

This category includes all flowing riverine water bodies within the Bay and Ocean Shore Segment except as listed above. Medium rivers have from moderate to small discharge rates. Many within the Segment are tidally influenced and most are relatively shallow, and of smaller volume. These factors combine to render these features more susceptible to degradation through human activities.

Medium rivers, creeks, and streams are subdivided by water depth, which reflects the presumed abilities of water areas with greater volume and circulation to dilute and assimilate potential pollutants or accommodate the intensity of surface water activities.

3.3.6.8 Intermittent Streams

These are permanent surface and ground water drainageways where flow rates fluctuate, with no surface water during dry seasons. Due to the discontinuous presence of surface water, many water dependent uses are not feasible or would require extensive alterations.

3.3.6.9 Guts

Guts, also called thorofares, are connecting water features within the estuarine system. They have no upland freshwater drainage, their flow rates vary, all are tidally influenced, and their natural water depths vary.

Guts serve as important access ways for human navigation, physical water circulation and tidal flushing of estuaries. Also aquatic organisms migrate in and out of upstream tidal areas through guts.

3.3.6.10 Inlets

Inlets are a channel type which connect estuarine areas with the ocean. All inlets are tidally influenced.

These areas serve a critical function as access ways for human navigation, water circulation, tidal flushing of estuaries, upland freshwater drainage, aquatic organism migration or movements in and out of estuaries, and for estuarine produced natural organic material.

3.3.6.11 Canals

Canals are artificial water bodies created to promote and aid navigation. Along the Intra-coastal waterway between upper Barnegat Bay and the Manasquan River and between Cold Spring Harbor and Delaware Bay near Cape May Point. This type has no significant freshwater drainage. Tidal flows are strong. Use within this type must not constrain navigation.

3.3.7 Definitions of Water Uses

Numerous developments or activities seek locations in New Jersey's coastal waters. Some uses involve locations both above and below the mean high water line, in both Water and Water's Edge areas. This section defines generally the important uses of water areas managed by the Coastal Management Program. Some uses involve combinations of uses, such as retaining structures, dredging, and filling. Other uses, such as Shore Protection uses, are defined elsewhere under Use Policies.

3.3.7.1 Aquaculture

Aquaculture is the use of a permanently inundated water area, whether saline or fresh, for the purposes of growing and harvesting plants or animals in a way to promote more rapid growth, reduce predation, and increase harvest rate. Oyster farming in Delaware Bay is a form of aquaculture.

3.3.7.2 Boat Ramps

Boat ramps are inclined planes, extending from the land into a water body for the purpose of launching a boat into the water until the water depth is sufficient to allow the boat to float. Boat ramps are most frequently paved with asphalt or concrete, or covered with metal grates.

3.3.7.3 Retaining Structures

Retaining structures are retaining walls stabilizing shorelines. Bulkheads are vertical retaining structures. Revetments are inclined retaining walls for the same purpose. Sea walls are bulkheads or revetments that face the ocean.

3.3.7.4 Docks and Piers

Docks and piers are large or small structures in the water for the purpose of gaining access to moored boats for commercial or recreational purposes or for fishing or recreational purposes. Docks are usually supported on pilings driven into the bottom substrate, but docks can float on the surface. Docks made of fill and retaining structures are considered under the water use types of filling and retaining structures.

3.3.7.5 Dredging-Maintenance

Maintenance dredging is the removal of accumulated sediment from areas where dredging has taken place in the past, such as navigation channels, marinas, or boat moorings, for the purpose of maintaining a required water depth for navigation purposes.

3.3.7.6 Dredging - New

New dredging is the removal of sediment from the bottom of a water body that has not been previously dredged or excavated, for the purpose of increasing water depth.

3.3.7.7 Dredged Spoil Disposal

Dredged spoil disposal is the discharge of sediments (spoils) removed during dredging operations.

3.3.7.8 Dumping (Solid Waste or Sludge)

The dumping of solid waste or sludge is the discharge of solid or semi-solid waste material from industrial or domestic sources or sewage treatment operations into a water area.

3.3.7.9 Filling

Filling is the deposition of inorganic material (sand, soil, earth, dredge spoils, etc.) into water areas for the purpose of raising water bottom elevations.

3.3.7.10 Piling

Piling is the insertion of columnar structural members into the water bottom substrate.

3.3.7.11 Mooring

A boat mooring is a temporary or permanent, piling or floating anchored facility in a water body for the purpose of attaching a boat.

3.3.7.12 Sand and Gravel Extraction

Sand and gravel extraction is the removal of sand or gravel from the water bottom substrate, usually by suction dredge.

3.3.7.13 Bridges

Bridge construction is the building of a vehicle or pedestrian access route across a water body.

3.3.7.14 Cable Routes

Cable routes are the lines along which telecommunication cables or electrical transmission lines are laid.

3.3.7.15 Overhead Transmission Lines

Overhead transmission lines are electrically conducting wires hung between supporting pylons for the transmission of electrical power from generating plant to the site of consumption.

3.3.7.16 Pipeline Routes

Pipeline routes or corridors are linear sites along which hollow pipes are laid, buried, or trenched for the purpose of transmitting fluids. Examples would be crude oil, natural gas, raw or potable water, petroleum products or sewage pipelines. Construction of an underwater pipeline may involve trenching, temporary trench spoil storage, and back filling, or jetting as an alternative to trenching.

3.3.7.17 Dams and Impoundments

Dams and impoundments are structures that obstruct natural water flow patterns for the purpose of forming a contained volume of water. Impoundments include dikes with sluice gates and other structures to control the flow of water.

3.3.7.18 Pipes

Pipes are tubular structures of metal, concrete, plastic, or other material that are located in Water Areas for the purpose of intake or discharge of effluent.

3.3.7.19 Miscellaneous

Miscellaneous includes uses of Water Areas not specifically defined in this section or addressed in the Use Policies.

3.3.8 Water Acceptability Conditions

The Water Acceptability Table identified numerous uses that are conditionally acceptable or discouraged at various water locations. This section defines those conditions, in addition to the Use and Resource Policies of the Coastal Management Program.

3.3.8.1 Aquaculture

Aquaculture is conditionally acceptable in many water body types, providing that water recreation and resort uses are not unacceptably restricted, and that aquaculture practices do not cause adverse off-site environmental impacts.

3.3.8.2 Boat Ramps

Boat ramps are conditionally acceptable on ocean shores providing that there is a demonstrated need that cannot be satisfied by existing facilities; that the shoreline is not a high risk erosion area; and that the adjacent shorefront areas are intensely developed with resort-related uses.

Boat ramps are conditionally acceptable on shallow ocean and bay shores and river banks providing that (a) they cause minimal practicable disturbance to intertidal flats or subaqueous vegetation, (b) there is a demonstrated need that cannot be satisfied by existing facilities, (c) there is access to an existing navigation channel of adequate depth, and (d) the location policies for the water's edge areas are satisfied.

Boat ramps shall be constructed of environmentally acceptable materials such as concrete or oyster shell. Public use ramps have priority over restricted use and private use ramps. Applications for restricted and private use ramps will be approved only if they can demonstrate that a public use ramp is not feasible. Refuse barrels shall be provided as part of a boat ramp.

3.3.8.3 Retaining Structures

Bulkheads, revetments, and sea walls and other retaining structures are generally discouraged in Water Areas. On a case by case basis, shoreline retention structures may be considered for acceptability if it can be shown that without shoreline stabilization there is danger to life or property or that water dependent uses that satisfy the Location Policy requirements for Water's Edge Areas cannot feasibly operate without the structure. A small retaining structure that connects two existing lawful retaining structures may be considered for acceptability if it would provide a net benefit to the environment. Rip-rap is a preferred construction material for retaining structures as it provides a habitat for aquatic life and helps absorb wave energy. The Coastal Engineering Use Policies provide more detailed conditions.

3.3.8.4 Docks and Piers

New docks and piers are conditionally acceptable in some water body types provided that: (a) there is a demonstrated need that cannot be satisfied by existing facilities, (b) the adjacent shorefront is intensely used for coastal recreation, (c) the location policies for water's edge areas are satisfied, (d) the construction minimizes adverse environmental impact to the maximum extent feasible, (e) the docks and piers are located so as to not hinder navigation or conflict with overhead transmission lines, and (f) there is minimum feasible interruption of natural water flow patterns. Docks and piers on

pilings shall be preferred to solid constructions on fill. Applicants shall demonstrate why floating docks and piers cannot serve the required purpose. Repairs and maintenance of existing docks and piers are generally acceptable.

3.3.8.5 Dredging-Maintenance

Maintenance dredging is acceptable to the authorized depth in all existing navigation channels, access channels, and boat moorings to ensure that adequate water depth is available for safe navigation, provided that an acceptable spoil disposal site exists. Maintenance dredging is acceptable to provide access to marinas, docks, ports, and other appropriate water-dependent facilities. Maintenance dredging is impractical in a number of water body types at locations outside of the Navigation Channels Special Areas.

3.3.8.6 Dredging-New

New dredging is generally discouraged. On a case by case basis, new dredging may be considered for acceptability for boat moorings or navigation channels providing that: (a) there is a demonstrated need that cannot be satisfied by existing facilities, (b) the facilities served by the new dredging satisfy the location requirements for water's edge areas, (c) the adjacent water areas are currently used for recreational or commercial boating, (d) the dredge area causes no significant disturbance to intertidal flats or subaqueous vegetation, (e) the adverse environmental impacts are minimized to the maximum extent feasible, (f) an acceptable dredge spoil disposal site exists, and (g) the dredged area is reduced to the minimum practical. New dredging or excavation to create new lagoons for residential development is prohibited.

3.3.8.7 Dredged Spoil Disposal

Subaqueous disposal of dredge spoils is prohibited in most water body types, until the acceptability of this technique is demonstrated by appropriate research.

Clean dredge sediments of suitable particle size are acceptable for beach nourishment on ocean or open bay shores. Additional conditions for Dredge Spoil Disposal are indicated in the Coastal Engineering Use Policies.

3.3.8.8 Dumping

The dumping of solid or semi-solid waste of any description in any coastal waters is prohibited.

3.3.8.9 Filling

Filling is generally discouraged in all coastal waters. Clean sediment of suitable particle size and composition is acceptable for beach nourishment projects (see the Coastal Engineering Use Policies). Limited filling may be considered elsewhere for acceptability on a case by case basis provided that: (a) the use that requires the fill satisfies the location policies for the water's edge, (b) there is a demonstrated need that cannot be satisfied by existing facilities, (c) there is no feasible or practical alternative to filling and that filling is essential to the functioning of the use, (d) the minimum practical area is filled, (e) the adverse environmental impacts are minimized, and (f) intertidal flats and Special Areas are not disturbed.

3.3.8.10 Piling

Piling is usually associated with docks, shoreline structures, and piers and must satisfy the conditions set out above for these uses. Piling that is an element of a use addressed in a Use Policy must satisfy the Use Policy.

3.3.8.11 Mooring

Temporary or permanent boat mooring areas are conditionally acceptable in some water body types provided that the mooring area is adequately marked and is not a hazard to navigation.

3.3.8.12 Sand and Gravel

Sand and gravel mining for mineral extraction or beach nourishment is conditionally acceptable in the deep ocean and inlets providing that: (a) areas of finfish and shellfish concentration are neither directly or indirectly degraded, (b) the physical and chemical impacts associated with turbidity and release of toxic agents from substrate layers are minimized to the maximum extent practicable, and adhere to applicable water quality standards, and (c) the visual impact of dredging machinery from shore areas is acceptable.

3.3.8.13 Bridges

Bridges are conditionally acceptable over rivers and streams provided that there is a demonstrated need that cannot be satisfied by existing facilities and that the secondary impacts of the new or improved bridge are acceptable (see the Secondary Impact Policy in the Resources Policies).

3.3.8.14 Cable Routes

Cable routes are conditionally acceptable provided that (a) the route avoids Special Areas to the maximum extent practicable, (b) the route avoids areas where anchors may foul the cable, and (c) the alignment of the cable route is marked at the land-fall and by buoys at the surface.

3.3.8.15 Overhead Transmission Lines

Overhead transmission lines are prohibited, except over specified water body types where transmission lines will be considered for acceptability provided that: (a) there is a demonstrated need that cannot be satisfied by existing facilities, (b) there is no feasible alternate route that avoids crossing water bodies, (c) further development likely to be induced by the transmission lines is acceptable, (d) adequate safety precautions are included to prevent a broken cable touching the water in case of accidental breakage, and the transmission line provides adequate vertical clearance for masts.

3.3.8.16 Pipeline Routes

Pipeline routes are conditionally acceptable provided that (a) they are not sited within Special Areas, unless no prudent and feasible alternate route exists, (b) trenching take place to a sufficient depth to avoid puncturing or snagging anchors or sea clam dredges, and (c) the pipeline is sufficiently deep to avoid uncovering by erosion of water currents, (d) the conditions outlined for pipelines in the Use Policies (See Section 7.0) are satisfied. Temporary trench spoil storage and back filling as part of pipeline trenching is acceptable provided that bottom contours are reestablished following trench spoil removal to the original bottom contours, to the maximum extent practicable. Jetting pipelines into bottom sediments is conditionally acceptable provided that trenching and backfilling are impractical.

3.3.8.17 Dams and Impoundments

Dams and impoundments are impractical in many water body types, prohibited in other water body types, and discouraged in specified water body types, unless essential for water supply purposes or the creation of special wildlife habitats.

3.3.8.18 Pipes

Pipes and outfalls for the intake or discharge of effluent are conditionally acceptable provided that the use associated with the pipe meets the Coastal Resource and Development Policies and the effluent meets all applicable water quality statutes and regulations. The Water Areas policy applies only to the location of the pipes, not to the effluent.

3.3.8.19 Miscellaneous

Uses of Water Areas not identified in the Water Acceptability Table or addressed in the Use Policies will be analyzed on a case-by-case basis.

3.4 Water's Edge Areas

3.4.1 General Definition of Water's Edge

The Water's Edge is a strip of natural or disturbed land and water areas at the interface between Water Areas (both tidal and non-tidal) and Land Areas. The Water's Edge includes three broad categories: Natural Water's Edge, Retained Water's Edge, and Filled Water's Edge. In general, the Water's Edge extends from the mean high water line to either the landward limit of soils with a seasonal high water table at the surface or the cultural feature closest to the Water Area, whichever is the lesser distance.

3.4.2 Natural Water's Edge

3.4.2.1 Definition

On the mainland, the Natural Water's Edge includes natural, undisturbed land and water features that are contiguous with Water Areas and stretch from Water Areas to the landward limit of soils with a seasonal high water table at the surface excluding Atsion soils, or the first cultural feature such as a road, whichever lies closest to the water. On barrier islands, spits, and headlands, the seasonal high water table criterion does not apply. (However, the Special Area policies of Wetlands, Beaches, Dunes and Central Barrier Island Corridor do apply.) The upper

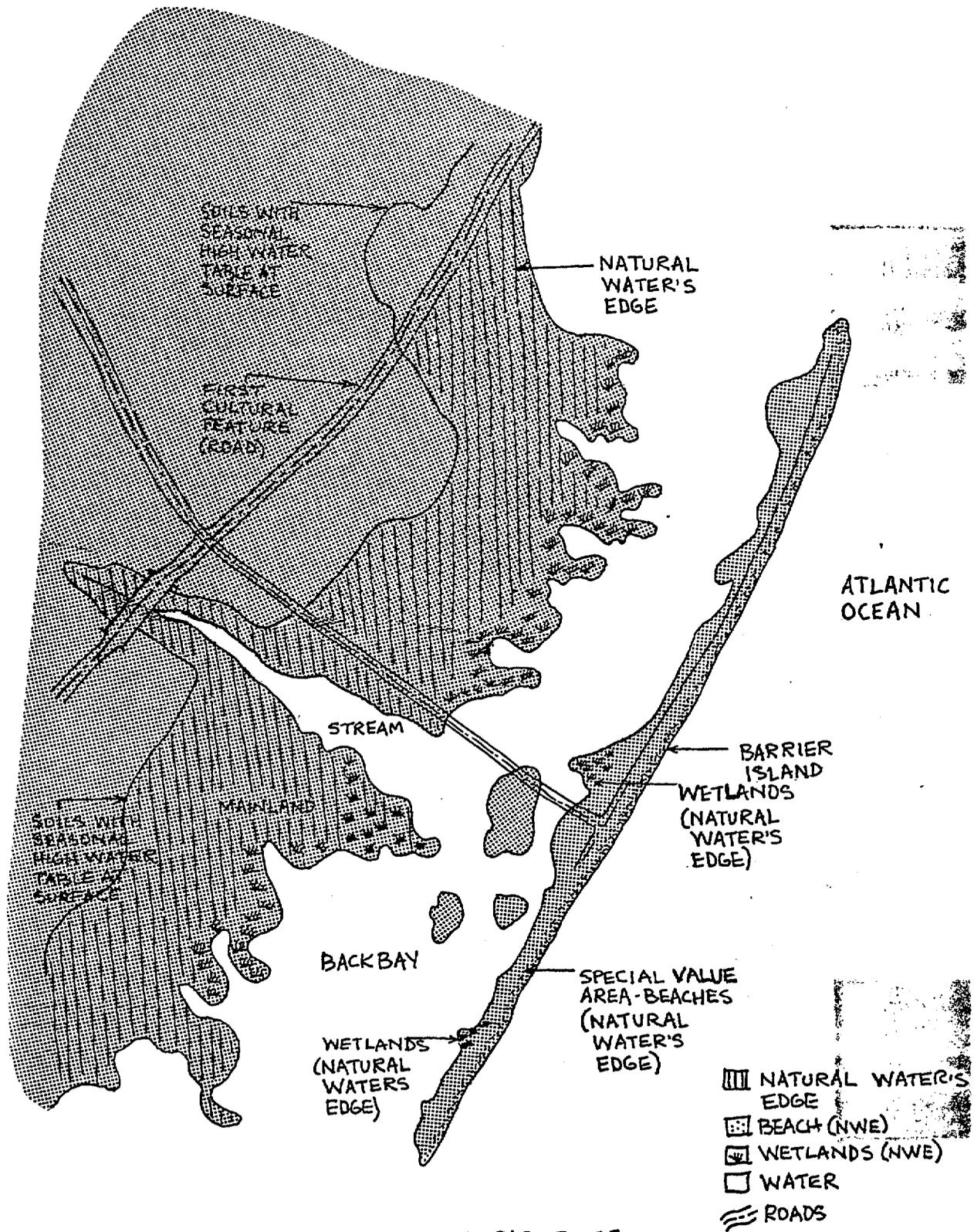


FIGURE 8. NATURAL WATER'S EDGE

limit of the Natural Water's Edge is defined by either the landward limit of Coastal Wetlands and/or Beaches Special Areas. The limit of soils with a seasonal high water table at the surface may be determined using reports from the National Cooperative Soil Survey prepared by the U.S. Department of Agriculture, Soil Conservation Service, or by a specific soil survey at the site (See Figure 8).

3.4.2.2 Policy

In general, development is discouraged in the Natural Water's Edge, unless the development satisfies all of the following conditions:

- (a) Requires water access or is water-oriented as a central purpose of the basic function of the activity (this condition applies only to development proposed on or adjacent to waterways),
- (b) Has no prudent or feasible alternative on a non Natural Water's Edge site,
- (c) Is immediately adjacent to existing Water's Edge development, and
- (d) Would result in minimal feasible alteration of on-site vegetation.

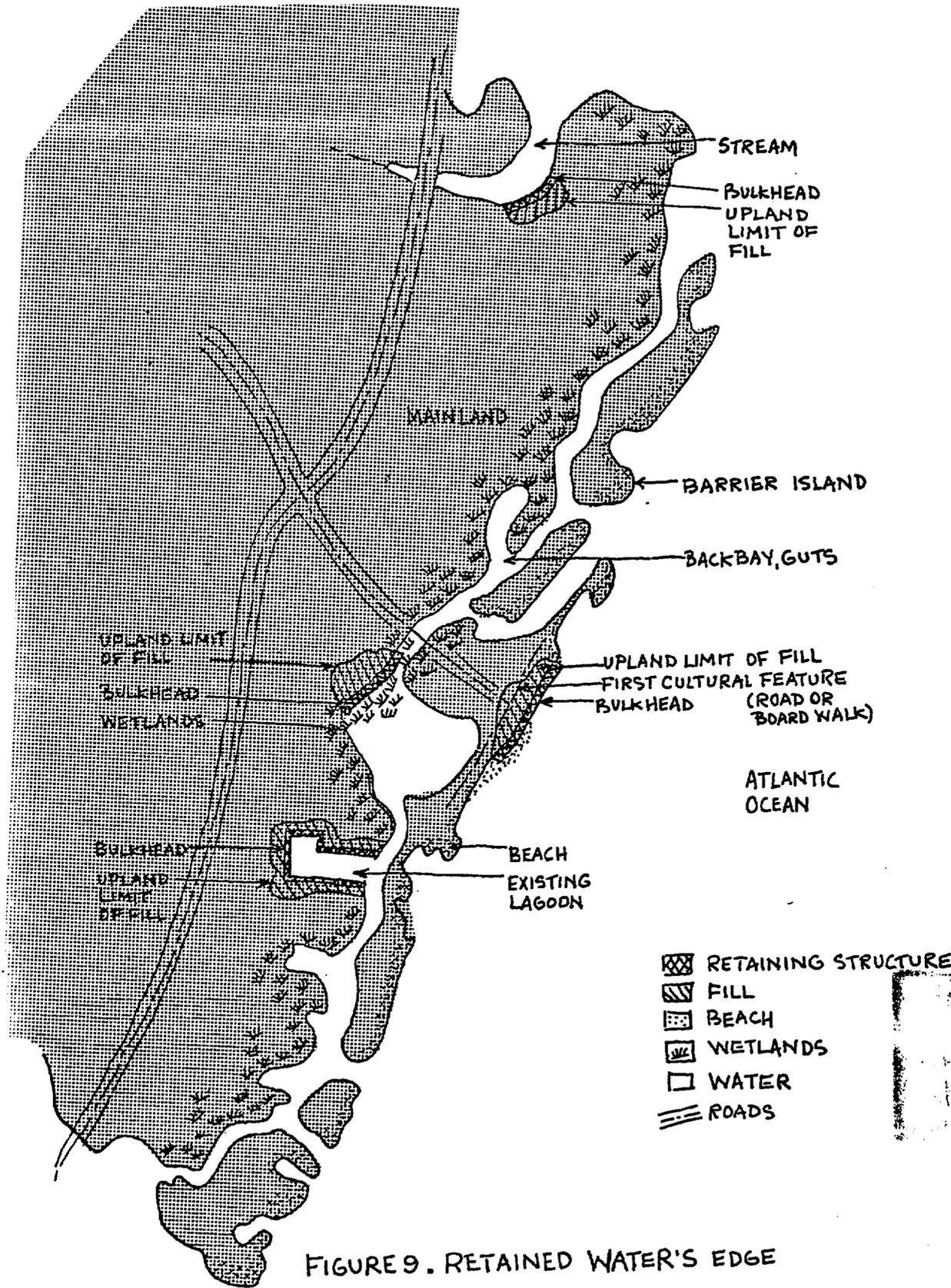
3.4.2.3 Rationale

The land-water interface is among the most sensitive parts of the coastal ecosystem. When left undeveloped, the Natural Water's Edge serves several important functions: maintenance of estuarine productivity, control of stream flow variation, erosion and sediment control, flood control, water purification, channel stabilization, open space and recreation, and maintenance of wildlife habitats. Also, construction in the Natural Water's Edge usually requires costly drainage, filling, excavation, or piling, which further adversely affects coastal resources. If left undisturbed, the Natural Water's Edge provides a valuable buffer to protect Water Areas from upland activities. The Natural Water's Edge also includes areas such as freshwater wetlands and lowland swamp forests.

3.4.3 Retained Water's Edge

3.4.3.1 Definition of Retained Water's Edge

Retained Water's Edge Areas are adjacent to either Water Areas or Natural Water's Edge Areas as defined above and stabilized with existing bulkheads, revetments or sea walls. The lower limit of the Retained



Water's Edge is the line of the retaining structure. The upper limit of the Retained Water's Edge is the upland limit of fill or the first public cultural feature inland from the retaining structure (such as a road or boardwalk) whichever is the lesser. Two types of Retained Water's Edge Areas exist, along both open water bodies and those along man-made lagoons (See Figure 9).

3.4.3.2 Policy

Development is acceptable in Retained Water's Edge Areas along open water bodies providing that: (a) the development is either water dependent or the site is proposed for a public recreation or resort use (This latter category would include waterfront parks) and is compatible with adjacent land uses, (b) the structural condition of the existing retaining structure is adequate to protect the structure, or the proposed development provides for adequate repair of the structure, and (c) the site would not contribute to the extension of Central Barrier Island Corridor through development.

Development is conditionally acceptable on Retained Water's Edge Areas along existing non-developed, man-made lagoons providing that: (a) the development is compatible with adjacent land uses, and (b) the structural condition of the existing retaining structure is adequate to protect the proposed development or the proposed development provides for adequate repair of the structure.

3.4.3.3 Rationale

Retained Water's Edge areas are of less environmental concern than undisturbed water's edge areas. The buffering functions of the water's edge have already been largely lost through excavation, filling and the construction of retaining structures. It is acceptable to allow certain kinds of development up to the line of the existing retaining structure. Because the waterfront is a scarce resource, it is desirable to limit development in these areas to uses that are either dependent on direct water access or uses that are related to shoreland recreation and benefit the most number of people. The construction of new private housing along built up open water bodies would be an inefficient use of this scarce resource, but such uses as public waterfront parks, hotels and restaurants acceptable.

3.4.4 Filled Water's Edge

3.4.4.1 Definition of Filled Water's Edge

Filled Water's Edge areas occur when existing filled areas lie immediately adjacent to Water or Natural Water's Edge Areas including streams, and there is no retaining structure along the shoreline. The landward limit of the Filled Water's Edge is the first cultural feature landward of the adjacent Water Area, or the upland limit of fill, whichever is the lesser. Two types of Filled Water Edge are defined: those along open water bodies and those along existing man-made lagoons. Some existing or former dredged spoil and excavation fill disposal sites are Filled Water's Edge Areas (See Figure 10).

3.4.4.2 Policy

The development of Filled Water's Edge Areas along open water bodies is discouraged, except for public-oriented or water-dependent uses that demonstrates that site reclamation is infeasible.

Development on Filled Water's Edge Areas along existing but undeveloped man-made lagoons is conditionally acceptable provided that,

- (a) reclamation of the site is infeasible,
- (b) the development is compatible with adjacent land and water uses,
- (c) stabilization of the slope of the Filled Water's Edge occurs using natural materials to provide an appropriate buffer, to the maximum extent practicable, and
- (d) causes minimal feasible adverse impact on adjacent land and water areas.

3.4.4.3 Rationale

Filled lands adjacent to water areas represent potential problems for water quality. The slope must be stabilized in order to prevent erosion, turbidity and loss of estuarine productivity.

These problems have been well documented in Grant F. Walton, et al, Evaluation of Estuarine Site Development Lagoons (New Brunswick, N.J.: Rutgers-Water Resources Research Institute, 1976). Thousands of undeveloped building lots exist in the Bay and Ocean Shore Region along stabilized and unstabilized

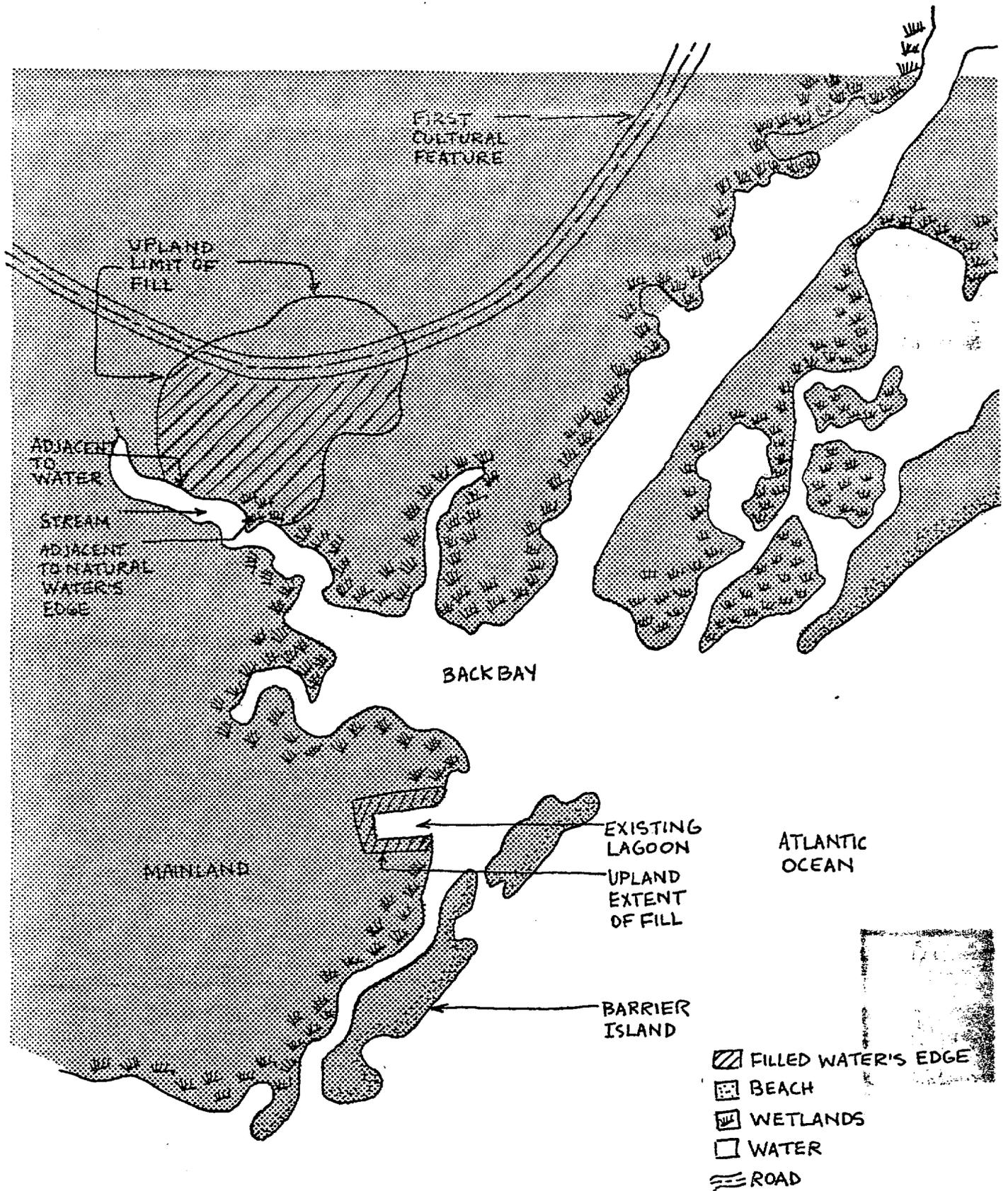


FIGURE 10. FILLED WATER'S EDGE

lagoons created by destroying wetlands in the 1950's and 1960's. Development of these residential lots is acceptable provided that water quality standards are met and the banks of the filled areas are revegetated, or retained, since the fundamental and near irretrievable damage to the environment of these areas took place a decade or more ago.

3.5 Land Areas

3.5.1 General Definition of Land Areas

Land Areas include all mainland land features located upland of the Water's Edge, which is typically defined by the limit of soils with a seasonal high water table at the surface.

3.5.2 General Policy for Land Areas

The acceptability for development of Land Areas is defined in terms of three levels of acceptable development intensity. Three factors determine the acceptable development intensity for various locations in Land Areas: (a) Coastal Region, (b) Environmental Sensitivity, and (c) Development Potential. Assessment of these three factors indicates the appropriate pattern of development from a broad, regional perspective and provide a method for determining the acceptable intensity of development of specific sites, as well as entire regions.

Determination of the specific policy for a Land Area site is a four step process. First, the Coastal Region in which the site is located is determined. Second, the Environmental Sensitivity and Development Potential of the site are determined. Third, the Land Acceptability Table for the appropriate region is consulted to determine the acceptable intensity of development of the site, given the three possible combinations of Development Potential and Environmental Sensitivity factors for the site or parts of the sites. Fourth, the proposed intensity of development of the site is compared with the acceptable intensity of development for the site.

Coastal development which does not conform with the acceptable intensity of development of a site is discouraged.

3.5.3 Coastal Regions

3.5.3.1 General

The Bay and Ocean Shore Region of the coastal zone is classified into ten different regions on the basis of the varied patterns of coastal development and resources. For these regions, DEP uses three broad regional growth strategies: (a) High Growth, (b)

Moderate Growth, and (c) Low Growth. High Growth means that infill, extension, and some scattered development patterns are acceptable, from a regional coastal management perspective. Moderate Growth means that infill and some extension development patterns are acceptable. Low Growth means that only infill development is acceptable (See Figure 4 in Chapter Three).

3.5.3.2 Barrier Island Region

The oceanfront barrier islands and spits constitute the Barrier Island Region. The Land Areas Policy does not apply to the Barrier Islands Region, which is composed entirely of various Special Areas.

3.5.3.3 Northern Region

The Northern Region includes those portions of Monmouth and Middlesex County that are within the Bay and Ocean Shore Region and is designated a High Growth Region.

3.5.3.4 Central Region

The Central Region includes those portions of Ocean County within the Bay and Ocean Shore Region that are north of State Highway 37 and west of the Garden State Parkway, and those parts of the county north of Cedar Creek and east of the Parkway, and is designated a High Growth Region.

3.5.3.5 Western Ocean County Region

The Western Ocean County Region includes those portions of Ocean County west of the Garden State Parkway and south of State Highway 37, and is designated a Moderate Growth Region.

3.5.3.6 Barnegat Corridor Region

The Barnegat Corridor Region includes those portions of Ocean County south of Cedar Creek and north of State Highway 72, and is designated a Moderate Growth Region.

3.5.3.7 The Mullica-Southern Ocean Region

The Mullica-Southern Ocean Region includes those portions of Ocean County south of State Highway 72, all of Burlington County, and those portions of Atlantic County north of County Road 561, located within the Bay and Ocean Shore Region, and is designated a Low Growth Region.

3.5.3.8 Absecon-Somers Point Region

The Absecon-Somers Point Region includes those mainland portions of Atlantic County south of County Road 561, and east of Garden State Parkway, and is designated a High Growth Region.

3.5.3.9 Great Egg Harbor River Region

The Great Egg Harbor River Region includes those portions of Atlantic County southwest of County Road Alternate 559 and those portions of Cape May County east of State Highway 50, north of County Road 585, and west of U.S. Highway 9, and is designated a Low Growth Region.

3.5.3.10 Southern Region

All of Cape May County, within the Bay and Ocean Shore Region, except for that portion in the Great Egg Harbor River Region, is designated a Moderate Growth Region.

3.5.3.11 Delaware Bayshore Region

All of Cumberland County and Salem County within the Bay and Ocean Shore Region is designated a Low Growth Region.

3.5.4 Environmental Sensitivity

3.5.4.1 General

Environmental Sensitivity is a composite indication of the general suitability of a land area for development based on three factors -- (a) vegetation, (b) fertile soils, and (c) high percolation wet soils -- that are combined to indicated High, Moderate, or Low Environmental Sensitivity on a site or parts of a site. This section first defines these rankings and then defines specifically the three factors.

3.5.4.2 High Environmental Sensitivity

High Environmental Sensitivity Areas are land areas with: (a) forest vegetation, and (b) high soil productivity or high percolation wet soils which are adjacent to a stream channel (permanent or ephemeral), as defined below.

3.5.4.3 Moderate Environmental Sensitivity

Moderate Environmental Sensitivity Areas are neither High nor Low Environmental Sensitivity Areas.

3.5.4.4 Low Environmental Sensitivity

Low Environmental Sensitivity Areas are low areas with: (a) onsite paving or structures or (b) areas with bare earth or herbacious vegetation or early successional meadow with low soil fertility, and low depth to seasonal high water table.

3.5.4.5 Definitions of Environmental Sensitivity Factors

- (a) Forest vegetation is defined as a natural community of trees and shrubs with tree species predominantly those of the late successional stage for the region.
- (b) High soil productivity is defined as soils with Agricultural Capability Class I, as defined by the U.S. Department of Agriculture, Soil Conservation Service in National Cooperative Soil Surveys. Low soil productivity is any soil defined Agricultural Capability Class IV-VIII.
- (c) High percolation wet soils are soils with a depth to seasonal high water table of three feet or less and with textures equal to or coarser than loamy sand within a 24 inch depth from the surface, as indicated in National Cooperative Soil Surveys and includes primarily the following coastal soils series: Atsion (At), Hammonton (HaA), Klej (KmA), and Lakewood (LaA, LeB, and LeC).
- (d) Low depth to seasonal high water table is defined as a depth to seasonal high water table of more than five feet.

3.5.4.6 Rationale

(a) High environmental sensitivity

This ranking is given to land areas where combinations of environmental factors either make the area particularly valuable as a resource or particularly sensitive to impacts, or a combination of the two. Two area types are important. First, a combination of valuable resources exists where forest vegetation coincides with the most productive soils. In addition, undeveloped areas are valuable as open space, for screening, as wildlife habitats, for ground and surface water purification, and as areas that could be used in the future for local food production and/or nutrient absorption. These areas have value both for the

functions they now perform in a developing area and as a limited land bank of the most productive soils. Second, where forest vegetation coincides with a rapid soil percolation rate and a shallow water table, there is a combination of resource value and impact sensitivity factors of special concern where there is an adjacent stream or water body. Areas of high soil percolation and shallow water table are especially sensitive to ground water impacts because the rapid percolation offers little pollutant filtration and the distance to ground water is small. When these areas coincide with forest vegetation, itself a valuable resource in developing areas, the physical and biological processes of tree roots contribute to ground water protection by taking up nutrients and other contaminants. The combination of loss of forest vegetation and degradation of ground water that occurs when these areas are developed raises the level of sensitivity.

(b) Medium Environmental Sensitivity

These are land areas that are neither especially sensitive or insensitive to development.

(c) Low Environmental Sensitivity

This ranking is given to areas where there would be particularly little loss of valued resources or sensitivity impacts of concern if development took place. All paved areas are included, because in these areas most of the adverse impacts associated with development have occurred and further development will minimally diminish natural resources or generate new adverse impacts. The second category of low sensitivity has a low resource value since the soils are infertile and there is little or no vegetation. Since the soils are coarse and have low erosion potential, there is a relatively large distance to ground water and therefore little potential for transferring adverse impacts.

3.5.5 Development Potential

3.5.5.1 General

Development Potential has three levels -- High, Medium and Low -- depending upon the presence or absence of certain development-oriented elements at

or near the site of the proposed development, as defined below. The Development Potential rating applies to the entire site. Different sets of Development Potential criteria are defined below for different categories of development. Also, some of the criteria vary depending upon the regional type. If a specific set of Development Potential criteria is not defined for a particular category or type of development, then the Location Policy assumes a Medium Potential for that category until specific criteria are adopted by DEP. Recommended criteria from an applicant or the public may be considered in the course of the permit application process for a particular development prior to adoption by DEP of specific criteria.

3.5.5.2 Residential Development Potential Criteria

3.5.5.2.1 Scope

The Residential Development category includes housing, retirement communities, hotels, motels, minor commercial facilities of a neighborhood or community scale, and intensive, community scale recreation facilities, such as parks, ball fields, and golf courses.

3.5.5.2.2 High Potential sites meet all of the following criteria:

- (a) Roads - Direct access from the site to an existing paved public road with sufficient capacity to absorb satisfactorily the traffic generated by the proposed development, or in High Growth Regions, direct access to roads which either in their existing state, or with improvements included in the proposed coastal development, provide adequate capacity, or adjacent to roads that have been approved but not built.
- (b) Sewage - Direct access to a wastewater treatment system, including collector sewers and treatment plant, with adequate capacity to treat the sewage from the proposed development, or soils suitable for on-site sewage disposal systems that will meet applicable ground and surface water quality standards, or in High Growth Regions, access to existing or an approved wastewater treatment system.

- (c) Infill - At least 50% of the boundaries of the site are either immediately adjacent to or directly across a public road from sites with existing residential developments or a closely related and associated type of development such as schools (See Figure 11).

3.5.5.3.3 Medium Potential sites do not meet all of the criteria for High Potential sites and do not meet any of the criteria for Low Potential sites.

3.5.5.3.4 Low Potential sites in Low or Moderate Growth Regions meet any one of following criteria:

- (a) Roads - Site located more than 1,000 feet from the nearest paved public road,
- (b) Sewage - Site located more than 1,000 feet from an adequate wastewater treatment system, or soils unsuitable for on-site sewage disposal systems,
- (c) Infill - No development is adjacent to the site boundary.

In High Growth Regions, Low Potential sites meet either of the following criteria:

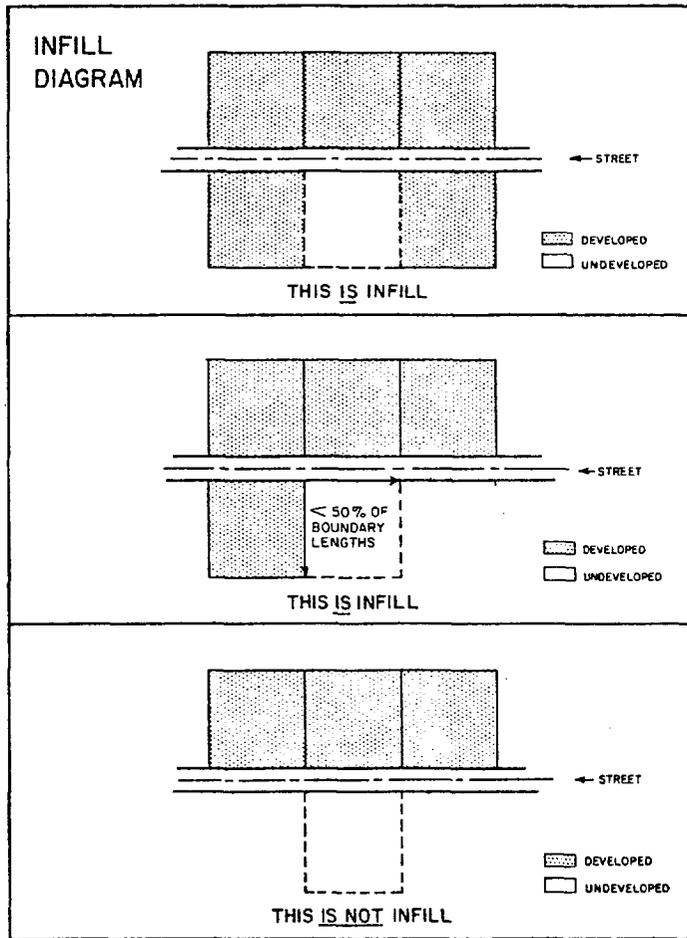
- (a) Roads - Site located more than 1,000 feet from the nearest existing paved or proposed public road, or
- (b) Sewage - Site located more than 1,000 feet from existing or approved adequate wastewater treatment system.
- (c) Infill - No requirement.

3.5.5.3 Major Commercial and Industrial Development Potential Criteria

3.5.5.3.1 Scope

The Major Commercial and Industrial Development category includes all industrial development, warehouses, manufacturing plants, wholesale and major regional shopping centers, and major parking facilities.

Figure 11



3.5.5.3.2 High Potential sites meet all of the following criteria:

- (a) Roads - Direct access from the site to a paved public road with sufficient capacity to absorb satisfactorily the traffic generated by the proposed development, or in High Growth Regions direct access to roads which either in their existing state, or with improvements included in the proposed development, provide adequate capacity.

Sites shall also be within two miles of an existing intersection with a limited access highway, parkway, or expressway, or for industrial development, be a site within one-half mile of a freight rail line with adequate capacity for the needs of the industrial development and with an agreement to build a spur to serve the industrial development.

- (b) Sewage - Direct access to a wastewater treatment system, including collector sewers and treatment plant, with adequate capacity to treat the sewage from the proposed development, or soils suitable for on-site sewage disposal systems that will meet applicable ground and surface water quality standards. In High Growth Regions, where the existing sewage collection or treatment capacity is inadequate and the soils are unsuitable for septic systems, an applicant may include an agreement with a sewage authority to increase service to provide the required capacity. This will qualify the proposal for a high potential rating, provided that secondary impact analysis demonstrates that any development likely to be induced by new sewage capacity above the requirements of the proposal is acceptable.

- (c) Infill - A part of the site boundary shall be either immediately adjacent to, or immediately across a road from,

existing major commercial or industrial development.

3.5.5.3.3 Medium Potential sites do not meet all of the criteria for High Potential sites and do not meet any of the criteria for Low Potential sites.

3.5.5.3.4 Low Potential sites meet any one of the following criteria:

(a) Roads - A site located more than 1,000 feet from the nearest paved public road and more than 5 miles from the nearest intersection with a limited access highway, parkway or expressway, except in High Growth Regions where the site may be located more than 1,000 feet from the nearest paved public road.

(b) Infill - A site located more than one-half mile from the nearest existing commercial or industrial development of more than 20,000 square feet building area.

3.5.5.3 Campground Development Potential Criteria

3.5.5.3.1 Scope

A campground development provides facilities for visitors to enjoy the natural resources of the coast. Typically, this type of development seeks sites somewhat isolated from other development and with access to water, beach, forest and other natural amenities.

3.5.5.3.2 High Potential sites meet all of the following criteria:

(a) Roads - Sites shall have direct access to a paved public or private road of adequate capacity to serve the needs of the development.

(b) Sewage - Direct access to a wastewater treatment system, including collector sewers and treatment plant, with adequate capacity to treat the sewage from the proposed development, or soils suitable for on-site sewage disposal systems that will meet applicable ground and surface water quality standards.

- (c) Region - The region surrounding the site is natural, undeveloped and contains either beaches, streams, or forests, and is readily accessible by foot to campground users.

3.5.5.3.3 Medium Potential sites do not meet all of the criteria for High Potential sites and do not meet any of the criteria for low potential sites.

3.5.5.3.4 Low Potential sites meet any one of the following criteria:

- (a) Roads - More than one-half mile to the nearest public paved road.
- (b) Sewage - More than 1,000 feet to the nearest sewer with sufficient capacity for the needs of the development and soils unsuitable for subsurface sewage disposal systems.
- (c) Region - The region surrounding the site is at least partially developed or is not accessible by foot to campground users.

3.5.5.4 Energy Facility Development Potential Criteria

[This section is reserved pending completion of joint coastal energy facility siting studies by DEP and NJDOE. In the interim, the development potential of energy facilities is assumed to be moderate.]

3.5.5.5 Rationale

High Development Potential sites satisfy the major siting requirements of coastal uses and may be most desirable from the developer's viewpoint. The Development Potential factor also considers the extent to which the development of a site would carry out the basic coastal policy to concentrate the pattern of development by serving as infill to existing patterns of development, or whether the proposed development site would extend or scatter the pattern of development. DEP recognizes that other factors may be important in siting decisions from a developer's perspective. Use of the development potential factor stresses the advantages of existing settled areas and emphasizes the disadvantages of sparsely settled areas in determining the acceptability of locations. This factor promotes efficient capital investment in public infrastructure and community facilities, as well as conservation of open space.

3.5.6 Definition of Acceptable Intensity of Development

3.5.6.1 General

The Location Policy for Land Areas is expressed in terms of three acceptable intensities of development of the site or parts of a site, as determined by consulting the Land Acceptability Tables for the appropriate region. The acceptable intensities of development are expressed in terms of maximum and minimum acceptable percentages of the site, or of different parts of a site, that may be, or must be used for structures, herbs and shrubs, or forests. Permeable paving provides a 10% bonus over the permitted maximum level of structures and impervious paving.

3.5.6.2 High Intensity Development

This level of development permits extensive development of paving and structures. Typically, if analysis showed that most of a large area was acceptable for intensive development, the landscape that would be produced would be urban or heavily industrialized. The photomaps below show examples of typical High Intensity Development landscapes.



For parts of a site classified for High Intensity Development, the acceptable range of development is:

| High Intensity Development | Structures and Impervious Paving | Permeable Paving | Herb and Shrub | Forest |
|----------------------------|----------------------------------|------------------|----------------|--------|
| Maximum | 80% | 90% | 95% | - |
| Minimum | - | - | 5% | 5% |

(Dash symbol (-) indicates no maximum or minimum)

This range allows most of each part of the site in this category to be developed with structures or paving, while preserving at least a small minimum of open space in herbs, shrubs and trees for microclimate control, aquifer recharge and visual screening. A developer planning to use pervious paving can, as a bonus, develop a larger percentage of the area.

The required percentage of forest shall either be preserved, or, if there is no forest on the site, shall be planted. Tree species shall be those of the native mature forest, and saplings shall be at least 6 feet high at a minimum density of 1 per 100 sq. ft. Forest areas shall be protected from trampling.

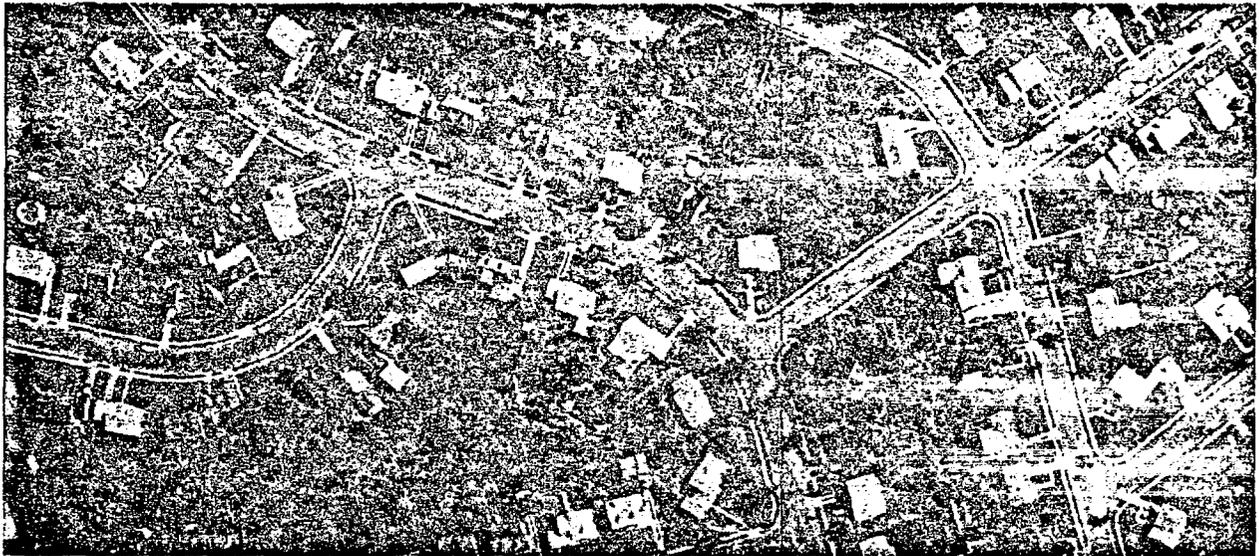
Shrubs and herbs shall be suitable to the substrate conditions. In the acid sandy soils common in the coastal area, this requirement excludes many species common in more inland areas.

High Intensity Development must be compatible in density with its surrounding region.

3.5.6.3 Moderate Intensity Development

At this level of development, between 30 and 40 percent of an area can be developed in paving and structures. Typically, if analysis showed that most of a large area was acceptable for moderate intensity development, the landscape that would be produced would be suburban. The photomaps below show examples of Moderate Intensity Development landscapes.





For parts of a site classified for moderate intensity development, the acceptable range of development elements is as follows:

| Moderate Intensity Development | Structures and Impervious Paving | Permeable Paving | Herb and Shrub | Forest |
|--------------------------------|----------------------------------|------------------|----------------|--------|
| Maximum | 30% | 40% | 80% | - |
| Minimum | - | - | - | 20% |

This range allows, for example, development of residential subdivisions of up to approximately 4 dwelling units per acre or, if the porous paving allowance is used and the dwellings are clustered, up to approximately 8 dwelling units per acre.

A minimum 20 percent of forest is required to ensure that forest vegetation is preserved or planted for microclimate control, energy conservation, soil stabilization, aquifer recharge and wildlife habitat. Where the site has no existing forest, this percentage shall be met by planting native forest species of the mature forest. It is not intended that this should be costly planting. Whip saplings (less than 3 feet high) at a density of 1 per 200 square feet are acceptable. The forested areas shall be protected from trampling. The herbs and shrubs shall be adapted to the environmental conditions of the site to reduce the adverse impacts associated with extensive liming, fertilization and irrigation. The acid sandy soils common in coastal areas exclude many species common in inland areas, including most lawn grasses.

3.5.6.4 Low Intensity Development

At this level of development intensity, the existing conditions of the site are not to be disturbed, with removal of vegetation for clearing or maintenance

purposes, and no grading, paving or structures. Typically the landscape of Low Intensity Development areas would be rural, agricultural, or forest, as shown below in the photomaps.



3.5.7 Land Acceptability Tables

3.5.7.1 General

The Land Acceptability Tables, one for each of the three regional growth types, indicate the acceptable intensity of development of a site or parts of a site, for each of the nine possible combinations of Environmental Sensitivity and Development Potential factors in each table. Since Development Potential applies to an entire site, each site can have a maximum of three different levels of acceptable intensity, if it has three areas with different levels of Environmental Sensitivity.

3.5.7.2 Land Acceptability Table: High Growth Region

(Northern, Central, and Absecon-Somers Point Regions)

| Line Number | DEVELOPMENT POTENTIAL | | | ENVIRONMENTAL SENSITIVITY | | | ACCEPTABLE DEVELOPMENT INTENSITY | | |
|----------------|--------------------------|--------|-----|------------------------------|--------|------|--|-----------------------|------------------|
| | High | Medium | Low | Low | Medium | High | High Intensity | Moderate Intensity | Low Intensity |
| 1 | X | | | X | | | X | | |
| 2 | X | | | | X | | X | | |
| 3 | X | | | | | X | | X | |
| 4 | | X | | X | | | X | | |
| 5 | | X | | | X | | X | | |
| 6 | | X | | | | X | | | X |
| 7 | | | X | X | | | | | X |
| 8 | | | X | | X | | | | X |
| 9 | | | X | | | X | | | X |

3.5.7.3 Land Acceptability Table: Moderate Growth Region

(Southern, Western Ocean, and Barnegat Corridor Regions)

| Line Number | DEVELOPMENT POTENTIAL | | | ENVIRONMENTAL SENSITIVITY | | | ACCEPTABLE DEVELOPMENT INTENSITY | | |
|----------------|--------------------------|--------|-----|------------------------------|--------|------|--|-----------------------|------------------|
| | High | Medium | Low | Low | Medium | High | High Intensity | Moderate Intensity | Low Intensity |
| 1 | X | | | X | | | X | | |
| 2 | X | | | | X | | X | | |
| 3 | X | | | | | X | | X | |
| 4 | | X | | X | | | | X | |
| 5 | | X | | | X | | | X | |
| 6 | | X | | | | X | | | X |
| 7 | | | X | X | | | | | X |
| 8 | | | X | | X | | | | X |
| 9 | | | X | | | X | | | X |

3.5.7.4 Land Acceptability Table: Low Growth Region

(Mullica-Southern Ocean, Great Egg Harbor River Basin, and Delaware Bayshore Regions)

| Line Number | DEVELOPMENT POTENTIAL | | | ENVIRONMENTAL SENSITIVITY | | | ACCEPTABLE DEVELOPMENT INTENSITY | | |
|-------------|-----------------------|--------|-----|---------------------------|--------|------|----------------------------------|--------------------|---------------|
| | High | Medium | Low | Low | Medium | High | High Intensity | Moderate Intensity | Low Intensity |
| 1 | X | | | X | | | | X | |
| 2 | X | | | | X | | | X | |
| 3 | X | | | | | X | | | X |
| 4 | | X | | X | | | | | X |
| 5 | | X | | | X | | | | X |
| 6 | | X | | | | X | | | X |
| 7 | | | X | X | | | | | X |
| 8 | | | X | | X | | | | X |
| 9 | | | X | | | X | | | X |

3.5.7.5 Rationale

The Land Acceptability Tables represent a striking of balances between the environmental sensitivity and development potential of sites, and balances among regions, in order to indicate both which land areas are appropriate locations for development and how the design of the development should use the land features of the site.

Environmental Sensitivity is weighed more heavily in Low Growth Regions than in High Growth Regions. Development Potential is weighed more heavily in High Growth Regions.

The ten regions of the coast are divided into three regional growth types as follows: High Growth: Northern, Central (excluding Western Ocean County and Barnegat Corridor) and Absecon-Somers Point; Medium Growth: Western Ocean County, Barnegat Corridor, and Southern; Low Growth: Delaware Bayshore, Mullica-Southern Ocean and Great Egg Harbor River Basin.

The definition and rationale for the geographic distribution and general growth policies are discussed in Chapter Three. These general growth policies are the basis for the distribution of the development acceptability. The three land acceptability tables show that in high growth areas, development potential is favored to promote growth, and in low growth areas environmental sensitivity is favored to promote conservation. This general policy affects the tables as follows:

High Growth Regions (Northern, Central, and Absecon-Somers Point)

General

The general policy in these regions is to promote growth through infill and lightly limited extension. In the Northern and Absecon areas, most growth will take place in high potential infill sites because of the pattern and density of existing development. In the eastern Central region, growth may occur through both infill and extension. The question here is how much to limit the extension and scattering of development so that orderly growth is promoted that does not induce sprawl without unreasonably interfering with the sequence in which sites are developed.

In this high growth category, the criteria of both high and low development potential are changed to make it easier to obtain a high or medium ranking. For example, proposals that have adequate access to roads and sewers that have been approved but not built may qualify for high development potential status. Proposals that are within 1,000' of roads and sewers that have been approved but are not built qualify for medium development potential. In these areas of planned growth, the requirement that a site must be infill to qualify for medium development potential does not apply. This definition identifies areas where growth is currently planned and then assigns acceptable development intensities as if the infrastructure were in place, which allows non-sequential development. The definition of levels of environmental sensitivity is the same throughout the tables.

Lines 1, 2, 3 In these lines development potential is high. Basically these are infill sites. In a high growth area these are prime development areas, satisfying the policy of concentration, so development potential is weighed heavily.

Line 1. There is no conflict in this line. Sites with high development potential and low environmental sensitivity are suitable for any intensity of development compatible with their surroundings.

Line 2. There is little conflict in this line. In high growth areas the high development potential overrides medium environmental sensitivity. Impacts can generally be contained by mitigation. Development of any intensity compatible with the surroundings is therefore appropriate to promote growth.

Line 3. This is a line of high conflict. Development in these areas encroaches upon fertile forests and forested areas around streams with wet high percolation soils. However, because of the high potential and high growth designations, moderate intensity development is considered acceptable to promote growth. Development on sites, or parts of sites, that are included on this line shall minimize disturbance to the maximum extent practicable and shall distribute the limited areas of structures and paving acceptable in the moderate intensity class as much as possible in areas with a deeper water table and less valuable forest. Mitigation measures to reduce ground and surface water impacts are essential.

Lines 4, 5, 6 In these three lines the development potential moves to medium. In high growth areas development potential is also weighed heavily, though less than in the first three lines. The balance is designed to conserve the limited areas of high sensitivity that occur in high growth regions as open space for surrounding developments.

Line 4. The environmental sensitivity is low and development of any compatible intensity is appropriate to promote growth.

Line 5. Development potential overrides the moderate environmental sensitivity to promote growth. The acceptable development intensity is high, rather than medium, because the resource loss is moderate and, to promote clustering, intensive growth is desirable. The open space necessary in a developing high growth region is better provided in larger contiguous areas which may also conserve high sensitivity land types, than dispersed through lower density development in moderately sensitivity areas.

Line 6. This is a line of conflict. Here high environmental sensitivity overrides development potential. Almost all the high sensitivity areas in the high growth regions are limited areas of forested Atsion, Lakewood or Klej soils adjacent to streams and water bodies. In these moderate development potential growth extension areas, the preservation of these water related areas is desirable for a number of reasons.

- They are linked to the water's edge corridors and so many become parks and wildlife habitats linked to an integrated non vehicular movement system providing recreation and diversity for surrounding areas of development.

- They conserve the most valuable and sensitive land areas of a developing region improving water quality and adding to the mitigating effects of the water's edge areas.

- Development of these areas is relatively difficult and expensive: vegetation must be cleared, filling is necessary for foundations and paving and special mitigation measures are necessary for the release of sewage and runoff effluents.

Conservation therefore benefits both the community and the environment.

Lines 7, 8, 9 In these three lines, development potential is low, sites are distant from existing or approved roads and sewers, and soils are unsuitable for septic systems. The criteria for low development potential in high growth areas allows scattered non-sequential development in areas where growth is planned. Environmental sensitivity must be weighed more heavily in these three lines to prevent sprawl into unsewered areas where soils are unsuitable for septic systems. This is particularly common in the sandy soils of high growth regions.

Line 7. This is the only line of these three where conflict arises between the policy of promoting development in high growth areas and the policy of discouraging sprawl. The criteria for low potential in high growth areas are designed more narrowly than in other areas to allow most sites to qualify for medium development potential. Environmental sensitivity overrides development potential in this line to restrict scattered development in unsewered sandy soils.

Lines 8 & 9 In these two lines, environmental sensitivity overrides development potential to prevent scattered development into areas of low potential where resource loss and impacts are of concern.

Medium Growth Areas (Western Ocean County, Barnegat Corridor, and Southern)

General

The general policy in these areas is to promote nodal growth based on existing centers of development and to limit ribbon and scattered development along minor roads. It is desirable in these areas to promote settlement patterns that could be served by public transportation systems, particularly buses.

Because of this policy, development acceptability is more limited in areas of extension. Environmental sensitivity is weighed more heavily than in high growth areas. The criteria for inclusion in high and medium development categories are also more rigorous for this reason. Sites must be adjacent to existing roads and sewers to qualify for high potential and adjacent to existing developed sites and within 1,000 feet of existing roads and sewers to qualify for medium potential. These more rigorous standards are set to increase the limitations to sprawl in moderate growth areas.

Lines 1, 2, 3 In these three lines, development potential is high, sites infill or round off, and the necessary infrastructure is available. These are the nodes where growth is to be promoted. Development potential is weighed more heavily than environmental sensitivity.

Lines 1 & 2 Here development potential overrides environmental sensitivity. The acceptable development intensity is kept high in both lines to promote clustering in the growth nodes.

Line 3. This is a line of conflict, with development encroaching upon highly sensitive areas. In order to promote concentration at nodes, development potential partly overrides environmental sensitivity to permit moderate intensity development. Developers building on sites or parts of sites that are regulated by this line shall place structures and paving in a way that avoids the most sensitive parts of the area as much as possible and mitigate impacts according to the Resource Policies.

Lines 4, 5, 6 In these three lines, development potential is medium, sites are extensions of existing development and within moderate distances of roads and sewers. If development acceptability is moderate or high, ribbon development along roads is possible conflicting with the policy of nodal development.

In moderate growth regions in the south, extensive land areas fall within the Farmland Conservation Area. In western Ocean County, there are few land areas adjacent to existing roads. Little ribbon development is therefore possible. To allow limited growth, development potential partly overrides environmental sensitivity in all but the most sensitive areas to allow moderate intensity development.

Lines 4 & 5 Here moderate intensity development is acceptable to allow very limited extensions of existing roadside developments.

Line 6. Here the most sensitive areas are conserved from ribbon development both to prevent sprawl in moderate growth areas and to protect valued and sensitive land areas.

Lines 7, 8, 9 In these areas development potential is low, sites are distant from roads, and sewers and soils are unsuitable for septic tanks. To prevent scattered sprawl development in limited growth areas, the acceptable intensity of development is low.

Low Growth Areas (Delaware Bayshore, Mullica-Southern Ocean Great Egg Harbor River Basin)

General

The general policy in these areas is that conservation is more important than development and environmental sensitivity is therefore weighed more heavily than other areas. In the Delaware Bayshore, the concern is the conservation of agricultural land. In the Mullica-Southern Ocean and Great Egg Harbor River Basin regions the concern is conservation of the natural environment. The spread of development must, therefore, be highly restricted. In order to satisfy these policies, development has been limited to infilling and rounding off in areas of moderate and low environmental sensitivity.

Lines 1 & 2 These lines show moderate intensity development acceptable in infill sites. This allows a limited amount of growth within existing settlements especially where development had leapfrogged in the past leaving pockets of undeveloped land.

Lines 3 to 9 In these lines development is restricted in low growth areas either because the lower development potential implies ribbon or scattered sprawl in conflict with the subregional growth policy or, to conserve the environmentally sensitive areas which are more valuable in low growth areas than elsewhere.

3.5.8 Determination of Location Acceptability

The location acceptability of a coastal development proposed for Land Area is determined by comparing the site plan of the proposed development, and the proposed percentages of the site to be used for structures, paving, herb and shrub vegetation, and forest vegetation, with the acceptable minimum and maximum percentages of the site to be used for structures, paving, herb and shrub vegetation, and forest vegetation, as specified in the three levels of acceptable development intensity that apply to the site or parts of the site according to the Land Acceptability Tables. The percentages of the proposed development's site plan shall conform with the percentages determined using the Land Acceptability Tables, to the maximum extent practicable.

3.6 Policy on Location of Linear Development

A linear development, such as but not limited to a road, sewer line, or offshore pipeline, that must connect two points to function shall comply with the specific location policies to determine the most acceptable route, to the maximum extent practicable. If part of the proposed alignment of a linear development is found to be unacceptable under the

specific location policies, that alignment (perhaps not the least possible distance) may nonetheless be acceptable, provided the following conditions are met:

- (a) there is no prudent or feasible alternative alignment which would have less impact on sensitive areas,
- (b) there will be no permanent or long term loss of unique or irreplaceable areas,
- (c) appropriate measures will be used to mitigate adverse environmental impacts to the maximum extent feasible, such as restoration of disturbed vegetation, habitats, and land and water features,
- (d) the alignment is located on or in existing transportation corridors and alignments, to the maximum extent practicable.

3.7 General Location Policy

A location may be acceptable for development under the specific location policies above, but the DEP may reject or conditionally approve the proposed development of the location as reasonably necessary to:

- (a) promote the public health, safety, and welfare,
- (b) protect public and private property, wildlife and marine fisheries, and
- (c) preserve, protect and enhance the natural environment.

4.0 USE POLICIES

- 4.1 Purpose
- 4.2 Housing
- 4.3 Resort-Recreation
- 4.4 Energy
- 4.5 Public Facility
- 4.6 Industry-Commerce
- 4.7 Ports
- 4.8 Coastal Engineering

4.1 Purpose

Many types of development seek locations in the coastal zone. The second stage in the screening process of the Coastal Resource and Development Policies spells out a set of policies for particular uses of coastal resources. The Use Policies often reinforce and highlight Location Policies.

4.2 Housing Use Policies

4.2.1 Definition

Housing in the Bay and Ocean Shore Segment includes both large and small developments of single family detached houses, multi-family units with apartments or town houses, high rise buildings and mixed use developments. The Housing Policies which follow will apply to all proposed housing on wetlands or riparian lands and to housing projects of 25 or more units in other parts of the Bay and Ocean Shore Segment.

4.2.2 Water's Edge Housing

Policy

New housing development is prohibited in Water Areas and the Natural Water's Edge. The stabilization of existing lagoons through revegetation, bulkheading or other means is conditionally acceptable provided that the conditions of the Retained Water's Edge and Filled Water's Edge are satisfied.

Rationale

Housing is not dependent on water access, and does not qualify for any exceptions to the policy of restricting development in sensitive areas. Housing in these areas would require new lagoons, dredging, and filling.

4.2.3 Cluster Development

Policy

Housing developments that cluster dwelling units on the areas of sites most suitable for development are encouraged.

Rationale

Clustering is defined as an increase of net density realized by reducing the size of private lots and retaining or increasing the gross density of a project. The open space that is produced by clustering can be returned to the community as common open space. The location policies define certain sensitive areas where development is limited. When such areas are present on a site, the acceptable gross density may have to be reduced, unless the net density can be increased by clustering. Where municipal zoning requires minimum lot sizes that preclude clustering, applicants are encouraged to seek local approval, through new ordinances and/or variances, to maintain the permissible gross density by clustering. DEP will aid this endeavor by providing a rationale and testimony, as appropriate, especially for the protection of sensitive areas. Cluster developments lessen the impact of construction by preserving valued soil, open space, vegetation and aquifer recharge resources. Some cluster developments also increase insulation and reduce energy consumption due to shared walls between units.

4.2.4 Residential Mix

Policy

Housing development that provides for a mix of dwelling types and for persons of different age and income groups is encouraged.

Rationale

The quality of life improves when residential areas provide a diversity of dwelling types, at different cost levels, so that people of different ages, life styles, and incomes can live together, rather than the traditional pattern of highly stratified development that has taken place in the process of suburbanization of the coastal zone. At the same, the coastal region already provides specialized dwelling types for particular groups, such as senior citizens.

4.2.5 Fair Share Housing

Policy

Housing developments which contribute to a municipality's efforts to accommodate its fair share of low and moderate income housing are encouraged. Housing developments shall provide least cost housing where feasible.

Rationale

In March 1975, the New Jersey Supreme Court, in Southern Burlington County NAACP v. The Township of Mount Laurel 67 N.J. 151 (1975) declared that a municipality must "presumptively make realistically possible an appropriate variety and choice of housing ... at least to the extent of the municipality's fair share of the present and prospective regional need ...". In April 1976, the Governor issued Executive Order No. 35, (amended by Executive Order No. 46 of December 1976) which directed the Division of State and Regional Planning in the Department of Community Affairs to prepare a statewide fair share housing allocation plan. Developments in the coastal zone that contribute to meeting defined municipal fair shares are encouraged.

4.2.6 Barrier Free Design

Policy

Residential developments without barrier free design in public areas are prohibited, and multi-family developments of more than 250 units without barrier free design in some of the units are discouraged. Further, barrier free design must be included in all buildings and spaces used by the general public according to State Law (N.J.S.A. 52:32-4). Barrier free design is encouraged in units of private residential developments, especially at grade changes in public space within those private developments.

Rationale

Housing in the coastal zone should be available to all people, including those whose physical handicaps have precluded such accommodation in the past. "Barrier Free Design Regulation", published by the State of New Jersey, Department of the Treasury, Division of Building and Construction on July 15, 1977, defines the barrier free design requirements of public buildings.

4.2.7 Housing and Public Transportation

Policy

The development of housing at locations and densities that contribute to the feasibility of public transportation is encouraged.

Rationale

Public health and welfare concerns about air quality, as well as the necessity to limit energy consumption, require that public policies and decisions encourage public transportation.

4.2.8 Housing Rehabilitation

Policy

Residential development involving the demolition and redevelopment of existing structures is discouraged, unless rehabilitation of the existing structures is demonstrated to be impractical, infeasible, and contrary to the public interest.

Rationale

The preservation, restoration, or rehabilitation of existing structures is preferable to demolition and redevelopment in order to save structures and neighborhoods with historic and aesthetic interest. Rehabilitation can often be more labor intensive than construction of a new building which means that more jobs are created and less energy is consumed through the production of new building materials. Applicants who build on developed sites must demonstrate that existing structures cannot be rehabilitated.

4.2.9 High Rise Housing

Policy

All high rise housing developments, defined as structures for residential use more than six (6) stories or more than sixty (60) feet from grade, are encouraged to locate in areas of existing high density, high-rise and/or intense settlements. High rise housing is acceptable subject to the following conditions:

- (a) high-rise structures within the view of coastal waters must be separated from coastal waters by at least one public road or an equivalent park distance,
- (b) the largest dimension of any high-rise structure must be oriented perpendicular to the beach or coastal waters,
- (c) the proposed structure must not block the view of dunes, beaches, horizons, inlets, bays, or oceans that are currently enjoyed from existing residential structures, public roads or pathways,
- (d) the structure must not overshadow beaches between May and October,
- (e) the proposed structure must be in character with the surrounding transitional heights and residential densities, or be in character with a comprehensive development scheme requiring an increase in height and density,
- (f) the proposed structure must not have an adverse impact on traffic and air quality.

Rationale

Considerable recent residential development along the coast, from the Palisades to the barrier islands, has taken the form of high-rise, high-density towers. While conserving of land, some high-rise structures represent a visual intrusion, cause adverse traffic impacts, and casts shadows on beaches. Under CAFRA, DEP has approved several high-rise structures in Atlantic City and denied two CAFRA applications for high-rise proposals, one in downtown Toms River (Ocean County) and another in Brigantine (Atlantic County). This policy strikes a balance, between banning high-rises and allowing tall residential structures anywhere in the coastal zone.

4.2.10 Large Scale Planned Residential Development

Policy

Large scale, free-standing planned residential developments, such as planned unit developments, shall be evaluated on a case-by-case basis to determine the extent that the proposed development carries out the basic coastal policy to concentrate the pattern of development, contributes to regional housing needs, and does not cause significant adverse secondary impacts.

Rationale

Large planned communities offer advantages of scale in creating new modes of development and providing housing. Such large projects may, however, detract from or alter appropriate regional patterns of development.

4.3 Resort/Recreational Use Policies

4.3.1 Definition

Resort-recreation uses include the wide range of small and large developments attracted to and often dependent upon locations along the coast, particularly in the Bay and Ocean Shore Segment. Resort-recreation uses include hotels, motels, marinas, boating facilities, campgrounds, amusement piers, parks and recreational structures such as bath houses and fishing piers.

4.3.2 Recreation Priority

Policy

Resort/Recreation Uses shall have priority in the Bay and Ocean Shore Segment over all other uses, with highest priority reserved for those uses that serve a greater rather than a lesser number of people, and those uses that provide facilities for people of all ages and for people with physical handicaps.

Rationale

The national and state interests in recreation are clearly indicated in the coastal economy and are essential for the quality of life. The coastal environment provides numerous opportunities for recreation which should be expanded by public policy and action, including priority setting.

4.3.3 New Recreation Areas

Policy

Recreation areas shall be incorporated in the design of all residential and industrial development, to the maximum extent practicable.

Rationale

The recent national recognition that recreation is physically and mentally important for people of all ages should be accommodated by new development. Recreational facilities are important near places of employment, as well as in residential areas, since many people only have opportunities for recreation during the working day.

4.3.4 Public Access

Policy

All public and private resort-recreation development adjacent to coastal waters must provide for reasonable public access to the shorefront.

Rationale

Shorefront areas maintained and protected by state tax revenues, as well as by local funds, must be made available to all state residents and visitors. Access includes visual access to the shorefront, direct physical access, and indirect physical access such as provision of transportation and supporting facilities.

4.3.5 Hotel-Motel Developments

Policy

New, expanded or improved hotel-motel developments are conditionally acceptable in existing resort-oriented areas, provided that the development: (a) complies with the high-rise housing policy, if appropriate, (b) promotes public recreational uses of the coast, and (c) is compatible in scale, site design, and architecture with surrounding development. Hotel-motel developments are discouraged in other areas. Resort areas are existing concentrations of development that serve visitors to the coastal zone.

Rationale

Hotels and motels enable New Jersey residents and tourists to visit the coast. They thereby support the tourist economy of the area. The buildings must be located, however, so they do not harm or threaten the resources which attract people to the coast.

4.3.6 Hotel-Casino Development

Policy

Hotel-casino development in Atlantic City shall be located in the city's traditional resort area (along the Boardwalk), to the maximum extent practicable. Hotel-casino development is discouraged in existing residential areas and in areas where access by public transportation and between the proposed hotel-casino and the Boardwalk is limited. Rehabilitation and renovation of existing hotels for hotel-casino purposes is encouraged. Hotel-casino development shall comply with the high-rise housing policy.

Rationale:

This hotel-casino location policy serves several purposes: (1) protecting Atlantic City's existing diverse neighborhoods, (2) facilitating public transportation solutions (such as bus, jitney, park-and-ride, or rail) to the problem of increased access to and in Atlantic City, (3) promoting pedestrian movements, (4) reducing pressure on vehicular systems, and (5) preserving the historic and low-rise residential character of the Gardiner's Basin and Inlet area.

4.3.7 Marinas

Policy

New or expanded marinas for recreational boating are conditionally acceptable if:

- (a) the demonstrated regional demand for recreational boating facilities cannot be met by the upgrading or expansion of existing marinas, and
- (b) the proposed marina includes the development of an appropriate mix of dry storage areas, public launching facilities, and berthing spaces, depending upon the site conditions and
- (c) the proposed marina provides adequate pump out stations for wastewater disposal from boats in a manner consistent with federal and state water quality laws and regulations.

New marinas that provide primarily for sail and oar boating are encouraged.

Expansions of existing marinas shall be encouraged by limiting non-water dependent land uses that preclude support facilities for boating.

Recreational boating facilities are acceptable provided that they are designed and located in order to cause minimal feasible interference with the commercial boating industry.

Rationale

The location of marinas requires the use of sensitive lands at the waters edge which exist in only limited supply and are also valued for other activities. The policies aim to ensure that the area devoted to marinas is fully and efficiently utilized to keep the size of the area required to a minimum. Facilities for sail and oar boating are encouraged because such boats consume less energy and have less of a polluting impact on the water than motor boats.

4.3.8 Amusement Piers, Parks and Boardwalks

Policy

New amusement piers are prohibited, except in areas with riparian grants where they are discouraged. Expanded or extended amusement piers, parks, and boardwalks at the water's edge or in the water and the on-site improvement or repair of existing amusement piers, parks and boardwalk areas are discouraged unless the proposed development meets the following conditions:

- (a) the amusement pier, parks, or boardwalk does not unreasonably conflict with aesthetic values, ocean views, other beach uses, and wildlife functions, and
- (b) public access to the shorefront is not limited, and
- (c) the surrounding community can adequately handle the activity and uses to be generated by the proposed development.

Rationale

Amusement piers, amusement parks, and boardwalks form an essential element of the resort and recreational character of some of the communities fronting on the Atlantic Ocean. The carnival atmosphere of these areas provides fun and excitement

annually for hundreds of thousands of people. However, new piers for amusement purposes are an inappropriate use of scarce coastal resources, due to the natural hazard of the desired ocean location and the importance of maintaining the visual quality of the oceanfront. Also, amusement parks are not a water-dependent use; these facilities may be located inland on less sensitive land and water features.

4.4 Energy Use Policies

4.4.1 General Definition of Energy Uses

Energy uses include facilities, plants or operations which produce, convert, distribute, or store energy. Under the Department of Energy Act, the term "energy facility" does not include an operation conducted by a retail dealer.

4.4.2 General Energy Facility Siting Procedure

Policy

- (a) The acceptability of all proposed new or expanded coastal energy facilities shall be determined by a review process that includes both NJDEP and the New Jersey Department of Energy (N.J.S.A. 52:27F-1 et seq.) according to the procedures defined in the Memorandum of Understanding between NJDEP and NJDOE Coordination of Permit Reviews.
- (b) NJDOE will determine the need for future coastal energy facilities according to three basic standards. NJDOE will submit an Energy Report to DEP with its determination of the need for a coastal energy facility based on three required findings:
 - (i) the existing sources of supply will not be adequate to meet future levels of demand, including careful consideration of the potential effects of conservation,
 - (ii) that no better technological alternative exists to meet future levels of demand,
 - (iii) that no better locational alternative to the proposed site exists.
- (c) NJDEP will determine the acceptability of coastal energy facilities using the Coastal Resource and Development Policies.
- (d) If NJDOE has submitted an Energy Report to DEP, the DEP decision document shall refer to the NJDOE Energy Report and indicate DEP's reasons for differences, if any, between the DEP decision and the NJDOE Energy Report.

- (e) Where NJDOE and NJDEP disagree on the acceptability of a specific proposed coastal energy facility (for example, on a specific proposed site for one type of energy facility), the disputed decision shall, in accord with state law, be submitted to the State's Energy Facility Review Board for final administrative action.

Rationale

NJDOE and NJDEP share responsibility for carrying out the energy facility siting planning and project review elements of the New Jersey Coastal Management Program. The State Energy Master Plan and its appendices, the Coastal Resource and Development Policies, and the Memorandum of Understanding between NJDEP and NJDOE provide a clear framework for decision-making by these two State agencies on the review of proposed facilities, as well as a basis for continued consultation and cooperative planning.

4.4.3 Outer Continental Shelf (OCS) Oil and Gas Exploration and Development

Policy

Rapid exploration of the Mid-Atlantic, North Atlantic, and other offshore areas with potential reserves of crude oil and natural gas is encouraged, as long as all related onshore activities do not conflict with existing land uses and are conducted in accordance with the policies of the program. Onshore activities for development and production of offshore hydrocarbons shall be carried out according to the specific energy facility policies of this section.

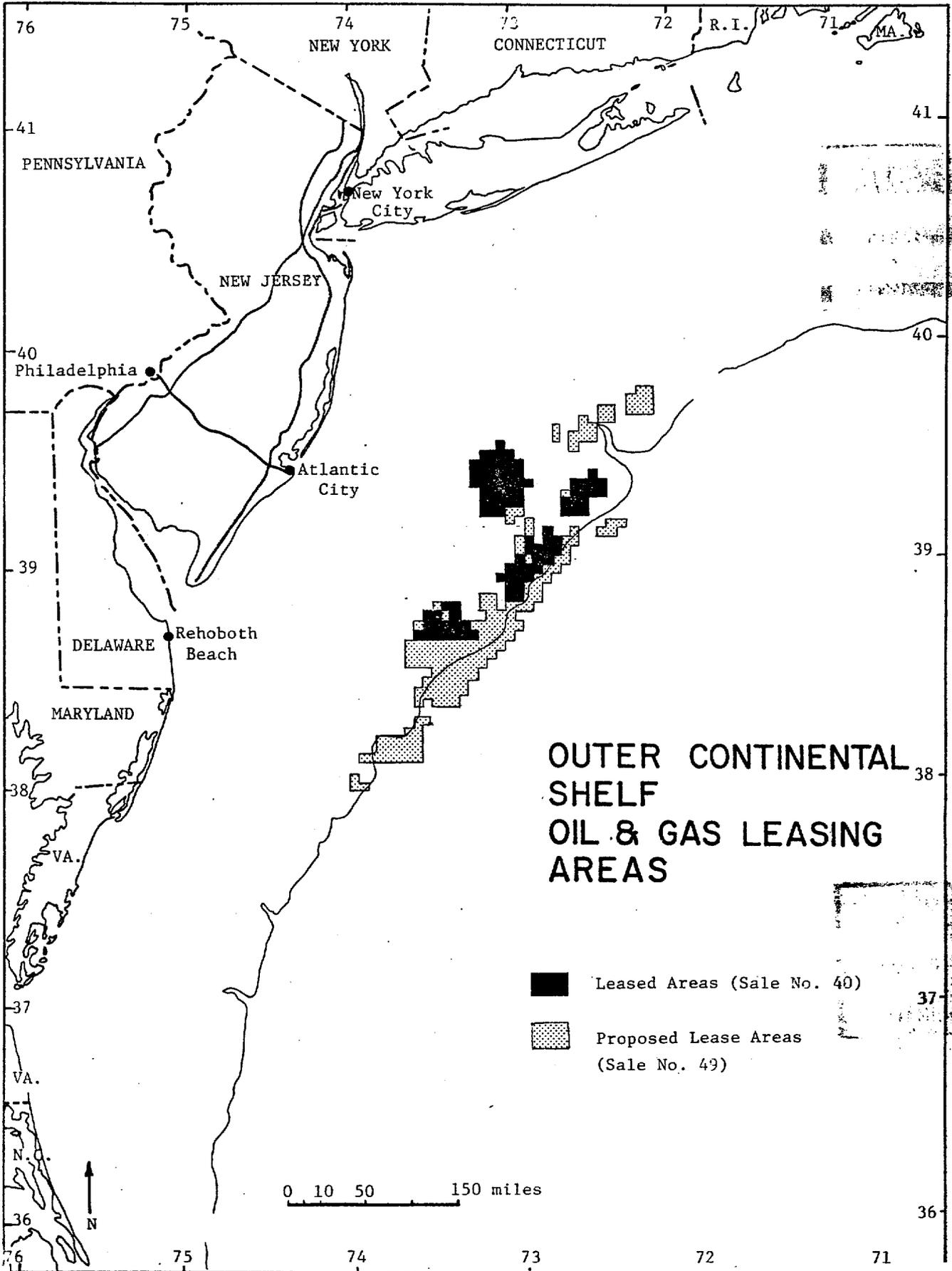
Rationale

The decision of the U.S. Department of Interior to lease offshore tracts for crude oil and natural gas exploration presents New Jersey with new onshore and marine-related environmental problems and opportunities (See Figure 12). New Jersey supports offshore exploration, recognizing the national need to identify new energy supplies, as long as this new industrial activity does not conflict with the State's second most important industry, tourism, which depends upon the maintenance of a high quality coastal environment.

In the event that commercial finds of oil and gas are made off the Jersey coast, there may be considerable building activity during the initial years while the industry prepares for production. This activity will diminish once production gets underway.

To minimize the impact of needed facilities, DEP encourages the location of OCS-related facilities in developed areas where the infrastructure and labor market already exist to absorb such activity.

Figure 12



During the construction of onshore oil and gas facilities, there may be an influx to the coastal zone of the marine service and engineering industry. This service sector office-oriented activity will be encouraged to locate in urban centers, such as Atlantic City, which because of its proximity to OCS Lease Sale 40 has already been selected by industry as the take-off point for helicopters to the offshore rigs and platforms. Also, the U.S. Geological Survey (U.S.G.S.) has located its mid-Atlantic field office in Atlantic City to supervise and monitor offshore operations.

4.4.4 Onshore Support Bases

Policy

New or expanded onshore support bases and marine terminals to support offshore oil and gas exploration, development, and production (including facilities for work boats, crew boats, pipeline barges, helicopters, and limited, short-term storage facilities), are encouraged at locations in built-up urban areas of the state outside of the Bay and Ocean Shore Segment and discouraged in less developed areas of the coastal zone. Preferable locations for water-dependent onshore support bases include urban waterfront areas, where onshore adverse physical, economic, and institutional impacts will be less than the impacts likely to be placed on less industrially developed areas which are more dependent upon tourism and the resort industry. Small facilities for storing oil spill containment and cleanup equipment for offshore operations will, however, be acceptable within the Bay and Ocean Shore Segment where such a location would facilitate and expedite offshore emergency operations.

Rationale

Offshore exploratory activity began off New Jersey in the Baltimore Canyon on March 29, 1978. If the exploratory drilling is successful, the offshore oil and gas industry is likely to seek onshore support bases closer to the offshore tracts than the present temporary bases established by the major oil, gas, and offshore service and supply companies at Davisville, Rhode Island. Because of shallow inlets in the Bay and Ocean Shore Segment, few locations in this part of New Jersey meet industry's siting requirements. This policy recognizes that the New Jersey coast is favored by proximity to the offshore tracts as a site for onshore staging bases, and carries out the basic policy to concentrate rather than disperse industrial development in the coastal zone.

4.7.5 Platform Fabrication Yards and Module Construction

Policy

Platform fabrication yards and module construction will be encouraged in built-up areas of the coastal zone, outside of the Bay and Ocean Shore Segment which have the requisite acreage, adequate industrial infrastructure, ready access to

the open sea, and adequate water depth, and where the operation of such a yard would not alter existing recreational uses of the ocean and waterways in the areas.

Rationale

If offshore exploration proves successful, the development phase of OCS activity in the Mid-Atlantic may require one or more sites for constructing the steel platforms used offshore, in addition to the platform construction yard tentatively planned for Cape Charles in Virginia. Platform yards typically do not have the adverse air and water quality impacts associated with some other industries. However, platform construction yards require large tracts of land and are labor intensive. The operation of a platform construction yard could severely disrupt the economy and social fabric at less developed communities and areas. For these reasons, offshore platform construction yards are encouraged to seek locations in the already developed areas of the New Jersey coast. However, the height restrictions of bridges on the Delaware River and other New Jersey waterways may sharply limit the suitability of sites in New Jersey. Existing underutilized shipyards may be used, however, for platform module construction.

4.4.6 Repair and Maintenance Facilities

Policy

Repair and maintenance facilities for vessels and equipment for offshore activities will be encouraged, particularly at underutilized existing shipyards within the Bay and Ocean Shore Segment.

Rationale

Existing small shipyards within the Bay and Ocean Shore Region, such as these along the Maurice River in Cumberland County, may serve valuable repair and maintenance support functions for offshore operations without requiring construction of new shipyards.

4.4.7 Pipe Coating Yards

Policy

Pipe coating yards are discouraged in the Bay and Ocean Shore Segment and encouraged along the Delaware River and in the area under the jurisdiction of the Port Authority of New York and New Jersey, in such communities as Middlesex, Union, Essex, and Hudson Counties.

Rationale

Pipe coating yards constitute an industrial activity that is generally incompatible with the suburban and rural character of the Bay and Ocean Shore Region. Further, pipe coating yards typically require 100-150 acres, and wharf space with a preferred depth at the wharf of 20 to 30 feet. These siting

requirements suggest that highly industrial port areas, located outside of the Bay and Ocean Shore Region, are preferred locations.

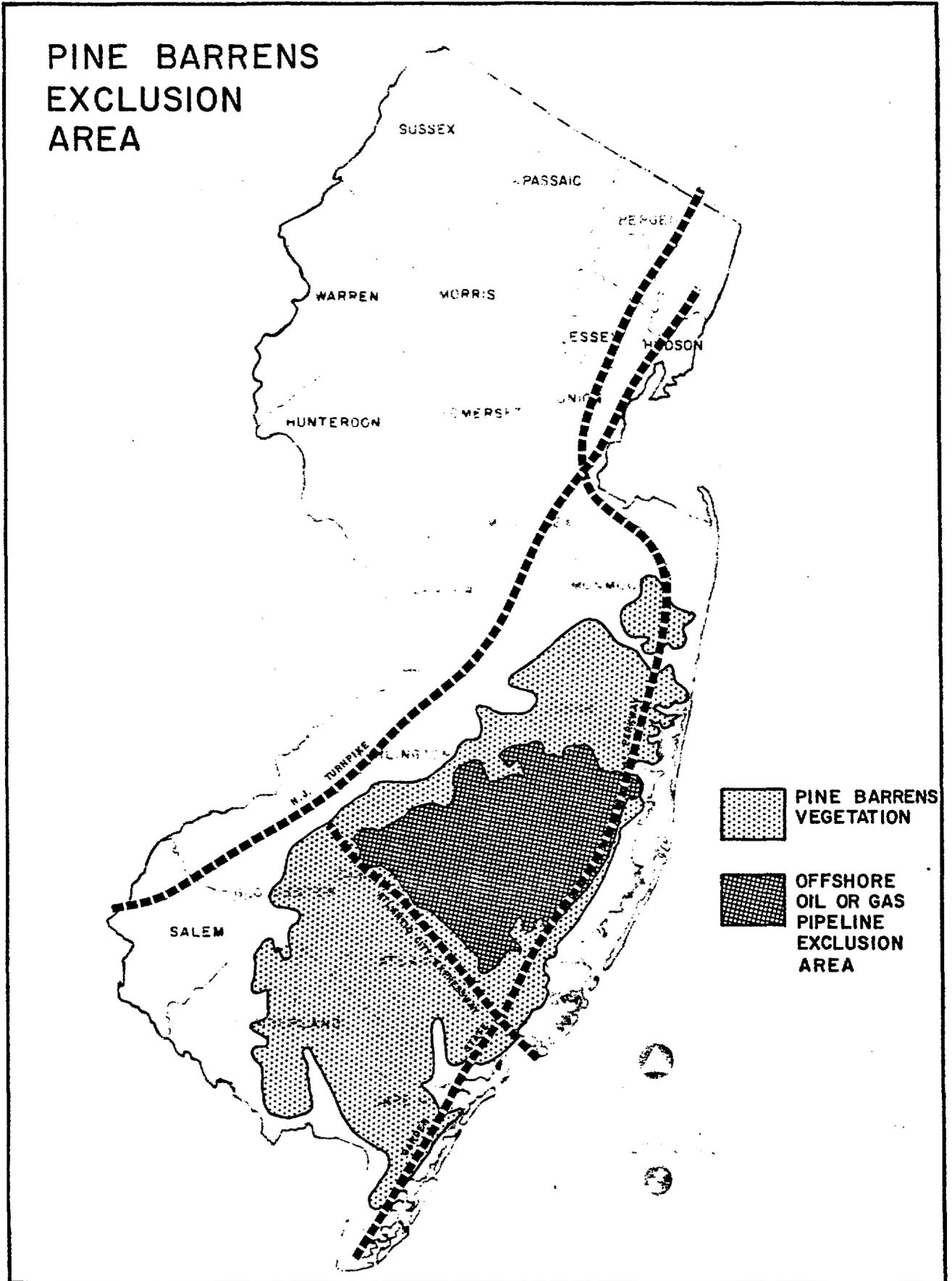
4.4.8 Pipelines and Associated Facilities

Policy

Crude oil and natural gas pipelines to bring hydrocarbons from offshore New Jersey's coast to existing refineries, and oil and gas transmission and distribution systems and other new oil and natural gas pipelines will be conditionally acceptable, subject to the following conditions:

- (a) For safety and conservation of resources, the number of pipeline corridors, including trunk pipelines for natural gas and oil, shall be limited, to the maximum extent feasible, and designated following appropriate study and analysis by the Department of Environmental Protection and the New Jersey Department of Energy, and interested federal, state and local agencies and affected industries,
- (b) The pipeline corridors for landing oil or natural gas are conditionally acceptable provided they follow existing already developed or disturbed road, railroad, pipeline, or other rights-of-way (such as the Atlantic City Expressway), to the maximum extent practicable,
- (c) Pipeline corridors for landing oil are prohibited in the Central Pine Barrens area of the Mullica River, Cedar Creek watersheds and portions of the Rancocas Creek and Toms River watersheds, defined as the 760 square mile region adopted by DEP as a "critical area" for sewerage purposes and non-degradation surface and ground water quality standards -- see N.J.A.C. 7:9-4.6(i), (j), and N.J.A.C. 7:9-10.1(b) and Figure 13 -- and discouraged in other undeveloped parts of the Pine Barrens,
- (d) Pipeline corridors for natural gas are discouraged in the Central Pine Barrens as defined above, unless the developer can demonstrate that the proposed pipeline will meet the adopted non-degradation standards for water quality and cause no long term adverse environmental impacts,
- (e) Proposals to construct offshore oil and gas pipelines, including all of the contemplated ancillary facilities along the pipeline route such as, for example, gas processing plants, oil storage terminals, booster stations, surge tanks, and other related facilities, shall be evaluated by DEP and the New Jersey Department of Energy, in terms of the entire new potential pipeline corridor through the State of New Jersey.

Figure 13



- (f) To preserve the recreational and tourism character of the coastal areas, new major pumping stations and other ancillary facilities to the offshore oil and gas pipelines shall be prohibited from locations in the Bay and Ocean Shore Segment, except for major gas processing plants and required compressor stations. Ancillary facilities shall be protected by adequate visual, sound, and vegetative buffer areas. Platforms for pumping or compressor stations shall be located out of sight of the shoreline, and
- (g) Pipeline corridors through the state coastal waters shall, at a minimum and to the maximum extent feasible, avoid offshore munitions, chemical and waste disposal areas, heavily used waterways, geological faults, wetlands and significant fish or shellfish habitats. Pipelines shall be trenched to a depth sufficient to withstand exposure by scouring, shipgroundings, anchors, fishing and clamming and other potential obstacles on the sea floor.

Rationale

New Jersey recognizes that pipelines, rather than other modes of surface transportation such as tankers and barges, are the preferred and more environmentally sound method of bringing crude oil and natural gas ashore from offshore wells. Pipelines affect their immediate surroundings most dramatically during construction. If construction is carried out properly, there will be short term impacts, most visible during the period of revegetation. At the same time, the potential onshore effects of pipelines on the sensitive ecosystem of the coast and the Pine Barrens, and the visual, noise, and odor impacts potentially created with the ancillary facilities associated with OCS pipelines, require that New Jersey proceed cautiously and prudently in selecting pipeline corridors, specific alignments, and locations for ancillary facilities.

New Jersey along with the numerous public and private interests at the local, state, and national levels involved in pipeline siting, expects to participate in the proposed intergovernmental offshore oil and gas transportation planning process being established by the U.S. Department of Interior, Bureau of Land Management. The Federal Energy Regulatory Commission with responsibility for siting gas pipelines, has also endorsed the concept of utility corridors.

4.4.9 Oil Refineries and Petrochemical Facilities

Policy

Oil refineries and petrochemical facilities are prohibited in areas where they might conflict with the resort-tourism industry or areas of recreational or biological value. New oil refineries and petrochemical facilities are prohibited in the

Bay and Ocean Shore Segment. Expansion in capacity of existing oil refineries and petrochemical facilities at existing sites, which are all located outside of the Bay and Ocean Shore Segment, will be acceptable if such expansion does not violate applicable state water quality standards.

Rationale

Based on the best available information, oil recovered from the Baltimore Canyon and the Georges Bank is expected to be routed by pipeline and tanker to the existing New Jersey, Pennsylvania or Delaware refineries, to replace existing imported oil. Consequently, no new refineries are expected to be necessary in New Jersey. However, the Draft EIS prepared by the U.S. Department of Interior on OCS Lease Sale No. 49 (May 1978, Vol. 3 p. 614) indicates that additional refinery capacity might be needed on the East Coast. With the five of the mid-Atlantic region's ten refineries (with one out-of-operation since 1974), New Jersey has already more than contributed its regional fair share of coastal lands to refineries. Also, refineries are large-scale industrial facilities that are neither coastal-dependent nor compatible with the character of the Bay and Ocean Shore Segment.

4.4.10 Gas Processing Plants

Policy

Gas processing plants, including partial processing plants, between the offshore pipeline landfall and commercial natural gas transmission lines shall be excluded from sites within the Bay and Ocean Shore Segment and the Central Pine Barrens Critical Area, to the maximum extent practicable, and shall be located the maximum feasible distance from the shoreline. Such plants should be located close to existing petrochemical plants to which they may provide feedstock. The siting of gas processing plants will be reviewed in terms of the total pipeline routing system.

Rationale

Gas processing plants will be needed if gas is found off New Jersey's shore, but these facilities do not require locations on the shoreline. Gas is best transported by pipeline. To promote the most efficient use of land, gas plants should be located close to existing gas distribution lines. Alternatively, where gas is associated with oil in oil pipelines, gas separation plants should be located close to refineries to which the oil pipelines will be routed.

4.4.11 Storage of Crude Oil, Gases and Other
Potentially Hazardous Liquid Substances

Policy

The storage of crude oil, gases and other potentially hazardous liquid substances as defined in N.J.A.C. 7:1E-1.1 under the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11) related to offshore oil and gas production is prohibited on barrier islands and discouraged elsewhere in the Bay and Ocean Shore Segment. Major new storage facilities for crude oil and gas, in the absence of processing facilities, will be permitted only outside the Bay and Ocean Shore Segment in the Port of New York and New Jersey and the Delaware River Port and where such storage will not contribute unacceptably to overall regional air or water quality degradation. Facilities for storing and distributing finished petroleum products on a wholesale or retail basis will be reviewed on a case-by-case basis.

Rationale

Major storage facilities for hazardous substances are not coastal-dependent and will not be permitted where storage might limit or conflict with recreational or open space uses of the coast.

4.4.12 Tanker Terminals

Policy

New or expanded tanker facilities will be acceptable only in existing ports and harbors outside of the Bay and Ocean Shore Segment where the required channel depths exist to accommodate tankers. Multi-company use of existing and new tanker terminals will be encouraged in the Port of New York and New Jersey and in the area bounded by the Delaware River Port Authority, where adequate infrastructure exists to accommodate the secondary impacts which may be generated by such terminals, such as processing and storage facilities. New tanker terminals will be discouraged on other parts of the coast, including the Bay and Ocean Shore Segment. Offshore tanker terminals and deepwater ports are discouraged from the Bay and Ocean Shore Region, pending a thorough evaluation of the implications of such a facility, on a case-by-case basis.

Rationale

Onshore tanker facilities pose potential adverse environmental impacts and could encourage secondary development activity that is not necessarily coastal dependent. Also, even medium sized tankers require minimum channel depths of 30 feet, which excludes locations within the Bay and Ocean Shore Region. New or expanded tanker terminals are therefore directed toward New Jersey's established port areas. Deepwater ports appear

attractive to industry due to increasingly larger tankers, limitations on dredging and the scarcity of waterfront land. However, a deepwater port may, depending on its location, cause severe adverse primary and secondary impacts on the built, natural, and social environment.

4.4.13 Electric Generating Stations

Policy

New or expanded electric generating facilities (for base load, cycling, or peaking purposes) and related facilities are conditionally acceptable subject to the following conditions:

- (a) The construction and operation of the proposed facility shall comply with the Coastal Resource and Development Policies, with special reference to air and water quality standards and policies on marine resources and wildlife,
- (b) NJDEP and NJDOE shall find that the proposed location and design of the electrical generating facility is the most prudent and feasible alternative for the production of electrical power that NJDOE has determined is needed, including a consideration, evaluation, and comparison by the applicant of alternative sites within the coastal zone and inland,
- (c) Fossil fuel (coal, oil or gas) generating stations shall not be located in particularly scenic or natural areas that are important to recreation and open space purposes,
- (d) Nuclear generating stations shall be located in generally remote, rural, and low density areas, consistent with the criteria of 10 CFR 100 (U.S. Nuclear Regulatory Commission rules on siting nuclear generating stations and population density) and/or any other related federal regulations. In addition, NJDEP shall find that the nuclear generating facility is proposed for a location where the appropriate low population zone and population center distance are likely to be maintained around the nuclear generating facility, through techniques such as land use controls or buffer zones,
- (e) The construction and operation of a nuclear generating station shall not be approved unless DEP finds that the proposed method for storage and disposal of the spent fuel to be produced by the facility: (i) will be safe, (ii) conforms to standards established by the U.S. Nuclear Regulatory Commission, and (iii) will effectively remove danger to life and the environment from the radioactive

waste material. This finding is required under present state law (N.J.S.A. 13:19-11) and will be made consistent with judicial decisions (see Public Interest Research Group v. State of New Jersey, 152 N.J. Super. 191) and federal law.

- (f) The construction of electric generating facilities using renewable forms of energy such as solar radiation, wind, and water, including experimental and demonstration projects, is encouraged in the coastal zone provided that the facilities do not significantly adversely affect scenic or recreational values.

Rationale

The siting of an electric generating station is an extraordinary event with far-reaching impacts, when compared with the typical day-to-day decisions made under the State's coastal management program. Such siting decisions therefore require special scrutiny using: (a) the State's authority in its management of state-owned tidelands and submerged lands contemplated as sites for all or part of an electric generating station, (b) the State's regulatory authority, and (c) the State's influence in federal proceedings on aspects of the siting process.

New Jersey's coastal zone, and especially the Bay and Ocean Shore Segment has experienced the consequences of several major siting decisions in the past decade and already has a diverse mix of existing, proposed, and potential fossil fuel and nuclear generating facilities, both onshore and offshore.

For example, in 1978 two nuclear generating units are in operation in the coastal zone; Salem Unit I on Artificial Island on the Delaware River in Salem County and at Oyster Creek near Barnegat Bay in Ocean County. Four additional nuclear generating units are under construction in the Bay and Ocean Shore Segment and have received the appropriate federal and state approvals, including Forked River on the Oyster Creek site in Ocean County, and Salem 2 and Hope Creek 1 and 2 on Artificial Island. The Hope Creek project, which DEP approved under CAFRA in 1975, had its genesis in a project contemplated at Newbold Island in the Delaware River, less than five miles south of Trenton. In 1973, the U.S. Atomic Energy Commission (the predecessor to the Nuclear Regulatory Commission), acting in accord with the view of New Jersey, recommended that Artificial Island would be a more suitable site than Newbold Island because of population density concerns. New Jersey's coastal zone is also the site of the proposed floating nuclear plant, the Atlantic Generating Station, Units 1 and 2, at a site in the Atlantic Ocean east of Little Egg Harbor; however, the sponsor of the project, Public Service Electric and Gas

Company, announced in 1978 a delay of at least three years in the timetable for this unprecedented project. The Bay and Ocean Shore Region also includes generating stations that have used various fossil fuels depending upon the price and availability of fuel as well as upon the applicable air quality rules.

New Jersey recognizes the interstate nature of the electric power system. Some electricity is produced in New Jersey at facilities owned partially by utilities in other states and exported to those states. New Jersey also imports electricity produced in adjacent states. In short, New Jersey is an integral part of the Pennsylvania-New Jersey-Maryland interconnecting grid system, importing and exporting electricity from the system at different times of the day, season and year in order to generate electricity efficiently and achieve the lowest achievable cost to electricity users throughout this multi-state region.

New Jersey also recognizes that most electric generating facilities may not be coastal-dependent but do require access to vast quantities of cooling waters, a siting factor that, from the perspective of utilities, increases the attractiveness of coastal locations. This siting policy strikes a balance among various competing national, regional, and state interest in coastal resources, and recognizes some of the differences in the siting requirements of fossil fuel and nuclear generating stations.

The policy directs fossil fuel stations toward built up areas in order to preserve and protect particularly scenic and natural areas important to recreation and open space purposes. New Jersey has articulated this policy with a conscious recognition of the state's progress in attaining and maintaining high air quality. Given the use of appropriate control technology, coal-fired generating stations, for example, appear feasible at various coastal locations. The siting of coal-fired power plants in urban areas also promotes efficient energy use due to the proximity of power plants to load centers.

The nuclear siting policy recognizes public concern for the disposal of spent fuel, as mandated in 1973 by the New Jersey Legislature in CAFRA.

4.4.14 Liquefied Natural Gas (LNG) Facilities

Policy

New marine terminals and associated facilities for transferring, transforming and storing liquefied natural gas, prior to distribution by pipeline, are discouraged in the Bay and Ocean Shore Region unless the proposed facility is located or constructed so as to neither unduly endanger human life nor property nor otherwise impair the public health, safety and

welfare, as required by N.J.S.A. 13:19-10f, and complies with the Coastal Resource and Development Policies. In determining the acceptability of proposed LNG facilities, DEP shall also consider siting criteria such as: (a) applicable federal siting criteria, (b) the risks inherent in tankering LNG along New Jersey's water ways and rivers, (c) the risks inherent in transferring LNG onshore, and (d) the compatibility of the facility with surrounding land uses, population densities, and concentrations of commercial or industrial activity.

Rationale

New Jersey's policy on LNG facility siting recognizes the responsibilities of various federal agencies, including the Coast Guard and Office of Pipeline Safety Operations in the U.S. Department of Transportation, the Economic Regulatory Administration in the U.S. Department of Energy (US DOE), and the independent Federal Energy Regulatory Commission within USDOE, for management of various aspects of the siting and operations of LNG facilities. New Jersey seeks and welcomes rigorous and consistent federal LNG siting standards. In fact, the State of New Jersey petitioned the former Federal Power Commission in May 1976 for the issuance of such siting criteria. The petition (RM76-13) is still under consideration by the Federal Energy Regulatory Commission.

LNG facilities have been proposed in the 1970's in New Jersey's coastal region along the Delaware River at sites in Logan Township (Transco) and West Deptford Township (Tenneco) in Gloucester County, as well as on Staten Island, New York (Distrigas and Eastcogas), with a proposed natural gas pipeline connection to New Jersey under the Arthur Kill. As of mid-1978, none of these proposals have received the required federal approvals. The New Jersey policy on LNG policy is based in part on the results of the Federal Power Commission staff alternative LNG terminal site analysis and recommendation that the West Deptford site not be approved (see Federal Power Commission, Bureau of Natural Gas, Draft Environmental Impact Statement for the Construction and Operation of a Liquefied Natural Gas Import Terminal in West Deptford, New Jersey, Docket No. CP 76-16, Tenneco LNG, Inc., December 1976). The tankering, transfer, and storage of LNG pose significant risks to public health, safety and welfare and may cause serious adverse environmental impacts which may not be restricted to one state, given the likely potential locations of LNG terminals along interstate waterways. New Jersey therefore recommends that the siting of LNG facilities be treated as a regional issue on an interstate basis, ideally by the adoption of consistent federal siting criteria. At the same time, NJDEP and NJDOE will continue to explore the potential and likely impacts of onshore and offshore sites for LNG facilities.

4.5 Public Facility Use Policies

4.5.1 Definition

Public Facilities includes a broad range of public works for the production, transfer, transmission, and recovery of water, sewerage and other utilities, as well as public transportation facilities. The presence of an adequate infrastructure makes possible future development and responds to the needs created by present development.

4.5.2 General Public Facilities

Policy

New or expanded public facility development is conditionally acceptable provided that:

- (a) The public facility would serve a demonstrated need that cannot be met by an existing public facility at the site or region,
- (b) Alternate technologies, including conservation, are an impractical or infeasible approach to meeting all or part of the need for the public facility, and
- (c) The public facility would not generate significant secondary impacts inconsistent with the Coastal Resource and Development Policies.

Rationale

Public facilities provide important public service, but can also adversely affect the coastal environment and economy if improperly located, designed, or constructed. In particular, the secondary impacts of new public facility construction and the need for the facility require scrutiny.

4.5.3 Roads

Policy

Proposals to build new roads or expand existing roads must demonstrate a need, and indicate why alternate solutions, including, as appropriate, upgrading existing roads and/or the use of public transportation are not feasible.

Rationale

Only minor road improvements are likely to take place in the more densely populated coastal regions, which have adequate road systems. Selective road improvements should always be evaluated in the context of public transportation alternatives. New or expanded roads should facilitate public transportation and pedestrian and bicycle use.

4.5.4 Public Transportation

Policy

New and improved needed public transportation facilities, including bus, rail, air, and boat travel and related parking facilities, are encouraged.

Rationale

A basic premise of the coastal management program is concentrating the pattern of development, in part to facilitate public transportation. While new air transportation facilities appear unlikely, bus facilities and parking systems appear appropriate, particularly as a solution to the transportation problems of barrier island resorts.

4.5.5 Bicycle and Foot Paths and Fishing Platforms

Policy

The construction of bicycle and foot paths, in residential projects, and fishing catwalks and platforms on new or improved bridges, is required, to the maximum extent practicable.

Rationale

Paths for pedestrians and bicycles provide active outdoor recreation and may lead to reduced dependency on cars, particularly with increasingly compact settlement patterns. Fishing platforms also provide for outdoor recreation and must be seriously considered in the design process for new or improved bridges.

4.5.6 Solid Waste

Policy

Solid waste conservation techniques such as recycling, resource and energy recovery and volume reduction, must be explored and proved infeasible before a solid waste disposal facility, preferably at a regional scale, is deemed acceptable.

Sanitary landfills that locate in the upland must demonstrate that the leachate will not adversely impact the ground or surface waters, by using a lining and/or a leachate filtration plant. Acceptable plans for restoring the site must be submitted with the original proposal.

Rationale

Solid waste is a resource whose potential for recovery must be evaluated before locating new sanitary landfills. Further, regional solutions to solid waste management are mandated under

State law. In addition, the development of new landfills is subject to the regulations of DEP's Solid Waste Administration.

4.5.7 Wastewater Treatment

Policy

- (a) Coastal developments that do not employ the most energy-efficient wastewater treatment system practicable are discouraged. Energy efficient systems are encouraged.
- (b) On-site sewage disposal systems are encouraged where the design, installation, operation, and maintenance will be consistent with applicable ground and surface water quality statutes and regulations.
- (c) Wastewater treatment systems that recharge the groundwater with highly treated effluents are encouraged, provided that consistently high quality effluents and acceptable recharge techniques are demonstrated.

Rationale

Wastewater treatment systems range in scale from on-site sewage disposal systems to regional treatment systems with centralized plans, major interceptors, and ocean outfalls. In the past decade considerable wastewater treatment system construction has taken place or been authorized, in the more developed parts of the Bay and Ocean Shore Segment, with corresponding improvements in water quality. New wastewater treatment systems must be carefully evaluated in terms of water quality impacts and secondary impacts.

4.6 Industry-Commerce Uses Policies

4.6.1 Definition

Industry-commerce uses includes a wide variety of industrial processing, manufacturing, storage, distribution, service sector, retail and similar uses.

4.6.2 General Industry-Commerce

Policy

New or expanded coastal dependent industrial or commercial development is encouraged at or adjacent to existing sites, to the maximum extent practicable. Marine resource dependent industry, such as commercial fishing, is encouraged and shall have priority over other waterfront uses, except for recreation. If existing sites are demonstrated to be impractical or the development is not coastal-dependent, then new sites may be acceptable provided that:

- (a) The development can demonstrate a high ratio of jobs created to the acres of the site used for the development, and
- (b) the development poses no conflict with resort-recreation uses of the coast and is compatible with adjacent uses.

Rationale

The sensitive land and water features of the Bay and Ocean Shore Segment, the relatively small amount of available land, and the significant adverse impacts of many forms of industrial development mandate a restrictive policy. At the same time, new and expanded light industrial parks and waterfront fish processing activities are desirable uses at appropriate locations.

4.6.3

Mining

Policy

New or expanded mining operations on land, and directly related development, for the extraction and/or processing of construction sand, industrial sand, gravel, ilmenite, glauconite, and other minerals are conditionally acceptable, provided that the following conditions are met (mining is otherwise exempted from the Land Areas policy, but shall comply with the Special Areas, Water Areas, and Water's Edge Areas policies):

- (a) the location of mining operations, such as pits, plants, pipelines, and access roads, causes minimal practicable disturbance to significant wildlife habitats, such as lowland swamp forests and stands of mature vegetation,
- (b) the location of new or expanded mining operations is generally contiguous with or adjacent to sites of existing mining operations, or probable locations of mineral resources on nearby sites, in order to concentrate and not scatter the location of mineral extraction areas within a region, recognizing that mineral resources occur only in certain limited areas,
- (c) adequate buffer areas are provided, using existing vegetation and/or new vegetation and landscaping, to provide maximum feasible screening of new on-land extractive activities and related processing from roads, water bodies, marshes, and recreation areas,
- (d) the mine development and reclamation plan, including the timetable, phasing, and activities of the new or expanded mining operations, has been designed with explicit and adequate consideration of the ultimate reclamation, restoration, and reuse of the site and use of its surrounding region, once the mineral resource is depleted,

- (e) the mineral extraction areas shall be reclaimed, contoured and replanted, to ensure slope stability, control erosion, afford adequate drainage, provide as natural an appearance as possible, and increase the recreation potential of the restored site,
- (f) the mining operations control and minimize to the maximum extent practicable adverse impacts from noise and dust, surface water pollution, disposal of spoils and waste materials and conform to all applicable federal, state, and local regulations and standards,
- (g) the mineral extraction will not have a substantial or long-lasting adverse impact on coastal resources including local economies, after the initial, adverse impact of removal of vegetation, habitat, and soils, and not including the long term irretrievable impact of use of the non-renewable mineral resource.

Rationale

New Jersey's coastal zone includes important deposits of minerals. Mining these non-renewable resources is vital to certain sectors of the economy of selected regions of the coastal zone, the entire state and in some cases the nation, depending upon the specific type of mineral. For example, the high quality silica sands of Cumberland County supply an essential raw material for New Jersey's glass industry. Other industrial sands mined and processed in Cumberland County serve as basic ingredients in the iron and steel foundry industry. Ilmenite deposits in Ocean County produce titanium dioxide which is used in paint pigment. Construction grade sands are used in virtually all construction activity.

The extraction and processing of minerals from mines on land also produces short and long term adverse environmental impacts. For example, open-pit mining removes all vegetation and soil, destroys wildlife habitat, changes the visual quality of the landscape, and irretrievably consumes the depletable mineral resource. Many of these impacts can be ameliorated by incorporating proper, imaginative and aggressive reclamation and restoration planning into the mine development process. However, the location of mineral deposits is an unquestionably limiting factor on the location of mining operations. Reasonable balances must therefore be struck between competing and conflicting uses of lands with mineral deposits.

Depending upon the diversity and strength of a local economy, depletion of mineral deposits through extraction may lead to serious adverse long term economic consequences, particularly if the planned reclamation does not replace the direct economic contribution of the mining industry. The non-renewable nature of mineral resources must also be considered carefully in light of the uses of some of the mined minerals. For example,

certain high quality silica sands, coupled with another non-renewable resource, natural gas, are used to make non-returnable glass bottles.

4.6.4 Parking Facilities

Policy

Major parking lots, structures, garages and large paved areas serving industrial-commercial complexes are conditionally acceptable, provided that the extent of paved surfaces is minimized, the development does not cause unacceptable air or water quality degradation and the development is compatible with its surroundings and satisfies the Location Policies.

Rationale

Parking facilities provide a necessary transportation facility, but one that may cause air and water impacts.

4.7 Ports Uses

Policy

Port-related development and marine commerce [shall be] is acceptable only in established port areas. Water dependent development shall not be preempted by non water dependent development in these areas.

New major port facilities will only be permitted when there is a clear demonstration of the inadequacy of an existing port. In such cases, expansion may only occur adjacent to an existing built-up port.

Rationale

New Jersey's port areas are a regional, national and international resource. The existing ports, located largely north and west of the Bay and Ocean Shore Segment, contain unused and underused areas which can be refurbished to meet increases in demand. The state must nevertheless allow for possible unanticipated future needs for port areas. Also, limited water-dependent, port-related activity is acceptable at the small commercial ports of harbors in the Bay and Ocean Shore Region, such as commercial fishing support facilities and emergency oil spill clean up storage.

4.8 Coastal Engineering Use Policies

4.8.1 Definition

Coastal Engineering includes a variety of structural and non-structural measures to manage water areas and the shoreline for natural effects of erosion, storms, and sediment and sand movement. Beach nourishment, sand fences, pedestrian control on dunes, stabilization of dunes, dune restoration projects,

and dredged spoil disposal are all examples of coastal engineering. The policies on Water Areas and Special Areas are directly relevant to most coastal engineering uses.

4.8.2 Shore Protection Priorities

Policy

Non-structural solutions to shoreline erosion problems are preferred over structural solutions. The infeasibility and impracticality of a non-structural solution must be demonstrated before structural solutions may be deemed acceptable.

Rationale

Past reliance on costly structural shore protection measures, such as groins and jetties to retard the longshore transport of sand by the littoral drift, and seawalls, bulkheads and revetments to prevent waves from reaching erodible materials has proven to be an inadequate and incomplete solution. Bulkheads are deteriorating. Groins are starving the natural longshore transport of sand. Man has modified and destroyed dunes that provide natural protection against storm surges. Inlets frequently develop shoals which prevent safe navigation. The natural processes along the shoreline must be carefully evaluated over reaches or regions of the coast to determine the likely long term effects of shore protection measures. Non-structural measures realistically recognize the inevitability of the ocean's advancement and the migration of barrier islands. Yet this concern must be balanced against the short term benefits of structures to protect the present intense recreational use of the narrow strip of oceanfront land in New Jersey.

4.8.3 Dune Management

Policy

Dune restoration and maintenance projects as a non-structural shore protection measure, including sand fencing, revegetation, additions of non-toxic appropriately sized material, control of pedestrian and vehicular traffic, are encouraged.

Rationale

A natural dune field provides a strong measure of natural protection for adjacent land uses.

4.8.4 Beach Nourishment

Policy

Beach nourishment projects, as a non-structural shore protection measure, are encouraged, provided that: (a) the particle size of the fill material is compatible with the existing beach

material to ensure that the new material will not be removed to a greater extent than the existing material would be by normal tidal fluctuations, (b) the elevation, width, slope, and form of proposed beach nourishment project are compatible with the characteristics of the existing beach, and (c) the sediment deposition will not cause unacceptable shoaling in downdrift inlets and navigation channels.

Rationale

Beach nourishment depends upon an adequate quantity and suitable quality of beach nourishment material, otherwise the material may quickly return to the ocean.

4.8.5 Structural Shore Protection

Policy

The construction of new shore protection structures, to retard long shore transport or prevent waves from reaching erodible material, including jetties, groins and seawalls, and the modification, repair or removal of existing structures, is acceptable only under the following conditions:

- (a) The structure is essential to protect heavily used public recreation beach areas in danger from erosion,
- (b) The structure is essential to protect coastal-dependent uses,
- (c) The structure is essential to protect existing structures and infrastructure in built-up, urban shorefront areas in danger from erosion,
- (d) The structure is designed to eliminate or mitigate adverse impacts on local shoreline sand supply,
- (e) The structure will not create net adverse shoreline sand movement conditions downdrift, including erosion or shoaling,
- (f) The structure will protect and enhance public access to the shorefront, including fishing and other recreation opportunities,
- (g) The structure will cause minimum feasible adverse impact to living marine resources, and
- (h) The structure is an essential element of a regional shoreline management plan.

Rationale

Structural solutions to shore protection are appropriate and essential at certain locations, given the existing pattern of urbanization of New Jersey's shoreline. However, the creation, repair, or removal of publicly-funded shore protection structures must serve clear and broad public purposes and must be undertaken only with a clear understanding of the regional consequences of natural shoreline sand systems.

4.8.6 Dredged Spoil Disposal

Definition

Dredged spoil disposal is the discharge on Land, Water's Edge, or Water Areas of sediments, known as spoils, removed during dredging operations.

Policy

The acceptability of a site for dredged spoil disposal depends first upon the extent of contamination of the spoil material. If the dredge spoils are contaminated typically with heavy metals and other toxic materials, and not decontaminated, then the dredge spoil disposal is conditionally acceptable at only approved and established land based disposal areas, new land sites or ocean sites, under the following conditions: (a) ocean sites may be used only a land disposal site is not feasible, (b) sediments disposed in the ocean will not be carried by currents inland of the 18' contour, (c) the materials disposed in the ocean will cause minimal feasible interference with living marine resources, and (d) sediments disposed on land, such as borrow pits are covered with appropriate clean material that is similar in texture to surrounding soils.

If the dredge spoils are not contaminated, or are decontaminated, then disposal in the deep ocean (depth greater than 18') is conditionally acceptable provided that a land disposal site is not feasible. The use of uncontaminated dredge material of appropriate quality and particle size for beach nourishment is encouraged. The use of uncontaminated dredge material for purposes such as restoring landscape, enhancing farming areas, building islands, creating marshes, capping contaminated spoil areas, and making new wildlife habitats will be evaluated on a case-by-case basis.

Rationale

Dredge spoil disposal is an essential coastal land and water use that is linked inextricably to the coastal economy and has serious impacts on the coastal environment. Evolving state and federal policies on protection of the marine and estuarine coastal environment have sharply limited the creation of new

dredge spoil disposal areas in the past decade. Yet selective dredging must continue if inlets and navigation channels are to be maintained. The coastal policy recognizes the importance of this use of coastal resources.

5.0 RESOURCE POLICIES

5.1 Purpose

The third step in the screening process of the Coastal Resource and Development Policies involves a review of a proposed development in terms of its effects on various resources of the built and natural environment of the coastal zone, both at the proposed site as well as in its surrounding region. These policies serve as standards to which proposed development must adhere.

5.2 Marine Fish and Fisheries

5.2.1 Policy

Coastal actions are conditionally acceptable to the extent that minimal feasible interference is caused to the natural functioning of marine fish and fisheries, including the reproductive and migratory patterns of estuarine and marine estuarine dependent species of finfish and shellfish.

5.2.2. Rationale

Finfish (freshwater, estuarine, and marine) and shellfish resources provide significant recreation experiences for residents of New Jersey and interstate visitors. These resources also help the State's economy, by leading to expenditures approximately \$375.8 million per year, with fishing yielding approximately \$217.2 million and shellfishing yielding \$158.6 million. DEP also estimates that 1,868,000 people participated in marine/estuarine recreational fishing in 1976 in New Jersey. Commercial landings for all finfish and shellfish in New Jersey during 1976 were 226,988,000 lbs., valued at \$34.55 million dockside and an estimated \$86.3 million retail value, according to Department of Commerce statistics.

Interference with fish resources includes blockage of anadromous finfish spawning runs, reduction in the critical capacity of estuaries to function as finfish nursery areas, reduction of summer dissolved oxygen level below 4 ppm (leading to anoxic phytoplankton blooms), introduction of heavy metals or other toxic agents into coastal water, rise in ambient water temperature regime especially during summer and fall periods, unacceptable increases in turbidity levels, siltation, or resuspension of toxic agents, and introduction of untreated effluents from domestic and industrial sources.

5.3 Water Quality

5.3.1 Policy

Coastal development shall conform with all applicable surface and groundwater quality statutes, regulations and standards, as established and administered by DEP's Division of Water Resources (see N.J.A.C. 7:9-4.0 et seq.).

5.3.2 Rationale

Most of the natural, commercial, recreational, industrial, and aesthetic resources of the coastal zone affect or are affected by surface and ground water quality. Specific coastal zone water quality problems include pollution by nutrients, pathogenic organisms, toxic and hazardous wastes, thermal discharges, suspended sediments, and saline intrusion into freshwater resources. These pollutants can lower water quality sufficiently to prevent desired water uses. This policy incorporates by reference New Jersey's water quality related statutes and regulations adopted as required by the federal Clean Water Act of 1977.

5.4 Surface Water Use

5.4.1 Policy

Coastal development shall demonstrate that the anticipated surface water demand of the facility will not exceed the capacity, including phased planned increases, of the local potable water supply system or reserve capacity and that construction of the facility will not cause unacceptable surface water disturbances, such as drawdown, bottom scour, or alteration of flow patterns.

5.4.2 Rationale

The surface waters of the New Jersey coastal zone are an invaluable natural resource. Fresh waters maintain the propagation of established and natural biota. They serve as commercial, recreational, industrial, agricultural, and aesthetic resources. Any development that affects surface water quantity and quality will have a negative impact on these uses.

5.5 Groundwater Use

5.5.1 Policy

Coastal development shall demonstrate, to the maximum extent practicable, that the anticipated groundwater withdrawal demand of the development will not cause salinity intrusions into present potable groundwater well fields, significantly lower the water table, or significantly decrease the base flow of adjacent water courses.

Coastal development shall conform with all applicable DEP requirements for groundwater withdrawal and water diversion rights.

5.5.2 Rationale

Groundwater, defined as water beneath the land surface, is a primary source of water for drinking and industrial use. In

some areas of the coastal zone, especially areas in Monmouth, Salem and Cape May Counties, excessive amounts of groundwater are being withdrawn. The problem stems from the overpumping of groundwater and reduction of aquifer recharge caused by increased development and population. This has led to a lowering of the water table that may change the base flow conditions of streams, or increase salt water intrusion into the groundwater.

5.6 Runoff

Policy

- (a) Coastal development shall minimize off-site storm water runoff, increase on-site infiltration and simulate natural drainage systems, to the maximum extent practicable, depending upon the soil, land, vegetation, topography, existing drainage system and other site characteristics.
- (b) The quantity of off-site storm water runoff, both during the construction and operation of a development, shall not exceed the quantity of runoff that would occur under the existing pre-development conditions of the site, to the maximum extent practicable. For some sites, with existing pre-development conditions such as cultivated land, bare earth, or partial paving, the requirement to reduce runoff to the maximum extent practicable means to achieve the runoff standard for good condition pasture land (SCS TR-55 Curve Number 39) which may result in a greater quantity of on-site retention and infiltration than under the existing pre-development conditions.
- (c) If the site is in a built-up urban area, or if the coastal runoff policy conflicts with runoff management requirements of local governmental agencies, then the acceptable quantity of off-site stormwater runoff may exceed the standard of existing pre-development site conditions, provided that DEP can determine, on a case-by-case basis, that the following requirements are met:
 - (i) the runoff policy of (a) and (b) of existing pre-development site conditions has been met using the best available technology authorized by local regulations,
 - (ii) the off-site stormwater sewers do not discharge into sanitary sewer systems,
 - (iii) the amount of pollutants in the stormwater runoff discharge to surface water bodies is minimized and the discharge satisfies, to the maximum extent practicable, the applicable DEP-established surface water quality standards of the receiving water body using measures such as sediment traps, oil skimmers and vacuum street cleaners, and
 - (iv) the volume of stormwater discharged offsite will not cause significant adverse impacts to the receiving water body, and must conform with the requirements of the DEP Stream Encroachment Permit Program (N.J.S.A. 58:1-26 and rules).

- (d) Coastal development shall maximize the time of concentration of runoff and maximize the recharge of runoff onsite, to the maximum extent practicable, using measures such as retention or detention ponds, recharge trenches, porous paving, contour terraces, and swale-lagoon systems. Groundwater infiltration areas shall be sited as far horizontally from surface water and as far vertically from groundwater as is practicable, and should avoid soils with a seasonal high water table of less than 3 feet with high percolation rates.
- (e) In designing the site plan, including detention and retention facilities, the stormwater runoff calculations shall be based on 24 hour storm of 25 years and 100 years (where appropriate) frequencies, using standard methods of calculation, such as the so-called "Rational Method" or the SCS Tabular Method of Determining Peak Discharge, as defined in U.S. Department of Agriculture, Soil Conservation Service, Urban Hydrology for Small Watersheds, Technical Release No. 55, January 1975.

Rationale

Stormwater runoff is a natural process of surface hydrology. Development changes this process as the volume and rate of runoff increase as the natural landscape is modified and replaced by impervious surfaces. Unless managed properly, stormwater runoff may adversely affect the coastal environment in several ways: increased erosion, increased storm surges in streams, destruction of flood plain vegetation, degraded water quality from contaminants in runoff from paving, increased turbidity, decreased aquatic productivity, lowered water tables, reduced groundwater quality supply. The policies anticipate these concerns and treat a development site as a closed system within which drainage systems must be designed to interfere as little as possible with the natural process of surface and groundwater hydrology. The policies intentionally provide a measure of flexibility in stormwater runoff management that recognizes differences in both site conditions and approaches to runoff management by governmental agencies. Examples of stormwater runoff management techniques may be found in two source books: J. Tourbier and R. Westmacott, Water Resources Protection Measures in Land Development - A Handbook (Newark, Delaware: University of Delaware, Water Resources Center, April 1974) and New Jersey State Soil Conservation Committee, Standards for Soil Erosion and Sediment Control in New Jersey (Trenton, New Jersey: State Soil Conservation Committee, 1972).

5.7 Soil Erosion and Sedimentation

5.7.1 Policy

Coastal development is required to restrict soil loss and control soil erosion and sedimentation during the construction of development to the standards specified in the Soil Erosion and Sediment Control Act (Chapter 251, P.L. 1975), as administered by the State Conservation Committee and local Soil Conservation Districts under the joint authority of DEP and the N.J. Department of Agriculture.

5.7.2 Rationale

Erosion is the detachment and movement of soil or rock particles by water, wind, ice or gravity. Erosion can be significantly increased by human activities including construction practices such as the clearance of vegetation, excavation, grading, and stockpiling, agricultural cultivation and silviculture (timber harvesting).

Erosion and sedimentation causes numerous adverse environmental impacts, such as loss of productive soils, destabilization of slopes, increased flooding due to reduced capacity of storm sewers and natural drainage channels, increased turbidity and siltation of streams, and decreased wetland productivity. By controlling the erosion generated on a site within the site boundary, these adverse impacts are contained and prevented from reaching and affecting coastal waters.

Many techniques are available to control sediment loss, including minimizing the area of soil exposed at one time, baling and contour terracing the edge of construction, mulching and using swale lagoon drainage systems, and building wet and dry detention basins. Other illustrative techniques are found in Standards for Soil Erosion and Sediment Control in New Jersey available from the State Soil Conservation Committee.

5.8 Vegetation

5.8.1 Policy

Coastal development shall preserve, to the maximum extent practicable, existing vegetation within a development site. Coastal development shall plant new vegetation, particularly appropriate native coastal species, to the maximum extent practicable.

5.8.2 Rationale

The steady loss of vegetation is a nearly inevitable result of urbanization. Terrestrial vegetation stabilizes soil, retards erosion and runoff, promotes infiltration of surface water, reduces the force of wind, provides foods, shelter and breeding sites for wildlife, and adds to aesthetic values for recreation and domestic life. Trees release life-giving oxygen, filter particulate pollutants, provide foods and fuel, with no energy input necessary by man. Because each site is unique, the degree of vegetative preservation required will depend upon the environmental conditions within and adjacent to the development site. In general, the greater the intensity of development permitted, the less vegetation preservation required.

"Appropriate native coastal species" means that species selection must reflect the natural physiological limitations of species to survive in distinct habitats, which include all environmental processes (natural and artificial) that operate within a site. Non-suitable species plantings will do poorly

or die, or, if preserved through an intensive maintenance program of 'ph' adjustment fertilization and irrigation, will cause unacceptable ground and surface water impacts.

New vegetative plantings should reflect regional geophysical suitability. Illustrative appropriate species can be grouped into three categories:

- (a) Barrier Beach Sites - Plants tolerant of salt spray and occasional saline flooding, such as American holly, red cedar, black cherry, beach plum, beach grass, bayberry, beach heather, etc.
- (b) Pine Barrens Sites - Plants tolerant of infertile sandy soils, frequent fires, and acidic water, such as pitch and short-leaf pines, Atlantic white-cedar, dogwood, American holly, oaks, blueberry, etc.
- (c) Inner Coastal Plain and Southern Outer Coastal Plain - Plants compatible with fertile, well drained soils; such as oaks, beach, hickory, dogwood, black cherry, white pine, gray birch, laurel, etc.

Within these regional groupings, the selection of individual species should take into consideration the depth to seasonal high groundwater table. Species which provide food for wildlife or other desirable traits are favored for new planting.

5.9 Wildlife

5.9.1 Policy

The design of coastal development shall incorporate management techniques which favor or maintain native wildlife habitats, diversity, and numbers, to the maximum extent practicable.

Development that would significantly restrict the movement of wildlife through the site to adjacent habitats and open space areas is discouraged.

5.9.2. Rationale

Wildlife is^a important natural resource of the coast. Desirable on-site wildlife management techniques which could mitigate adverse impacts, and favor minimal feasible interference include preservation and dedication to open space of sensitive habitats of sufficient width, especially along drainageways and waterways, to preserve wildlife movement corridors, placement of nesting boxes, and planting of vegetative wildlife food species.

5.10 Air

5.10.1 Policies

Coastal development shall conform to all applicable state and federal emissions regulations, ambient air quality standards, prevention of significant deterioration criteria, nonattainment criteria, and other regulations and guidelines established to meet requirements of the federal Clean Air Act as amended in 1977.

5.10.2. Rationale

The attainment and maintenance of high air quality is vital for the health of and welfare of New Jersey's residents and visitors. The federal Clean Air Act Amendments of 1977 require almost all states to develop a State Implementation Plan (SIP) to attain National Ambient Air Quality Standards (NAAQS) for photochemical oxidants.

Since the principal source of hydrocarbons and oxides of nitrogen, the precursors of oxidants, is the automobile, the strategies to attain the NAAQS must include, in addition to emission control on vehicles and industrial sources, measures to reduce vehicle miles travelled, by inducing a shift to car pools and other modes of transportation. The Coastal Program policies on transportation address these objectives, as do the policies concerning concentration of development.

Furthermore, new major stationary sources of hydrocarbons will continue to be subject to restrictions, such as the current requirement to offset emissions. Emission tradeoffs may allow for the siting of new facilities in non attainment areas of the coastal zone. The severity of the restrictions will depend on the progress made in reducing emissions during the next decade.

The problem of attainment and maintenance of carbon monoxide NAAQS in urban areas such as Atlantic City and Toms River is one primarily of traffic congestion.

DEP's Division of Environmental Quality administers the State's air quality program and determines compliance with the coastal policy on air quality.

Also, under the Clean Air Act Amendments of 1977, major wilderness areas of over 5,000 acres are mandatory Class I-Prevention of Significant Deterioration (PSD) or Pristine Areas. In New Jersey's Bay and Ocean Shore Segment, this designation applies to the wilderness areas of the Brigantine National Wildlife Refuge, and restricts industrial activities within the region that could significantly affect the air quality of the wilderness areas. This may pose conflicts in the future as the pace and intensity of the development of the Atlantic City region increases.

5.11 Public Services

5.11.1 Definition

Public services include a variety of essential facilities provided by either public or private institutions. Health, education, welfare, fire, police and community facilities are principal examples. Others such as child care and home services for the elderly may be important for certain developments.

5.11.2 Policy

Coastal development shall insure, to the maximum extent practicable, that adequate levels of public services will be provided to meet the additional demands for public services likely to be generated by the proposed development.

5.11.3 Rationale

New development places additional demands on public services. Unless the existing supply can satisfy these demands or extensions to the supply can be available when development is complete, the deficiencies may adversely affect the health, safety, or welfare of the proposed new users.

In coastal areas there are special problems associated with the high seasonal population fluctuation and the relatively high percentage of senior citizens who typically make greater demands on health services. These coastal issues make the demonstration of adequate service supply during peak demand periods an especially critical issue.

5.12 Public Access to the Shorefront

5.12.1 Policy

Coastal development adjacent to coastal waters shall provide maximum practicable public access to the shorefront, including both beach and built-up waterfront areas and both visual and physical access. Shorefront development that limits public access and the diversity of shorefront experiences is discouraged.

5.12.2 Rationale

New Jersey's coastal waters and adjacent shorelands are valuable public resources which are limited in area. They are protected by New Jersey's Shore Protection and Waterway Maintenance Program and patrolled by the New Jersey Marine Police which are both financed by all state residents.

Past developments have often blocked the waters from public view and/or made physical access to the waterfront difficult or impossible. In addition, some municipalities which own land immediately inland of the state-owned riparian land have enacted laws or regulations making waterfront access inconvenient, expensive or impossible for non-residents. These policies have served to limit the opportunity of inland residents for waterfront recreational activities.

Projects such as the experimental Beach Shuttle operated by DEP in the summer of 1977 to Island Beach State Park from Toms River serve to carry out the policy of providing maximum practical public access to the shorefront.

The basis for the Shorefront Access policy came in part from the research in the report entitled Public Access to the Oceanfront Beaches: A Report to the Governor and the Legislature of New Jersey. April 1977, prepared in part by DEP-OCZM.

5.13 Scenic Resources and Design

5.13.1 Policy

New coastal development that is visually compatible, in terms of scale, height, materials, color, texture, and geometry of building and site design, with surrounding development and coastal resources, to the maximum extent practicable, is encouraged. Coastal development that is significantly different in design and visual impact than existing development is discouraged, unless the new development upgrades the scenic and aesthetic attributes of a site and its region.

5.13.2 Rationale

Inappropriate design that ignores the coastal landscape and existing patterns and scale of development can degrade the visual environment and appearance of communities. New Jersey's coastal regions have strong architectural traditions which should be encouraged.

5.14 Secondary Impacts

5.14.1 Policy

Coastal development that induces further development shall demonstrate, to the maximum extent practicable, that the secondary impacts of the development will satisfy the Coastal Resource and Development Policies. The level of detail and areas of emphasis of the secondary impact analysis are expected to vary depending upon the type of development. Minor projects may not even require such an analysis. Transportation and wastewater treatment systems are the principal types of development that require a secondary impact analysis, but major industrial, energy, commercial, residential, and other projects may also require a rigorous secondary impact analysis.

Rationale

Further development stimulated by new development and the cumulative effects of coastal development, including development not directly managed by DEP, may gradually adversely affect the coastal environment. The capacity of existing infrastructure does, however, limit the amount and geographic extent of possible additional development. Secondary impact analysis, particularly of proposed infrastructure, enables DEP to ascertain that the direct, short term effects, and the indirect or secondary effects of a proposed development will be consistent with the basic objectives of the Coastal Management Program. Secondary impact analysis enables DEP to evaluate likely cumulative impacts in the course of decision-making on specific projects.

Secondary impact analysis must include, to an appropriate level of detail, an analysis of the likely geographic extent of induced development, an assessment of likely point and non-point air and water quality impacts, and evaluation of the induced development in terms of all the applicable Coastal Resource and Development Policies. A study by the New Jersey Department of Community Affairs, Division of State and Regional Planning, Secondary Impacts of Regional Sewer Systems (1975) provides one model for carrying out secondary impact analysis.

5.15 Buffers and Compatibility of Uses

5.15.1 Policy

Development shall be compatible with adjacent land and water types, as defined in the Location Policies, to the maximum extent practicable. In particular, development that is likely to adversely affect adjacent or surrounding Water's Edge Areas or Special Areas is discouraged.

Developments that are incompatible with adjacent developments shall provide vegetated and other types of buffers at the site boundary of sufficient width to reduce the incompatibility, to the maximum extent practicable.

5.15.2 Rationale

The juxtaposition of different uses may cause various problems. One activity may cause people to experience noise, dust, fumes, odors, or other undesirable effects. The most common incompatibility of this type in the Bay and Ocean Shore Segment are housing developments adjacent to industry, high speed roads or railroads. The juxtapositions of very different housing densities or of housing and agriculture also have potential for conflict. Vegetated buffer areas between uses can overcome, or at least ameliorate, many of these problems, especially if

earth berms are included. Buffers can benefit users of both areas. Where farms operate near a residential area, for example, a buffer can protect the residents from the noise and smells of farming, while protecting the farmers from local regulations controlling the hours in which machinery can be used.

5.16 Solid Waste

5.16.1 Policy

Coastal development shall recover material and energy from solid waste, to the maximum extent practicable, as required by the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) and the federal Resource Conservation and Recovery Act (P.L. 94-580). If resource and energy recovery are impractical, solid waste, including litter, trash, refuse, and demolition debris shall be handled and disposed of in a manner acceptable to the standards of DEP's Solid Waste Administration.

5.16.2 Rationale

Solid waste is a valuable resource to be recovered and managed on a district-wide basis. The review of individual projects in terms of solid waste will consider the waste type and volume expected, disposal method employed, and effects on disposal sites.

5.17 Energy Conservation

5.17.1 Policy

Coastal development shall incorporate energy conservation techniques, including passive and active solar power, to the maximum extent practicable.

5.17.2 Rationale

This policy assists the Departments of Energy and Community Affairs in implementing New Jersey's Energy Conservation Plan, State Energy Master Plan, and the energy subcode of the Uniform Construction Code (N.J.S.A. 52:27D-119 et seq.). New Jersey's 1977 Energy Conservation Plan administered by the New Jersey Department of Energy derives from the federal Energy Policy and Conservation Act of 1975. The plan contains 22 measures to reduce the state's energy use by 6% by 1980. The measures include thermal and lighting efficiency standards, provision of car and van pools, and waste oil recycling. These measures are intended to save New Jersey approximately 110 trillion British Thermal Units annually (or the equivalent of 5,000 barrels a day). The Department of Community Affairs is responsible for the implementation of the energy subcode of the state building code. Possible energy conservation techniques

include the siting of buildings with an understanding of the micro-climate conditions of a site, use of clustering, provision of bicycle paths, and the location of housing close to public transportation.

5.18 Neighborhoods and Special Communities

5.18.1 Policy

Coastal development that protects and enhances the physical coherence in neighborhoods and special communities is encouraged. Development that would adversely affect neighborhoods and special communities is discouraged.

5.18.2 Rationale

Neighborhoods, small towns, and communities are discrete districts and areas along the coast with a degree of social stability as well as special architectural, ethnic, cultural, aesthetic, or historical qualities that distinguish these places from other areas along the coast. The diversity of the coast is in part due to the existence and vitality of various small towns, communities, and neighborhoods within larger urban areas. These neighborhoods that display a strong sense of community should be valued, reinforced, and preserved.

5.19 Traffic

5.19.1 Policy

Coastal development that induces marine and/or land traffic is conditionally acceptable provided that it does not cause unacceptable congestion and safety problems.

5.19.2 Rationale

The improper location of development may exacerbate existing traffic problems or produce new difficulties in the marine and/or land traffic system. Coastal development should be designed and located in a manner to cause the least possible disturbance to traffic systems, or be rejected.

5.20 High Percolation Wet Soils

5.20.1 Definition

High Percolation Wet Soils are soils with a depth to seasonal high water table less than or equal to five feet and with a loamy sand or coarser soil, as indicated in National Cooperative Soil Surveys prepared by the U.S. Department of Agriculture, Soil Conservation Service, and contiguous with stream channels.

5.20.2 Policy

Coastal development shall avoid filling, building, paving, disturbing soil, or discharging effluent to groundwater on High Percolation Wet Soils, to the maximum extent practicable. In particular, coastal development shall be designed such that onsite roads, parking lots, structures, subsurface sewage disposal areas, and discharge basins avoid High Percolation Wet Soils, particularly in the proximity of surface water bodies and wells. Development that is determined by DEP to be acceptable in these areas shall conform to the wet soils policy.

5.20.3 Rationale

Soils with shallow seasonal high water tables and sandy or gravelly textures facilitate percolation, the vertical and horizontal movement of groundwater. Coarse sediments, however, have a limited capacity to trap and filter contaminants. Further, the high lateral transmissibility along the top of shallow seasonal high water tables aggravates the problems of water borne pollutants eventually reaching surface water bodies or wells. New Jersey's standards for subsurface sewage disposal systems (so-called Chapter 199, N.J.A.C. 7:9-2.1 et seq.) recognize this concern by requiring that the bottom of the trench or bed of disposal fields be at least four feet above the seasonal high groundwater table.

5.21 Wet Soils

5.21.1 Definition

Wet soils are soils with a depth to seasonal high water table less than, or equal to, three feet, as delineated by the U.S. Soil Conservation Service in a National Cooperative Soil Survey.

5.21.2 Policy

Development in wet soils is discouraged unless the following conditions are met:

- (a) Basements are prohibited.
- (b) ←Effective engineering techniques are used to ensure the stability of foundations and protect them from movement, including excavating organic substrates and backfilling with less compressible sediments, short-bore piles, special footings and floating slabs. Techniques that minimize interference with natural ground and surface water movement, such as short-bore pile and suspended slab techniques, are encouraged.
- (c) The air spaces beneath ground floor slabs are adequately ventilated, using mechanical ventilation, if necessary.

- (d) The stability of roads and paved areas assured, using techniques such as removal of compressible sediments and replacement with a firmer substrate and thicker than normal road base.
- (e) Subsurface pipes are stable and waterproofed to avoid contamination of groundwater, using dewatering of trenches during construction, extra pipe base thickness, waterproof gaskets, sealed joints and other techniques as necessary.
- (f) Porous concrete is prohibited, although other porous pavements such as lattice concrete or gravel are acceptable.
- (g) The lowering of the water table by pumping that would disturb adapted vegetation is prohibited.

5.22 Fertile Soils

5.22.1 Definition

Fertile soils are soils that have Agricultural Capability Ratings, as defined by the U.S. Department of Agriculture, Soil Conservation Service in the National Cooperative Soil Surveys of I, II, IIIe and a K value of less than 0.20, and IIIw if well drained, or Woodland Suitability Rating of 1.

Policy

Coastal development shall avoid disturbing fertile soils, to the maximum extent practicable, and shall carefully remove, stockpile and reuse the topsoil when onsite fertile soils cannot be preserved.

5.22.2 Rationale

Fertile soils are the product of millenia of soil forming processes and, once paved, are irreperably lost. The Farm Conservation Special Area policy preserves large contiguous acreages of fertile soils for commercial production of food and fiber, but smaller areas of fertile soils in the open spaces between development are a natural resource of considerable value. The landscaping of development is promoted by fertile soils but, more importantly, the preservation of fertile soils near development offers the opportunity of home gardens. Applicants shall show the distribution of fertile soils relative to proposed structures and paving in site plans. If these development elements are shown on fertile soils, applicants shall demonstrate why alternative positions are not feasible.

4.23 Flood Hazard Areas

4.23.1 Definition

Along rivers and streams, the flood hazard area (fluvial) consists of the floodway and any additional portions of the flood plain inundated during flood periods where the flow exceeds the capacity of the channel. The floodway consists of the stream channel and portions of the adjacent flood plain necessary to carry and discharge the flood water or flood flow of any natural stream. Floodways can carry waters of 100 year flood without increasing the water surface elevation by more than 0.2 feet at any point.

Fluvial flood hazard areas are delineated by DEP by a complex engineering method. The resulting water surface profile elevations are superimposed on topographic maps to identify areas of inundation. DEP is presently delineating all flood hazard areas. Delineations have been completed for the entire Raritan River Basin, outside of the Bay and Ocean Shore Segment. Of 6,500 mile of streams in New Jersey, 618 miles have been delineated and an additional 216 miles are scheduled for completion by the end of 1978. The U.S. Army Corps of Engineers has defined, for certain streams, the water surface profiles which have been developed for both the floodway and the flood hazard area design floods. However, the delineation of the flood hazard area must be determined on a case by case basis due to lack of accurate elevation maps. A complete list of streams affected by this delineation can be found in the N.J.A.C. 7:13-1.11 et seq. In areas where the delineation of flood hazard areas using this engineering method is not complete, DEP determines the flood hazard areas on a case by case basis using detailed elevation and stream profile information submitted by the applicant as required by DEP. Where data gaps exist, flood hazard areas can be preliminarily identified by the use of U.S. Geological Survey Flood Prone Areas maps (scale of 1:24,000), supplemented with alluvial soil information for the small watersheds in the upland alluvial flood plains.

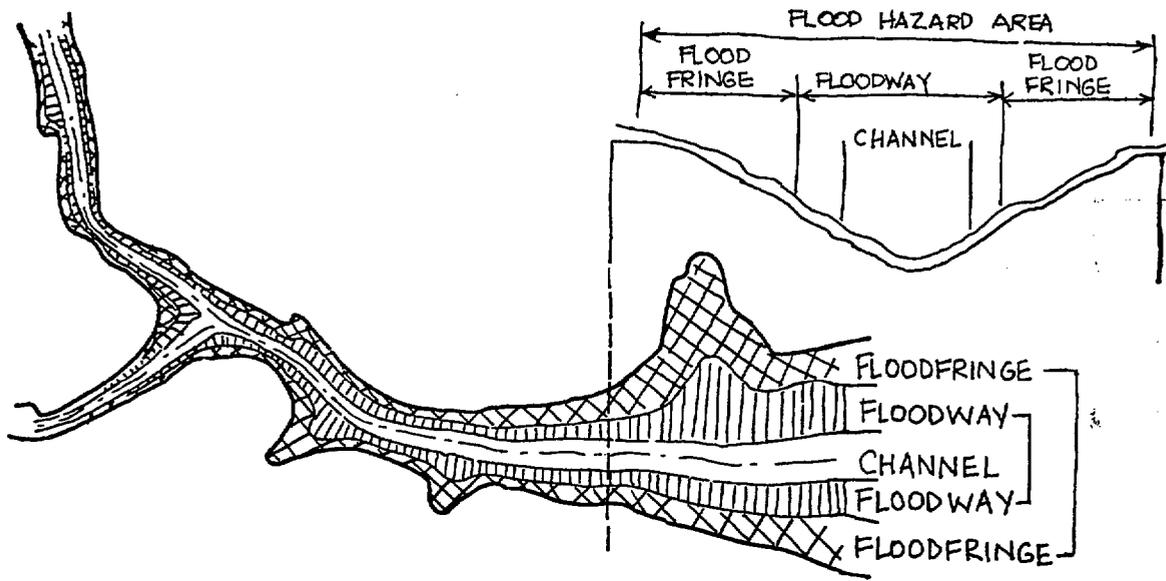
In the tidal areas, 100 year tidal elevations have been identified for most municipalities within the Bay and Ocean Shore Segment by the U.S. Army Corps of Engineers, and are known as the Intermediate Regional Tidal Flood. The geographic extent of tidal flood hazard areas are indicated on USGS topographic maps as "flood prone" areas (there are no floodways in tidal flooding).

Figure 14 depicts fluvial and tidal flood hazard areas.

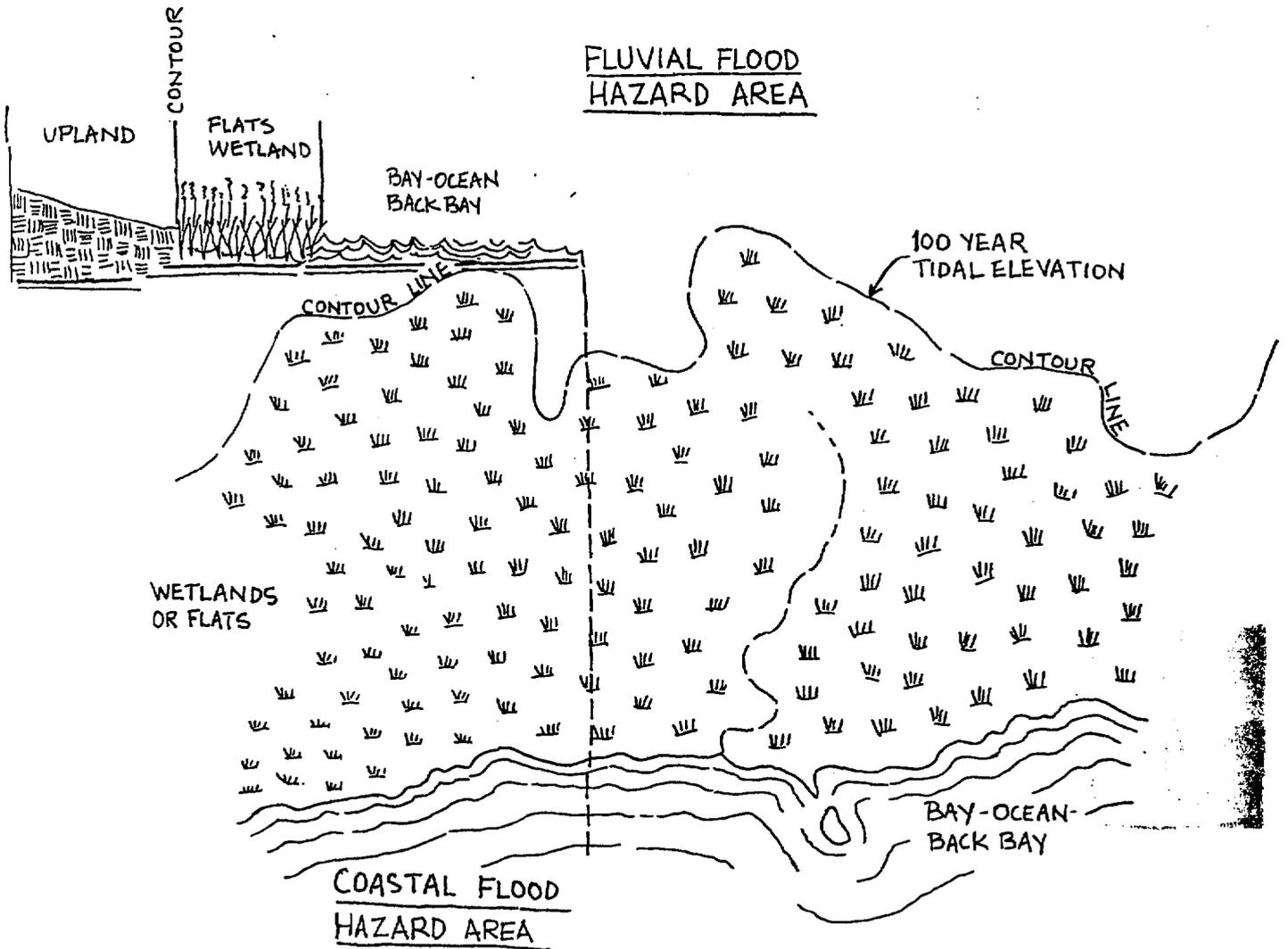
4.23.2 Policy

- (a) In general, coastal development is discouraged in flood hazard areas.

Figure 14



FLUVIAL FLOOD HAZARD AREA



FLOOD HAZARD AREAS

- (b) Certain land uses are prohibited, under State Flood Plain law and rules, in the floodway portion of fluvial flood hazard areas, including uses such as placing, depositing or dumping solid wastes on the delineated floodways; processing, storing or disposal of pesticides, domestic or industrial wastes, radioactive materials, petroleum products or hazardous materials; erection of structures for occupancy by humans or livestock or kennels for boarding of domestic pets; storage of materials or equipment or construction of septic tank for residential or commercial use (see N.J.A.C. 7:13-1.2 et seq.). Not affected by this policy are hazard-free activities such as recreation, agriculture, soil conservation projects and similar uses which are not likely to cause obstructions, undue pollution, or intensify flooding. According to N.J.A.C. 7:13-1.4(c), any lawful, pre-existing prohibited uses may be maintained in a delineated floodway provided, that if expanded or enlarged, they do not increase the flood damage potential. Property owners in delineated floodways may rebuild damaged structures, providing that any expansion or enlargement will not increase the flood damage potential.
- (c) Most land uses are also regulated, under State Flood plain law and rules, in the flood fringe. Structures for occupancy by humans are conditionally acceptable provided that : (a) the first habitable elevation is one foot above the 100 year flood prone line established by HUD Flood Insurance Maps, and (b) the structure will not increase flood damage potential, by obstructing flood waters.
- (d) Construction acceptable in flood hazard areas must conform with applicable flood hazard reduction standards, as adopted by the Federal Insurance Administration in HUD (Federal Register, Vol. 41, No. 207, Part II, October 26, 1976), as amended.

4.23.3

Rationale

Past development of lands susceptible to flooding in New Jersey has led to flood damages, with sometimes tragic social, economic and ecological consequences. Intensive development of flood plains leads to increased runoff, reduction in flood storage capacity, increased size and frequency of downstream flooding, erosion of stream banks and downstream deposition of sediments with consequent reduction in estuarine productivity. Flood plains serve as important wildlife habitat for endangered and threatened species, game and fur-bearing species, and rare species of vegetation.

Introduction

- Department of Environmental Protection (DEP)
 - Division of Marine Services
 - Coastal Area Facility Review Act (CAFRA)
 - Wetlands Act
 - Riparian Statutes
 - Shore Protection Program
 - Other Programs in DEP
 - Division of Water Resources
 - Division of Environmental Quality
 - Division of Parks and Forestry
 - Division of Fish, Game and Shellfisheries
 - Solid Waste Administration
 - Office of the Commissioner
- Department of Energy
- Other State Departments
 - Department of Agriculture
 - Department of Community Affairs
 - Department of Labor and Industry
 - Department of the Public Advocate
 - Department of Transportation
- Municipal and County Government
- Regional and Interstate Agencies
- Public Participation
- Conflict Resolution - Appeals

Introduction

The Coastal Resource and Development Policies defined in Chapter Four will be implemented primarily through the State legal authority administered by the Department of Environmental Protection (DEP), particularly the Division of Marine Services, which administers the Coastal Area Facility Review Act (CAFRA), Wetlands, and Riparian permit programs and the State's Shore Protection Program. Other Divisions within DEP will act consistently with the Program policies to the maximum extent permitted by their enabling legislation (see Commissioner's letter) with respect to any activity that may have a direct and significant effect on coastal resources. This will assure consistency between the Coastal Management Program and State plans dealing with air quality, water quality, solid waste, water supply and outdoor recreation. Energy siting decisions will be made jointly by DEP and the New Jersey Department of Energy. The actions of other State agencies will also follow the Coastal Policies to the maximum extent permitted by law. The enforcement of the Coastal Policies is assured by their formal adoption as substantive administrative rules and regulations.

The New Jersey approach to coastal decision making corresponds to management technique B - "Direct state land and water use planning and regulations" - described in Subsection 306(e)(1) of the federal Coastal Zone Management Act. The Coastal Policies also will form the basis for New Jersey's discussions with, and responses to, local governments, regional and interstate agencies, and agencies from other states with an interest in the coast.

This chapter describes New Jersey's coastal management system. The public role, which is described in a section of the Chapter, is an integral part of all coastal decisions. The chapter concludes with an analysis of potential decision-making conflicts and the methods for their resolution.

Department of Environmental Protection

The Department of Environmental Protection (DEP) is responsible for implementing the New Jersey Coastal Management Program, and for continued coastal planning. Created by the Legislature in 1970, the Department was given broad authority to "formulate comprehensive policies for the conservation of the natural resources of the State..." (N.J.S.A. 13:1D-9). Specific authority for the coastal program was delegated by the Governor when he designated DEP as New Jersey's coastal planning agency under Section 305 of the federal Coastal Zone Management Act. DEP will also serve as New Jersey's lead agency to administer the federally approved program, under Section 306 of the Act.

Division of Marine Services

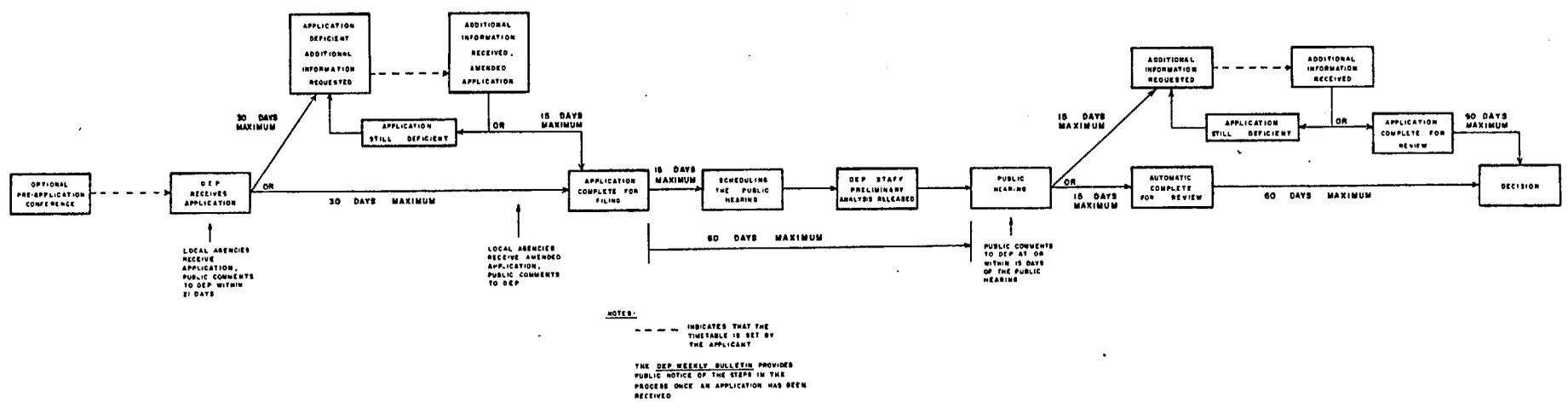
The Department's Division of Marine Services is specifically responsible for the development and implementation of the New Jersey Coastal Management Program. In the Division, the Office of Coastal Zone Management (DEP-OCZM) is the lead agency for coastal planning. DEP-OCZM also administers Coastal Area Facility Review Act (CAFRA) permit program. The Division's Office of Wetlands Management administers the Wetlands permit program. The Division's Office of Riparian Lands Management administers the waterfront development permit and riparian real estate programs. Decisions made under all three coastal permit programs are signed by the Director of the Division of Marine Services. The "90-Day Construction Permit Regulations" (N.J.A.C. 7:1C-1 et seq.) apply to all three permit programs, insuring that coastal permit decisions will be made in a timely manner. The Division also regulates water activities such as clamming, skin diving, and vessel anchoring to protect human health and safety. Failure to comply with these laws results in fines and injunctions. Violations are reported to the Department by inspectors of the Division of Marine Services and concerned citizens.

DEP has adopted Chapter Four of this document as rules in furtherance of the Department's specific coastal management powers under CAFRA, the Wetlands Act, and the riparian statutes. The adopted rules bind DEP to issue decisions under the three permit programs consistent with the Coastal Policies.

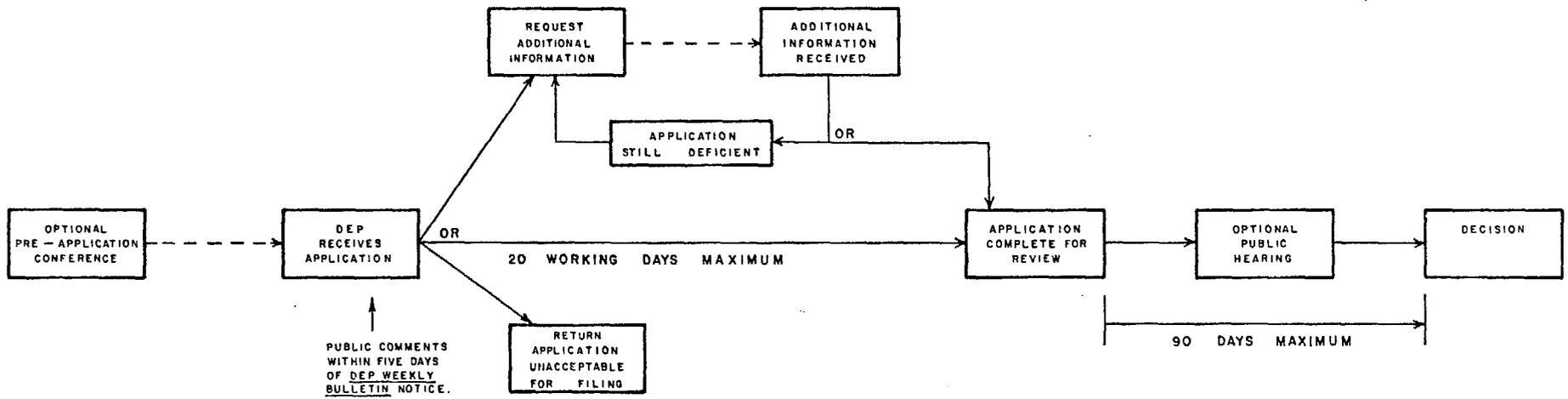
The principal legal authorities and their corresponding procedures for implementation of the coastal policies in the Bay and Ocean Shore Segment involve several DEP-administered laws. The Coastal Area Facility Review Act, the Wetlands Act, and the Department of Energy Act are reprinted in Appendix H. Copies of all other laws and regulations referred to in this chapter are available from DEP upon request. Figure 16 illustrates the CAFRA, Wetlands and Waterfront Development permit review processes. The Figure is admittedly complex primarily as a result of the multiple opportunities for requesting additional information which serves to incorporate the suggestions of other agencies and of the public and to improve designs for projects.

Coastal Area Facility Review Act (CAFRA) - The Coastal Area Facility Review Act, (N.J.S.A. 13:19-1 et seq.) provides a list of selected facilities which must be reviewed and approved by DEP before they can be constructed within the statutorily-defined "Coastal Area", which includes the entire area of the Segment

CAFRA PERMIT APPLICATION PROCESS



WETLANDS AND WATERFRONT (RIPARIAN) DEVELOPMENT PERMIT APPLICATION PROCESSES



NOTE:

A WATERFRONT DEVELOPMENT PERMIT APPLICATION IS NOT DECLARED COMPLETE FOR REVIEW WITHOUT A LAWFUL RIPARIAN OCCUPATIONAL OR USE INSTRUMENT SUCH AS A RIPARIAN GRANT, LEASE, OR LICENSE.

- - - - - INDICATES THAT THE TIMETABLE IS SET BY THE APPLICANT.

except for approximately six square miles of regulated wetlands. The list, which is available in detail in the Act, and also in the CAFRA Procedural Rules and Regulations (N.J.A.C. 7:7D-2.0 et seq.) includes all facilities proposed for the following purposes:

- 1) Electric power generation, including oil, gas, coal fired, or nuclear facilities;
- 2) Public facilities and housing, including housing developments of 25 or more dwelling units, roads and airports, parking facilities with 300 or more spaces, waste water treatment systems, and sanitary landfills;
- 3) Food and food by-products production, paper production and agri-chemical production;
- 4) Mineral products, chemical processes, metallurgical processes and inorganic salt and salts manufacture;
- 5) Marine terminals and cargo handling facilities, and storage facilities.

The application process begins with an optional pre-application conference at which an applicant and DEP staff will candidly discuss the applicability of the Coastal Resource and Development Policies to the contemplated project, and possible revisions or alternatives which would increase the likelihood of permit approval. DEP staff then send the applicant a letter reiterating the conclusions of the conference.

An application for a CAFRA permit must include twenty copies of an environmental impact statement (EIS). Often discussion at the pre-application conference can lead to a reduction in the amount of information required in the EIS. The twenty copies are necessary so that other appropriate state and local agencies can review and comment upon the application. Copies of the application are distributed to offices within the Departments of Community Affairs, Energy, Labor and Industry, Transportation and other agencies within DEP, as well as to the relevant county and municipal planning boards and environmental commissions, soil conservation districts, and regional planning agencies. DEP-OCZM staff review the responses of the commenting agencies, analyze the project and issue a staff preliminary analysis. Next a public hearing is held near the site of the proposed project. The Director of DEP's Division of Marine Services then issues the permit decision based upon the Coastal Resource and Development Policies. The decision incorporates public comments submitted to the Department at the hearing and in writing, and comments of other governmental agencies. The permit decision can be appealed as described in the last section of this chapter.

In addition to the facilities managed under CAFRA, the Coastal Management Program will manage a more extensive range of facilities proposed on coastal wetlands and riparian lands. These activities are described in detail in the Procedural Rules and Regulations (N.J.A.C. 7:7A-1 et seq.) adopted under the authority of the Wetlands Act of 1970 and the state's riparian statutes, and are summarized below. The application process for these two permit programs is similar to that for CAFRA permits, except that a public hearing is held only for major projects.

Wetlands Act - New Jersey's authority to regulate activities on wetlands is derived from the Wetlands Act of 1970 (N.J.S.A. 13:9A-1 et seq) and the Procedural Rules and Regulations adopted in 1972. The Act defines "coastal wetlands", and maps of the regulated wetlands are available from DEP's Office of Wetlands Management. The activities on wetlands regulated by the Act include virtually any form of development or disturbance, except for mosquito control and continued commercial production of salt hay or other agricultural crops or activities.

Riparian Statutes - Riparian lands, defined as lands now or formerly flowed by the tides, are owned by the State of New Jersey. An individual or municipality wishing to develop or improve these lands in any way must first receive the approval of the Natural Resource Council to buy or lease the tidelands from the State. The Council is composed of twelve citizens appointed by the Governor with the advice and consent of the State Senate. The Coastal Resource and Development Policies will be the basis for DEP staff recommendations to the Council. If the Natural Resource Council makes a real estate decision inconsistent with the Coastal Program, the Commissioner of DEP will block the action by refusing to sign the minutes of the Council meeting.

After applicants receive a lease or license from the Natural Resource Council, they must obtain a Waterfront Development Permit for any planned development from DEP's Office of Riparian Lands Management. The types of development construction generally contemplated on riparian lands includes dredging or the construction or alteration of a dock, wharf, pier, bulkhead, bridge, pipeline, or cable.

While the Natural Resource Council will use the Coastal Resource and Development Policies in making its real estate decisions, the consistency of riparian actions with the Coastal Program will be assured by DEP's authority to approve, condition, or deny the Waterfront Development Permit applications.

Shore Protection Program - The fourth element of New Jersey's authority to implement the Coastal Program is the State's Shore Protection and Waterway Maintenance Program. This program is administered by the Office of Shore Protection, which is also in DEP's Division of Marine Services. The Office is the lead agency for beach erosion control programs and efforts to maintain state waterways. This Office also establishes priorities for spending shore protection and harbor cleanup funds, including the \$20 million five year shore protection bond issue approved by New Jersey voters in 1977. The Department has pledged publicly to prepare a shore protection master plan to assure that the funds from the bond issue are used wisely. The Plan will delineate a "park line" indicating an area within which dunes must be protected and public access must be assured. DEP will enforce the plan by allocating shore protection funds and issuing riparian and CAFRA permits only to areas where such policies are in effect.

Other Programs In DEP

The other divisions in the Department of Environmental Protection will contribute to the Coastal Program in three ways. First, like a private developer, any development project they initiate, sponsor, or propose which is regulated by CAFRA, the Wetlands Act, or riparian statutes will have to be consistent with the Coastal Resource and Development Policies to receive the appropriate permit. The

Division of Parks and Forestry, for example, would need a Wetlands Permit before a structure could be built on regulated wetlands within a state park. This is likely to be the most significant type of involvement in the coastal program for DEP's other divisions.

Second, the actions of the Department's other divisions will be consistent with the Coastal Policies, to the maximum extent permissible under their enabling statutes. Permit programs administered by the Division of Water Resources, for example, may be able to apply some of the Coastal Policies to facilities or areas not regulated by the Coastal Program. Strictly speaking, this consistency is not necessary for federal approval of New Jersey's program, since the three permit programs administered by the Division of Marine Services provide authority sufficient to enforce the program. Such consistency, however, is desirable within New Jersey to insure that decisions by the different parts of DEP are coordinated and predictable.

Third, the other divisions in DEP will help the Division of Marine Services to suggest and carry out projects which can be funded with federal Coastal Management Program Administration grants. Such a grant could, for example, fund selected studies by the Division of Fish, Game and Shellfisheries.

The sections which follow summarize the functions of DEP's divisions most likely to affect, or be affected by the Coastal Program. Although other divisions also have planning responsibilities, the Coastal Program is one of the first major plans to be completed and, therefore, can serve as a focal point for more specific discussions to insure consistent and cooperative planning.

Division of Water Resources - The Division of Water Resources is responsible for water quality planning and maintenance, and flood plain management. The Division is the designated water quality planning agency under Section 208 of the Federal Water Pollution Control Act (FWPCA) and, under the New Jersey Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), has the authority to administer the National Pollution Discharge Elimination System (NPDES) permits once US EPA delegates this responsibility to DEP. The standards set by the Division under the FWPCA are incorporated into the coastal policies as required by Section 307(f) of the federal Coastal Zone Management Act. The Division also has the authority to regulate the building or alteration of structures within stream areas under the Stream Encroachment Act, (N.J.S.A. 58:1-26), and to regulate development and land use in designated floodways under the Flood Hazard Areas Act, (N.J.S.A. 58:16A-50 et seq.).

Within the seventeen New Jersey counties with coastal waters, area-wide water quality planning (also known as 208) is being conducted by county planning boards in four counties, by the Delaware Valley Regional Planning Commission in four counties, and by the Division of Water Resources in the remaining nine counties. The plans are being completed between 1978 and 1980 in different parts of the state. Through a federal agreement between the Department of Commerce and the Environmental Protection Agency, and through a working relationship at the state level between the Office of Coastal Zone Management and the Division of Water Resources, the policies of the two programs will be coordinated and made consistent for both point and non-point sources of pollution. The water quality planning seeks institutional and technical alternatives to control and abate water pollution. The key policies of the program are to protect the sources of potable water supply, control toxic and hazardous substances, control pollution from areawide

sources, and protect environmentally sensitive areas. Water quality planning programs may utilize and refine the Coastal Location Acceptability Method for activities not essential for program approval, and in parts of the state outside the coastal zone. The method could, for example, be modified and used in making land and water use decisions on and near non-tidal portions of the Delaware River and in other areas of the State where a decision-making method is needed to protect water quality.

The Division of Water Resources is also responsible for supervising the development of a Water Supply Master Plan. The plan, financed by the State Water Conservation Bond Fund, will assess near and long-term water needs, evaluate various alternatives for meeting those needs, and provide a framework for the future planning and management of the State's water supplies. Specific recommendations will be made including those for near-term water supply development projects, conservation and management policies, interconnection programs, and drought and emergency response plans. The plan is expected to be completed by December of 1979. The Office of Coastal Zone Management will continue to work with the Division of Water Resources to assure consistency between the Water Supply Master Plan and the Coastal Policies.

Division of Environmental Quality - The Division of Environmental Quality is responsible for air quality planning and monitoring and is the agency designated to administer the federal Clean Air Act in New Jersey. The Division also is responsible for the State's radiation, noise, and pesticide control programs. Under the requirements of the Clean Air Act, the Bureau of Air Pollution Control in the Division has enacted and is developing programs to attain National Ambient Air Quality Standards. The attainment of standards for photochemical oxidants for the entire state, for carbon monoxide in central business districts, and for particulates in Camden and Jersey City, and the maintenance of clean air levels throughout the state are the major problems to be addressed. The strategies for the attainment of standards and the analysis of maintenance issues are required to be submitted to EPA by the end of 1978.

DEP-OCZM will work closely with the Division of Environmental Quality as it develops programs directed toward attainment of the National Ambient Air Quality Standards. Coordination will assure consistency between Coastal Policies and the State Implementation Plan for air quality. In addition, attention will be given to the impact of Coastal Policies on air quality outside of the Bay and Ocean Shore Segment. Coordination with the Division of Environmental Quality should result in the use of Coastal Policies to help attain statewide air quality goals as well as use of the State Implementation Plan to further Coastal Management Program goals.

Division of Parks and Forestry - The Division of Parks and Forestry manages the state's parks and is responsible for acquiring, operating and maintaining historic sites. The Division reviews CAFRA permit applications in addition to coordinating with DEP-OCZM on park and recreation policies. The Office of Historic Preservation within the Division evaluates the potential impact of CAFRA permit applications on cultural resources. This Office also maintains the State Register of Historic Places and recommends to the Commissioner state nominations to the National Register of Historic Places.

Green Acres and Recreation - The Green Acres Program determines where and how state funds should be spent for park and open space acquisition, development and maintenance. DEP can purchase land under this program and through the Division of Parks and Forestry, by condemnation if necessary. DEP-OCZM reviews expenditures of Green Acres funds proposed in the coastal zone.

The New Jersey Comprehensive Outdoor Recreation Plan (SCORP), prepared by the Green Acres Program, addresses the adequacy of open space for existing and projected demands, and the accessibility of recreation resources for all segments of the population. The plan will qualify New Jersey for funding under the Federal Land and Water Use Conservation Fund Program. In addition to studying recreation needs and uses, SCORP will also include inventories of federal, state, county, municipal and private recreation resources. The major policies in SCORP include emphasizing open space in urban areas, recreation facility development, increasing public access to recreation resources through mass transit, and developing barrier free recreation facilities.

Division of Fish, Game and Shellfisheries - The Division of Fish, Game and Shellfisheries is responsible for managing the fish and wildlife resources of the State. This includes research and educational programs as well as enforcement of state fish and game laws and maintenance of state fish and wildlife management areas. The Division also administers the federal Endangered Species Act of 1973 which provides funds for the purchase or management of land for research and for other activities to protect wildlife.

Solid Waste Administration - The Solid Waste Administration (SWA) in DEP is responsible for the development of a statewide plan to maximize use of resource recovery and minimize the adverse environmental impacts of solid waste. The state has been divided into twenty-two districts (21 counties and the Hackensack Meadowlands Development Commission District). Each district is responsible for developing a ten-year plan to meet the solid waste needs for each municipality within the region. The SWA is responsible for coordinating the district planning through the development of a statewide plan and for providing guidelines, especially in the area of hazardous waste, for use by the twenty-two planning districts. Coordination between DEP-OCZM and the Solid Waste Administration will assure consistency between the Coastal Policies and the district and statewide solid waste planning.

Office of the Commissioner - Lastly, the Office of the Commissioner in DEP conducts a number of functions relating to the Coastal Management Program. First, the Office of Environmental Review coordinates the review of major development proposals likely to require more than one DEP-administered permit, as well as applications circulated through the A-95 Project Notification and Review Process. This coordinated review helps speed the permit review process and insures the application of consistent policies. This Office reviews CAFRA applications in terms of possible archaeological impacts. In addition, the office serves as staff to the Commissioner in the capacity as the State Historic Preservation Officer.

DEP's Assistant Commissioner for Science administers the New Jersey Spill Control and Compensation Act (N.J.S.A. 58:1-23.11 et seq.) In addition, under his direction, the Office of Cancer-Causing and Toxic Pollutants is conducting research with the assistance of computer facilities funded by the U.S. Council on Environmental Quality. The information produced by this research will be incorporated

into the Coastal Policies, and could conceivably alter certain siting policies. In addition, this computer project is serving as a model for DEP to test the feasibility of digitizing much of the information necessary to apply the Coastal Policies.

The Tidelands Delineation Program, conducted by the Office of Environmental Analysis also under the direction of the Assistant Commissioner for Science, is a multi-year project to map the extent of State-owned tidelands by delineating the mean high tide line. The program will require several years to complete because of the complex issues of land ownership to be resolved.

Department of Energy

While serving as the lead coastal agency, DEP will continue to work closely with other state agencies. The most important of these is the Department of Energy (DOE). The Coastal Resource and Development Policies on Energy in both the Draft EIS and in their final document were formulated and agreed to by both DOE and DEP.

The Department of Energy Act (N.J.S.A. 52:27F-1 et seq.) provides that the Department of Energy (DOE), has, at a minimum, a shared authority over every energy related decision in the State, including the siting of facilities. Recognizing this coextensive jurisdiction over energy facility siting in the coastal zone, and also recognizing the importance of such siting decisions to a successful coastal management program, the Departments of Energy and Environmental Protection have entered into a memorandum of understanding (Appendix G). The memorandum has three important features: a procedure for DOE review of coastal permit applications, a commitment by DEP and NJDOE to make their findings on the basis of the state's Coastal Resource and Development Policies as well as on the State Energy Master Plan, and a procedure for resolving disagreements between the two agencies.

The New Jersey Department of Energy is also the lead agency for the Coastal Energy Impact Program (CEIP). The 1976 Amendments to the federal Coastal Zone Management Act created Section 308, the CEIP, to provide financial assistance to help coastal states respond to the growth and impacts of new energy exploration and development. A second objective of the CEIP is to balance the two national goals of encouraging development of domestic energy resources to further energy self-sufficiency, and protecting and managing the nation's coast in a manner consistent with the objectives of a state's Coastal Management Program. To be eligible for assistance under the CEIP, a coastal state must be receiving a grant under Section 305 of the Act, have a coastal management program which has been approved under Section 306, or be making satisfactory progress which is consistent with the policies set forth in Section 303 of the Act. New Jersey meets these criteria.

As the lead agency for CEIP, the New Jersey Department of Energy is responsible for administering the program, including soliciting applications, providing technical assistance, and evaluating and approving project applications to distribute funds according to the program's intrastate allocation process. Since CEIP assistance is to be administered in close harmony with the purpose and spirit of the state's Coastal Management Program, DEP-OCZM will work closely with DOE in reviewing and approving applications for CEIP assistance. DOE and DEP coordination is further required by the federal CEIP regulations which state that CEIP

assistance cannot be granted without DEP-OCZM certification of compatibility with the goals and policies of the developing Coastal Management Program or consistency with the approved Coastal Management Program.

To facilitate such a finding, and to satisfy the requirement that the state's coastal planning agency review CEIP applications, the memorandum of understanding provides that all such applications will be forwarded to DEP for consistency review.

In addition, the Department of Energy has prepared a State Energy Master Plan. This plan considers the production, distribution, consumption and conservation of energy in the state and surrounding region. The Plan and the more specific reports it promises will become a primary resource for energy facility siting decisions by DEP. The State Energy Master Plan is expected to be formally adopted in October 1978.

The Board of Public Utilities, which is in, but not of, the Department of Energy, has broad regulatory authority over public utilities. Included in this authority is the power to supercede local zoning decisions when necessary if the service conveniences the welfare of the public (N.J.S.A. 40:55D-19). This authority comes into play only when a proposed utility facility has received required state permits (including coastal permits) and is denied required local permit. The potential role of the Board in coastal decisions is discussed in "Uses of Regional Benefit" in Chapter Five.

Other State Departments

In addition to the Departments of Environmental Protection and Energy, five other state departments have important responsibilities which relate to the Coastal Program. These are the Departments of Agriculture, Community Affairs, Labor and Industry, the Public Advocate, and Transportation. Coordination between the departments provides greater consistency of state policy, as well as opportunities to test the application of the Coastal Policies on activities and areas not regulated under the Coastal Program. In addition, DEP will, as appropriate, work with other agencies, including the State Health Planning Council and the Mortgage Finance Agency, which can contribute to the Coastal Program.

Department of Agriculture - This Department shares with DEP the regulatory responsibility of the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.). The Act is administered by the State Soil Conservation Committee, which includes the Commissioners of the two Departments, and local Soil Conservation Districts. The law controls erosion and sediment during the construction phase of development. The Coastal Resource and Development Policies pertaining to soil are based on the Act, thereby assuring conformity between the two.

Department of Community Affairs (DCA) - The Department of Community Affairs will continue to participate in the review of CAFRA permit applications, as it has since the beginning of the permit program. Although this review is not required by law, as it now is for the Department of Energy, DCA can provide valuable information on the potential impact of a proposal on nearby social services. In addition, because DCA is responsible for the development of a State Development Guide Plan (Preliminary Draft - September 1977) under Section 701 of the Federal Housing and Community Development Act, it can evaluate the consistency of a permit application with that plan. The major policies of the Guide Plan are to maintain the quality of the environment, preserve the open space necessary for an expanding population,

provide space and services to support continued economic expansion and enhance the quality of life in urban areas. These policies are consistent with the Coastal Management Program.

Lastly, the Department of Community Affairs has developed, under Executive Order No. 35, a fair share state allocation process for low and moderate income housing. DEP will continue to work with DCA officials to promote such housing in the Bay and Ocean Shore Region.

Department of Labor and Industry - The Department of Labor and Industry also participates in the review of CAFRA permit applications. In addition, the Office of Business Advocacy in the Department plays a particularly important role during the pre-application phase of the CAFRA permit process in helping to guide industry to appropriate locations. The Department's Division of Travel and Tourism shares a common goal with DEP-OCZM of seeking to promote the resort and tourism industry of the coast. Lastly, the Economic Development Authority, which arranges low interest, long-term financing for commercial and industrial development, can help stimulate the revitalization of coastal cities.

Department of the Public Advocate - This Department has taken positions on the appeal of several CAFRA permit applications. In addition, the Public Advocate has a particular interest in planning for the coastal zone and offered extensive comments on the Coastal Management Strategy and on the Draft EIS. DEP will continue to include the Public Advocate in coastal planning activities.

Department of Transportation (DOT) - The principal involvement of DOT in the Coastal Program is as an applicant for a permit for the construction of roads, highways, or airports. All but minor transportation projects in the Bay and Ocean Shore Segment require a CAFRA permit, and projects crossing wetlands or riparian lands require the appropriate additional permit as well.

DOT administers additional permit programs for transportation facilities as well as having grants for transportation projects and eminent domain powers. As part of its responsibility for long-term planning for the state's transportation needs, DOT has a working relationship with DEP to meet the transportation requirements of Atlantic City and other coastal areas.

Municipal and County Government

Municipal and county land use authority will continue without change under the New Jersey Coastal Management Program. Development proposed in the coastal zone will be subject to all applicable local regulations as well as to state standards or permits. A locally approved proposal cannot be constructed without receipt of relevant state approvals, and likewise, a state-approved project must receive appropriate local approvals with certain exceptions (see Chapter Six, Regional Benefit Decisions). All municipalities in the Segment, and in the proposed coastal zone, will have an opportunity to comment on the draft program for the entire coastal zone and on any proposed policy or procedural amendments or additions to the program for the Segment. DEP-OCZM will solicit local comment, at least in part through use of its mailing list which includes the Mayor, Planning Board, and Environmental Commission of each municipality and county in the Segment. (See Appendix D for a discussion of local government participation in the coastal planning process, including an analysis of possible conflicts between state and regional plans.)

In addition, as required by the CAFRA Procedural Rules and Regulations, DEP will continue to offer CAFRA permit applications for comment to county and municipal planning boards and environmental commissions.

DEP is also sponsoring a state-county coastal coordination project for a second year. Using funds made available to New Jersey under the federal Coastal Zone Management Act, DEP has contracted with every county in the Segment and several in other parts of the proposed coastal zone for the provision of information and analysis to be used for continuing program development. The next task in this program is an assessment by the counties of the consistency of local plans and ordinances with the Coastal Resource and Development Policies. The final reports of the project will include summaries of each county's findings on state-local coastal policy consistency and recommendations for future state-county relationships.

After the contract is completed, DEP may choose to adopt the county and municipal plans which adequately address coastal issues and do not conflict with the state policy as specific elements of the State Coastal Program.

The New Jersey Coastal Management Program can influence other levels of government with coastal responsibilities, even though it may have no direct statutory power over their decisions. Municipal and county governments, and regional and interstate agencies have significant planning and, in some cases, regulatory roles in the Segment. DEP and other state agencies will use the Coastal Resource and Development Policies as a basis for advice, discussion and debate with these other governmental agencies. This advisory role must be distinguished from the already mentioned regulatory tools which will be used to implement the Coastal Program, but it is, nevertheless, important for the long-term improvement and acceptance of the Coastal Policies.

Regional and Interstate Agencies

Thirteen interstate and regional agencies have jurisdictions which include part of the coastal zone. Some have largely a planning and advisory function, while others have significant decision-making responsibility. The past and future decisions and sharing of draft and final documents with these agencies, together with DEP's regulatory authority in the coastal zone, will ensure that regional agency actions will not be inconsistent with the Coastal Management Program. These agencies are only discussed briefly here because their jurisdictions are largely in the parts of the coastal zone outside the Bay and Ocean Shore Segment. Each of the agencies has been invited to play a role in designing the program for the remainder of the coastal zone, and their roles will be described in greater detail in the Draft EIS for those regions.

The planning agencies and organizations include the Mid-Atlantic Regional Fishery Management Council, the Wilmington Metropolitan Area Planning Coordinating Council (WILMAPCO), Tri-State Regional Planning Commission, the Delaware Valley Regional Planning Commission (DVRPC), and the South Jersey Resource Conservation and Development Council. These agencies have professional planning staffs and a strong interest in the future of the Delaware, Pennsylvania, New Jersey, and New York region. DEP-OCZM will continue to solicit and welcome their comments and advice. The Tri-State Regional Planning Commission has specific responsibility for assessing consistency between state plans funded by the U.S. Departments of Housing and Urban Development, and Transportation, and federally funded state Coastal Management Programs.

Other agencies with administrative and regulatory responsibilities will be more formally integrated into the implementation of the New Jersey Coastal Management Program. Memorandums of understanding between DEP-OCZM and selected regional agencies may be desirable or necessary to insure consistency between state and regional coastal policies. These agencies include the Port Authority of New York and New Jersey. Interstate Sanitation Commission, Palisades Interstate Park Commission, Delaware and Raritan Canal Commission, Delaware River and Bay Authority, Delaware River Port Authority, South Jersey Port Corporation and Delaware River Basin Commission. As appropriate, specific agreements will be made with each agency during the preparation of the program for those parts of the coastal zone.

Public Participation

The Department of Environmental Protection will work to involve the many individuals and public and private groups concerned about the coast in decisions on proposed development and in continued coastal planning.

The three coastal permit programs (CAFRA, wetlands, and riparian) all have public notice and hearing requirements, providing the opportunity for public participation in the implementation of the coastal policies. DEP will ensure public notice of pending applications through notification of the appropriate county planning board, county environmental commission, municipal planning board, county environmental commission, soil conservation district, and the Delaware Valley Regional Planning Commission and Tri-State Regional Planning Commission for proposals in Burlington or Monmouth and Middlesex Counties respectively. In addition, owners of land adjacent to the site proposed for development will be informed of the application. All pending applications are also listed in the DEP Weekly Bulletin which is distributed free and has a current circulation of 1,600 people. The Department is also cooperating with the "coast watch" program, sponsored by the American Littoral Society, to inform more people about pending coastal decisions and other events.

DEP holds a public hearing near the site of a proposal for every CAFRA permit application, and for major Wetlands and Waterfront Development permit applications. In addition, any interested person can review DEP's file on a pending application and submit written comments. Decisions to lease or sell riparian lands are made by the Natural Resource Council at meetings which are open to the public.

DEP will continue to involve coastal residents, workers and visitors in planning for the future of the Bay and Ocean Shore Segment and the other parts of the coastal zone. This involvement will take several forms, and the Department will remain open to additional public participation techniques which may be suggested. Substantive changes in the Coastal Management Program and its policies will be subject to the notice and hearing requirement of both the federal regulations and the New Jersey rule-making process.

The Office of Coastal Zone Management will continue to publish The Jersey Coast several times each year to inform interested people of future public meetings, available reports, and coastal planning and regulatory activities. DEP-OCZM staff will continue to make themselves available to meet with interested groups and the Office will continue to convene a series of public meetings throughout the coastal zone at least twice a year. In addition, DEP-OCZM staff will continue to meet periodically with the leaders of statewide environmental groups, builders groups, and other representative groups which express interest.

Part of public participation is public education, and DEP will continue to try to prepare and to assist others in preparing informative, understandable publications about the coast and the coastal zone management program. The Department will supplement governmental publications with the use of newspapers, magazines, radio and displays in public places such as libraries, shopping areas and conventions.

Conflict Resolution - Appeals

The permit decisions made under the New Jersey Coastal Management Program, as described in this chapter, can be appealed administratively. A CAFRA permit decision can be appealed by any interested person within 21 days of the final DEP action, to the DEP Commissioner or to the Coastal Area Review Board composed of the Commissioners of Environmental Protection, Community Affairs, and Labor and Industry. The decision of the Commissioner or of the Review Board can be further appealed through the courts. A Wetlands permit decision may be appealed to the DEP Commissioner and then to the courts. A Waterfront Development permit decision may be appealed to the Natural Resource Council, and then to the courts.

The Department of Energy (DOE) may appeal decisions affecting the construction or location of an energy facility to the Energy Facility Review Board described previously. Under the Department of Energy Act, the Board will be called into existence by the Department of Energy if it disagrees with the decision of any state agency to grant or deny a permit for an energy facility. The Memorandum of Understanding in Appendix G explains this process.

The Management System of the Coastal Program does not appear likely to raise other conflicts which will require a resolution mechanism. If a proposal requires approval under several laws with different sets of criteria, the applicant will have to meet them all. A project managed by the Coastal Program and encouraged by the plans or actions of another agency could not be constructed unless it received the required coastal permits. At the same time, a project which conforms with all the Coastal Resource and Development Policies could not be constructed until the applicant received all other required state, federal, and municipal approvals.

The next chapter describes how the New Jersey Coastal Management Program will avoid the exclusion from the coastal zone of "uses of regional benefit". The chapter also discusses Federal Consistency and New Jersey's consideration of national interests.

CHAPTER SIX: MANAGING THE COAST: NATIONAL INTERESTS, CONSISTENCY
OF FEDERAL ACTIONS, AND REGIONAL BENEFIT DECISIONS

Introduction
National Interests
Consistency of Federal Actions
Regional Benefit Decisions

Introduction

This chapter describes the national interests which were considered during program development, how various conflicts between the national interests are balanced in the program, and the process to assure the continued considerations of such issues. The Chapter then describes the process of assuring that federal actions are consistent with the Coastal Program to the maximum extent practicable. The third part of this Chapter describes how the New Jersey program ensures that uses of regional benefit are not excluded from the Bay and Ocean Shore Segment.

National Interests

The federal Coastal Zone Management Act requires that the State's program provide "for adequate consideration of the national interest involved in planning for, and in the siting of, facilities ... which are necessary to meet requirements which are other than local in nature." [Subsection (306) (c)] Although this document focuses only on the first segment of the Coastal Program, this section describes New Jersey's consideration of the national interest for the entire coastal zone.

The "national interest" is a collection of the diverse, and occasionally conflicting, interests of the 13 United States departments, councils, and commissions with involvement in the preservation or development of New Jersey coastal lands and waters. To determine and balance the national interests, New Jersey has met with representatives of the federal agencies with responsibilities affecting the coastal zone. The comments of those agencies choosing to submit written statements and comments or testimony at public meetings on New Jersey's evolving coastal program have contributed to New Jersey's understanding of the national interests. Contacts with federal agencies are summarized in Appendix C. In addition to the comments of federal agencies, the New Jersey program used Presidential statements, federal legislation and federal, state, and interstate agency reports to help its consideration of the national interests.

The New Jersey program recognizes that national, as well as state, interests and priorities may shift in response to new and/or unforeseen circumstances. Under an approved program, New Jersey will, therefore, continue to seek and evaluate information from the same sources. Changes in the national interests will be reflected in the Coastal Program through administrative action including amendments to the substantive rules and regulations which incorporate the Coastal Resources and Development Policies.

The Process for Continued Consideration of National Interest Issues

The process for balancing the national interests in the coastal zone will be the employment of the three-step decision-making process of Location Policies, Use Policies, and Resource Policies described in Chapter Four. Decisions made under the program will follow the four Basic Coastal Policies: (1) Protect the coastal ecosystem, (2) Concentrate rather than disperse the pattern of coastal residential, commercial, industrial, and resort development and encourage the preservation of open space. (This does not apply to nuclear and LNG facilities); (3) Employ a method of decision-making which allows each coastal location to be evaluated in terms of both the advantages and the disadvantages it offers for development; and (4) Protect the health, safety and welfare of people who reside, work and visit in the coastal zone. The decisions will reflect the first Congressional finding enunciated in the Coastal Zone Management Act that "there is a national interest in the effective management, beneficial use, protection and development of the coastal zone" [Section (302)(a)].

The New Jersey program has considered, and will continue to monitor, the national interests raised by the planning and siting of four types of uses and the treatment of twelve categories of resources. An annual review of the Coastal Resource and Development Policies in Chapter Four and the coastal permit application procedures described in Chapter Five will serve as the processes for assuring continued consideration of the national interests in the planning for and siting of facilities which are necessary to meet requirements which are other than local in nature.

All of the facilities identified below (national defense, energy production and transmission, recreation and transportation) are of sufficient size to require a CAFRA permit if they occur on non-federally controlled land. Furthermore, these facilities and any other development which would significantly effect the eleven resources described below as in the national interest, (e.g. water, air, etc.) are required to receive a CAFRA permit. Although other state permits would be needed in some resource areas, i.e., wetlands, the CAFRA permit would cover all these issues and thus has been identified as the single process during implementation of the Coastal Management Program - Bay and Ocean Shore Segment for assuring the continued consideration of identified national interests.

The CAFRA law states that the Commissioner of DEP "shall issue a permit only if he finds that the proposed facility...is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety and welfare." (N.J.S.A. 13:19-10f) The Commissioner has interpreted "public welfare" to include a full consideration of national interests as described in this program. This interpretation is contained in Chapter Four of this document which has been adopted as regulations. In addition, the Department of Energy will interpret its mandate "... to contribute to the proper siting of energy facilities necessary to serve the public interest..." (N.J.S.A. 25:27f.2) as sufficient authority to consider the national interest in the siting of coastal energy facilities.

The following have been defined as facilities or resources which may be in the national interest. Greater specificity on the policies described below can be found in Chapter Four.

National Defense

National defense is of obvious importance to all states. To define the national interest in national defense, DEP-OCZM shared reports, received comments from, and met with the designated representatives of the U.S. Air Force, U.S. Navy, U.S. Army, and U.S. Army Corps of Engineers.

The New Jersey Coastal Program excludes from the coastal zone all federally owned or leased lands, where defense operations are concentrated. The Coastal Program will actively consider defense activities only when agencies of the Department of Defense propose to buy additional land or to build new facilities with potential impacts beyond the borders of the federally owned land. The New Jersey program will not question the national security justification for such proposals. Rather, DEP will review the proposal for consistency with the Coastal Program, and will approve it if it can make one of two findings:

1. The proposal is consistent with the Coastal Resource and Development Policies, or
2. The proposed facility is coastal dependent and will be constructed with maximum possible consistency with the Coastal Resource and Development Policies.

In addition, the New Jersey program will seek to involve local Department of Defense representatives in planning the use of lands and waters surrounding military installations. The only current or projected defense activity addressed by the Coastal Program is the possible purchase of land by the U.S. Navy in the vicinity of the Leonardo-Earle Naval Ammunition Depot. DEP has reviewed with Navy representatives the uses of this site that would be acceptable under the Coastal Program.

Energy Production and Transmission

In determining the national interest in energy production and transmission, the following plans and federal agencies were consulted:

- The National Energy Plan, April 29, 1977
- U.S. Department of Energy (formerly ERDA and FEA)
- Federal Energy Regulatory Commission (formerly Federal Power Commission)
- Nuclear Regulatory Commission
- U.S. Department of Interior
 - Bureau of Land Management
 - U.S. Geological Survey
- U.S. Department of Transportation
 - U.S. Coast Guard
 - Office of Pipeline Safety
- Department of Defense
 - U.S. Army Corps of Engineers
- Maritime Administration
- Environmental Protection Agency

The most useful articulation of the national interest in energy is found in the National Energy Plan, which has three overriding objectives:

- as an immediate objective that will become even more important in the future, to reduce dependence on foreign oil and vulnerability to supply interruptions;

- in the medium term, to keep U.S. imports sufficiently low to weather the period when world oil production approaches its capacity limitation; and
- in the long term, to have renewable and essentially inexhaustible sources of energy for sustained economic growth. (Plan Overview, page IX)

The salient features of the National Energy Plan are:

- conservation and fuel efficiency,
- national pricing and production policies,
- reasonable certainty and stability in Government policies,
- substitution of abundant energy resources for those in short supply; and
- development of nonconventional technologies for the future (Plan Overview, page IX-X)

Elements of the National Energy Plan with particular application to the New Jersey Coastal Management Program Segment are as follows:

Conservation - "The cornerstone of the National Energy Plan is conservation." (Page 35 of the Plan).

New Jersey's recognition of the need for energy conservation was one factor leading to the second Basic Coastal Policy which states: "Concentrate rather than disperse the pattern of coastal residential, commercial, industrial, and resort-oriented development, and encourage the preservation of open space". Specifically, the Coastal Program encourages the clustering of development within a site, the use of renewable and recoverable sources of energy, mass transportation, and the incorporation of energy conservation techniques into all proposed coastal development in accordance with the Energy Conservation Plan being administered by the N.J. Department of Energy pursuant to the Energy Policy and Conservation Act of 1975.

Oil and Gas Facilities

Given the national interest in recreational and resource protection in the Bay and Ocean Shore Segment, pipelines, and pumping and compressor stations will be permitted in the coastal zone to the extent that they can meet existing federal and state requirements, although non-coastal dependent facilities which are not part of a pipeline system will be encouraged to locate outside of the Segment. This position has been reached as a result of weighing the competing and conflicting national interest in recreation and resource protection with energy as called for in the CZMA. The decision to discourage oil and gas facilities other than pipelines in the Segment was reached in part because areas of the state outside the Segment already house many oil and gas production facilities including five refineries, one of which is out of operation, and New Jersey believes these areas will be better able to support needed additional facilities than will areas within the Segment. A study undertaken for DEP by Rutgers University Center for Coastal and Environmental Studies (Onshore Support Bases for OCS Oil and Gas Development: Implications for New Jersey, 1977) contributed to this decision by concluding that possible sites for oil and gas facilities exist along the Raritan Bay and River which may be acceptable to industry, DEP and local officials.

Onshore Support Bases - are necessary to support off-shore oil and gas exploration and development. New Jersey encourages the storage of emergency oil clean-up equipment in the Segment and location of onshore support bases in built-up urban areas of the state outside of the Segment. Applications for the siting of such bases must comply with all applicable laws and are reviewed in the same manner as other facilities of similar impact and size.

Oil Refineries - could be necessary to process oil and gas discovered through current exploration in the Baltimore Canyon. The Coastal Program prohibits the location of refineries in the Segment. Application for oil refineries outside the Segment will be subject to all applicable laws and will be handled in the same manner as other facilities of similar impact and size. While New Jersey was assured by the Department of the Interior, on page 17 of the Final Environmental Statement (FES) for OCS Lease Sale No. 40 that the state's existing refinery capacity is sufficient to handle the likely output from the Baltimore Canyon, the Draft Environmental Statement for OCS Lease Sale No. 49 (May 1978) indicates that additional refinery capacity might be needed in the event of a high find.

Pipelines - New Jersey expects to identify petrochemical pipeline corridors through the intergovernmental offshore oil and gas transportation planning process being established by the Department of the Interior's Bureau of Land Management. At a minimum New Jersey will require the following conditions to be met: that the number of pipelines be limited to the maximum extent feasible; that the pipelines use existing rights of way to the maximum extent feasible; that they avoid the undeveloped regions of the Pine Barrens; that any pipeline proposal be evaluated in terms of the entire new potential pipeline corridor; and that the pipeline avoid to the maximum extent feasible offshore munitions, chemical and waste disposal areas, heavily used waterways, geologic faults and significant fish or shellfish habitats. Although many possible pipeline routes have been proposed, New Jersey expects no new pipelines to be proposed until the potential yield from the Baltimore Canyon is better known. (See Chapter Four, Sections 4.4.8 and 4.4.10)

Electric Power - The Coastal Program directs additional fossil fueled generating stations away from particularly scenic or natural areas that are important for recreation and open space purposes, and directs that they be, consistent with applicable air and water quality standards. (See Chapter Four, Policy 4.4.13).

In considering the national interest in the development of nuclear power, New Jersey found applicable the following two quotes from The National Energy Plan:

"The United States will need to use more light-water reactors to help meet its energy needs. The Government will give increased attention to lightwater reactor safety, licensing, and waste management so that nuclear power can be used to help meet the U.S. energy deficit with increased safety." (page 70)

"In addition, the President is requesting that the (Nuclear Regulatory) Commission develop firm siting criteria with clear guidelines to prevent siting of future nuclear plants in densely populated locations, in valuable natural areas, or in potentially hazardous locations." (page 72)

New Jersey was one of the first states to recognize the potential of nuclear power to meet U. S. energy needs. The State has six operating or fully approved nuclear plants, including the Hope Creek I and II Generating Stations which received a CAFRA permit from DEP in 1975.

The most recent application for a nuclear facility filed in New Jersey was a 1974 application to construct two floating plants, which has been postponed by the applicant. The New Jersey Coastal Program states in Chapter Four, Section 4.4.13, that:

"New or expanded electric generating facilities (for base load, cycling, or peaking purposes) and related facilities are conditionally acceptable subject to the following conditions:

- (a) The construction and operation of the proposed facility shall comply with the Coastal Resource and Development Policies, with special reference to air and water quality standards and policies on marine resources and wildlife,
- (b) NJDEP and NJDOE shall find that the proposed location and design of the electrical generating facility is the most prudent and feasible alternative for the production of electrical power that NJDOE has determined is needed, including a consideration, evaluation, and comparison by the applicant of alternative sites within the coastal zone and inland,
- (c) Fossil fuel (coal, oil or gas) generating stations shall not be located in particularly scenic or natural areas that are important to recreation and open space purposes,
- (d) Nuclear generating stations shall be located in generally remote, rural, and low density areas, consistent with the criteria of 10 CFR 100 (U.S. Nuclear Regulatory Commission rules on siting nuclear generating stations and population density) and/or any other related federal regulations. In addition, NJDEP shall find that the nuclear generating facility is proposed for a location where the appropriate low population zone and population center distance are likely to be maintained around the nuclear generating facility, through techniques such as land use controls or buffer zones,
- (e) The construction and operation of a nuclear generating station shall not be approved unless DEP finds that the proposed method for storage and disposal of the spent fuel to be produced by the facility: (i) will be safe, (ii) conforms to standards established by the U.S. Nuclear Regulatory Commission, and (iii) will effectively remove danger to life and the environment from the radioactive waste material. This finding is required under present state law (N.J.S.A. 13:19-11) and will be made consistent with judicial decisions (see Public Interest Research Group v. State of New Jersey, 152 N.J. Super. 191) and federal law,
- (f) The construction of electric generating facilities using renewable forms of energy such as solar radiation, wind, and water, including experimental and demonstration projects, is encouraged in the coastal zone provided that the facilities do not significantly adversely affect scenic or recreational values.

Liquified Natural Gas - The National Energy Plan contains the following statements applicable to New Jersey:

"Due to its extremely high costs and safety problems, LNG is not a long-term secure substitute for domestic natural gas. It can, however, be an important supply option through the mid-1980s and beyond, until additional gas supplies may become available...The previous Energy Resources Council guidelines are being replaced with a more flexible policy that sets up no upper limit on LNG imports. Under the new policy, the Federal Government would review each

application to import LNG so as to provide for its availability at a reasonable price without undue risks of dependence on foreign supplies. This assessment would take into account the reliability of the selling country, the degree of American dependence such sales would create, the safety conditions associated with any specific installation, and all costs involved." (p. 57)

LNG facilities have been proposed in recent years for West Deptford and Logan Townships in Gloucester County, and on Staten Island, New York from where the LNG would be pipelined to New Jersey. The New Jersey Coastal Program states that LNG terminals are discouraged unless they are constructed so as to neither unduly endanger human life nor property nor otherwise impair the public health, safety and welfare, and comply with the Coastal Resource and Development Policies. Because the tankering of LNG could pose potential risk to life and property adjacent to New Jersey's waterways which also serve as boundaries with the states of Pennsylvania along the Delaware River and the state of New York in the Port of New York and New Jersey, the state considers decisions concerning the siting of LNG terminals to be an interstate matter. New Jersey is still awaiting a response in this regard to the petition (RM 76-13) it filed, along with its neighboring states, to the Federal Energy Regulatory Administration (former Federal Power Commission) in May 1976 (See Section 4.4.14 of Chapter Four).

Recreation

The New Jersey coast is a national recreational resource. In considering the national interest in recreation, New Jersey reviewed the Nation-wide Outdoor Recreation Plan, the evolving New Jersey State Comprehensive Outdoor Recreation Plan (SCORP), the Land and Water Conservation Fund Act, and the Historic Preservation Act of 1966 as amended. In addition, New Jersey offered draft coastal documents including the Coastal Management Strategy (September 1977) for review to the National Marine Fisheries Service, Bureau of Outdoor Recreation and its successor Heritage Conservation and Recreation Service, Fish and Wildlife Service, National Park Service and staff of Gateway National Recreational Area-Sandy Hook, and the Advisory Council on Historic Preservation.

Major objectives of the national interest in recreation are:

- To consider recreation as an equal among competing uses of the coastal region.
- To provide high quality recreational opportunities to all people of the United States, while protecting the coastal environment.
- To increase public recreation in high density areas
- To improve coordination and management of recreation areas.
- To protect existing recreation areas from adverse contiguous uses.
- To accelerate the identification and no-cost transfer of surplus and under-utilized federal property.

New Jersey will consider the recreational potential of a site in each decision under the Coastal Program. The highest priority for use of waterfront sites will be recreation, and residential and industrial projects will include recreation areas to the maximum extent practicable. The Policies are consistent with the New Jersey State Comprehensive Outdoor Recreation Plan (SCORP), which was also prepared by DEP.

Recreation is particularly important in New Jersey where tourism is the state's second largest industry. The recreational use of the ocean waterfront has long been recognized, while the use of bay and river waterfront, particularly in urban areas is of growing importance in New Jersey. (See Chapter Four, Sections 4.3 and 5.12) DEP provides for the national interest in recreation through its ability to acquire and manage state parkland and recreation areas and through the state Green Acres program which makes funds available to local governments for acquisition and development of recreation and open space. The federal government, which owns and operates a public beach and open space area at Gateway National Recreation Area (Sandy Hook), further provides for the national interest in recreation in New Jersey.

Transportation and Ports

The need for adequate transportation both to, and within, the coastal zone is an important national interest. To determine the national interest in transportation, and ports, New Jersey consulted the U.S. Department of Transportation, U.S. Coast Guard, Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Urban Mass Transit Administration, Maritime Administration and U.S. Army Corps of Engineers. The maintenance of existing transportation facilities is unaffected by the New Jersey Coastal Program. New public transportation facilities will be encouraged while additional roads will be permitted only if a need for them is demonstrated and alternative solutions are not feasible. In addition, other types of proposals, such as residential projects and development in Atlantic City, will be evaluated in terms of their potential impact on transportation.

New Jersey's ports also contribute to the national transportation interest. Ports will be encouraged only in established port areas. New facilities will be permitted when there is a clear demonstration of the inadequacy of an existing port. In New Jersey, the existing ports contain unused and under-used areas which can be refurbished to meet increases in demand. The Coastal Policies nevertheless allow for possible unanticipated future needs for port areas. (See Chapter Four, Sections 4.4.12, 4.5.3, 4.5.4, 4.7 and 5.19)

Water

The New Jersey Coastal Program has been designed to support the attainment of national water quality goals. New Jersey has considered the national interest in water quality by review of the Federal Water Pollution Control Act as amended and consultation with the Environmental Protection Agency, Fish and Wildlife Service, National Marine Fisheries Service and the Council on Environmental Quality. These goals, and the other resources in which there is a national interest which follow in this section, are recognized by the first Basic Coastal Policy which states "Protect the coastal ecosystem", as well as by other more specific policies. Water quality is addressed by the Location Policy on Water Areas and Special Areas, by Use Policies on Wastewater Treatment, and by Resources Policies on Soil Erosion, Runoff, Ground and Surface Water Use, Water Quality, and Marine Fish and Fisheries. DEP's Division of Marine Services has a close working relationship with DEP's Division of Water Resources. The former has responsibility for the Coastal Zone Management Act in New Jersey and the latter administers New Jersey's participation under the Federal Water Pollution Control Act of 1977, as amended (Clean Water Act). (See Chapter Four, Sections 3.2, 3.3, 4.5.7, 5.4, 5.5, 5.6 and 5.21)

Air

The New Jersey Coastal Program supports the attainment and maintenance of clean air. The State has considered this national interest through review of the federal Clean Air Act and consultation with the Environmental Protection Agency and the Council on Environmental Quality. A policy on Air in the Resources Policies section of the Coastal Resource and Development Policies requires that all development subject to the Coastal Program must conform with the Clean Air Act and other applicable air regulations and standards. DEP's Division of Environmental Quality is responsible for improving and maintaining air quality in New Jersey. (See Chapter Four, Section 5.10)

Wetlands

The New Jersey Coastal Program has considered the national interest in wetlands through review of the President's Executive Order 11990 on Protection of Wetlands of May 24, 1977, Section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act, as well as through consultation with the Soil Conservation Service, U.S. Army Corps of Engineers, Fish and Wildlife Service, Environmental Protection Agency, National Marine Fisheries Service, and the Council on Environmental Quality.

The major objectives of the national interest in Wetlands are:

- To protect basic values of wetlands as habitat and food sources for waterfowl and aquatic life;
- To protect the functioning of wetlands for flood prevention, storm buffering, water supply, and nutrient exchange, and as a recreational resource.
- To regulate alteration of wetlands and the disposal of dredged materials in U.S. waters and associated wetlands.

The New Jersey Coastal Program addresses the national interest in protection of coastal wetlands through their designation as a Geographic Area of Particular Concern. Wetlands are also addressed in a Use Policy on Housing discouraging lagoon development, a Resource Policy on "Buffers" which states that adjacent development must allow a buffer to protect sensitive areas such as wetlands, and the Location Policy which specifically identifies wetlands as areas where development proposals must meet very high standards. The use of New Jersey's Wetlands Act of 1970 in the Coastal Program will allow enforcement of these policies. In New Jersey, considerable wetlands acreage was being lost to development each year until the Wetlands Act was passed. (See Chapter Four, Sections 3.2.11, 3.2.23, 3.4.1, 5.8.1 and 5.15.1)

Endangered Flora and Fauna, and Wildlife Refuges and Reserves

New Jersey has addressed the national interest in endangered flora and fauna, and wildlife refuges and reserves by reviewing the Endangered Species Act of 1973, and the Federal Aid to Wildlife Restoration Act of 1938 (Pittman-Robinson), and by seeking the advice and comments of the U.S. Forest Service, Environmental Protection Agency, Fish and Wildlife Service and the Council on Environmental Quality.

The major objectives of the national interest in endangered flora and fauna are:

- To provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved.
- To provide a program for the conservation of such endangered and threatened species.
- To take steps as may be appropriate to achieve the purposes of treaties and conventions in which the United States has pledged its support for the worldwide conservation of wild flora and fauna.

The national importance of wildlife is addressed in the Coastal Program by the Special Areas Policies on "White Cedar Stands", "Endangered or Threatened Species Habitats" and "Critical Wildlife Habitats" and by Resource Policies on "Vegetation", "Wildlife", and "Buffers" which state that development must protect and preserve vegetation and wildlife by use of buffers and other techniques to the maximum extent practicable. The Coastal Program also discourages development of sites with endangered species. (See Chapter Four, Sections 3.2.17, 3.2.18, 3.2.19, 3.2.23, 5.8, 5.9, and 5.15) New Jersey has four National Wildlife Refuges located on excluded federal land in the coastal zone. In addition, the State operates several fish and wildlife management areas within the coastal zone.

Living Marine Resources

In determining the national interest in living marine resources, the following documents, specific legislation, and agencies were consulted:

- Fishery Conservation and Management Act of 1976.
- A Compilation of Federal Laws relating to Conservation and Development of our Nation's Fish and Wildlife Resources, Environmental Quality, and Oceanography. The Library of Congress, Congressional Research Service. January, 1975.
- Living Coastal Resources; A Marine Fisheries Program for the Nation. U.S. Department of Commerce/NOAA, National Marine Fisheries Service and U.S. Department of Interior, Fish and Wildlife Service; July, 1976.
- U.S. Fish and Wildlife Service.
- U.S. Army Corps of Engineers
- National Marine Fisheries Service
- Marine Mammal Commission

The major objectives of the national interest in living marine resources are expressed as follows:

- To conserve, enhance and manage in a rational manner commercial fishing which constitutes a major source of employment and contributes significantly to the food supply, economy and health of the nation.
- To strengthen the contribution of marine resources to recreation and other social needs.
- To develop and protect all species of wildlife and their habitat, and to control losses by damage to habitat areas through coordination with other features of water resource development programs.

The key features of the national interest in living marine resources are, therefore:

- emphasis on commercial fisheries
- relationship of marine resources to recreation
- protection of marine resources
- protection of wildlife habitat

The Coastal Program addresses these issues in the Location Policies and Resource Policies in Chapter Four. Development will be discouraged in shellfish beds, submerged vegetation, surf clam areas, navigation channels, finfish migration pathways, and prime fishing areas. In addition, development will be required to cause minimal feasible interference with marine fish and fisheries. In addition to continuing coordination with the appropriate federal agencies, DEP is working with NOAA to identify and plan for the management of marine sanctuaries in the state. (See Chapter Four, Sections 3.2.2, 3.2.3, 3.2.4, 3.2.5, 3.2.6, 3.2.7, 3.2.8, 3.2.9, 3.2.11, and 5.2)

Floodplain and Erosion Hazard Areas

New Jersey has considered the national interest in flood plains and erosion hazard areas through review of the Flood Disaster Protection Act (P.L. 93-234), National Flood Insurance Act of 1968 and the President's Executive Order of May 24, 1977 on Floodplain Management, and through consultation with the Federal Insurance Administration, U.S. Army Corps of Engineers, U.S. Geological Survey, Federal Disaster Assistance Administration and the National Heritage Program. The major objectives of the national interest in these areas is to avoid the long and short term adverse impacts associated with the occupancy and modification of floodplains.

The national interest in flood control is reflected in the Coastal Program's restrictive designation of the Water's Edge land area in the Location Policies in Chapter Four, Section 3.4. Flood plains protection is also addressed by the Resource Policy on Flood Hazard Areas. (See Chapter Four, Section 4.23)

Barrier Islands

The national interest in barrier islands was considered through consultation of the same sources noted under "Floodplain and Erosion Hazard Areas" as well as participation in the efforts of the national Barrier Island Task Force. This national interest is directly reflected in the Coastal Program through the Special Areas designated as High Risk Beach Erosion Areas, Dunes, and Central Barrier Island Corridor which restrict or prohibit major development, and through the Use Policy on "Shore Protection" which gives preference to non-structural over structural approaches to shore protection. The protection of barrier islands is particularly crucial in New Jersey after the damaging winter storms of 1977-78. (See Chapter Four, Sections 3.2.12, 3.2.13, 3.2.14, and 4.8)

Historic Sites and Districts and Areas of Unique Cultural Significance

The national interest in historic sites and districts and areas of unique cultural significance, including shipwrecks, was considered through review of the Archaeological and Historical Preservation Act of 1974 (P.L. 93-291) and National Historic Preservation Act of 1966, and consultation with the National Park Service, the Heritage Conservation and Recreation Service and the Advisory Council on Historic Preservation.

The major objectives of the national, state and local interests in archaeological historic sites and districts are:

- To afford protection from adverse impacts to designated historic and archaeological sites.
- To consider cultural resources in assessing the environmental impacts of proposed activities.

The New Jersey Coastal Program recognizes the national interest of preserving representative and unique archaeological, historical and cultural resources of the coast. The Program reflects this recognition, through the designation of Historic Places as a Special Area which encourages the protection of historic and cultural resources. (See Chapter Four, Sections 3.2.8, 3.2.15, and 5.18)

Minerals

New Jersey has considered the national interest in minerals through consultation with the U.S. Bureau of Mines and the U.S. Geological Survey. Although mining is not a major industry in New Jersey, its national importance is reflected by the Use Policy on "Mining" which spells out conditions on the acceptability of mining. DEP will continue to coordinate with U.S. Bureau of Mines on the Coastal Management Program. (See Chapter Four, Section 4.6.3)

Prime Agricultural Lands

New Jersey has considered the national interest in agriculture through consultation with the Soil Conservation Service and the Fish and Wildlife Service. The national importance of prime and unique agricultural lands is reflected in the Coastal Program by the Location Policy on Farmland Conservation Areas in Chapter Four which discourages development of prime farmland unless continued farming is infeasible or incompatible with surrounding land uses. The Location Policies also consider soil fertility as an important variable in determining the acceptability for development of a site. (See Chapter Four, Section 3.2.22)

Forests

New Jersey has considered the national interest in forests through consultation with the National Forest Service. The state's major forest -- the Pine Barrens -- is located in the central portion of New Jersey, most of which is outside the coastal zone. The Coastal Program, through the Location Policies and the "Secondary Impact" Resource Policy in Chapter Four, encourages the protection of prime forest areas. (See Chapter Four, Sections 3.2.17 and 3.5.4)

FEDERAL CONSISTENCY

Federal agencies play a significant role in the coastal zone. They issue permits and licenses for activities such as dredging and the construction and operation of nuclear power plants, as well as activities associated with exploration and development of the Outer Continental Shelf. They also provide financial assistance such as grants for watershed protection and flood prevention, and undertake direct activities and development projects such as national parks and highway construction.

The federal consistency provisions of the Coastal Zone Management Act, Section 307(c)(1) and (2), require federal activities and development projects to be consistent to the maximum extent practicable with the State Coastal Zone Management Program. Section 307(c)(3)(A), 307(c)(B) and 307(d) require federal licensed and permitted activities, federally licensed and permitted activities described in detail in OCS plans and Federal assistance to State and local governments to be consistent with the State coastal program.

New Jersey will use the goals, objectives and policies of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment as the basis for making consistency determinations. Specifically, New Jersey will consider a federal action consistent if it does not inherently conflict with the Coastal Resource and Development Policies as stated in Chapter Four, and is the available alternative most supportive of the New Jersey Coastal Program.

General Guidelines on Federal Consistency

The federal consistency requirements outlined in the Bay and Ocean Shore Segment follow the requirements set forth in the federal consistency regulations, 15 CFR 930. Following approval of the Segment, New Jersey will prepare working papers with guidelines for the procedures it will use to make federal consistency operational.

Geographic Scope

New Jersey will review federal actions conducted within the boundary of the New Jersey coastal zone (Bay and Ocean Shore Segment) for consistency with the state program. However, certain federal actions conducted outside the boundary of the Bay and Ocean Shore Segment of the coastal zone may significantly affect coastal resources, and therefore, require state review for consistency. New Jersey may request a consistency review by a federal agency (for federal activities and development projects) or by an applicant (for licenses, permits, and financial assistance) for certain actions conducted outside the coastal zone. For example, federal actions outside the Bay and Ocean Shore Segment of the coastal zone subject to a state consistency review may include, but are not limited to actions concerning chemical or petroleum processing, transfer or storage facilities, deepwater ports, OCS leases and exploration, development, and production plans, sewage treatment and disposal, solid waste disposal facilities, and transportation projects.

Contents of a Consistency Determination or Certification

A federal agency or applicant for a federal license or permit or federal assistance is encouraged to consult the New Jersey Department of Environmental Protection, Office of Coastal Zone Management as early as possible for its views and assistance regarding the means for insuring an activity will be conducted in a manner consistent with New Jersey's coastal program.

A consistency determination or certification should include: 1) a detailed description of the activity and its associated facilities which is adequate to permit an assessment of their probable coastal zone effects, 2) a brief assessment relating the probable coastal zone effects of the proposal and its associated facilities to the relevant elements of the management program and 3) findings based on the assessment indicating whether the activity is consistent with the provisions of the management program.

General Procedural Requirements

New Jersey will provide public notice on pending consistency determinations through the same mechanisms used for the three state coastal permit programs: CAFRA, wetlands, and riparian. Written notice will be sent to landowners adjacent to the site proposed for development, appropriate municipal and county agencies and newspapers. Each project requiring a consistency determination will also be listed

in the DEP Weekly Bulletin. The public notice will state that more detailed information is available from DEP and that comments to DEP on the proposal are welcome.

In addition, a public hearing will be held in the local area concerned on all projects requiring a CAFRA permit and on major projects requiring a Wetlands or Waterfront Development Permit. A public hearing will also be held in the event of a serious disagreement between DEP and a federal agency concerning a federally licensed or permitted activity described in OCS oil and gas production and development plans.

DEP will work with each Federal agency to provide joint written notices and public hearings on proposals whenever possible.

Both DEP and the New Jersey Department of Energy (DOE) will participate in the decision of the State of New Jersey to issue a determination of consistency on coastal energy facilities. As required by federal regulation (15 CFR 930.18), DEP shall receive, and forward promptly to DOE, all materials necessary for consistency determination on coastal energy facilities. In the event of a disagreement, the Energy Facility Review Board will be convened to make a recommendation to the Governor, who shall make the final determination within the applicable time limits. As required by federal regulations (15 CFR 930.18), DEP will then transmit the final federal consistency determination to the appropriate federal agency.

Below are lists of federal activities and development projects, federally licensed and permitted activities, federally licensed and permitted activities described in OCS Plans, and federal programs providing assistance to state and local governments likely to occur in, or affect, New Jersey's coastal zone. Preceding each list are the procedures New Jersey will employ to enhance state-federal cooperation and to insure consistency. New Jersey will use the federal consistency procedures described in 15 CFR 930. (Federal Register, Vol. 43, No. 49, March 13, 1978, pp. 10510-10533).

Federal Activities and Development Projects

Federal activities and development projects which are located in or significantly affect the Bay and Ocean Shore Segment must be consistent to the maximum extent practicable with the State Coastal Management Program. New Jersey will consider an activity consistent to the maximum extent practicable if it does not conflict with the Coastal Resource and Development Policies and is the available alternative most supportive of New Jersey's coastal program unless compliance with New Jersey's program is prohibited based on existing law applicable to the Federal agency's operations. Ongoing federal activities initiated prior to management program approval will require a consistency determination.

The federal agencies shall notify the New Jersey Department of Environmental Protection, Office of Coastal Zone Management as early as possible of all proposed activities and development projects to be located in or significantly affecting the coastal area in the Bay and Ocean Shore Segment. The agencies will also notify DEP of all proposed activities or projects on federal lands which may have an impact on water quality, air quality, noise levels, visual amenities, transportation and infrastructure network, or the need for housing and support services in the coastal area. The federal agency can notify DEP directly of a pending action or when

possible, the federal agency can use the existing State A-95 process. The notification will include the federal agency's consistency determination for the proposed action. The State will respond within the time designed in the regulations (15 CFR 930.41).

The following federal activities and development projects will be subject to the federal consistency provisions:

GENERAL SERVICES ADMINISTRATION

- Location and design of proposed federal government property acquisition and building construction.
- Disposal of surplus federal lands.

U.S. DEPARTMENT OF DEFENSE

Army Corps of Engineers

- Proposed project authorization for dredging, channelworks, breakwaters, other navigation works, erosion control structures, reservoirs, dams, beach nourishment and other public works projects in the coastal zone or with the potential to impact coastal lands and waters.

Air Force, Army and Navy

- Location, acquisition and design of new or enlarged defense installations. Actions conducted on federal lands with potential impact on coastal lands and waters.

U.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management

- OCS Leases (New Jersey reserves the right to review proposed OCS Lease Sales when the question whether lease sales are eligible for consistency has been resolved.)

Fish and Wildlife Service

- Management of national wildlife refuges and proposed acquisition.

National Park Service

- National Park and seashore management and proposed acquisition.
- Preservation of historic and cultural sites.

U.S. DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

- Highway construction.

Federally Licensed and Permitted Activities

Applicants for federal licenses or permits for activities significantly affecting the coastal zone shall provide to DEP a certification that the proposed activity is consistent with the coastal policies. An applicant may demonstrate, for a federally licensed or permitted activity, consistency by receipt of an approved CAFRA, Wetlands, or waterfront development permit.

Prior to or concurrent with submission of the application to the federal agency, the applicant must submit to DEP the appropriate state permit application and a detailed description of the proposed activity and associated facilities including maps, diagrams and technical data sufficient to allow DEP to evaluate independently the proposal's consistency. The applicant should include an assessment relating the probable coastal zone effects of the activities and their associated facilities to the relevant elements of the management program. From the assessment, the applicant should indicate how the proposed activities and associated facilities are consistent with the management program.

DEP will circulate the list of permits and licenses which are subject to a state consistency certification to all federal agencies. This will enable the federal agency to alert all potential applicants of the need to obtain a DEP consistency certification. DEP will adhere to the same schedule for responding as described for Federal Activities and Development Projects. If DEP finds the proposal inconsistent with the Coastal Management Program, the federal agency will not issue the requested permit or license, unless and until the proposal is revised to eliminate the inconsistencies.

In addition to the permits and licenses listed below, DEP reserves the right to review and comment on the consistency of other federal permit and license applications which may significantly affect the coastal zone. DEP will request appropriate information on the proposal within 45 days from the notice date of the federal application. DEP will make a consistency determination within six months as required by federal regulation, following commencement of review of the application according to procedures outlined in the federal consistency regulations. DEP will attempt to shorten this time period whenever possible.

DEP will review renewals and major amendments to federal licenses and permits which significantly affect the coastal zone as defined by the federal regulations 15 CFR 930.51.

The following federal permits and licenses will be subject to the federal consistency provisions:

U.S. DEPARTMENT OF DEFENSE

Army Corps of Engineers

- Permits to regulate construction of any dam or dike across any navigable water of the U.S. under Section 9 of the Rivers and Harbor Act of 1899.
- Permit to regulate the obstruction or alteration of, the construction of any structure in or over, and the excavation from or depositing of material in any navigable water of the U.S. under Section 10 of the Rivers and Harbor Act of 1899.

- Permits and licenses to regulate transportation of dredged material for the purpose of dumping it in ocean waters under Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972.
- Permits and licenses for the discharge of dredged or fill materials into the waters and adjacent wetlands of the U.S. at specified disposal sites under Section 404 of the Federal Water Pollution Control Act of 1972 and amendments unless such permitting activity has been delegated to the State.

FEDERAL ENERGY REGULATORY COMMISSION

- Licenses required for non-federal hydroelectric projects and associated transmission lines under Section 4(e) of the Federal Power Act.
- Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act.
- Permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act.

U.S. DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

- Permits and licenses for geological and geophysical exploration.

U.S. DEPARTMENT OF TRANSPORTATION

U.S. Coast Guard

- Permits for construction and operation of deepwater ports under the Deepwater Port Act of 1974 (PL 93-627).
- Permits for construction of bridges under 33 USC 401, 491, 525.

Federal Aviation Administration

- Permits and licenses for construction, operation, or alteration of airports.

U.S. ENVIRONMENTAL PROTECTION AGENCY

- National Pollutant Discharge Elimination System (NPDES) permits under the Federal Water Pollution Control Act of 1972.
- Decisions under Prevention of Significant Deterioration (PSD) regulations under the Clean Air Act of 1976.

NUCLEAR REGULATORY COMMISSION

- Permits and licenses required for the construction and operation of nuclear facilities under the Atomic Energy Act of 1954, Sections 6, 7, 8 and 10.

U.S. DEPARTMENT OF ENERGY

Economic Regulatory Administration

- Opinions and orders for permission for delivery of imported LNG.

Federally Licensed and Permitted Activities Described in OCS Plans

The 1976 Amendments to the Federal Coastal Zone Management Act added Section 307(c)(3)(B), stating in part that:

"... any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from any area which has been leased under the Outer Continental Shelf Lands Act ... and regulations under such Act shall ... attach to such plan a certification that each activity which is described in detail in the plan complies with such state's approved management program and will be carried out in a manner consistent with such program."

Applicants for federal licenses or permits, described in detail in OCS exploration or, development plans, which significantly affect the coastal zone must supply to DEP a detailed description of all proposed federally licensed or permitted activities and facilities for OCS activities including, but not limited to, construction and operation of drilling platforms, other structures in navigable waters, waste and dredged material disposals, temporary or permanent service bases, repair and maintenance yards, steel or concrete platform fabrication yards, steel platform or pipeline installation service bases, pipelines and landfalls, pipe coating yards, partial processing facilities, gas processing and treatment plants, marine terminals and tank farms, and petrochemical complexes.

DEP will review OCS plans in accord with the procedures set forth in Subpart E of the Federal Consistency Regulations. DEP will require consistency certification for the following:

- OCS exploration, development and production plans.
- Federally licensed and permitted activities described in detail in OCS plans including, but not limited to:

J.S. DEPARTMENT OF DEFENSE

Army Corps of Engineers

- Permits for artificial islands and fixed structures located on the Outer Continental Shelf under the Rivers and Harbor Act of 1899 as extended by 43 U.S.C. 1333(f).

J.S. DEPARTMENT OF THE INTERIOR

Bureau of Land Management

- Permits and licenses for rights-of-way for common carrier pipelines.

U.S. Geological Survey

- Permits to drill
- Permits and licenses for other post-leasing activities related to OCS exploration, development, and production will be subject to a consistency certification (refer to section on federally licensed and permitted activities).

Federal Assistance to State and Local Governments

Federal assistance to state and local governments for projects significantly affecting the coastal zone may be granted when DEP certifies that the activity will be consistent with the coastal program. DEP will use the A-95 review process to monitor proposed federal assistance projects in the coastal zone. The State also reserves the right to comment on other federal assistance projects brought to its attention through the media and other avenues.

When such monitoring indicates a potentially significant impact on the state's coastal zone, DEP will notify the applicant agency, involved federal agencies, and the federal Assistant Administrator for Coastal Zone Management of its intention to make a consistency determination and will request the applicant to provide DEP with a consistency certification if the applicant has not included it in the application. At that time, DEP will also ask the applicant agency for any additional information necessary for the consistency determination.

DEP will notify the applicant agency and the New Jersey Department of Community Affairs, in its role as State A-95 Clearinghouse, of its objection, if any, to proposed projects. The Department of Community Affairs is required to forward notification of any consistency objections to appropriate federal agencies. The DEP comments will describe how the proposed project is inconsistent with specific Coastal Resource and Development Policies and, where possible, will recommend alternatives which would alleviate the inconsistencies. The DEP comments will also refer to the appeal procedures set forth under Subpart G of the adopted NOAA regulations on federal consistency published (15 CFR 930, Federal Register, Vol 3, No. 49, March 13, 1978).

NJDEP will monitor state and local federal assistance applications affecting the coastal zone including, but not limited to the following programs:

U.S. DEPARTMENT OF AGRICULTURE

Soil Conservation Service

- Watershed protection and flood prevention, and Resource Conservation and Development.

U.S. DEPARTMENT OF COMMERCE

Economic Development Administration

- Economic Development Planning Grants, and Economic Development Grants for Public Works and Development Facilities.

U.S. DEPARTMENT OF ENERGY

- State Energy Conservation Program

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- Housing Assistance Grants, Community Development Block Grant, and Section 701 Planning Assistance Grants

U.S. DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

- Land and Water Conservation Fund

Fish and Wildlife Service

- Endangered Species Act of 1973.

U.S. DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

- Airport Development Aid Program

Federal Highway Administration

- Federal Aid Highway Program

Urban Mass Transportation Administration

- Urban Mass Transportation Grants

ENVIRONMENTAL PROTECTION AGENCY

- Air Pollution Control Program Grants, Construction Grants for Wastewater Treatment Works, State and Interstate Program Grants for Water Pollution Control. Demonstration Projects under S 144 of the Safe Drinking Act, and Solid Waste Facilities Program under S. 3254(b) of Solid Waste Disposal Act

REGIONAL BENEFIT DECISIONS

The federal Coastal Zone Management Act requires that states provide a "method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit." (Subsection 306(e)(2)).

In New Jersey, uses of regional benefit include energy generating and distribution facilities operated by public utilities (not refineries and tank farms), water and sewer facilities, solid waste collection and disposal systems, roads and highways, parks, housing for people with low or moderate incomes, facilities necessary for state or national defense, and the use of wetlands and wet beach areas.

Local governments are prevented from unreasonably excluding these uses by one or more of three factors. The most significant factor is the State's power to overrule a local decision denying approval to any public utility.

The Board of Public Utilities in the Department of Energy has broad regulatory authority over public utilities, which comprise the bulk of the defined uses of regional benefit. This authority includes the power to supercede local zoning laws when necessary if the service conveniences the welfare of the public (N.J.S.A. 40:55D-19). The standard of necessity has been defined by the courts as that service "reasonably requisite to service public convenience". (Petition of Public Service Corordination Transport, 103 N.J. Super 505, 1968). The term public utility includes roads, street railway, traction railway, autobus, canal, express subway, pipeline, gas, electric light, heat power, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraphic system, or plant or equipment for public use (N.J.S.A. 48:2-13). This override authority can be applied only to projects that have received all required state approvals.

The authority of the Board of Public Utilities to override local siting decisions can be invoked at the request of the aggrieved utility whenever "reasonably requisite to service public convenience". This is an effective method of protecting uses of regional benefit from reasonable restriction or exclusion by local governments. The agreement between NJDEP and NJDOE on the energy siting policies and processes for resolving conflicts ensures that the coastal management program's policies concerning uses of regional benefit will be recognized by the Board, because the NJDOE intervention authority may be used in proceedings before the Board.

Under the Solid Waste Management Act, (N.J.S.A. 13:1E-1 et seq.), DEP also has authority to override the local exclusion of a solid waste facility.

Second, the State of New Jersey has the power of eminent domain for any facilities necessary for state or national defense (N.J.S.A. 20:1-3.1), Airports (N.J.S.A. 20:1-3.1), State highways (N.J.S.A. 27:7-44.6) and parks and open space under the Green Acres Program (N.J.S.A. 13:8A-24).

Third, New Jersey has addressed the regional benefit provided by housing for people with low and moderate incomes largely through the Judiciary since low and moderate income housing often does not provide great economic benefits to a municipality and cannot be required by a state agency. The New Jersey Supreme Court has established in Southern Burlington County NAACP v. Township of Mt. Laurel, 67 N.J. 151 (1975) that municipalities must "presumptively make realistically possible an appropriate variety and choice of housing ... at least to the extent of the municipality's fair share of the present and prospective regional need ...". The Department of Community Affairs is developing guidelines to implement this ruling. A developer whose application is denied local permits to build such housing has legal standing to appeal the denial on the grounds that the municipality has not provided its fair share of low cost housing. A recent Superior Court decision in New Jersey, though not in the coastal zone, has demonstrated the validity of this technique. (Round Valley Inc. v. Clinton Township, Superior Court (January, 1978)).

Chapter Seven: SPECIAL COASTAL RESOURCE AND DEVELOPMENT POLICY REQUIREMENTS OF
THE FEDERAL COASTAL ZONE MANAGEMENT ACT

Introduction
Geographic Areas of Particular Concern
Areas of Preservation and Restoration

Introduction

The federal Coastal Zone Management Act contains five requirements relating to specific uses or areas of the coastal zone. This chapter describes how the New Jersey Coastal Program meets the requirements for Geographic Areas of Particular Concern and for Areas of Preservation and Restoration. The other three requirements, relating to Energy Facility Siting, Shorefront Access Planning and Shoreline Erosion Planning, were added to the Act by the Amendments enacted in 1976. New Jersey will describe how its coastal program meets these requirements for the entire coastal zone in its program to be submitted for the other parts of the coastal zone; states are not required under federal law to include these elements in a management program until after October 1978.

The New Jersey Coastal Program addresses many of the issues raised by all five requirements in other Chapters. For this reason, the sections which follow liberally refer the reader back to other parts of the document, particularly Chapters Four and Five.

Geographic Areas of Particular Concern

Section 305 (b)(3) of the federal Coastal Zone Management Act requires that the state provide "an inventory and designation of areas of particular concern within the coastal zone." A draft paper prepared by NOAA-OCZM (May 24, 1976) indicates that the designation must lead to "specific recognition and action within the framework of the management program".

New Jersey has designated Geographic Areas of Particular Concern (GAPC) on the basis of the following three criteria:

- A. Regional or state-wide significance of the area;
- B. Need for special attention based on threat to the preservation of the area or obstacles to its development consistent with the policies of the New Jersey Coastal Program, and
- C. Availability of State legal authorities to promote desired uses of the areas.

Using the criteria, New Jersey proposes two generic GAPCs and nine specific GAPCs. Clearly, many other areas in the coastal zone are important, but designation of them as GAPC's would not be meaningful or feasible, due to criteria C above. The New Jersey Coastal Program, therefore, relies primarily upon the Coastal Resource and Development Policies in Chapter Four and the Management System in Chapter Five to promote the wise use of each site in the Coastal Zone Segment.

When DEP-OCZM asked the public to nominate areas of particular concern, virtually every possible site in the potential coastal zone was mentioned. DEP used the public nominations to confirm and refine the Coastal Resource and Development Policies. In addition, the Department distributed a report entitled Nominated Areas of Public Concern in the New Jersey Coastal Zone to other State, municipal, county and federal agencies. The Department is preparing a supplement to this report describing how each nominated area is addressed by this coastal program. Copies of both the report and the supplement are available from DEP-OCZM.

New Jersey's Geographic Areas of Particular Concern are the following:

1. All Coastal Wetlands - Wetlands are valuable to New Jersey because they serve as natural flood controls, water purifiers, and essential nurseries for marine creatures. (See also the rationale for the Wetlands policies in Chapter Four). The threat to wetlands posed by development was recognized by the Governor and Legislature in 1970 when they enacted the Wetlands Act. This Act has effectively reduced the average annual loss of wetlands to development from 1900 acres to 55 acres. Under the Coastal Program, New Jersey will continue to use the Wetlands Act to preserve coastal wetlands.

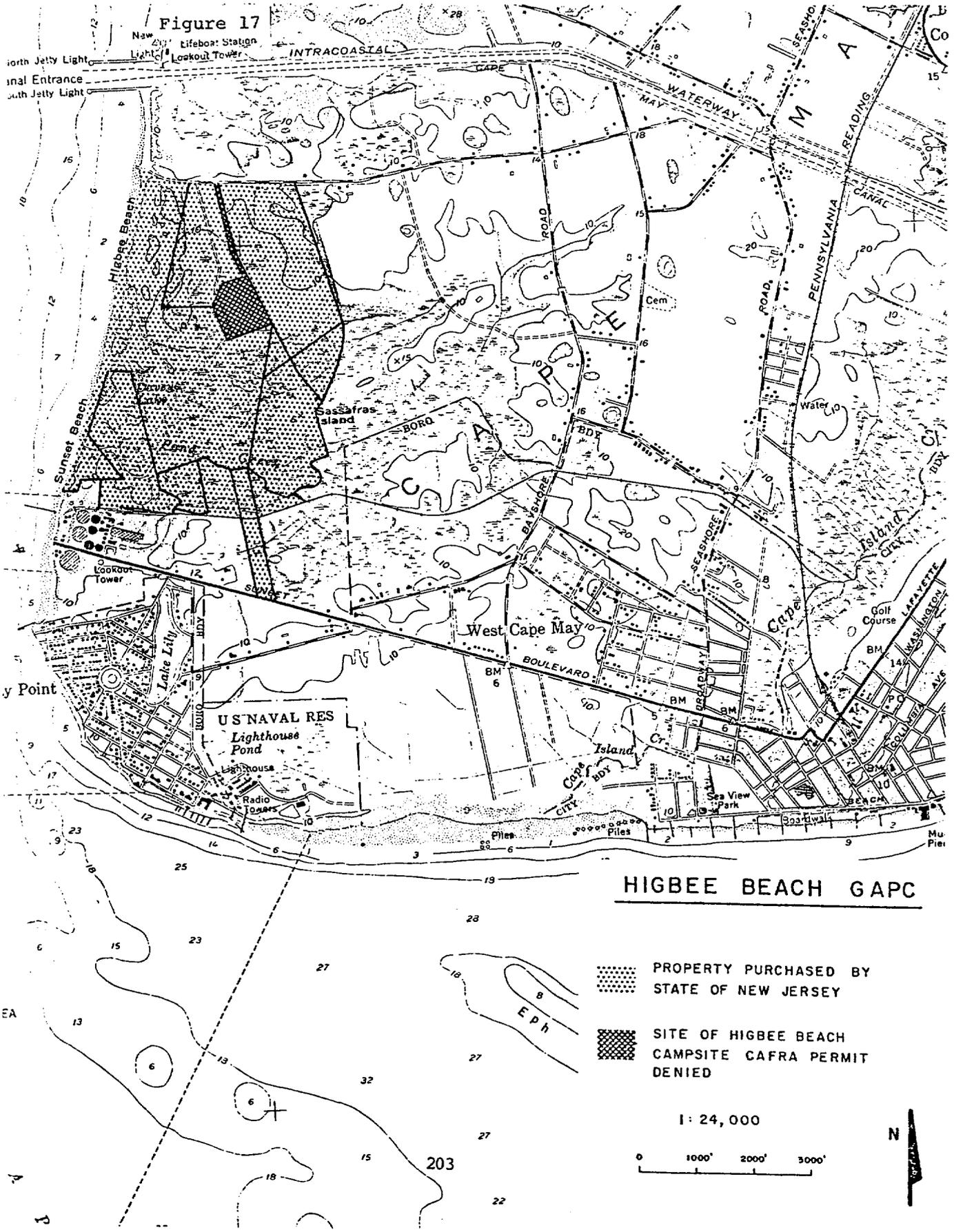
The priority of uses in coastal wetlands is as follows:

- (a) Open Space (No development or disturbance).
 - (b) Development which (1) requires water access or is water oriented as a central purpose of the basic function of the activity, (2) has no prudent or feasible alternative on a non-wetland site, (3) will result in minimum feasible alteration or impairment of natural tidal circulation, and (4) will result in minimum feasible alteration or impairment of the natural contour of the natural vegetation of the wetlands.
 - (c) Other development has lowest priority.
2. Higbee Beach - Pond Creek Meadow Area - This unique area of 440 acres, in Lower Township in Cape May, includes five mini-ecosystems of bayshore beaches, dunes, wooded uplands, fields, and freshwater and tidal meadows. The area is valued by residents of, and visitors to southern New Jersey as a place to sunbathe and swim, and to observe wildlife. Over 200 species of birds have been recorded in the area. The area has been threatened by repeated efforts to build a campground within it. New Jersey has used the CAFRA permit program and funding from the Green Acres Program and the Endangered Species Act administered by the Division of Fish, Game and Shellfisheries described in Chapter Five, to protect the area exclusively for recreation and wildlife. Figure 17 indicates that boundary of the area which has been purchased by the State of New Jersey.

The set of uses with priority in the Higbee Beach-Pond Creek Area includes only recreation compatible with protection of the area's wildlife. All other uses have lowest priority.

3. Wet Sand Beaches - New Jersey's 127 miles of ocean shorefront form a natural resource which is valued directly by residents and indirectly as the mainstay of the state's tourism industry. The wet sand beach area seaward of the mean high water line is known as Public Trust Land and is a Geographic Area of Particular Concern. This area is owned by the State of New Jersey unless the State has conveyed a "riparian grant" for the tide-flowed land. In all parts

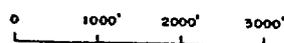
Figure 17



HIGBEE BEACH GAPC

-  PROPERTY PURCHASED BY STATE OF NEW JERSEY
-  SITE OF HIGBEE BEACH CAMPSITE CAFRA PERMIT DENIED

1:24,000



of the area, whether or not it is owned by the State, public access must be provided for navigation, commerce and recreation, and any new development requires a riparian "waterfront development" permit, as described in Chapter Five.

The priority of uses in the wet sand beaches areas is:

- (a) recreation
- (b) navigation and commerce
- (c) development with no prudent or feasible location on a non-beach (wet sand) location
- (d) all other uses have lowest priority.

In addition to the three GAPCs listed above, eight specific state-owned areas in the coastal zone have been labelled "natural areas" under the Natural Areas System Act of 1976, N.J.S.A. 13:1B-15.12(a) et seq., and its regulations (N.J.A.C. 7:2-11.1 et seq.). A natural area is defined as "an area of land or water which has retained its natural character, although not necessarily completely undisturbed, or having rare or vanishing species of plant and animal life or have similar features of interest which are worthy of preservation for the use of present and future residents of the State." N.J.A.C. 7:2-11.2(A).

The Department of Environmental Protection, Green Acres Program, on July 13, 1978, designated 38 state owned areas to be preserved and managed as natural environments. The nine areas which are in the Bay and Ocean Shore Segment are also designated GAPCs under the federal Coastal Zone Management Act. Two of the areas are parts of Island Beach State Park, an oceanfront natural barrier island.

The Natural Areas system regulations divide the areas into three types for management purposes (7:2-11.5.B):

Class I Natural Areas: a) The Department shall manage such areas for ecological research and study. When compatible with other uses they may be used for guided nature tours; and b) All of Class I natural areas shall be restricted to entry by permit or with a designated Department employee.

Class II Natural Areas: a) The Department shall manage Class II areas for the specific purpose of interpretation of natural processes, flora and fauna of this State. Class II areas may be used for ecological research and study; and b) Use of Class II areas shall be limited to interpretive purposes or shall be restricted to entry by permit for research purposes.

Class III Natural Areas: a) The Department shall manage Class III areas for recreational use, interpretive study, wildlife propagation, and succession control; and b) Use of Class III shall be limited to interpretative purposes, swimming, canoeing, rowboating, hiking, trailside camping, and recreational hunting, fishing and trapping as provided in the natural areas system rules and regulations.

The nine geographic areas of particular concern in the Bay and Ocean Shore Segment, and descriptions from the Natural Areas regulations are listed below:

4. Cape May Point Natural Area: An area of 100 acres in Cape May State Park, it demonstrates typical southern New Jersey sand dune and fresh-water marsh habitats, and is a bird sanctuary. The beach area is classified type III, the rest type II.
5. Cape May Wetlands Natural Area: An area of 2,000 acres acquired through the Green Acres program, it demonstrates the ecosystem complex of salt-marsh habitats, and is a sanctuary for colonial nesting and migratory birds. It is classified type III.
6. Strathmere Natural Area, Corson Inlet, Cape May County. An area of 80 acres, it demonstrates dune habitat and the erosion effect of tidal movements confluent with outwash currents. Type III.
7. North Brigantine Natural Area: An area of 968 acres acquired with Green Acres funds and adjoining the Brigantine National Wildlife Refuge, it demonstrates both sand dune and salt marsh habitats and serves as a refuge for coastal birds. Beach area is type III, remainder type II.
8. Great Bay Natural Area, Bass River, Ocean County. An area of 330 acres, it is a salt marsh habitat and an excellent example of New Jersey Bay ecosystem. It is a highly productive oyster area, and is a resting area for coastal birds. Type I.
9. Island Beach State Park: Island Beach State Park has been statutorily recognized by the New Jersey State Legislature as is one of the few natural expanses of barrier beach remaining along the eastern edge of North America; that Island Beach State Park is highly valued for its topography, flora and fauna; that Island Beach State Park serves the citizens of this State as a unique recreational and educational resource (N.J.S.A. 13:6-2 et seq.). This Act, requiring the park's continued preservation, further provides that the Park "shall be preserved, maintained and improved in such a manner as the Division of Parks and Forestry in the Department of Environmental Protection determines will best perpetuate the park's present physical state.

Through state ownership of Island Beach State Park and the terms of the Law, New Jersey will manage the entire Park as a Geographic Area of Particular Concern. In addition, two parts of the park are designated "Natural Areas" under the Natural Areas System Act of 1976. Permissible uses of these areas are defined more specifically below:

- (a) Island Beach Research Area and Wildlife Sanctuary: An area of 1,200 acres encompassing the width of Island Beach State Park and running north for 3.3 miles, it demonstrates a sand dune habitat, it is a wildlife sanctuary, and will serve as a research area. Beach area type III, remainder type II.
 - (b) Island Beach Natural Area: An area of 1,000 acres of the State park, encompassing its width and running 3.3 miles south (excepting maintenance area and official residence), it demonstrates dune habitat and is a botanical preserve. Beach area type III, remainder type II.
10. Swan Point Natural Area, Brick Township, Ocean County: An area of 104 acres acquired through the Green Acres program, it demonstrates salt marsh habitat, and is a part of the Barnegat Bay ecosystem. Type II.

11. Manahawkin Natural Area: An area of 64 acres and a national natural landmark, it demonstrates a mature bottomland hardwood forest. Type III.

(Maps of designated natural areas are available from the Green Acres Program, New Jersey, DEP, Box 1389, Trenton, N.J. 08625)

Areas of Preservation and Restoration

Section 306 (c)(9) of the federal Coastal Zone Management Act requires that the state establish "procedures whereby the specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values". This is a requirement that a process to identify areas for preservation or restoration, rather than a list of areas themselves, be available to the state coastal agency.

The Department of Environmental Protection administers several approved programs through which areas can be designated for preservation or restoration. Because these programs are all in the same Department, administrative procedures are already in place to insure their coordination with the coastal program.

Through the Green Acres Program (N.J.S.A. 13:8A-35 et seq.), DEP can purchase land or provide grants to local governments for land purchase and park development. The amount of money available is established by voter approved bond issues and legislative appropriations.

The Green Acres Program also administers two other programs which provide DEP with the ability to indicate concern for the preservation or restoration of an area without the absolute certainty of success provided by land purchase. Under the Natural Areas Systems Act (N.J.S.A. 13:1B-15.12a et seq.) described in the Geographic Areas of Particular Concern section, DEP can identify additional natural areas within DEP-owned and managed lands in need of preservation or protection and available implementation options. The Wild and Scenic Rivers System Act, passed in 1977, requires that DEP classify, designate, and administer river areas as wild, scenic, recreational, or developed recreational rivers. The rules and regulations for these two programs further describe the process for designation.

The Division of Fish, Game and Shellfisheries can apply funding available under the federal Endangered Species Act to the preservation of species habitats through land purchase or management. This is one of the major tools being used to preserve the Higbee Beach - Pond Creek Geographic Area of Particular Concern.

Another procedure for the designation of areas for preservation or restoration is through the New Jersey Register of Historic Places and the National Register of Historic Places. The Commissioner of DEP, as the State Historic Preservation Officer, may approve nominations to the keeper of the National Register of publicly or privately owned areas and sites for inclusion on the Register. Such inclusion prohibits any federal, state, county or municipal agency from undertaking a project which would harm the historic place, without the approval of DEP, and, in the case of the National Register, the approval of the Advisory Council on Historic Preservation. These historic places are also identified as a Special Land Area in the Location Policies of Chapter Four.

Chapter Eight: NEXT STEPS IN COASTAL MANAGEMENT IN NEW JERSEY

Managing the Bay and Ocean Shore Segment
Completing the State's Coastal Management Program
Changing the Coastal Management Program

Managing the Bay and Ocean Shore Segment

Federal approval of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment by NOAA-OCZM is a major, but not the final step toward completing coastal planning.

While the Coastal Program for the Segment is completing the federal review process, New Jersey has submitted its first Coastal Zone Management Program Administration (Section 306) Grant Application to NOAA-OCZM. The application defines a series of projects for the twelve months following Program approval, to add increasingly greater specificity to the Coastal Resource and Development Policies, as well as improved coastal awareness and monitoring of coastal decisions. Greater specificity will come in part from mapping programs, and will build upon the environmental sensitivity and development potential studies to be carried out as part of the further development of the Coastal Location Acceptability Method (CLAM).

DEP will also work with the NJDOE, the Attorney General of New Jersey and NOAA-OCZM in the next year to resolve boundary issues between New Jersey, Delaware and New York. To resolve the New Jersey-Delaware issues, DEP will work particularly closely with Salem County officials and representatives of affected municipalities.

DEP also plans to explore many other possible uses of the funding available under Program Administration Grants. A special coastal zone management grant in the summer of 1977, for example, enabled DEP to run a Beach Shuttle to Island Beach State Park. Similar projects might be feasible in the future. The Division of Marine Services and the Division of Fish, Game and Shellfisheries will work with the Mid-Atlantic Regional Fisheries Management Council to promote interstate coordination of plans for the management of fishery resources. Specifically, DEP will identify and establish priorities for a set of fishery management tasks including preparation of an inventory of living coastal resources, and may then request funding from NOAA-OCZM under the Coastal Fisheries Assistance Program.

DEP and NJDOE have received funding under the Coastal Energy Impact Program to conduct a joint Major Energy Facility Study, to specify appropriate energy facility development potential criteria and candidate areas for use in the Coastal Management Program's Location Policies. DEP will also continue its analysis of coastal land and water features and development opportunities, in cooperation with State and local planning agencies, in order to articulate increasingly specific coastal policies, concerning the appropriate function and character of various coastal regions. DEP will continue the elaboration of a prospective concept of the coast outlined in Chapter Three, providing a context for decision-making that recognizes the appropriate and desirable differences between regions and communities of the coast.

DEP will continue in its efforts to make the management system for the coastal program increasingly equitable, understandable and efficient. This will involve consideration of administrative changes such as further permit coordination and simplification, and legislative changes such as permit consolidation, as well as preparation of handbooks and other publications to make the permit application and review processes more clear.

The expertise and insights of the coastal planning agencies participating in the 1978 cooperative DEP-County Coastal Planning project is providing valuable information for this prospective effort. The 1978 project involves three major elements. First, the counties are responsible for reviewing the coastal management program and recommending county-specific revisions. Second, the counties are submitting comments and recommendations on specific coastal permit decisions pending before DEP. Third, the counties are acting as regional coastal clearing-houses to the public, thereby increasing public participation and promoting inter-governmental coordination.

During the next year, DEP will also prepare a "critical resource report" analyzing the extent to which cumulative impacts on critical coastal resources are adequately managed, and recommending appropriate administrative or legislative action.

At the conclusion of the county contracts in November 1978, DEP, with county officials and other interested citizens, will evaluate the results and recommendations. In particular, DEP will consider the recommendations made by the counties for future coastal activities including studies, pilot projects, and administrative functions, to be funded under the Program Implementation Grant.

Lastly, the Department of the Public Advocate has strongly encouraged a program to fund people wishing to actively participate in the permit review of particular applications. DEP will work with the Public Advocate and other interested people to explore whether this idea would be workable and beneficial.

Completing the State's Management Program

Federal approval of the Bay and Ocean Shore Segment marks a major achievement, but the entire management program for New Jersey's coastal zone must also be completed promptly. DEP will continue its coastal planning efforts under the Fourth Year Coastal Zone Management Program Development Grant. In particular, DEP will complete a major Estuarine Study to increase the specificity of the environmental sensitivity factors considered in the Program's Location Policies. Also, DEP will initiate a Development Potential Study, complementing the Estuarine Study, by identifying the key siting factors for a wide range of coastal development activities from the developer's perspective. The study will concentrate on the conventional types of development that take place in the coastal zone. The results of these projects should markedly increase the level of detail of the standards in the Location Policies.

The second major DEP-OCZM staff coastal planning effort in 1978, in addition to work on the Segment, is preparation of the management program for the Delaware Waterfront, Northern Waterfront and Hackensack Meadowlands portions of the prospective coastal zone, as defined in Appendix E. Considerable coastal planning has taken place in these more built-up, urbanized coastal regions, and many of the

coastal policies in Chapter Four are equally applicable to these areas. However, detailed coastal planning in terms of the boundary, policies, and management system will be carried out in order to prepare a draft coastal management program for the entire state's coastal zone, incorporating the Bay and Ocean Shore Segment by 1979.

DEP's contract with coastal counties will produce results contributing to the program for these areas since Hudson, Union, Middlesex, Camden, Gloucester and Salem Counties are among the participants. In addition, as part of the development of the coastal program for the Northern Waterfront area, DEP-OCZM will be undertaking an analysis of the Hackensack Meadowlands Development Commission's (HMDC) master plan to determine consistencies with the coastal management program. The study will help define an appropriate coastal zone boundary, based in part on water quality, wetlands, and aerial photographic analyses.

New Jersey's Fourth Year Coastal Zone Management Program Development Grant Application to NOAA-OCZM defines the specific tasks and budget for DEP's coastal planning for 1978 and early 1979. DEP has requested that NOAA extend this grant through June 1979. Copies of the grant application are available from DEP-OCZM. If funding is available, DEP may request an additional program development grant to complete preparation of the New Jersey coastal program.

New Jersey will follow the following timetable for preparation of the parts of the coastal zone outside the Bay and Ocean Shore Segment and integrate these elements into a single state-wide program.

| | |
|--------------------------|---|
| August, 1978 | DEP, with NOAA, completed <u>Final Environmental Impact Statement for Bay and Ocean Shore Segment</u> , which the Governor has submitted to the NOAA for review. |
| Early September, 1978 | NOAA review (Rest of timetable assumes approval.) |
| October, 1978 | New Jersey anticipates receipt of first Program and Administration (Section 306) Grant for Bay and Ocean Shore Segment, estimated to be \$800,000 in federal funds. |
| December, 1978 (approx.) | DEP publishes preliminary working draft, for public comment, of Coastal Management Program for entire state, and holds workshops and meetings. |
| March, 1978 (approx.) | DEP and NOAA publish Draft Environmental Impact Statement for the entire Coastal Zone and DEP and NOAA hold public meetings and hearings. |
| July, 1979 (approx.) | Governor submits complete State Coastal Management Program Final Environmental Impact Statement on the Coastal Zone to NOAA. |
| September, 1979 | New Jersey receives Program Administration Grant for entire coastal zone, estimated to be \$1.4 million. |

Changing the Coastal Management Program

The last five years of coastal planning in New Jersey have amply demonstrated the dynamic nature of the issues and opportunities that confront the coast. Onshore planning for offshore oil and gas activities, sound management of barrier islands, revitalization of all New Jersey's urban areas, including the special case of Atlantic City, and other policy areas have moved to the top of the coastal management agenda in 1978, but the future may bring new management needs. The federal Coastal Zone Management Act wisely recognizes the importance of change and flexibility and provides mechanisms for states to refine or amend approved coastal management programs.

In the short term, changes to the Bay and Ocean Shore Segment will be considered and proposed, as appropriate, in the course of drafting the management program for the Delaware River, Northern Waterfront and Meadowlands regions of the coastal zone, and integrating the boundary, policies, and management system for those regions with the initial Coastal Program for the Bay and Ocean Shore Segment. In the long term, New Jersey will seek federal approval for major changes in the management program when such changes seem imperative to maintain a responsive, coherent, and up-to-date approved coastal management program. Any changes will be incorporated into the Coastal Program according to NOAA regulations 923.81. Federal consistency would not be applicable to such changes until these processes would be completed.

PART III

PROBABLE IMPACTS OF THE PROPOSED ACTION ON THE ENVIRONMENT

Introduction

Section 1 - Summary of Environmental Impacts

Section 2 - Summary of Socio-Economic Effects and their Associated Environmental Impacts

- A) Impacts on New Development and Land Values
- B) Resorts/Recreation
- C) Social Effects and their Associated Environmental Impacts
- D) Institutional Impacts

Section 3 - Impacts of the Coastal Resource and Development Policies

- A) Location Policies
 - 1. Special Areas
 - 2. Water Areas
 - 3. Water's Edge Areas
 - a) Natural Water's Edge
 - b) Retained Water's Edge
 - c) Filled Water's Edge
 - 4. Land Areas
- B) Use Policies
 - 1. Housing
 - 2. Resort/Recreation
 - 3. Energy
 - 4. Public Facilities
 - 5. Industry-Commerce
 - 6. Ports
 - 7. Coastal Engineering
- C) Resource Policies

INTRODUCTION

Significant environmental, social and economic impacts will result from federal approval of the New Jersey Bay and Ocean Shore Segment. In order to fully understand the impacts associated with federal approval, it is necessary to evaluate the probable impact of program implementation by the State of New Jersey. The following description of program impacts is divided into three sections. Section One summarizes the environmental impacts associated with program approval. Section Two summarizes the socio-economic effects and their associated environmental impacts associated with program approval. Section Three is a more detailed analysis of the Coastal Resource and Development Policies and their probable impacts.

Section 1 - SUMMARY OF ENVIRONMENTAL IMPACTS

The DEP's regulation of activities in the Segment's coastal waters, as strengthened by the Segment policies, will continue to minimize many of the detrimental environmental effects associated with coastal development and will have a positive long range impact on the productivity of natural resources. Dredging activities in port areas will be conditioned to minimize possible adverse effects on water quality and aquatic habitats. Transportation of oil and transfer of gas

and oil in coastal water will be conditioned to reduce the possibility of oil spills. Pipelines on land are specifically prohibited from being located in sections of the Segment where routes would lead through the Pine Barrens; and pipelines must also avoid sensitive areas where possible.

The Segment policies will facilitate protection and management of certain natural resources of the coast, such as salt marshes, beaches, barrier islands, fish and shellfish spawning grounds, endangered species habitats and prime agricultural land. The policies will help preserve the coast's aesthetic qualities for public enjoyment and promote the various types of recreational opportunities available along the shore. By preserving these valuable natural resources, Segment policies will discourage further inappropriate development in hazardous areas which could result in destruction of property and loss of life. Costs associated with these policies include short term increases in construction costs for new development and long term changes in land values depending on the level of development considered appropriate under the Coastal Policies.

Of particular note are the policies related to wetlands, beaches and barrier islands. In general, development is discouraged in wetlands. Some exceptions are outlined in Chapter Four of Part II. Dumping solid or liquid wastes and storing pesticides on wetlands are prohibited. The benefits of preserving wetlands accrue to the major coastal industries. Fish and shellfish industries depend directly on wetlands which are the main support of estuarine and marine food webs and provide spawning grounds for valuable commercial and sport species of fin and shellfish. Since filling is required to build in wetlands, avoiding wetlands on a project site can reduce the development costs. Prohibiting wetlands development reduces land available for new growth in the coastal area and reduces the value of real estate with large areas of wetlands. However, the value of land adjacent to wetland areas may be enhanced.

Paving and structures are prohibited on beaches unless the proposed development is publicly funded and has no prudent or feasible alternative elsewhere. This policy provides vital support to maintaining the recreational assets of the shoreline. Since beaches are subject to coastal storms and erosion from offshore currents, prohibiting development protects property as well as public health and safety. The short term costs associated with restricting development on beaches will be the same as those associated with the restrictions on wetlands.

Barrier islands, which are composed entirely of various Special Areas, are identified as one of ten different regions of the coast. The policies specific to barrier islands address the problems of the tourist industry, energy siting, and the natural functions of the islands with their associated water bodies. The tourist industry has produced a highly developed set of islands on which the extensive private investments are not easily protected from the ravages of the ocean. The policies for barrier islands prohibit construction of oil refineries, petrochemical facilities and crude oil storage facilities on the islands.

Other policies relevant to the barrier islands address high risk erosion areas, dunes, and the central Barrier Island Corridor. The first two policies discuss the vulnerability of the islands and the need to protect them, while the third discusses where location of uses can occur with minimal expected damage. Also, the housing and resort/recreation sections identify desired uses on the

islands like water dependent uses, public access, and special Atlantic City development. The shore protection policies attempt to protect the existing development and non-structural land uses through dune restoration where possible and through structural means where necessary.

The policies addressing barrier islands and dunes will apply to those developments which require a coastal program permit. The cumulative effect of small scale development on barrier islands is not addressed by the program. However, the program recognizes that cumulative effects could have some long term environmental impact on barrier islands. The program will provide some control over barrier island development.

The Segment policies are intended to preserve natural processes and resources; however, DEP also recognizes that the coast will continue to experience significant new growth. Water dependent energy development, off-shore mineral mining, and port and harbor development with their attendant dredging, spoil disposal and bulk-heading activities will be permitted in certain locations and under certain conditions. The impacts of these activities include lowering water quality, reducing fishery productivity as a result of habitat destruction and increased water turbidity, deterioration of coastal aesthetic amenities, and potential interference with recreational uses of the beaches. Policies used for evaluating the costs and benefits of proposed developments are designed to mitigate these impacts.

The Location Policies include a methodology for determining the acceptability of a site for development. Implementing these policies should have a positive long term environmental impact by preserving unique, exceptionally productive or irreplaceable resources and assuring that development will be compatible with the environment in which it is located. In particular, development will be restricted in areas with a high potential to degrade water quality. The costs associated with these policies will be a trade-off of relatively scarce coastal natural resources for inland natural resources, which are more abundant. Thus, the location of activities inland will require commitment of resources in other parts of New Jersey outside the Segment.

Under the Use Policies, most types of major development located in the Segment will be regulated by the State of New Jersey. However, the Segment leaves land use decisions of predominantly local impact to the discretion of local governments. For example, community character and regulation of housing development for projects of 24 units, or less, outside of riparian lands or wetlands locations, will remain the responsibility of local governments. Thus, residential or commercial developments that may not be detrimental individually and are not regulated by the State could well have cumulative adverse impacts on the coastal zone. This problem is not addressed by the Bay and Ocean Shore Segment.

The Resource Policies address prevention or mitigation of adverse environmental impacts on both natural and cultural resources. Implementing these policies should result in long term beneficial environmental impacts related to protecting water quality and water supply, preventing the loss of prime agricultural land through erosion, protecting air quality, protecting historic sites and other recreational attractions, and increasing effective management of fisheries and wildlife resources. The costs associated with these policies would include the potential for adverse impacts on air and water quality or natural resources outside the coastal zone as a result of shifting development pressures inland.

Section 2 - SUMMARY OF SOCIO-ECONOMIC EFFECTS AND THEIR ASSOCIATED ENVIRONMENTAL IMPACTS

Within the context of a statewide coastal zone management strategy, the New Jersey Bay and Ocean Shore Segment has been developed to conserve and protect key renewable natural resources and recreational amenities that form the economic base of the area. Under these policies, large scale energy production and storage facilities, heavy industrial uses and most additional port development must locate outside the Segment.

Other types of new development will be encouraged to locate in the already developed areas. Implementing the Segment policies will not reduce either development pressures or the rate of growth in New Jersey, especially regarding housing development. However, policy implementation may shift some development activity, such as energy storage facilities, to more suitable inland locations. Short term costs of energy development may increase as a result of these policies, but, over the long term, concentrating development near existing infrastructure and away from coastal flood prone areas will be more cost effective.

Implementing the Segment policies will improve the process for determining coastal land and water uses, siting facilities in the national interest and for predicting what types of development will be allowed in the coastal region.

The Segment plan concentrates development in or adjacent to developed areas and existing infrastructure. Thus, over the long term, as land suitable for development along the coast is committed to that development, public sector investments in infrastructure will increasingly determine the location of new growth in the coastal zone. The need for these investments can be anticipated and planned for in an efficient way. Also, development may occur in higher densities and in fewer places, reducing the long term costs for infrastructure to support this development. Short terms costs to developers, such as land prices, may increase.

A. Impacts on New Development and Land Values

Managing sensitive coastal resources will enhance the desirability of some coastal areas for future development, while limiting the use of other land for development. Property owners with land designated as acceptable for development which is also located adjacent to protected amenities like open space, recreation areas, or historic places will realize an increase in the value of their property. Owners of land which include other special areas like endangered species habitat, productive wetlands, prime agricultural land or high risk beach erosion areas may not be able to realize the level of financial gain they had anticipated. Examples of these patterns in New Jersey can already be seen in wetlands areas, where the resale price of land declined markedly after passage of the Wetlands Act of 1970, and in Atlantic City, where land values rose dramatically after passage of the Casino Referendum in November 1976. Long term effects on property values are harder to predict. For example, the value of property in areas designated for preservation by the Segment policies may decline initially, but may later rise on selected parcels either because of increased tourism or because acceptable development techniques may become economically feasible.

Requirements to minimize environmental disruption during construction of new developments may increase the short term costs of housing and increase infrastructure investments. The long term benefits of avoiding construction on hazardous sites and preventing shoreline erosion will be a reduction in destruction of property and loss of life. Other long term economic benefits include maintenance of viable recreation, agriculture and fisheries industries in the coastal zone.

B. Resorts/Recreation

Recreation and tourism will continue to be the largest industry in the Bay and Ocean Shore Segment of New Jersey's coastal zone and will perhaps expand as a result of development in Atlantic City. Other industries will be located in inland parts of the coastal zone or outside the Segment boundaries altogether. Single family detached housing will continue to be common, but the Bay and Ocean Shore Segment will have increasing numbers of cluster development which will contribute to more efficient settlement patterns for recreational and year round use.

The ocean waterfront from Sandy Hook to Cape May will be devoted almost exclusively to recreational uses and commercial fishing. An exception may be made for limited areas near developed coastal areas to serve as onshore support bases for oil and gas exploration and development of outer continental shelf resources. The inland areas of the coastal zone nearest the ocean will continue to provide housing and commercial services for seasonal and year round residents. Portions of the coast further inland will accommodate housing and agricultural operations as well as some industries.

As the Segment policies are implemented, some of the benefits will be immediately visible, such as a halt in the indiscriminate high-rise construction along the Atlantic Ocean shoreline. Other changes will occur over a longer period of time, but will ultimately have greater benefits for recreational uses of the shore, such as improved water quality to permit resumption of swimming in areas currently designated as unsuitable for water contact sports, and reduction of condemned shellfish areas. In addition to the land value changes discussed above, implementing policies in the Segment will have other costs related to recreational development. There will be a need for public infrastructure investments for transporting people to and from recreation areas, providing water and sanitary facilities and maintaining the land and facilities under the pressures of increased public use.

C. Social Effects and their Associated Environmental Impacts

Several Segment policies require that public and private developments provide both physical and visual access to the shorefront. Use policies related to transportation address the need for alternatives to automobile dependence in coastal areas. Also, clustered facilities, which are encouraged in the program, are more amenable to public transportation than scattered development. The cumulative benefits of these policies will be to open more coastline for public use and to provide better access to it with less public cost for infrastructure such as roads and parking facilities. The costs associated with these policies include the potential for overuse of some shore areas and an increase in public costs for maintenance of the beaches, water and sanitary facilities to accommodate more users.

Policies requiring barrier free design for large scale housing developments and beach access pathways will have long term benefits for handicapped persons and residual benefits for society by increasing their productive participation in the economy. Short term increases in construction costs to provide these facilities will also be an impact of implementing this policy.

Policies which encourage development of campgrounds in appropriate locations will offer the benefit of low cost shelter for families who otherwise might not be able to vacation within the coastal area as well as a residual benefit to the coastal economy. Costs associated with these policies include the potential for overuse of natural areas opened for recreation and increases in local public investments for maintenance of infrastructure and campground facilities.

D. Institutional Impacts

The use of federal money in the program will allow the state to provide:

- Implementation of the new policies in Chapter 4 promulgated as rules and regulations of DEP
- Greater enforcement of existing regulations
- Increases in the permit staff of programs comprising the BOSS program
- Increases in technical studies on coastal processes
- Federal consistency
- New equipment to managing coastal resources

Adjusting to the new regulations may cause some temporary delays in permit review and program development. In the long run, however, coastal regulatory and management decisions should be made more efficiently and with better coordination among state agencies. All agencies within DEP will be required to act consistently with the coastal program. This should lead to better and more consistent expenditure of state funds in the coastal zone. Improvements in the decision-making process which will reduce the time for permitting and licensing procedures will have positive long term environmental and economic impacts to both state and local governments and private industry.

Section 3 - IMPACTS OF THE COASTAL RESOURCE AND DEVELOPMENT POLICIES

The Coastal Resource and Development Policies form a three-stage screening process designed to increase the predictability of coastal decision-making. The policies are based on the three key regulatory authorities - CAFRA, the Wetlands Act, and the riparian statutes, as well as the Shore Protection Program. This discussion is divided into three parts to coincide with the three-stage screening process. (See Part II, Chapter Four for greater detail on this process).

A. Location Policies

One of the basic goals of the Bay and Ocean Shore Segment policies is to aid decision makers in determining the acceptability of locations for development. The location policies were developed to evaluate the advantages and disadvantages of sites for development, and to determine the types and intensities of development suitable for a site.

Basically, the method integrates an analysis of the natural and cultural features of a coastal area site along with its growth and development potential. The system is generally outlined as follows:

1. Identify and map site and surrounding region.
2. Identify and map Special Areas.
3. Identify and map Water Areas.
4. Identify and map Water's Edge Areas.
5. Identify and map Land Areas.
6. Determine Location Acceptability
 - a. Identify coastal region in which site is located.
 - b. Determine development potential and environmental sensitivity of the site.
 - c. Consult land acceptability table.
 - d. Compare proposed intensity with acceptable intensity.
7. Make the decision on the project.

This process works within the framework of the Location Policies which address the Special, Water, Water's Edge and Land Areas of the ocean and bay area of New Jersey discussed below.

1. Special Areas

These are land and water areas with a resource value so great that special policies are merited. These areas are listed below:

| | |
|---------------------------------|-----------------------------------|
| Shellfish Beds | Central Barrier Island Corridor |
| Surf Clam Areas | Historic Places |
| Prime Fishing Areas | Specimen Trees |
| Finfish Migration Pathways | White Cedar Stands |
| Submerged Vegetation | Endangered or Threatened Wildlife |
| Navigation Channels | or Vegetation Species Habitat |
| Shipwrecks and Artificial Reefs | Critical Wildlife Habitats |
| Marine Sanctuaries | Public Open Space |
| Beaches | Steep Slopes |
| Coastal Wetlands | Farmland Conservation Areas |
| High Risk Beach Erosion Areas | Bogs and Freshwater Wetlands |
| Dunes | Ephemeral Stream Corridor |
| Special Hazard Areas | Excluded Federal Lands |
| | Borrow Pits |

Location of any development in these areas is discouraged if the development would harm the special values associated with these areas. Most of these special areas have unique properties or provide basic needs of the fishing and recreation industries which require protection. They are described in more detail in Chapter Four of Part II.

If all the areas listed in the Segment functioned within their assessed resource capacity, the waterways would be corridors of vegetation, wildlife, and water, with limited, concentrated development for water dependent uses; the land prime for farming in contiguous acreages would grow food; the dunes would be

preserved or restored to enable them to protect beaches and inland areas against the storms; unique places would remain undisturbed; and food-producing water areas would be managed for increased productivity and recreation.

Protection of special natural and cultural resources will have positive environmental, economic and social benefits depending on the resource protected. The costs and tax loss resulting from non-development of an area will be shared by the developer and the local municipality in the short-term, but the long-term cumulative gain by protection and enhancement of the resources should offset the immediate loss.

2. Water Areas

Within the Coastal Location Acceptability Method, various types of water areas are identified:

| | |
|--------------------------------|-----------------------------------|
| Ocean | Man-Made Harbor |
| Open Bay | Large River |
| Semi-Enclosed Bay and Back Bay | Medium Rivers, Creeks and Streams |
| Intermittent Streams | Inland Basins |
| Guts | Inlets |
| Canals | |

Specific policies address certain water uses and are incorporated on a Water Acceptability Table which indicates whether a use is prohibited, discouraged, conditionally acceptable, encouraged or impractical within the type of water area. Policies sensitive to resource protection and development potential specify conditions for acceptability and govern the following uses:

| | |
|---------------------------------|-----------------------------|
| Aquaculture | Piling |
| Boat Ramps | Mooring |
| Retaining Structures | Sand and Gravel Extraction |
| Bridges | Cable Routes |
| Docks and Piers | Overhead Transmission Lines |
| Dredging - Maintenance | Pipeline Routes |
| Dredging - New | Dams and Impoundments |
| Dredged Spoil Disposal | Pipes |
| Dumping (Solid Waste or Sludge) | Miscellaneous |
| Filling | |

The conditions are discussed in detail in Part II, Chapter Four. Short and long term environmental, economic and social benefits should be derived from these policies by the protection of productivity of marine flora and fauna and their sensitivity to the importance of water quality. The short term costs to developers or units of government should be offset by the long term gains.

3. Water's Edge Area

a) Natural Water's Edge

In general, development within the jurisdiction of the Segment is prohibited in Natural Water's Edge Areas. (Exceptions are outlined in Chapter Four of Part II.) This area includes contiguous, undisturbed land and water features, marine wetlands and beaches. It is one of the most sensitive parts of the coastal ecosystem. When left undeveloped the area serves several important functions. It

can act as a buffer which would provide natural water purification to protect surface water quality from the adverse effects of erosion, and contaminated surface runoff. The vegetation provides stream channel stabilization by reducing bank erosion, thereby preserving water quality. These zones also provide natural flood control by reducing the variations in water flow during heavy rains thereby reducing property loss. Other benefits include detritus production which is the base of estuarine food webs, provision of habitat for wildlife, and provision of open space greenways for public recreation. The costs are the same as those for not developing wetlands.

b) Retained Water's Edge

Development is acceptable in Retained Water's Edge Areas providing that it is either water dependent or is proposed for public recreation or resort use. Certain conditions for uses in Retained Water's Edge Areas are outlined in Chapter Four, Part II. This policy will have long term positive environmental, economic and social benefits by restricting uses that would not be water dependent and reserving the water's edge for public recreation.

c) Filled Water's Edge

Filled Water's Edge Areas occur when existing filled areas lie immediately adjacent to Water or Natural Water's Edge Areas. Development of these areas along water bodies is generally discouraged except under certain conditions outlined in Chapter Four of Part II. Filled land areas adjacent to Water Areas represent potential problems in water quality so the policy to assure their sound management represents a positive environmental impact.

4. Land Area

The specific location policies regarding Land Areas are based upon the determination of the acceptability of a site for the proposed development. Development acceptability is determined by analyzing the soils, vegetation and other acceptability factors, along with the regional growth and development considerations which dictate the most suitable areas to build. The policies encourage consolidation of growth within the limits of existing public facilities. These policies should have numerous beneficial impacts as well as certain adverse impacts. The benefits include reduced pressure for development of outlying critical environmental resources, such as wetlands and flood plains; possible preservation of open space and agricultural land; revitalization of urban or community centers; improved efficiency of prior public investments; and improved energy efficiency. For example, air and water quality may be degraded if too many industrial sources of pollution are concentrated in one area or if clustering does not reduce vehicular use.

The Program's policies, including those relating to public investments, are not expected to reduce the rate of development in the coastal zone. However, it is expected that new development will be concentrated to at least some degree in already developed areas. As a result, while some landowners may receive unexpected profits, others might receive smaller profits from commercial or residential development than they might otherwise have received.

Conformance to the standards which outline the allowable intensity of use will have long and short term positive impacts by protecting and conserving the land resource in question and the surrounding areas, especially by minimizing development in areas where impacts on surface or groundwater may degrade coastal water quality.

B. Use Policies

Use policies describe how decisions will be made for various types of development permits. Decisions will be made to prohibit, discourage, conditionally accept, accept, or encourage a use. The criteria for determining the acceptability of a proposed use are described in detail in Chapter Three of Part II and summarized below.

(1) Housing

The Bay and Ocean Shore Segment policies will control decisions on all new development of 25 or more dwelling units and on all housing in coastal wetland and riparian areas. Housing managed by the program will be located and constructed to minimize disruption of coastal environmental resources. Most new housing will be located within or close to existing developed areas. Housing developments of greater than 250 units must include barrier free public space and some barrier free units to accommodate handicapped persons. New high rise housing will be constructed only where it will be in character with surrounding transitional heights and residential densities. Near the water's edge, high rises will be constructed only if they can provide the public physical and visual access to the water and avoid casting shadows on the beach areas. New development involving construction of lagoons, or other bulkheading, or the filling or dredging of wetlands is prohibited.

The Segment policies also encourage, but do not require, certain other housing considerations: clustering dwelling units; constructing housing for low and moderate income families, providing for the needs of senior citizens by locating housing near services such as shops and health care facilities and locating housing on sites suitable for public transportation, and providing on-site energy generation from sun and wind.

The impacts of the housing policies can best be seen from the pattern of past decisions under CAFRA. In the four years from September 1973 through September 1977, CAFRA permit decision on 95 proposals used many of the policies contained in the Segment program. Eighty proposals for a total of 13,314 units were approved, while 15 proposals for 3,309 units were denied. Many of the approvals were contingent on meeting specified conditions. Since the passage of the Wetlands Act in 1970, twelve residential Wetland permit applications have been approved for a total of 134 units, 9 have been withdrawn by the applicants and none have been denied.

The policies regarding concentration of development and barrier free design were not in effect before September 1977, and can be expected to alter the location and design of new housing developments.

The housing policies reinforce the location policies in preserving open space by encouraging concentrated development. Other benefits include preserving shorefront views and water access which increase the attractiveness of the coastal area for recreation. The prohibitions on certain types of development may limit

the number of new housing units in the coastal area which would increase the price of housing. This cost should be offset by the policy encouraging construction of low and moderate income housing.

The Segment policies will not regulate housing developments of less than 25 units except in coastal wetland and riparian areas. Adverse impacts could result over the long term if developers choose to build in increments of 24 units. The costs would be uncontrolled sprawl development with its attendant water quality problems, destruction of special land and water areas, and increases in demand for public services. The local governments must bear the major responsibility for ensuring that these impacts do not occur as a result of their decisions. The secondary impact analysis required for the construction of roads and utilities, as well as the resource policies, will also help to control cumulative impacts.

(2) Resort/Recreation

The Bay and Ocean Shore Segment indirectly manages the use of some land for recreation through its direct authority over facilities regulated under CAFRA and its coordination with funding decisions made under the Green Acres Program.

Under Segment policies, more waterfront land will be allocated for recreational use. No new development regulated by CAFRA, the Wetlands Act or riparian statutes will block visual or physical access to the water. In addition, new residential and industrial development will include recreational use areas whenever possible. New amusement and theme parks will be limited. Dredging to maintain existing navigation channels will be encouraged. New marinas for recreational boating will be allowed if the demand cannot be met by expanding existing facilities, in which case the new marinas will be adjacent to existing waterfront development. Campgrounds will be prohibited from locating in sensitive areas defined by the Location Policies or in areas which would contribute to traffic congestion and air pollution. All resort/recreation facilities are required to be consistent with the Resource Policies.

The benefits of these policies are related to concentrating new recreational development in already developed areas. In addition to preserving open space and natural habitat, the costs for public services and infrastructure investments can be kept to a lower level so the costs to year round residents of expanding recreational uses of the coastal zone may be offset by the economic benefit of bringing more tourists into the area. Impacts of water runoff from roads and parking lots, disposal of dredge spoil, air quality degradation and local costs for wastewater treatment facilities can be reduced by concentrating recreational activities in already developed areas. The policies also provide the long term benefit of preserving public access to the water. The costs associated with these policies are related to imposing limits on the use of waterfront land. Private land owners may not realize the economic gains from development or resale of their land they had anticipated as a result of implementing these policies. As use of facilities increases, the concentration may lead to further air quality problems. In addition, costs of maintaining the public areas will increase with increased use; these costs must be borne by the communities where the facilities are located. These communities are usually the ones which also realize the economic benefit of tourism.

(3) Energy

The Segment policies direct the location of major energy development and production facilities and their support facilities, such as storage tanks and construction yards, to already built up areas outside the Segment area to protect the environmental and recreational values of the bay and ocean shore region. Only marine terminals and pipeline landfalls which are coastal-dependent, and gas processing plants and pumping stations, which may need to be sited in the coastal zone for technical and economic reasons, will be permitted. Crude oil refineries are prohibited from barrier islands and liquified natural gas (LNG) storage tanks can be built only at sites remote from concentrations of human population. Since existing refineries have unused capacity and New Jersey has five of the ten refineries in the region, requests for new refinery permits are not anticipated, although gas processing is a possibility. The DEP and New Jersey Department of Energy will both review applications for new facilities to ensure they are also consistent with the state energy master plan, being developed to direct orderly growth to the most suitable sites.

Pipelines and associated facilities will be subject to a number of conditions. Since New Jersey has 40 percent of the oil refineries and storage facilities in the region, the number of pipeline corridors will be limited and must be located along existing rights-of-way whenever possible. New pipeline corridors will be routed to avoid undeveloped areas and will be prohibited from locating in certain parts of the Pine Barrens.

Tanker terminals will be encouraged to locate in either the New York/New Jersey port or the Camden/Philadelphia port where induced growth and new support facilities can be accommodated. Location of terminals will be discouraged from other parts of the coast.

Since there are six nuclear facilities existing or under consideration in the Segment, no further facilities will be approved until DEP and the Department of Energy have had time to investigate the feasibility of alternative energy production methods. Location of fossil fuel stations will be discouraged in Special Areas and environmentally sensitive areas.

Concentrating major energy facilities inland of the coastal region will benefit both the coastal environment and the inland employment centers which have a ready work force. Resort areas would be unable to provide schools, hospitals, fire and police protection and other public services to the influx of population associated with energy development, while these services are already in place in many inland urbanized areas. The cost is that of trading off protecting natural resources in the coastal area at the expense of potential loss of natural resources inland. Other environmental costs, such as water quality and air quality degradation associated with energy facility development, will be borne by inland communities.

(4) Public Facilities

New and improved public transportation and related facilities will be encouraged. Bike and footpaths as well as fishing catwalk construction are encouraged. Transportation facilities will be prohibited if they block physical or visual access to the waterfront. These policies should have positive long-term and social impacts by fostering alternative transportation and by making the coast more accessible to a greater number of people.

Public utilities, such as sewer lines and railroads, will be allowed in environmentally and culturally sensitive areas provided that special impact control measures are used assuring that these facilities do not create short or long term negative impacts.

(5) Industry-Commerce

Industrial or commercial development is encouraged at or adjacent to existing sites. Marine resource dependent industry, particularly commercial fishing has priority over other waterfront uses. The small amount of land available for industrial development and the sensitive land and water features of the Bay and Ocean Shore Segment provide the basis for a restrictive industry-commerce policy. However, new and expanded light industrial parks and waterfront fish processing activities are recognized as desirable uses at appropriate locations.

(6) Ports

Port related development and marine commerce will be located adjacent to already developed waterfront areas, and will be allowed only when a need is demonstrated. Non-water dependent development shall be allowed only if water dependent marine commerce uses are not pre-empted. Dredging of existing navigation channels will continue to take place as necessary, and dredging elsewhere will occur only in selected situations where the bottom disturbance is acceptable. Subaqueous disposal is generally discouraged.

By concentrating port development and controlling dredging activity, positive long term environmental impacts will accrue by preserving marine life and the undeveloped coastline. Long term economic and social benefits will be derived by the concentration of marine commerce in high employment and industrial areas.

(7) Coastal Engineering

Coastal engineering includes a variety of structural and non-structural measures to manage water areas and the shoreline. Shoreline erosion and sand and sediment movement are problems addressed in the Bay and Ocean Shore Segment. The Segment's policies give preference to non-structural rather than structural solutions to shoreline erosion problems. Non-structural measures recognize the inevitability of the ocean's advancement and the migration of barrier islands. However, the program's policies recognize that the short term benefit of structures to protect the intense recreational use of New Jersey's oceanfront must be balanced against the costs of trying to perpetually control the natural and inevitable forces of the ocean.

The Bay and Ocean Shore Segment policies encourage dune restoration and beach nourishment projects. Construction of new shore protection structures, including jetties, groins, and seawalls is acceptable under certain conditions listed in Chapter Four, Section Two. Because of the existing pattern of urbanization of New Jersey's shoreline, structural solutions to shore protection are essential and appropriate.

C. Resource Policies

The Resource Policies stand in partnership with the Location and Use Policies previously discussed -- a third filter through which a permit application must pass. They form a body of policies which serve as performance standards, designed

to mitigate the adverse impact of coastal development on the natural and built environment and thus, taken as a whole, have positive long and short term impacts on the environment. In many instances, negative economic impacts will fall on the party who must pay for the added protective measures. Very often the developer pays, but equally as often the cost is passed on to the consumer. By encouraging a more healthful and viable environment, these policies should have positive social benefits.

Policies which address the problem of soil erosion and sedimentation and runoff call for development to control the adverse impacts to the maximum extent practicable by adherence to specified performance standards. The need to protect ground and surface water is articulated. Coastal development must conform with all applicable effluent and ambient air quality and deterioration standards. Vegetated and other types of buffer must be provided to protect sensitive natural features, screen impacts and separate incompatible uses. Design which considers energy conservation is encouraged. Where practical, solid waste should be recycled.

Flora and fauna are protected by the policies calling for the preservation of existing vegetation, and for the planting of new vegetation appropriate to the site area where development occurs. To protect habitats and spawning areas, coastal development shall incorporate techniques which preserve wildlife and maintain diversity of species.

Public and private actions and developments adjacent to coastal waters must provide for public access (both physical and visual) to the shorefront. This policy has beneficial social impacts as it assures public access to the shorefront and prevents exclusionary practices. In the short-term land owners who must forfeit desired building dimensions will experience negative economic impacts. In the long run, however, increased access and the overall enhancement of the environment created by the Segment policies will increase property values.

The visual compatibility of new development sensitive to scenic resources and design in terms of scale, height, materials and color is stressed. The protection of historical and cultural resources is called for. Measures taken to protect these values will result in positive social and economic impacts by preserving the integrity of the built environment and the cohesiveness of the area's heritage. The short term negative economic impacts will be offset in most cases by increased property values, and by commercial and residential interest in areas as well as by the multiplier effect that restoration activity generates. Development is encouraged that protects the special features of neighborhoods and communities.

The probable secondary impacts of a development will be considered along with the proposed development itself.

PART IV

ALTERNATIVES TO THE PROPOSED ACTION

This Part describes the five most likely reasons the Assistant Administrator might deny or delay program approval, as well as the five most likely State alternatives to submitting the proposed program. In order to determine the full implications of these alternatives, the reader should consider the impacts described under each Federal alternative.

The proposed action is Federal approval of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment. The essential alternative to be considered by the Assistant Administrator is whether to approve the Segment. He must determine whether or not to approve the Segment as submitted. In deciding whether to approve the Bay and Ocean Shore Segment he must determine whether the Program meets the requirements of the Coastal Zone Management Act as specified in the twenty-six findings needed for Program approval. This determination ultimately requires that discretion be used in interpreting the intent of Congress as expressed in the Act. This environmental impact statement and public comments are intended to assist the Assistant Administrator in determining the adequacy of the proposed program.

A variety of alternatives are available to the State, represented by all possible amendments to the Bay and Ocean Shore Segment that might be adopted. Clearly, however, the alternatives that will be considered by the State will depend on what action is taken by the Assistant Administrator. In particular, if the Assistant Administrator delays or denies approval the State will be required to consider a wide range of options. If the Segment is approved, the State is unlikely to consider alternatives to Program implementation.

These Federal and State alternatives could be carried out in several different ways. As indicated, Federal approval would probably lead to implementation of the Segment under Section 306. On the other hand, a decision by the Assistant Administrator not to approve the Segment as submitted could lead New Jersey to withdraw from the Federal Program and wait to submit an entire State Coastal Zone Management Program.

A. FEDERAL ALTERNATIVES

1. The Assistant Administrator could delay or deny approval if the State does not have the authority necessary to implement the Bay and Ocean Shore Segment at the time of segment approval.

The Federal Office of Coastal Zone Management has made an initial determination that the authorities that will be in place at the time of Segment approval will be adequate to carry out the Bay and Ocean Shore Segment management program and meet the objectives of the CZMA. This impact statement solicits the views of the public and affected government agencies on the specific issues outlined below.

The Coastal Area Facility Review Act (CAFRA) of 1973 (N.J.S.A. 13:19-1 et seq.) is New Jersey's major coastal law. In CAFRA, the Legislature entrusted the Department of Environmental Protection with the responsibility to regulate the location and construction of housing developments of 25 or more units and most

major industrial, sewer and energy producing facilities in a defined "Coastal Area" stretching from Raritan Bay and Sandy Hook to Cape May and from Cape May to the Delaware Memorial Bridge. The inland boundary established by the Legislature varies from several thousand feet to 24 miles. This coastal area includes 17 percent of the land and more than 75 percent of the waters in New Jersey, including coastal waters out to the three mile limit of the State's jurisdiction in the Atlantic Ocean. Other relevant laws that apply include the Wetlands Act, Riparian Statutes and Shore Protection Statutes.

If the Assistant Administrator determines that these authorities were not adequate to meet the requirements of the Coastal Zone Management Act, he could delay or deny approval until the State 1) submitted the entire State program, 2) unified through legislation the Wetlands Act, Riparian Statutes and CAFRA, or 3) waited until new legislation was passed for the entire coastal zone of New Jersey.

The implications of this alternative include a delay in Bay and Ocean Shore Segment implementation, no increase in Federal funds for New Jersey under Section 306, and the possibility that Federal actions affecting the New Jersey Segment might be inconsistent with the policies of the Segment. Therefore, under this alternative, the monetary and Federal consistency benefits of Federal approval would be deferred for some period of time. Improved environmental protection anticipated under a Federally approved program would not be achieved as rapidly. Momentum for effective protection of the State's coastal resources, gained through preparation of this Bay and Ocean Shore Segment might be lost.

2. The Assistant Administrator could delay or deny approval of the New Jersey Bay and Ocean Shore Segment if the segment does not adequately achieve the goals of the Coastal Zone Management Act as expressed by Congress in Section 303 of the Act.

Section 303 of the Coastal Zone Management Act states that it is national policy

"... to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic and esthetic values as well as to needs for economic development."

The initial determination of approval on this issue was based on the policies adopted pursuant to this program regarding housing, major facility policies, recreation, performance standards and case law under CAFRA (i.e. Toms River Condominium high rise case CA #73-003 decided July 10, 1974, CAFRA Opinion No. 1).

The majority of visual and cultural concerns are left to the discretion of local governments if they do not involve major facilities as defined by CAFRA. However, the Department of Environmental Protection will have a direct role in determining the visual aspects of the New Jersey coast by precluding certain major facilities in some areas, while encouraging development in other areas.

The implications of selecting this alternative include a delay in Segment implementation, no increase in Federal funds for New Jersey under Section 306, and the possibility that Federal actions affecting the New Jersey coast might be inconsistent with the policies of the Segment. Therefore, under this alternative, the monetary and Federal consistency benefits of Federal approval would be deferred for some period of time. Improved environmental protection anticipated under a Federally approved coastal program would not be achieved as rapidly.

3. If the national interest in the siting of facilities in the Bay and Ocean Shore Segment were not adequately considered, the Assistant Administrator could delay or deny approval of the Program Segment.

The Federal Coastal Zone Management Act states that prior to granting approval of a segmented management program the Secretary shall find "the segmented management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities...) necessary to meet requirements which are other than local in nature."

Chapter Four of the revised program document will serve as the process for balancing the national interests in the coastal zone, through the use of the three step decision process outlined in the program. The Commissioner of DEP has interpreted the "public welfare" clause of CAFRA (C13:19-10f) to include a full consideration of the national interest as described in the program. In addition, in the MOU between DEP and DOE, the Department of Energy has interpreted its mandate "to contribute to the proper siting of energy facilities necessary to serve the public interest" (Section 24:27F-2) as sufficient authority to consider the national interests in the siting of coastal energy facilities.

No major facility is excluded from the coast through the CAFRA permit application program. However, each facility must be consistent with the policies and performance criteria established by the Department of Environmental Protection. If it is shown that New Jersey has not adequately considered the national interests in the planning for and siting of facilities which are other than local in nature, then the Assistant Administrator could delay or deny the Program.

This Federal alternative could result in a delay in Program implementation, loss of Federal funding that would otherwise be available, and allow Federal actions in the coastal zone to be inconsistent with the management program.

4. The Assistant Administrator could deny or delay approval of the Bay and Ocean Shore Segment if the Segment could not be unified with the entire State program.

This alternative would encompass a finding by the Assistant Administrator that a delay in Segment approval was necessary until it was unified into the entire State program, so that all necessary authorities were in place.

The Assistant Administrator could find that the Bay and Ocean Shore Segment could not be unified into the entire State program due to a lack of adequate authorities outside the Segment area.

15 CFR 923:61 outlines the requirements for approval as a segment under the CZMA. Each segment of a management program must demonstrate that:

- (1) The segment includes a geographic area on both sides of the coastal land water interface;
- (2) A timetable and budget have been established for the timely completion of the remaining segment(s); and

- (3) The State will exercise policy control over each segment of its management program prior to and following its integration into a complete State management program. Demonstration of this control will include (i) completion of the management boundary determination for the entire coastal zone throughout the State and (ii) consideration of the national interest throughout the State's entire coastal zone in the planning for the siting of facilities cited in S 923.52.

If it was shown that the program has not met the requirements of 923.61, the Assistant Administrator could deny or delay the program.

The three primary impacts of a negative decision would be that New Jersey would not receive necessary funds to implement the Program; Federal consistency would not apply to Federal agencies' activities in the coastal zone; and national interest would not be taken into account.

In addition some delay in Program implementation would occur; the length of the delay would depend on the type of Program deficiency that was found and the types of remedial action taken by the State.

5. The Assistant Administrator could delay formally approval for the BOSS Program under the requirements of Section 305(d).

This alternative would encompass a finding by the Assistant Administrator that the entire State program could receive preliminary approval under Section 305(d). This finding would include a determination that:

- (1) The program will be sufficiently developed, designed and described to warrant consideration for preliminary approval at the time described;
- (2) There are elements of the State's management program eligible for implementation funding as part of preliminary approval;
- (3) The content and detail of the EIS which must accompany the State's preliminary approval submission; and
- (4) And EIS will be necessary prior to granting preliminary approval.

15 CFR 923.74(f) does not allow segments to receive preliminary approval under Section 305(d) of the CZMA. However, the Assistant Administrator could find that the entire State was eligible for section 305(d) funding and provide this funding until a unified State program was submitted for approval.

The positive impacts of this alternative would be that, 1) management for the Segment program would not be delayed, and 2) the entire State program would be submitted as a unified document.

The negative impacts of this decision would be 1) loss of Federal consistency review under an approved segment, 2) reduction in the amount of funding available to the State between FY 78 and FY 79, in both Section 305 and 306 funding.

B. STATE ALTERNATIVES

1. The State would withdraw its application and not seek Federal assistance.

The State could withdraw its application and not seek Federal assistance. The Department of Environmental Protection would continue to manage that area of the New Jersey coast under its regulatory jurisdiction. The State has spent \$1.2 million in Federal money in preparation of its State coastal zone management program. Without Federal assistance, the DEP would continue to operate the coastal program but at reduced funding levels. The State under this alternative would not be subject to Federal regulations in the management of the Segment..

The coastal management efforts in New Jersey began prior to the passage of the Coastal Zone Management Act and will continue even if Federal approval is not received. However, the State would not receive (1) Federal money to assist in the day to day management of the program (2) the provisions of the Federal consistency section of the Coastal Zone Management Act and (3) loan guarantees and credit assistance to help mitigate onshore impacts of outer continental shelf development. Federal funding support will greatly help in the DEP's implementation of the Segment.

2. The State could wait to submit the Bay and Ocean Shore Segment as part of the entire State Coastal Program.

The State could wait until 1979 to submit a unified State coastal zone management program including the areas outside CAFRA jurisdiction, along the Delaware River and in Northern New Jersey and the area under the Hackensack Meadowlands Development Commission. Section 306(h) allows a state to submit a segment of the management program as long as it is consistent with the state's coastal program. This will allow Section 306 funds to be used in managing the Bay and Ocean Shore portion of the coastal zone. Tasks for this area have been completed under Section 305, and the State can now implement the policies and plans in this region of the coast. The negative impact of this alternative include: (1) the State will lose Section 305 funding by December, 1978, and (2) the effects of federal consistency would not apply to this critical area of the state.

3. The State could wait until new legislation is passed combining the three key coastal laws.

The State could submit legislation recodifying the present Wetlands Act, Riparian Statutes and CAFRA into one unified Act. This alternative might eliminate any conflicts which might develop between these three Acts. The negative impacts include: (1) the uncertainty of legislative action and (2) the State will lose Section 305 funding by December, 1978.

4. The State could diminish the CAFRA boundary and then submit a segmented management program.

The area under CAFRA permit jurisdiction was established by the New Jersey Legislature in 1973 on the basis of the location of coastal resources. (See Appendix E).

A change in this boundary would require that an amendment be passed by the Legislature. Depending on its formulation, such a change might not meet the requirements of the CZMA for federal approval of a State program.

5. The State could seek legislation delegating authority for major facility siting in the coastal zone to the local governments.

The State could seek legislation which would delegate authority for major coastal facilities to local governments. The coastal program could wait until this legislation was passed and then submit an expanded program. The Legislature chose in 1973 not to delegate this authority to local governments, but to give this authority to the DEP.

PART V

PROBABLE ADVERSE ENVIRONMENTAL EFFECTS WHICH
CANNOT BE AVOIDED

The probable effects of New Jersey Bay and Ocean Shore Segment implementation will, on the whole, be environmentally beneficial. However, there will probably be a number of adverse impacts to both the natural and socio-economic environments which cannot be avoided.

Numerous adverse impacts will continue to be associated with the siting of major facilities for purposes of defense, transportation, energy requirements and others in which both the State and Federal governments have interest. The Program makes provisions for consideration of the siting of facilities which are in the national interest. It is important to note, however, that under the federal Coastal Zone Management Act and related Federal Acts (e.g., National Environmental Policy Act), each such project will be evaluated as to the impacts on the natural coastal environment. That is, investigations will be made, alternatives considered, etc.



PART VI

RELATIONSHIP BETWEEN LOCAL SHORT-TERM USES OF THE ENVIRONMENT
AND THE MAINTENANCE AND ENHANCEMENT OF LONG-TERM PRODUCTIVITY

While approval of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment will restrict some local, short-term uses of the environment, it will also provide long-term assurance that the natural resources and benefits provided by the Bay and Ocean Shore Region will be available for future use and enjoyment, by more effectively administering existing resource protection laws.

The New Jersey Bay and Ocean Shore Segment does the following:

A. Short-Term Uses

1. Does not prohibit future development but encourages medium-high intensity growth to occur in existing developed areas or areas contiguous to them.
2. Recognizes that some energy facilities and coastal-dependent developments have adverse environmental consequences, but that they may still have to be located in the coastal zone to protect the inland environment as well as help provide for orderly economic development, and meet national interest.

B. Long-Term Uses

1. Recognizes the coastal zone as a delicately balanced ecosystem.
2. Establishes a process of balanced management of coastal resources.
3. Allows growth to continue while protecting key resources.
4. Provides for a framework which can protect regional State and national interests by assuring the maintenance of the long-term productivity and economic vitality of coastal resources necessary for the well-being of the public, and to avoid long-term costs to the public and a diminished quality of life resulting from the misuse of coastal resources.



PART VII

IRREVERSIBLE OR IRRETRIEVABLE COMMITMENTS OF RESOURCES THAT WOULD
BE INVOLVED IN THE PROPOSED ACTION SHOULD IT BE IMPLEMENTED

The approval of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment will not in itself lead to the loss of resources, while resources might be lost if a specific development proposal were approved under the program. Trade-offs will have to be made based on the policies of the program. For instance, some urbanized areas or less intensive industrial areas may receive greater development pressures and a commitment of the surrounding resources because of the policy to concentrate development of sewer projects to serve already developed areas.

Also, the program provides that priority will be given to coastal-dependent development (certain energy facilities, port and harbor development, etc.) which in turn is often the most damaging to the environment and is located in the coastal zone to utilize its resources. Most of the nine environmentally critical developments will occur outside the Bay and Ocean Shore area and are encouraged to do so. However, the Segment establishes standards for siting and requires that alternatives be considered and mitigation measures be taken in the Segment area itself. The New Jersey Bay and Ocean Shore Segment will continue to channel such activity toward environmentally suited land areas.

Without the implementation of rationally based land and water uses management programs, some intense short-term uses and gains, such as provided by residential or industrial development might be realized in natural resource areas of the coastal zone. However, such uses would most likely result in long-term limitations on coastal resource use and benefit because of degradation of the environment. Without proper management, the traditional conflicts between shoreline resources uses -- residential, commercial, industrial, recreational, and wildlife -- could be expected to occur.

Implementation of the Bay and Ocean Shore Segment will result in minimization of the social costs which inevitably accompany environmentally destructive development, the mitigation of which requires public investment.

PART VIII

CONSULTATION AND COORDINATION

Extensive consultation, coordination, and input has been received in developing the New Jersey Coastal Management Program. Because the Program was developed with the natural and human environment in mind, many alternatives have been considered.

The Federal Office of Coastal Zone Management requires that a State conduct an environmental impact assessment on its coastal management program prior to any approval of the Program. This assessment was used in developing the draft Environmental Impact Statement. Additional input has been received from various Federal agencies throughout the duration of the State's Program development period, on such things as the impact of the Program on the Federal agency program, as well as an analysis of the Program.

Coordination with all local, State, public, and private interests remains a key component of the New Jersey Coastal Management Program. The Program will provide for the public notice of major State actions, provide technical assistance to coastal communities as to how local plans may be made consistent with the Coastal Management Program, assist the private sector through the publication of handbooks and other means of communication on meeting coastal management policy requirements, and continue coordination with Federal agencies to resolve potential conflicts during implementation.

APPENDICES

APPENDIX A: SECRETARIAL FINDINGS INDEX

The Federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) and the program approval regulations adopted as an interim final rule by NOAA-OCZM (15 CFR Part 923, Federal Register, Vol. 43, No. 41, March 1, 1978, pp. 8378-8432) define twenty-six required findings that must be made before the Secretary of Commerce may approve a state's coastal management program. This appendix identifies these requirements and provides an index to the appropriate section or sections in Part II where the New Jersey Coastal Management Program, Bay and Ocean Shore Segment presents the information required for the secretarial findings.

| <u>SECTION OF THE FEDERAL COASTAL MANAGEMENT ACT</u> | <u>ASSOCIATED SECTION(S) OF PROGRAM APPROVAL REGULATIONS</u> | <u>SEGMENT SECTION</u> |
|---|--|--|
| 305(b)(1) boundaries | 923.31, 923.32, 923.33, 923.34 | Chapter Two, Appendix E |
| 305(b)(2) uses subject to management | 923.11, 923.12 | Chapter Four |
| 305(b)(3) areas of particular concern | 923.21, 923.23 | Chapter Seven |
| 305(b)(4) means of control | 923.41 | Chapter Five |
| 305(b)(5) guidelines on priorities of uses | 923.22 | Chapter Four |
| 305(b)(6) organizational structure | 923.45 | Chapter Five |
| 305(b)(7) shorefront planning process | 923.25 | Not Included |
| 305(b)(8) energy facility planning process | 923.14 | Not Included |
| 305(b)(9) erosion planning process | 923.26 | Not Included |
| 306(c)(1) notice; full participation; consistent with section 303 | 923.58, 923.51, 923.55, 923.3 | Appendix B,C,D,M |
| 306(c)(2)(A) plan coordination | 923.56 | Chapter Five |
| 306(c)(2)(B) continuing consultation mechanisms | 923.57 | Chapter Five |
| 306(c)(3) public hearings | 923.58 | Appendix B,M |
| 306(c)(4) gubernatorial review and approval | 923.47 | Cover Letter |
| 306(c)(5) designation of recipient agency | 923.46, 923.47 | Chapter Five |
| 306(c)(6) organization | 923.45, 923.47 | Chapter Five |
| 306(c)(7) authorities | 923.41, 923.47 | Chapter Five |
| 306(c)(8) adequate consideration of national interests | 923.52 | Chapter Six |
| 306(c)(9) areas for preservation/restoration | 923.24 | Chapter Seven |
| 306(d)(1) administer regulations, control development; resolve conflicts | 923.41 | Chapter Five |
| 306(d)(2) powers of acquisition, if necessary | 923.41 | Chapter Five |
| 306(e)(1) technique of control | 923.41, 923.42 | Chapter Five |
| 306(e)(2) uses of regional benefit | 923.13, 923.41, 923.43 | Chapter Six |
| 306(h) segments | 923.61 | Chapters Two, Six, Eight and Appendix E |
| 307(f) incorporation of air and water quality requirements | 923.44 | Chapter Four and Five |

The New Jersey Coastal Management Program Bay and Ocean Shore Segment is based on DEP-OCZM staff research, contractual studies by private consultants, university research teams, and state and local government agencies, and considerable public debate, suggestions, questions, and comments over the past five years. The most tangible evidence of the coastal planning process is this document, together with numerous studies and reports published by DEP-OCZM. Many of the planning reports produced and widely distributed by DEP-OCZM are available upon request, while others, intended as in-house working documents, are available for review by interested people. Other evidence of the coastal planning process may be less visible, but just as significant as printed documents. This appendix sketches some of the highlights of the coastal planning process to date, both the clearly tangible reports and the public participation efforts.

Major Planning Documents

Since 1975, DEP-OCZM has prepared six major coastal planning reports which were widely shared with public groups, individuals, and agencies. These reports and the reaction to them have shaped the direction and policies of the Coastal Program.

In September 1975, DEP published an Inventory of the New Jersey Coastal Area which defines and discusses the diverse resources, problems and opportunities of New Jersey's coast in order to indicate the range of issues that constitute the agenda for coastal zone management.

In July 1976, DEP released Interim Land Use and Density Guidelines for the Coastal Area of New Jersey, prepared with the assistance of Rivkin Associates of Washington, D.C. This document classifies land and water features in the coastal area in terms of relative suitability for development. The Interim Guidelines and the companion publication, Guiding the Coastal Area of New Jersey -- The Basis and Background for Interim Land Use and Density Guidelines, provided an advance indication to developers, municipal officials, and others, of the likely decision on CAFRA permit applications, and have also served as a focal point for discussion and debate in the development of the Coastal Management Strategy (September 1977) and the Coastal Management Program for the Bay and Ocean Shore Segment.

In October 1976, Alternatives for the Coast - 1976 was published to indicate the scope of policy alternatives DEP-OCZM was evaluating for the coastal zone, their implications and the principles that helped shape them. DEP-OCZM expanded upon the policy alternatives in twenty-two issue papers published between November 1976 and early 1977. The topics covered were: Agriculture and the Coast, Air Resources, Cultural Resources, Flooding, Groundwater Quantity and Quality in the New Jersey Coastal Zone, Housing, Ocean Resources (Living, Mineral, and Physical Resources), Sand Movement and the Shoreline, Solid Waste and the Coast, Surface and Coastal Water Resources of New Jersey, Upland Living Resources (Endangered, Threatened and Rare Animals, Endangered and Rare Vegetation, and Upland Wildlife Habitats), and Upland Mineral Resources and the Coast. A separate paper on the value of Atlantic White-Cedar Stands was completed in May 1976.

In December 1976, DEP-OCZM released Alternative Boundaries for New Jersey's Coastal Zone. This report presented ten possible coastal zone boundaries and served as a basis for debate on the issue.

DEP submitted the Coastal Management Strategy, for New Jersey-CAFRA Area to the Governor, Legislature, and public in the fall of 1977. The Strategy introduced the Coastal Location Acceptability Method (CLAM), a method of coastal resource management developed by DEP-OCZM in 1976-1977 using a pilot study area in Lower Cape May County. Prepared in part to satisfy the statutory mandate of the Coastal Area Facility Review Act of 1973 that called for the selection of an environmental management strategy for the coastal area in four years, the document also served as a discussion draft of the Coastal Management Program for the Bay and Ocean Shore Segment. DEP distributed 3,000 copies of the Coastal Management Strategy, conducted eight public meetings throughout the state to discuss and debate the coastal program, held twenty additional informal meetings with public agencies and received nearly one hundred written statements with comments on the Strategy. DEP then revised the Strategy substantially in the course of preparing the Draft EIS for the Bay and Ocean Shore Segment document.

The formal federal approval process for New Jersey's coastal program began in May 1978 with the publication of the Coastal Management Program - Bay and Ocean Shore Segment and Draft Environmental Impact Statement. DEP distributed more than 3,000 copies of the draft document, and held numerous meetings with various interest groups to discuss and debate the coastal program. In addition, DEP with NOAA-OCZM convened three public hearings to receive testimony on the DEIS. This final Environmental Impact Statement is the result of revisions made to the May 1978 document, based on public comment gathered at the hearings, in informal meetings, and in written statements. Publication of the draft EIS also initiated the process for the adoption of the Coastal Resource and Development Policies of the Bay and Ocean Shore Segment as agency rules and regulations according to the provisions of New Jersey's Administrative Procedures Act.

Public Shorefront Access and Erosion

DEP's Office of Coastal Zone Management served as staff to the Commissioner of DEP in his capacity as an active ex-officio member of the New Jersey Beach Access Study Commission. In 1976-1977, DEP-OCZM staff helped prepare the Commission's report to the Governor and Legislature on beach access in April 1977. This report, entitled Public Access to the Oceanfront Beaches, examined beach use, budgets, and fees and ownership.

A study on shoreline erosion was prepared under contract to DEP-OCZM by Rutgers University - Center for Coastal and Environmental Studies. The Coastal Geomorphology of New Jersey, in two volumes printed in December 1977, deals with the management techniques, strategies, and the technical basis and background for shoreline erosion management strategies. The study was a large step forward in understanding how to make decisions regarding development along the shoreline. Its influence is seen in many of the policies (high risk erosion, shore protection, dune protection) of Chapter Four of the Bay and Ocean Shore Segment.

Energy

In December 1975, the Department of Environmental Protection invited energy industry representatives to provide basic information on coastal energy siting to be used in preparing the energy facility element of New Jersey's coastal zone management program. The results of this "Call for Information" were published by DEP-OCZM in March 1977. The state's three major electric utilities responded in considerable depth to the "Call".

DEP-OCZM's concern with the development of energy facilities is further reflected in two contractual studies undertaken by research groups at Princeton and Rutgers Universities. The study by Princeton's Center for Environmental Studies, entitled Who's in Charge? - Governmental Capabilities to Make Energy Siting Decisions in New Jersey, received financial support from the Federal Energy Administration, which sponsored a similar effort in each of the states associated with the Mid-Atlantic Governors Coastal Resources Council (New York, New Jersey, Delaware, Maryland and Virginia). It was published in September 1977. The Rutgers study, prepared by the Center for Coastal and Environmental Studies and entitled Onshore Support Bases for Offshore Oil and Gas Development: Implications for New Jersey, was released in February 1978. In addition, DEP-OCZM staff completed a report entitled Energy Facility Siting Issues in New Jersey's Coastal Zone, which was released for distribution in December 1977. Most recently, DEP-OCZM staff prepared a brief "Fact Sheet on Offshore Drilling in New Jersey" in June 1978.

Legal Framework

In June 1976, DEP-OCZM compiled "An Inventory of Environmental Law in New Jersey", which includes a description of major New Jersey land use, water quality, air pollution, and living resources laws related to coastal zone management. This is an in-house document which is continually updated.

In June 1977, DEP-OCZM completed "Areawide (208) Water Quality Planning and the New Jersey Coastal Zone Management Program: Opportunities for Interagency Coordination," a paper detailing the relationship between coastal zone management planning and water quality planning being conducted in New Jersey under Section 208 of the Federal Water Pollution Control Act.

Economics and Land Use

DEP-OCZM had contracts in 1975 and 1976 with the New Jersey Department of Community Affairs (DCA) and the Department of Labor and Industry (DLI) to prepare background land use and socio-economic studies about the coast. DCA produced information concerning: "Coastal Zone Housing Issues", County Land Use Issues in Atlantic, Cape May, Cumberland, Monmouth, Ocean and Salem Counties (six papers), "Growth Centers and Their Implications", "Sewerage Facilities", "Transportation Systems", and "Water Supply".

The Department of Labor and Industry prepared the following papers: "Background Paper: Economic Perspectives on New Jersey Tourist Industry", "Economic Inventory", "Economic Issues and Problems in Northeastern Region of New Jersey Coastal Zone", "Some Taxes", "Economic Profiles" on Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean, and Salem Counties (nine papers), and "Municipalities in Burlington and Middlesex Counties".

Information Systems and Public Participation

In February, 1975, in cooperation with the American Arbitration Association, DEP began an experiment to validate the environmental data for the Coastal Program. This experiment involved two large public meetings and several subsequent workshops. By January 1976, agreement was reached on data in nine natural resource categories. The categories are: bathymetry, flood areas, geology, groundwater, land use, slope, soils, tidal wetlands and vegetation.

DEP-OCZM also tested the development of information packages on an automated basis, in cooperation with the American Arbitration Association, Rockefeller Foundation, Rutgers University, and Princeton University. The 1976-1977 project, called the "Intuitive-Interactive Model", produced draft information packages on air pollution, construction noise, physical impact, industrial energy demand, odor pollution, residential energy demand, solid waste and waste demand, and urban runoff. One distinctive feature of the model is the ability of interested users such as developers or municipal officials to work directly, or "interact", with the computer. The findings of the project will be used by DEP in considering the ultimate design of an information system to assist coastal and perhaps statewide land and water use decision-making.

Nominated Areas of Particular Concern

In December 1977. DEP-OCZM completed a report for public release entitled Nominated Areas of Public Concern in the New Jersey Coastal Zone. The report describes 176 areas of the state nominated by 140 interested individuals and organizations in 1976-1977, in response to DEP's invitation that the public suggest sites and areas for preservation, development, historic, recreation, visual, or other purposes.

The enthusiastic public response to this invitation led to detailed and wide ranging nominations, which were used in part to confirm and refine the DEP-OCZM staff recommendations on Special Land Areas and Special Water Areas in preparing the Location Policy of Chapter Three. Also, the Geographic Areas of Particular Concern identified in Chapter Seven were among those areas nominated by the public. DEP also distributed its report describing the nominations to other state, county and municipal agencies which can make decisions affecting the sites. Finally, the information DEP-OCZM gained about specific sites through the Nominated Areas of Particular Concern program has been used in the past and will be used in the future as supplemental information to be reviewed in individual coastal permit decisions.

Coastal Awareness

Rutgers University Center for Coastal and Environmental Studies, under contract to DEP-OCZM, produced four booklets on coastal issues for public distribution in 1976-1977. The booklets, which are available from DEP are: "State Government and Coastal Zone Management", "Coastal Zone Legislation", "Oil Spills Reaction and Responsibility in New Jersey", and "New Jersey's Fishing Industry".

Mapping

During 1976-1978 DEP-OCZM published several map series, which are available to the public. The Inventory of the New Jersey Coastal Area - 1975 describes where these maps are located and how to use them. The Third Year Coastal Zone Management Program Development Grant Application provides a detailed list of the mapping in the first two years of the program. During the third year (1976-1977), extensive mapping was also done as part of DEP-OCZM's pilot study in Lower Cape May County. Samples can be found in Appendix Four of the Coastal Management Strategy (September 1977).

The Interim Land Use and Density Guidelines also includes maps of developed and selected environmentally sensitive areas in the Bay and Ocean Shore Segment. Wetlands maps are on file with each county recording officer and are also available for public inspection or purchase in DEP's Office of Wetlands Management. Flood hazard area maps, as delineated by DEP's Division of Water Resources, are available for public inspection.

In addition, DEP-OCZM funded a study by Rutgers University - Center for Coastal and Environmental Studies to develop an underwater aerial photographic methodology suitable for surveying submerged vegetation in the coastal estuaries of New Jersey. The study culminated in the report, entitled Analysis and Delineation of the Submerged Vegetation of Coastal New Jersey: A Case Study of Little Egg Harbor (January 1978), which describes the aerial underwater photographic method, identifies and maps distributions of species, and discusses the ecological functions and associated problems of each of the dominant species.

In July 1978, DEP-OCZM released a staff working paper entitled Definition of the Preliminary Coastal Zone Boundary for the Delaware River and Northern Waterfront Regions of New Jersey's Coastal Zone. This paper identifies the process used by DEP-OCZM to prepare an initial boundary for the coastal zone outside of the Bay and Ocean Shore Segment.

Public Participation

DEP's Office of Coastal Zone Management is committed to wide public participation by law, by practicality, and by principle. DEP-OCZM's involvement efforts have two objectives, to raise the level of public awareness regarding both threats to, and attributes of the coast, and to identify and meet with individuals and groups who can contribute knowledge and opinions to coastal planning efforts.

DEP-OCZM works to involve people early in the planning process and continues to encourage such involvement. Draft documents are made available. Possible policies are discussed in public long before they are even formally proposed, much less adopted. The objective is for the DEP-OCZM staff to be exposed to as much information as possible, and for initial staff ideas and work products to receive a wide and critical reading. The reason is simple: a coastal zone management program cannot be prepared just from Trenton. The state's coastal zone is too large and too diverse. Public input and feedback is critical. Ideas which appear attractive on a planner's desk may be impossible to apply.

DEP-OCZM uses varied forums and publications to hear and explore varied information and viewpoints. To attract coastal residents, DEP-OCZM convened several series of public meetings in coastal counties during 1975-1977. The first meetings, held in Toms River and Trenton in February and May 1975, were focused on introducing the program and DEP's Data Validation Project. A second series of meetings were held in the summer of 1976 following publication of the Interim Land Use and Density Guidelines for the Coastal Area. A third series of seven meetings were held in the early winter of 1976 after release of Alternatives for the Coast. A fourth series of eight public meetings took place around the state in November-December 1977, following public release of the Coastal Management Strategy. These public meetings often began with a slide presentation and talk by a DEP-OCZM staff member and then turned to the specific concerns of the assembled. Discussion at these meetings flows from the questions, and many topics are each discussed relatively briefly. In addition, DEP-OCZM holds periodic workshops focused on specific, pre-announced subjects. Workshops on Agriculture, for example were held in October 1976 in two locations (Bridgeton and New Brunswick). Additional workshops were held in February 1977 in Trenton and Toms River on Biological Resources, Physical Resources, Housing, Air Resources and Transportation, and Recreation and Boating.

Upon publication and distribution of the Draft Environmental Impact Statement on the Bay and Ocean Shore Segment in May 1978, DEP-OCZM held numerous workshops throughout the state with municipal officials, environmentalists, and industry and trade representatives prior to the document's more formal review at public hearings in June. The workshops were held primarily to further acquaint participants with the Coastal Location Acceptability Method (CLAM). DEP staff used a step-by-step process with illustrations to work through a CLAM case study. The workshops also provided a forum for additional comments about the document, so that interested parties could receive clarification on specific points within the document, or suggest and discuss particular issues in greater detail than is possible at hearings. DEP-OCZM, in conjunction with NOAA-OCZM, then held three public hearings on the Coastal Management Program in June 1978 in Bridgeton, Toms River, and Trenton. Approximately 180 people attended the hearings at which a total of 35 persons offered testimony. DEP presented a slide show at the start of each hearing to serve as an introduction to the coastal program.

DEP also meets regularly with representatives of builders and environmental groups. Officials of the New Jersey Builders Association and leaders of New Jersey's environmental groups hold regular meetings with the Commissioner, which are often focused on coastal management. DEP-OCZM has shared and discussed with these groups early drafts of several coastal reports including the Interim Land Use and Density Guidelines, CAFRA Procedural Rules and Regulations and the Coastal Management Strategy. Prior to the May 1978 publication of the Coastal Management Program - Bay and Ocean Shore Segment and Draft Environmental Impact Statement, DEP-OCZM distributed 150 copies of a pre-publication version of the document for quick review and comment by other state agencies, coastal county planning boards, builders, and energy, industry and environmental group representatives who have been active in the coastal planning process. Recipients of the pre-publication draft were also invited to a special Saturday review working session.

Since November 1976, DEP-OCZM has held monthly meetings with an Environmental Advisory Group composed of leaders of statewide civic and environmental groups. These meetings have been regularly attended by representatives of the American Littoral Society, American Association of University Women, League for Conservation Legislation, Sierra Club, Association of New Jersey Environmental Commissions, Natural Resources Defense Council, and the League of Women Voters, and occasionally by the Citizens Association to Protect the Environment, New Jersey Audubon Society, New Jersey Conservation Foundation, New Jersey Public Interest Research Group, and the Youth Environmental Society.

DEP-OCZM also convened a series of workshops on energy involving oil and gas industry representatives from Louisiana and Texas, as well as from the New Jersey Petroleum Council and the American Petroleum Institute in Washington, D.C., county energy planning representatives, researchers from Rutgers and Princeton, fishing groups, representatives from several state agencies and representatives from environmental groups. As the Newark Star Ledger noted on April 24, 1977, "It comes as somewhat of a surprise to find many of the combatants meeting across tables to discuss the issue informally, almost casually, in New Jersey."

The hearings held by DEP-OCZM on each CAFRA permit application provide another forum for public input. The hearings are held near the site proposed for development, and range, depending on the interest aroused by the application, from five minute meetings attended only by the applicant to four hour sessions with up to 300 people.

The coastal meetings and workshops are announced primarily through The Jersey Coast, the DEP-OCZM newsletter. This periodical is mailed to all interested persons and organizations known to DEP-OCZM. The mailing list currently includes more than 5,000 names. Meetings are also announced through press releases and the DEP Weekly Bulletin.

DEP-OCZM recognizes that reliance on a mailing list may neglect many potentially interested persons. To expand interest and knowledge of coastal management issues, the DEP-OCZM staff have spoken before a wide variety of municipal, county, state, and regional agencies, and civic, interest and professional groups in New Jersey and in other states. This provides an opportunity to talk with many people who may be well aware of some of the problems, but unaware of the coastal zone management program and possible solutions. Through these meetings, proposed policies are debated, interested individuals identified, and new people added to the mailing list who may later contribute to an element of the program.

DEP-OCZM also participates in other events to raise public awareness of coastal issues and again to identify more people who are interested in participating in the coastal management process. In June, 1976, for example, the DEP Commissioner led federal, state and local officials, interested citizens, and reporters on a six day walk along New Jersey's 125 mile ocean shoreline. This innovative event sparked considerable publicity and interest in the coast both in New Jersey and nationally. The Beach Shuttle experiment operated by DEP in the summer of 1977, and the return of the service in 1978, have provided another vehicle for probing public views on selected coastal management issues. In addition, DEP-OCZM has had exhibits at boat shows and county fairs. In May 1978, DEP developed a portable display describing New Jersey's coastal management program. This display can be easily updated as DEP progresses through the Federal approval process and begins to emphasize different areas of the State's coastal zone. The exhibit has been placed at several environmental and ecological fairs around the state, in libraries, and in the rotunda of the State House.

APPENDIX C: FEDERAL AGENCY PARTICIPATION: 1975-1978

Sections 306 and 307 of the federal Coastal Zone Management Act require that the state coordinate coastal management program development and implementation efforts with all interested federal agencies. This Appendix documents New Jersey's compliance with this requirement. New Jersey recognized the importance of having policies and plans well integrated with all levels of government at the start of the coastal planning process. Early federal involvement in New Jersey's program can be traced to public meetings held in 1975 and to the request for responses to the Call for Information in early 1975. The chart on the following page, Figure 16, summarizes federal agency participation since 1975.

Intensive effort to seek federal participation in New Jersey's coastal program began with DEP-OCZM's meeting with federal agencies potentially interested in coastal zone management in New Jersey in August 1976. Following the August meeting, DEP-OCZM sent a questionnaire to thirty-one federal agencies identified as having an interest in New Jersey's coast, requesting them to indicate their activities and level of involvement in a broadly defined New Jersey coastal area. All but three federal agencies responded to the questionnaire by March 1977.

In November 1976, DEP-OCZM invited all federal agencies to attend a meeting to discuss the Alternatives for the Coast, a compilation of the issues to be addressed in the evolving coastal program. In addition, through late fall and early winter 1976-77 each federal agency was invited to attend six series of workshops conducted on numerous issues concerning coastal zone management. To stimulate discussion, DEP-OCZM forwarded to each federal agency copies of the particular staff issue papers pertinent to its interests and work.

Throughout the process, representatives of federal agencies have been encouraged to contact and meet with DEP-OCZM staff. On several occasions, DEP-OCZM staff arranged and attended meetings with individuals or groups of agencies including the Federal Regional Council (Summer 1976), Department of the Interior (September 1976), Environmental Protection Agency (December 1976), U.S. Fish and Wildlife (February 1977) the U.S. Navy (July 1977) and the U.S. Coast Guard (July 1978) to discuss special issues and policies. In addition, a DEP-OCZM staff person was designated as the federal coordinator to maintain open communication with each of the federal agency representatives and notify them of all New Jersey coastal program developments.

In September 1977, each of the federal agencies received a copy of New Jersey's Coastal Management Strategy. New Jersey encouraged federal comment on the Strategy to provide further input into the document DEP-OCZM was preparing to submit to NOAA-OCZM as the first New Jersey Coastal Management Program. In addition to providing written comments, the federal agencies were invited to attend a meeting with DEP-OCZM in Trenton in November 1977 to discuss the Strategy in general and to meet with individual staff responsible for preparing various parts of the document. As a result, DEP-OCZM received comments, which have been incorporated into the New Jersey Coastal Program, from the following 14 agencies:

Figure 18 : Federal Agency Participation

251

| | Attend Public Agency Advisory Conference, February 21, 1975 | Attend Second NJ CZM Conference, May 2, 1975 | Respond to 1975 "Call for Information," Dec. 1975 | Receive Proposed CAFRA Rules and Regulations | Provide Comments on CAFRA Rules and Regulations | Attend Federal Agency meeting, Aug. 31, 1976 | Attend meeting with Dept. of Interior, Sept. 1976 | Attend meeting with energy related agencies, October, 1976 | Return Completed questionnaire on agency's involvement in CZM | Attend public meetings on Alternatives for the Coast, Nov. - Dec., 1976 | Provide comments on Alternatives for the Coast | Attend workshops on Alternative Boundaries, Jan. - Feb., 1977 | Receive Staff Issue Papers | Provide comments on Issue Papers | Receive the Coastal Management Strategy for New Jersey | Provide comments on Strategy | Attend meeting on Strategy, November 21, 1977 | Meet individually with DEP/OCZM staff during program development, 1975-1978 | Attend Federal Agency Meeting on Bay and Ocean Shore Segment in Nash., D.C. -May 25, 1978 | Attend FRC meeting on Segment in New York on May 30, 1976 | Provide comments on Bay and Ocean Shore Segment |
|---|---|--|---|--|---|--|---|--|---|---|--|---|----------------------------|----------------------------------|--|------------------------------|---|---|---|---|---|
| Dept. of Agriculture | | | | | | | | | | | | | | | | | | | | | |
| Soil Conservation Service | x | x | | x | | x | | | x | x | | x | x | | x | x | x | | | | x |
| Dept. of Commerce | | | | | | | | x | | | | | | | | | | | | | |
| NOAA | | | x | x | | | | | | | | | | | | | | | | | |
| National Marine Fisheries Service | | | | x | | x | | | x | | | x | x | | x | x | x | x | | | x |
| Economic Development Adm. | | | | x | | | | | x | | | x | x | | x | x | | | | | |
| Maritime Administration | | | | x | | x | | | x | | | x | x | | x | x | | x | | | |
| Dept. of Defense | | | | | | | | | | | | | | | | | | | | | |
| Air Force | | | | x | x | x | | | x | | | | | | x | x | x | | | | x |
| Army Corps of Engineers | x | x | | x | | x | | | x | x | | x | x | | x | x | x | x | | | x |
| Navy | x | x | | | | x | | | x | | | | | | x | x | x | | | | x |
| Dept. of Energy | | | | | | | | | | | | | | | | | | | | | |
| Formerly ERDA | | | | x | | x | | x | x | | | | | | x | x | x | | | | |
| Formerly FEA | | | | x | | x | | x | x | | | | | | x | x | x | | | | |
| Federal Energy Regulatory Comm. | | | x | | | x | | x | x | | | | | | x | x | x | x | | | x |
| Dept. of Health, Education, Welfare | | | | | | | | | | | | | | | x | x | | | | | |
| Dept. of Housing and Urban Development | x | x | | x | | | | | x | | | | x | | x | x | x | x | | | x |
| Department of Labor | | | | | | | | | | | x | | | | | | | | | | x |
| Department of Interior | | x | x | x | | x | | | | | | | | | x | x | x | x | | | x |
| Bureau of Land Management | x | x | x | x | | | | | x | | | | | | x | x | x | x | | | x |
| Bureau of Mines | | | | x | | x | | | x | | | | | | x | x | x | x | | | |
| Bureau of Outdoor Recreation | | | | x | | x | | | x | | | | | | x | x | x | x | | | |
| Fish and Wildlife Service | x | x | | x | | x | | | x | | | x | x | | x | x | | | | | x |
| National Park Service | | | | x | x | x | | | x | | | | | | x | x | | | | | |
| U.S. Geological Survey | x | x | | x | | x | | | x | | | | | | x | x | x | x | | | x |
| Dept. of Transportation | | | x | | | x | | | | | | | | | x | x | | | | | |
| U.S. Coast Guard | | x | x | x | | | | | x | x | | x | | | x | x | x | x | | | x |
| Federal Aviation Adm. | | | | | | | | | | | | | | | x | x | | | | | |
| Federal Highway Adm. | | | | | | | | | | | | | | | x | x | | | | | |
| Federal Railroad Adm. | | | | | | | | | | | | | | | x | x | | | | | |
| National Hw. Traffic Safety | | | | | | | | | | | | | | | x | x | | | | | |
| Urban Mass Trans. Adm. | | | | | | | | | | | | | | | x | x | | | | | |
| Material Trans. Bureau | | | | | | | | | | | | | | | x | x | | | | | |
| Nuclear Regulatory Comm. | | | | x | | x | | x | x | | | | | | x | x | | x | | | x |
| General Services Adm. | | | | x | | | | | x | | | | | | x | x | | | | | |
| Environmental Protection Agency | x | x | x | x | | x | | x | x | | | | x | x | x | x | | x | | | x |
| Council of Env. Quality | x | | | x | | | | | | | | | | | x | | | | | | |
| Advisory Council on Historic Preservation | | | | | | | | | | | | | | | x | | | | | | |
| Marine Mammal Commission | | | | | | | | | | | | | | | x | | | | | | |

Department of Agriculture
Soil Conservation Service
Department of Commerce
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Department of Defense
US Air Force
US Army Corps of Engineers
US Navy
Department of Energy
Department of Housing and Urban Development
Department of the Interior
Bureau of Land Management
Bureau of Mines
Fish and Wildlife Service
Department of Transportation
US Coast Guard
Federal Aviation Administration
Environmental Protection Agency

Comments from the Federal agencies touched on all sections of the Coastal Management Strategy from use and resource policies, to particular questions on federal consistency and excluded federal land. The comments and DEP responses are summarized in detail in a separate document entitled Coastal Management Strategy for New Jersey - CAFRA Area; Public Comments and DEP Responses, available from DEP-OCZM.

After releasing the Draft Environmental Impact Statement for the Bay and Ocean Shore Segment in May 1978, DEP received comments on the document from the following federal agencies:

Department of Agriculture
Soil Conservation Service
Department of Commerce
National Marine Fisheries Service
Department of Defense
U.S. Army Corps of Engineers
U.S. Air Force
U.S. Navy
Department of Energy
Department of Housing and Urban Development
Department of Interior
U.S. Fish and Wildlife Service
Department of Transportation
Environmental Protection Agency
Federal Energy Regulatory Commission
Nuclear Regulatory Commission

As with the comments on the Strategy, federal agency comments on the DEIS covered all elements of the program. DEP met with DOE, FERC and NRC to discuss their concern with the energy policies. Other comments praised the program's recognition of the importance of protecting valuable coastal resources for fish, wildlife and recreational purposes. Comments on the management section expressed concern over the effort being made to coordinate with other water and air quality

planning in the State. The revisions to the final EIS have considered all of these comment. In addition, responses to all federal agency comments on the DEIS, prepared by NOAA-OCZM and DEP, are in Appendix M.

In addition to submitting written comments, federal agencies were provided with the opportunity to discuss and comment on the DEIS at a meeting conducted by NOAA-OCZM with DEP staff in Washington on May 25, 1978. The New Jersey Coastal Management Program for the Bay and Ocean Shore Segment was also included on the agenda for the Federal Regional Council meeting, in New York in May at which staff from NOAA-OCZM and DEP attended the meeting to explain the program and receive comments.

APPENDIX D: LOCAL GOVERNMENT PARTICIPATION: 1975-1978

DEP-OCZM has worked to involve county and municipal officials in coastal planning for New Jersey. The involvement has taken many forms, including sharing draft documents, convening and attending meetings in many localities and conducting many one-on-one conversations.

County governments have participated largely through the offices of the county planning directors. In particular, the New Jersey County Planners Association organized a Coastal Committee to work closely with DEP-OCZM on coastal zone management. The major product of this cooperation to date has been a special state-county partnership to study and plan for possible onshore impacts of offshore oil and gas exploration and development, and coastal program policies and implementation in general.

In 1977, DEP contracted with twelve coastal counties, including all eight counties in the Bay and Ocean Shore Segment, to provide assistance to DEP in developing the energy facility siting element of the New Jersey Coastal Program. Each county was awarded \$15,000, for the 12 month study. The joint State-county projects had three main objectives. The primary purpose was for counties to become familiar with oil and gas industry operations and the other energy facilities likely to locate in the coastal area. A second objective was for counties to identify sites that might be potentially suitable or non-suitable for energy facilities and provide documentation for their findings. The study also became a learning experience for both DEP and the counties. DEP, for example, invited representatives and arranged field trips for the study team to visit energy facilities. DEP also held monthly meetings with the county representatives around the state, in order to increase communications between the two levels of government.

The final reports submitted by the counties reflected this learning process and showed an increasing grasp of the greater than local issues involved in energy facility siting. While not all the county reports were site specific, the counties did demonstrate an understanding of the concepts involved in coastal energy facility siting. This knowledge provides a useful background for further energy siting studies and specific siting decisions. As expected, counties with local economies largely based on tourism showed a greater concern for the environment than did other counties.

In 1978, DEP has continued this cooperative relationship by passing through funds to most of the same coastal planning boards to allow them to contribute county and municipal input to the entire range of issues addressed by coastal management. The counties will comment on state coastal planning documents, evaluate their consistency with municipal plans and ordinances, and comment on specific coastal permit applications. DEP has continued to meet monthly with the County representatives who are participating in coastal program development efforts. As part of the county work in coastal management, some of the counties are conducting meetings with their municipal governments to discuss coastal issues identified in the program.

DEP-OCZM relied heavily upon county planning directors in the preparation of the Interim Land Use and Density Guidelines for the Coastal Area, particularly in the period from October 1975 through March 1976, for critical review and comment on drafts of working papers. County officials have also commented on Alternatives for the Coast, Alternative Boundaries for New Jersey's Coastal Zone, selected issue papers, the Coastal Management Strategy in both draft and final form, the prepublication draft of the Bay and Ocean Shore Segment (DEIS) and the published DEIS.

At the municipal level, DEP-OCZM has worked closely with the mayor, planning board and environmental commission of the municipalities in which CAFRA permit applications or other coastal issues have been particularly prominent. Dover Township in Ocean County is the location of considerable CAFRA permit activity and was also the site used for DEP-OCZM's demonstration project on coastal decision-making called the "Intuitive-Interactive Model". Lower Township was the site used for DEP-OCZM's pilot study of Lower Cape May County. Atlantic City has been subjected to many potentially conflicting development initiatives, and DEP-OCZM staff have participated in many meetings with city officials. In addition, DEP-OCZM staff have met with officials from many other municipalities both within, and outside the proposed coastal zone, to discuss the coastal program in general and in terms of its local implications.

County and municipal groups and officials in the coast are included on the DEP-OCZM mailing list. They have each received copies of the CAFRA Rules and Regulations, Interim Land Use and Density Guidelines, Alternatives for the Coast, Coastal Management Strategy, Bay and Ocean Shore Segment-DEIS, and issues of The Jersey Coast.

DEP-OCZM has intentionally held and attended public meetings in varied locations so that officials and other citizens of many municipalities would have an easy opportunity to learn about, and comment on the evolving coastal program. From 1975 to 1978, DEP-OCZM staff attended public meetings in more than 50 municipalities, in addition to holding public hearings on CAFRA permit applications in more than 60 municipalities. Officials from neighboring municipalities also attended many of these meetings.

Prior to the public hearings on the Bay and Ocean Shore Segment, in early June 1978, DEP held three workshops in Ocean City, Neptune Township and Salem to discuss the draft with county and municipal officials.

DEP-OCZM's implementation of CAFRA has created a working relationship with many county and municipal governments. With the county energy facility planning project and planning for the remainder of the program, this direct involvement has spread beyond the CAFRA boundary to include jurisdictions covering all of the potential coastal zone.

Conflicts Between Coastal Program and Local Governments, Regional and Interstate Agencies

This section of Appendix D indicates New Jersey's compliance with Section 923.56(a) of the Federal Regulations for the federal Coastal Zone Management Act.

Local governments designated pursuant to regulations established under Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and regional and interstate agencies with plans affecting the Segment are listed on the next page. Coordination has been carried out with each of these agencies in development of Coastal Policies. Agencies and counties submitting comments on the draft Coastal Management Program are listed in Appendix M.

The county governments have limited authority to regulate development in accordance with their plans. There is no conflict between their use of this authority and coastal zone management. Coordination of county policies with Coastal Policies is discussed in Chapter Five. The three regional planning agencies with A-95 review functions have no regulatory authority. Each was given an opportunity to comment on possible Coastal Policies presented in the draft Coastal Management Program and plans for their regions. The Delaware River Basin Commission holds significant regulatory authority for implementing its Comprehensive Plan. NJOCZM is proposing a coordination project with DRBC to determine if there are any inconsistencies between the DRBC Comprehensive Plan and the Coastal Policies. The use of DRBC regulatory authority for the implementation of mutual policies is to be considered in 1978-1979.

Local Governments Which Function
as A-95 Clearinghouses and Re-
gional and Interstate Agencies

| | <u>Plan</u> | <u>Regulatory Authority</u> | <u>Conflicts with Plans of a Regulatory Nature</u> |
|---|--|---|---|
| County of Atlantic | County Master Plan | Authority to review all subdivisions of land within the county and to approve those subdivisions affecting county roads or drain- age facilities N.J.S.A. 40:27-6.2 | None |
| County of Cape May | County Master Plan | | None |
| County of Cumberland | County Master Plan | | None |
| County of Ocean | County Master Plan | | None |
| Delaware Valley Regional Planning Commission | Land Use Plan Open Space Plan Housing Allocation Plan Water Supply Plan Transportation Plans | None | None |
| Tri-State Regional Planning Commission | Regional Development Guide, 1977-2000 | None | None |
| Wilmington Metropolitan Area Planning Coordination Council | Regional Land Use Plan | None | None |
| Delaware River Basin Commission | Comprehensive Plan for the Delaware River | Intrastate Allocation of Delaware River Basin Waters Review authority over proposed facilities with the potential for signi- ficant impact on water quality in the Basin Enforcement authority over effluent standards required to attain water quality standards described in the Compre- hensive Plan. | No clear conflicts. Possible inconsistencies to be explored through coordination project with DRBC. |

APPENDIX E: COASTAL ZONE BOUNDARY

Introduction
History of CAFRA Boundary
Municipalities within the Bay and Ocean Shore Segment
Wetlands Landward of the CAFRA Boundary
Preliminary Boundary of the Coastal Zone - Entire State
Municipalities within the Preliminary Boundary of the Coastal Zone
of the Entire State

Introduction

One of the fundamental requirements of the federal Coastal Zone Management Act is the definition of the state's coastal zone for purposes of the federal law. In December 1976, DEP-OCZM released a staff working paper entitled Alternative Boundaries for New Jersey's Coastal Zone, which began public discussion on New Jersey's approach to addressing this requirement. That discussion has culminated in the Bay and Ocean Shore Segment boundary presented in Chapter Two. This Appendix describes the background of the CAFRA boundary, lists the municipalities within the CAFRA Area, identifies the coastal wetlands considered part of the Bay and Ocean Shore Segment, and presents the preliminary boundary for the coastal zone of the entire state.

History of the CAFRA Boundary

New Jersey defined the present CAFRA boundary in 1972-1973 by a process of combining scientific analysis, public hearings, and legislative compromise. In early 1972, a bill was introduced in the Legislature (A-722) proposing a "Coastal Area" from the head of tide of the Delaware River around the state's shoreline to the center line of the Raritan River at its mouth, with an inland boundary at the 10 foot contour interval above mean sea level and a seaward boundary at the mean high water line. An alternative inland boundary, recommended by DEP, was included in a substitute bill (A-1429) introduced in mid-1972. The DEP prepared the recommended "Coastal Area" boundary by analyzing the geography of New Jersey in terms of five criteria:

- (1) Limit the Coastal Area to the Coastal Plain geological province,
- (2) Include Wetlands,
- (3) Include tidal portions of streams, and their adjacent fast lands, that empty into the Raritan Bay, Atlantic Ocean, Delaware Bay, and Delaware River,
- (4) Include areas with soils limitations such as poor drainage, propensity for flooding, poor septic tank suitability, poor landfills suitability, limited agricultural value, regions with muck, tidal marsh, swamp, and bog soils, and areas with depth to seasonal high water table,
- (5) Include densely populated areas whose sanitary wastes could affect water quality.

DEP then interpreted aerial photography and soil surveys to delineate a recommended inland boundary by using fixed, legally-describable cultural features such as roads and railroads to define the land area that met the boundary criteria. This recommended boundary also extended along the Delaware River from Trenton around the bay and ocean shorelines to the Raritan River.

Various legislators, local government officials, business interests, organized public interest groups and citizens expressed strong and often conflicting views on the DEP-prepared inland boundary for the "Coastal Area" during the legislative process of hearings and debate in 1972-1973. In June 1973, after numerous amendments to the bill revising the boundary, the Legislature passed what is now known as the Coastal Area Facility Review Act. The revised and final "Coastal Area" boundary deleted the Delaware River waterfront, excluded a small area around the Cape May County Airport to facilitate economic development, and reduced the scope of the Coastal Area in Middlesex and Monmouth counties.

Eight of New Jersey's 21 counties are represented in the CAFRA Area, including parts of Middlesex, Monmouth, Ocean, Burlington, Atlantic, Cape May, Cumberland, and Salem. The portions of each county within the area vary considerably from less than one percent of Middlesex to 57 percent of Ocean and 93 percent of Cape May. A total of 127 municipalities, as diverse as urban Asbury Park in Monmouth County, suburban Dover Township in Ocean County, and rural historic Greenwich Township in Cumberland County, are wholly or partially within the statutory Coastal Area. This appendix lists these 127 municipalities.

Municipalities Within the Bay and Ocean Shore Segment

All or parts of 127 of New Jersey's 567 municipalities lie within the CAFRA Area, and are included within the geographic scope of the Bay and Ocean Shore Segment. In addition, part of Alloway Township in Salem County is included in the Bay and Ocean Shore Segment as it contains coastal wetlands inland of the CAFRA boundary. The 127 municipalities included, in whole or in part, within the Bay and Ocean Shore Segment are listed below, by county:

Atlantic County

| | |
|-----------------------|--------------------|
| Absecon City | Longport Borough |
| Atlantic City | Margate City |
| Brigantine City | Mullica Township |
| Corbin City | Northfield City |
| Egg Harbor City | Pleasantville City |
| Egg Harbor Township | Port Republic City |
| Estell Manor Township | Somers Point City |
| Galloway Township | Ventnor City |
| Hamilton Township | Weymouth Township |
| Linwood City | |

Burlington County

| | |
|---------------------|---------------------|
| Bass River Township | Washington Township |
|---------------------|---------------------|

Cape May County

Avalon Borough
Cape May City
Cape May Point Borough
Dennis Township
Lower Township
Middle Township
North Wildwood City
Ocean City
Sea Isle City

Stone Harbor Borough
Upper Township
West Cape May Borough
West Wildwood Borough
Wildwood City
West Wildwood Crest Borough
Woodbine Borough

Cumberland County

Bridgeton City
Commercial Township
Downe Township
Fairfield Township
Greenwich Township

Hopewell Township
Lawrence Township
Maurice River Township
Millville City
Stow Creek Township

Middlesex County

Old Bridge Township (Madison)

Monmouth County

Aberdeen Township (Matawan)
Aberdeen Borough (Matawan)
Allenhurst City
Asbury Park City
Atlantic Highlands Borough
Avon-by-the-Sea Borough
Belmar Borough
Bradley Beach Borough
Brielle Borough
Deal Borough
Eatontown Borough
Fair Haven Borough
Hazlet Township
Highlands Borough
Holmdel Township
Interlaken Borough
Keansburg Borough
Keyport Borough
Little Silver Borough

Loch Arbour Village
Long Branch City
Manasquan Borough
Middletown Township
Monmouth Beach Borough
Neptune City
Neptune Township
Ocean Township
Oceanport Borough
Red Bank City
Rumson Borough
Sea Bright Borough
Sea Girt Borough
Shrewsbury Borough
South Belmar Borough
Spring Lake Borough
Spring Lake Heights Borough
Union Beach Borough
Wall Township
West Long Branch Borough

Ocean County

Barnegat Light Borough
Barnegat Township (Union)
Bay Head Borough
Beach Haven Borough
Beachwood Borough
Berkeley Township
Brick Township
Dover Township
Eagleswood Township
Harvey Cedars Borough
Island Heights Borough

Jackson Township
Lacey Township
Lakehurst Borough
Lakewood Township
Lavallette Township
Little Egg Harbor Township
Long Beach Township
Manchester Township
Mantoloking Borough
Ocean Gate Township
Ocean Township

Ocean County - Cont.

Pine Beach Borough
Point Pleasant Beach Borough
Point Pleasant Borough
Seaside Heights Borough
Seaside Park Borough

Ship Bottom Borough
South Toms River Borough
Stafford Township
Surf City Borough
Tuckerton Borough

Salem County

Alloway Township (not in CAFRA Area)
Elsinboro Township
Lower Alloways Creek Township
Mannington Township

Pennsville Township
Quinton Township
Salem City
Upper Penns Neck

Wetlands Landward of the CAFRA Boundary

Parts of 47 of DEP's wetlands maps include wetlands areas considered to be within the inland boundary of the Bay and Ocean Shore Segment, as defined in Chapter Two. The numbers of these maps are listed below:

| | | |
|----------|----------|----------|
| 133-1932 | 224-1980 | 294-1788 |
| 140-1920 | 231-1788 | 294-1794 |
| 140-1926 | 245-1782 | 294-1998 |
| 161-1902 | 252-1788 | 301-1776 |
| 168-1908 | 259-1788 | 301-1782 |
| 168-1914 | 266-1776 | 301-1788 |
| 175-1914 | 266-1782 | 301-1794 |
| 175-1980 | 266-1788 | 308-1776 |
| 182-1902 | 266-1794 | 539-2154 |
| 182-1914 | 273-1782 | 546-2160 |
| 189-1902 | 273-1794 | 553-2160 |
| 203-1890 | 280-1782 | 574-2118 |
| 217-1836 | 280-1788 | 574-2154 |
| 224-1788 | 280-1794 | 581-2106 |
| 224-1794 | 287-1752 | 588-2106 |
| 224-1800 | 294-1746 | |

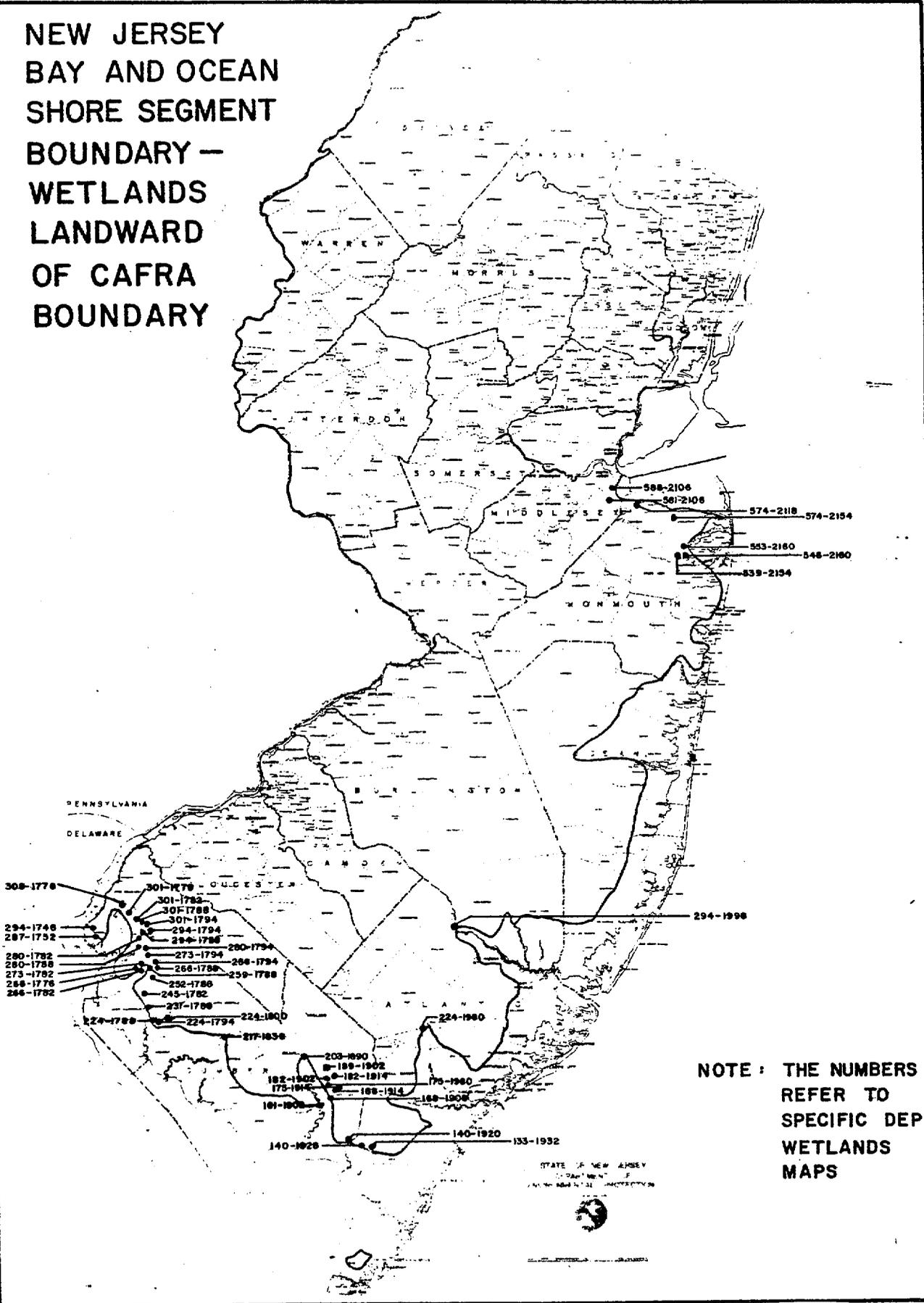
Figure 16 shows the approximate locations of these wetlands, by map number.

Preliminary Boundary of the Coastal Zone - Entire State

While New Jersey is submitting only the Bay and Ocean Shore Segment for federal review and approval at this time, federal regulations [15 CFR 923.61(a)(3)] require the coastal zone boundary to be determined initially for the entire coastal zone throughout the state at the time of segment submission. The Coastal Management Strategy for New Jersey - CAFRA Area (September 1977) defined an initial, proposed state-wide "coastal zone", under the federal Coastal Zone Management Act. That proposal included the entire CAFRA Area, as well as all coastal waters to the limit of tidal influence, a narrow strip of adjacent shorelands, and the Hackensack Meadowlands Development Commission District. Figure 17 depicts generally this proposed coastal zone, and its four regions. Figure 18 presents an index map followed by eight maps at a scale of 1:250,000 showing this boundary. This proposed "coastal zone" is based on a definition of coastal waters, an inland boundary drawn along easily-recognized roads and railroads immediately landward of the defined coastal waters, and the jurisdiction of the Hackensack Meadowlands Development Commission.

Figure 19.

**NEW JERSEY
BAY AND OCEAN
SHORE SEGMENT
BOUNDARY —
WETLANDS
LANDWARD
OF CAFRA
BOUNDARY**



The coastal waters of New Jersey include: the Atlantic Ocean to the limit of New Jersey's seaward jurisdiction; the Hudson River, Upper New York Bay, Newark Bay, Arthur Kill, and Raritan Bay to the New York boundary; Delaware River and Bay to the State of Delaware boundary; Delaware River to the Pennsylvania boundary; and the tidal portion of the Delaware Raritan, Passaic, and Hackensack Rivers, including the tidal portions of their tributaries and other tidal streams of the Coastal Plain.

The landward extent of coastal waters can be defined either by the limit of waters containing a specified percentage of salinity, the extent of the salt wedge, or tidal influence. Figure 19 displays selected salinity levels at various points along New Jersey's coastal waters, using the limited available data. Salinity levels are highly variable geographically throughout the seasons and from year-to-year, and therefore not appropriate for fixed boundaries, given the complexity and diversity of New Jersey's estuaries. The landward penetration of tidal influence in a watercourse does, however, provide a readily measurable dividing line for coastal and non-coastal waters. (The tidal limit also coincides with the extent of State-owned tidelands and permit regulation under the riparian lands management program).

Two methods have been used to define the upstream limit of tidal activity. First, the approximate tidal limits specified in the annual Compendium of New Jersey Fish Laws, published by DEP's Division of Fish, Game, and Shellfisheries have been used where available. These limits are typically defined as bridges or dams. Second, the point where the 20 foot contour interval crosses the water course is used to define the approximate limit of tidal influence along other tidal water courses. In the future, DEP's completed tidelands delineation maps, prepared by the Office of Environmental Analysis in the Office of the Commissioner, will precisely and legally define New Jersey's tidal limits. These delineations will become part of the official boundary of the coastal zone.

This proposed coastal zone includes at least a small part of a total of 243 municipalities in seventeen of New Jersey's twenty-one counties, including municipalities in the Bay and Ocean Shore Segment. The next section of this appendix lists these municipalities. Only Hunterdon, Morris, Sussex, and Warren counties have no coastal waters and are excluded from the coastal zone. This relatively large zone, united by the presence of coastal waters, is quite diverse, stretching from the port at Camden to the vast wetlands along Delaware Bay, to the beaches of the barrier islands along the ocean, to the industrialized waterfront of northern New Jersey.

Tidal influence makes the Delaware River region immediately adjacent to these waters "coastal" in the sense intended by the federal Coastal Zone Management Act. Although the CAFRA boundary stops south of the Delaware Memorial Bridge, the tidal influence on the Delaware River extends 60 miles further north to Trenton. Because of the flat topography of the Coastal Plain, tidal tributaries from the Delaware River extend up to 10 miles inland. NOAA-OCZM does not require inclusion of the Delaware River within New Jersey's coastal zone as the quantity of seawater is less than 5 parts per thousand. However, the State of New Jersey does today manage the wetlands and riparian lands along this part of the coast and prefers to include these areas within the proposed coastal zone for the second phase of New Jersey's coastal management program under federal law.

Figure 20

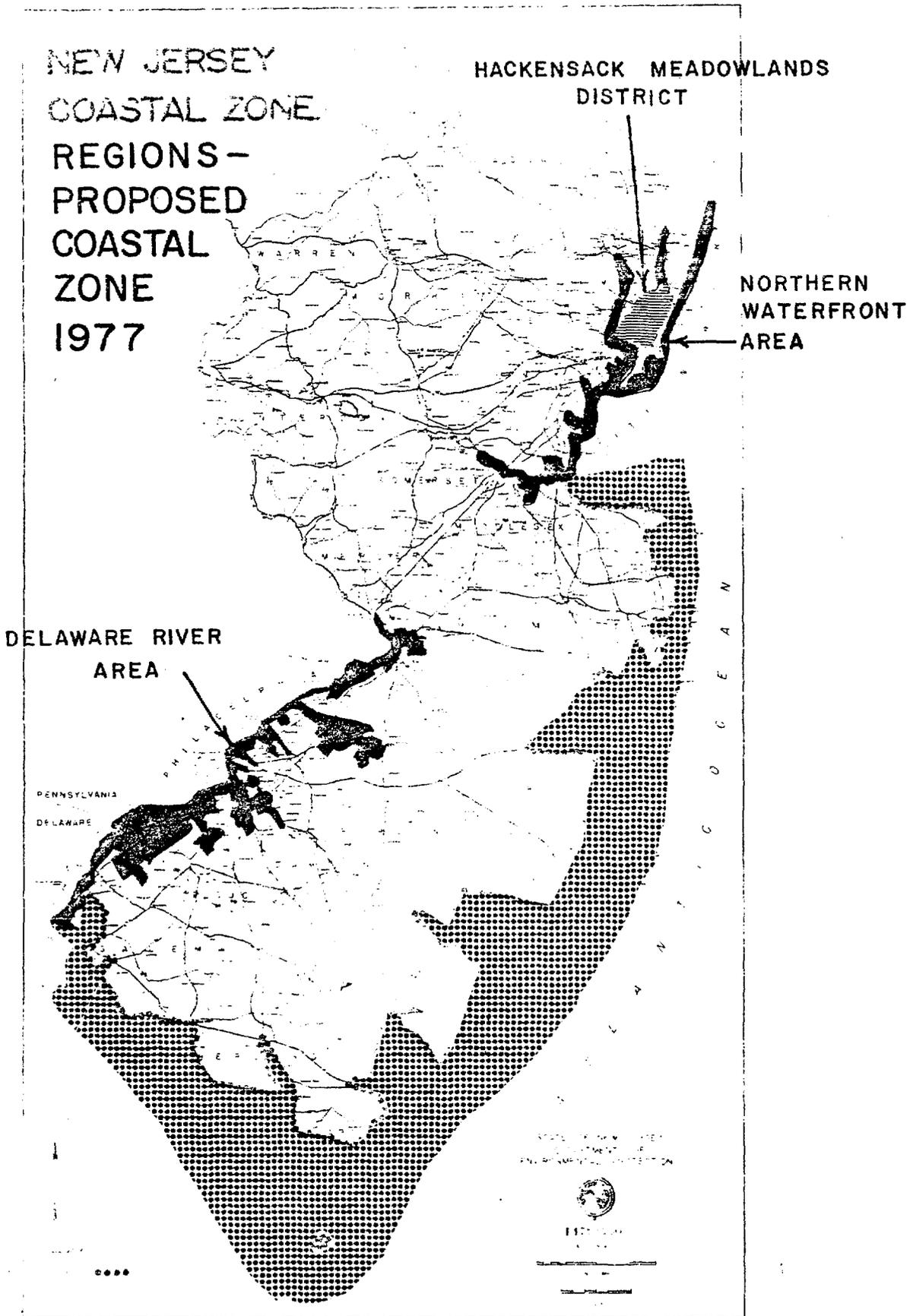
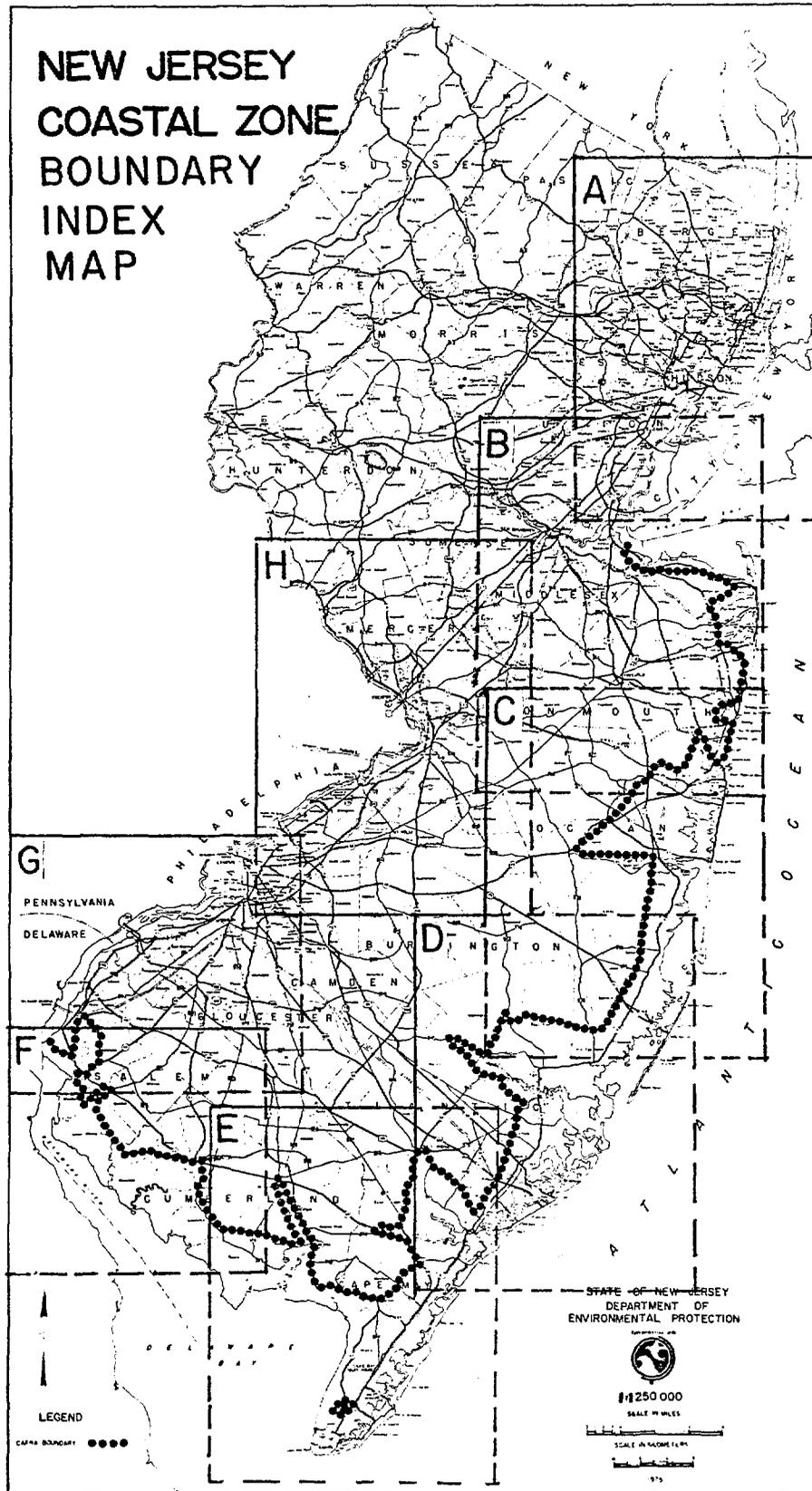
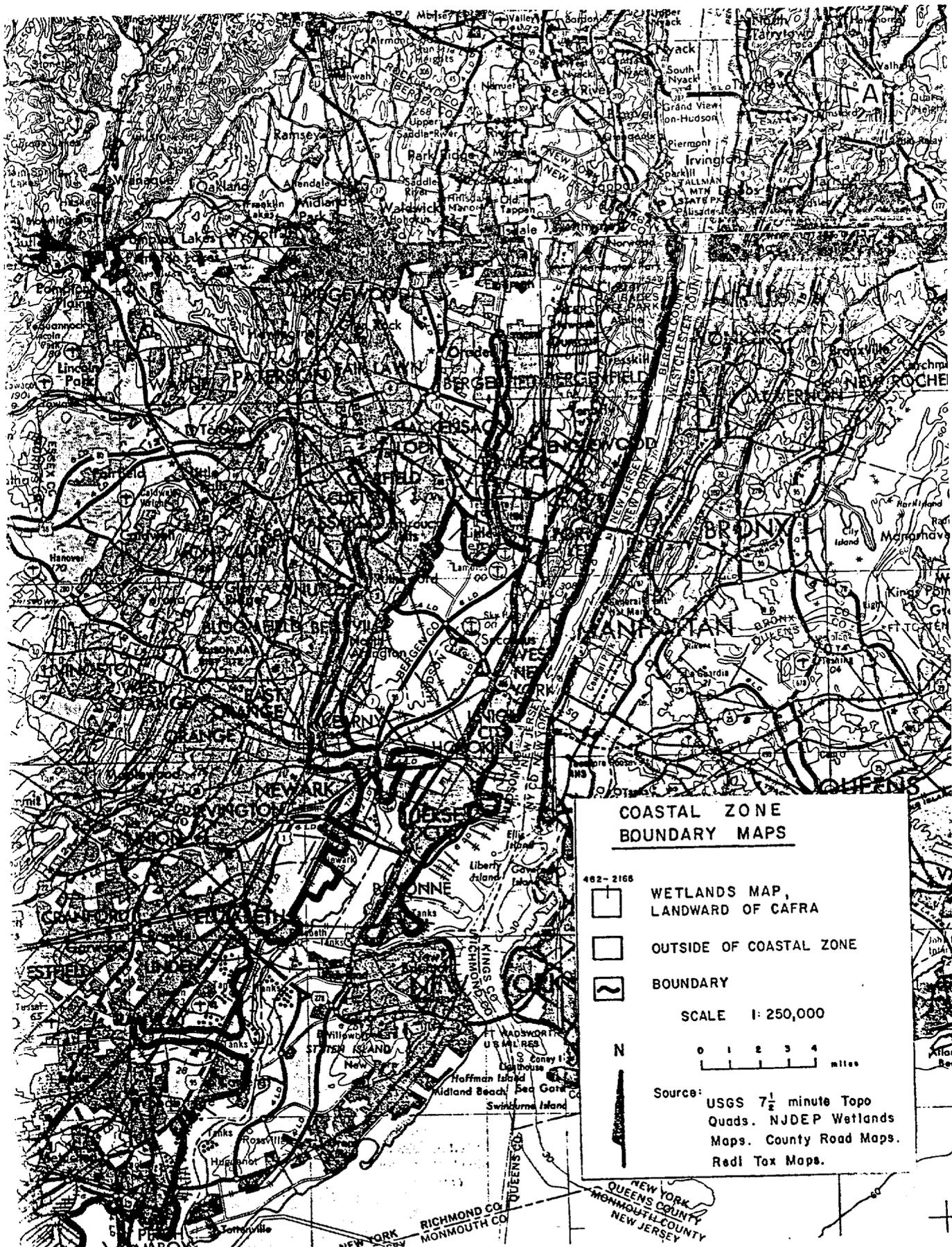


Figure 21

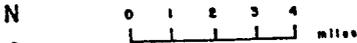




**COASTAL ZONE
BOUNDARY MAPS**

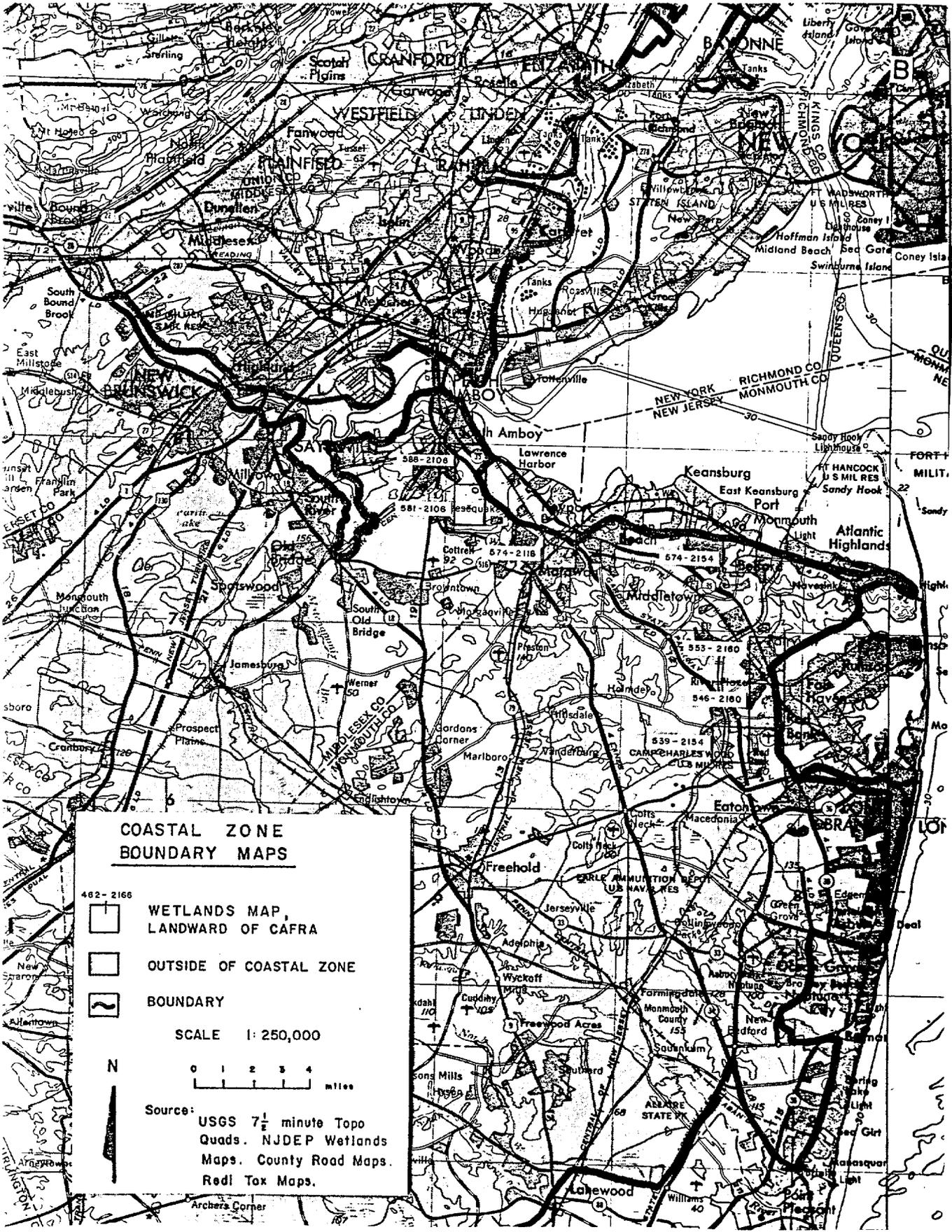
- 482-2168  WETLANDS MAP,
LANDWARD OF CAFRA
-  OUTSIDE OF COASTAL ZONE
-  BOUNDARY

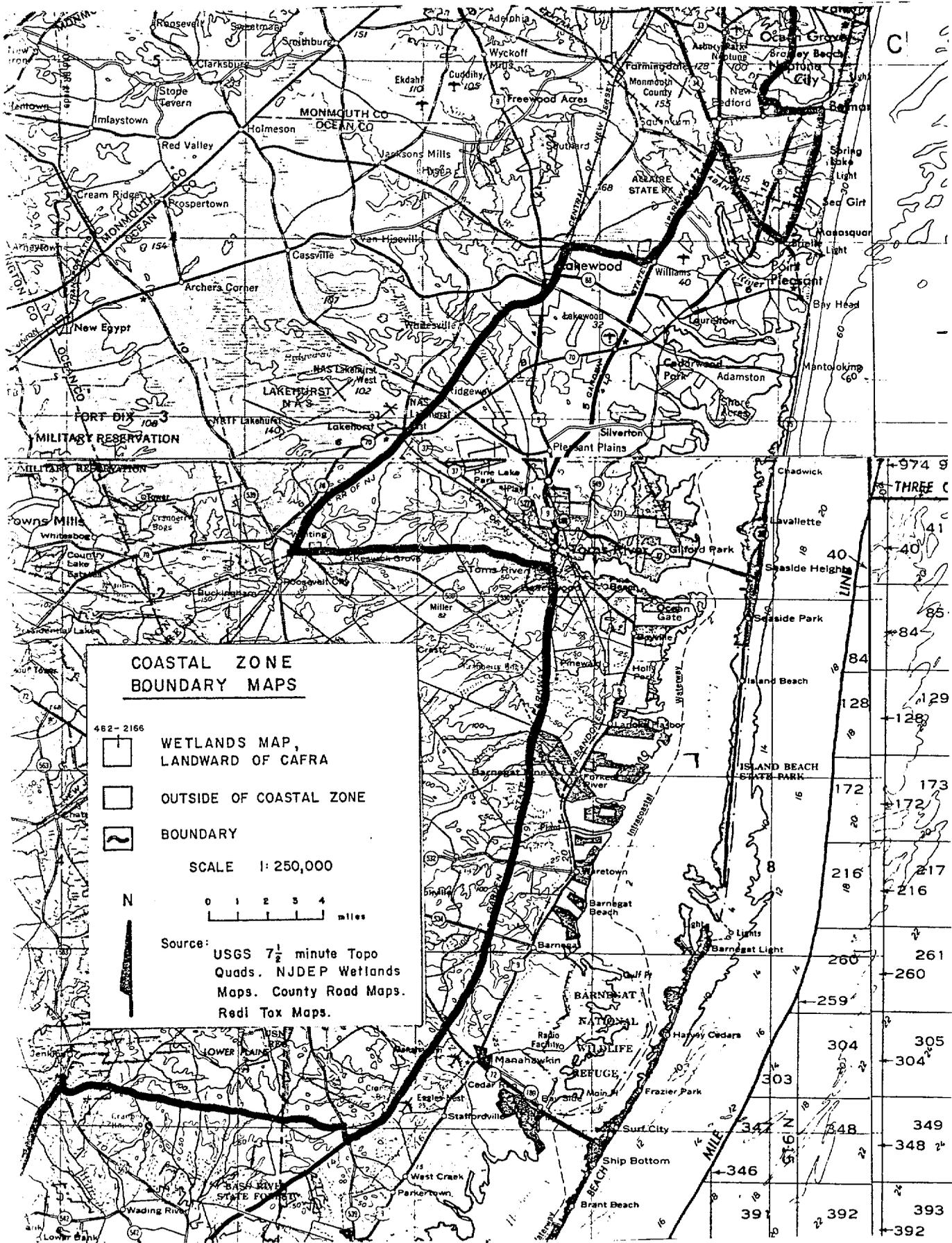
SCALE 1: 250,000



Source: USGS 7½ minute Topo
Quads. NJDEP Wetlands
Maps. County Road Maps.
Redi Tax Maps.

NEW YORK
QUEENS COUNTY
MONMOUTH COUNTY
NEW JERSEY



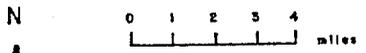


**COASTAL ZONE
BOUNDARY MAPS**

482-2166

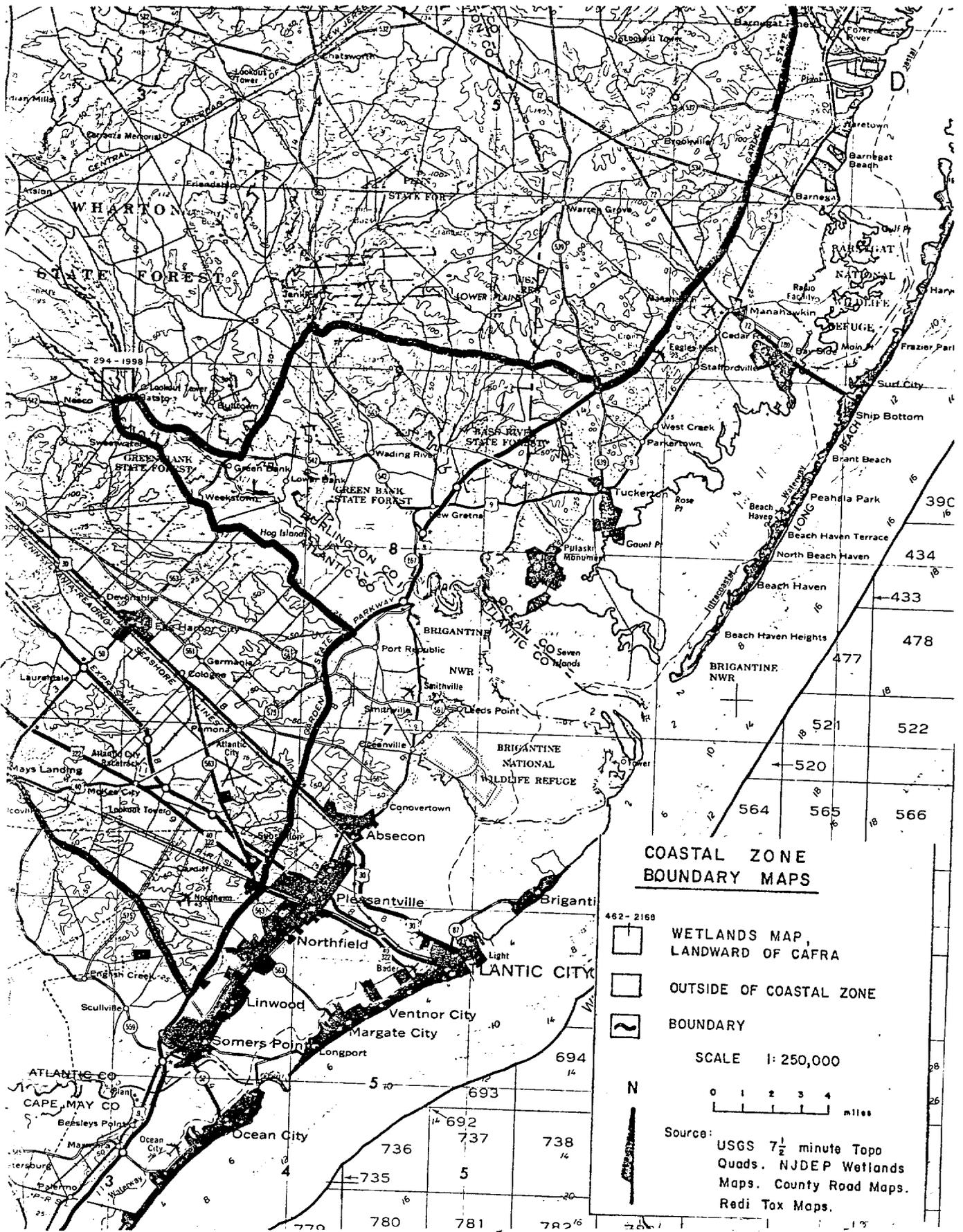
- WETLANDS MAP,
LANDWARD OF CAFRA
- OUTSIDE OF COASTAL ZONE
- BOUNDARY

SCALE 1:250,000



Source: USGS 7 1/2 minute Topo
Quads. NJDEP Wetlands
Maps. County Road Maps.
Redi Tax Maps.

| | |
|---------|-----|
| 974 | 9 |
| THREE C | |
| 41 | |
| 40 | |
| 85 | |
| 84 | |
| 128 | 129 |
| 128 | |
| 172 | 173 |
| 172 | |
| 216 | 217 |
| 216 | |
| 260 | 261 |
| 260 | |
| 259 | |
| 304 | 305 |
| 304 | |
| 303 | |
| 347 | 348 |
| 348 | 349 |
| 348 | |
| 391 | 392 |
| 392 | 393 |
| 392 | |

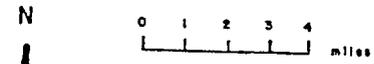


COASTAL ZONE BOUNDARY MAPS

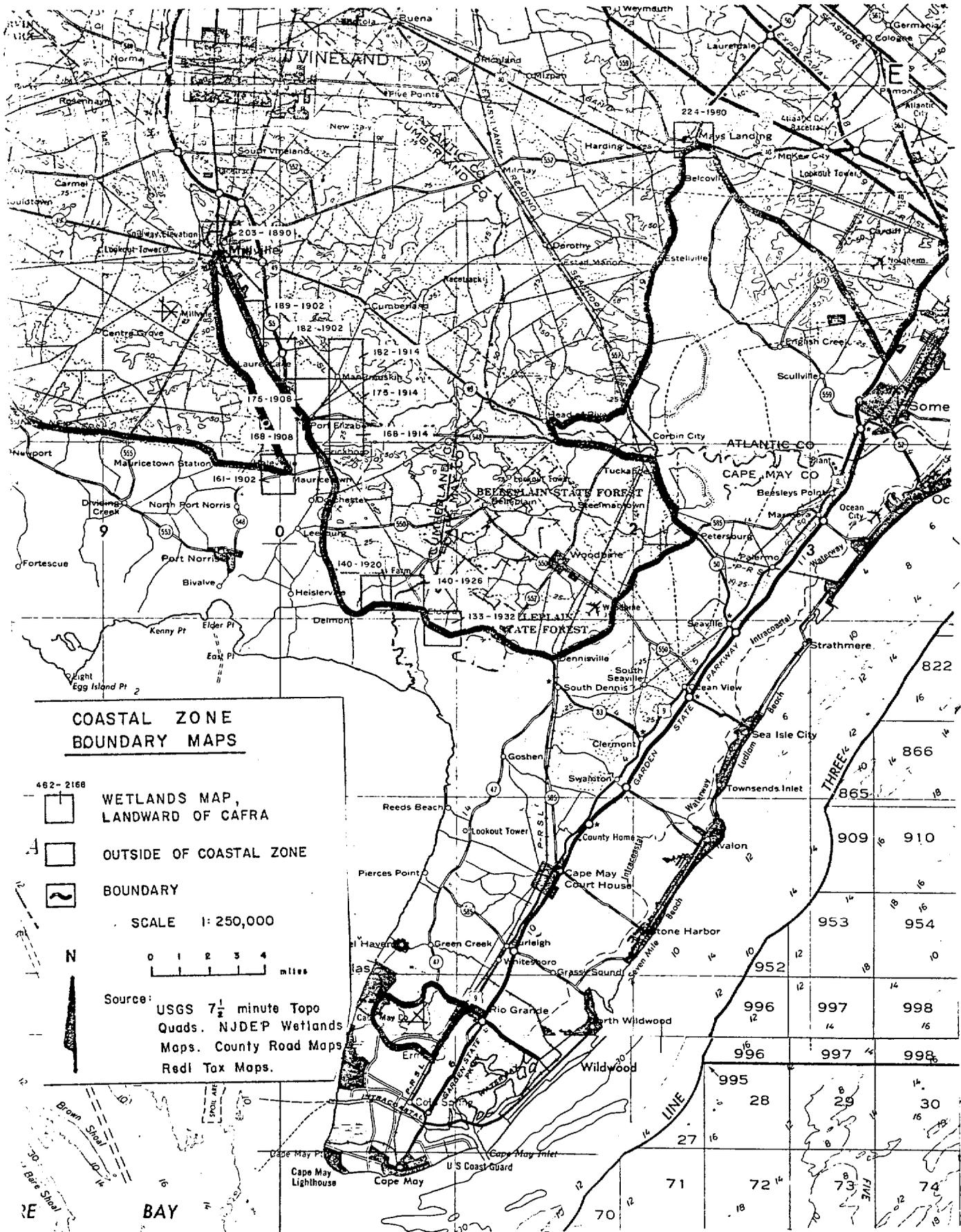
462 - 2168

-  WETLANDS MAP, LANDWARD OF CAFRA
-  OUTSIDE OF COASTAL ZONE
-  BOUNDARY

SCALE 1:250,000

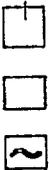


Source: USGS 7 1/2 minute Topo Quads. NJDEP Wetlands Maps. County Road Maps. Redi Tax Maps.



**COASTAL ZONE
BOUNDARY MAPS**

462-2168

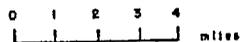


WETLANDS MAP,
LANDWARD OF CAFRA

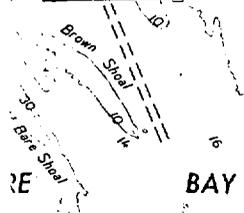
OUTSIDE OF COASTAL ZONE

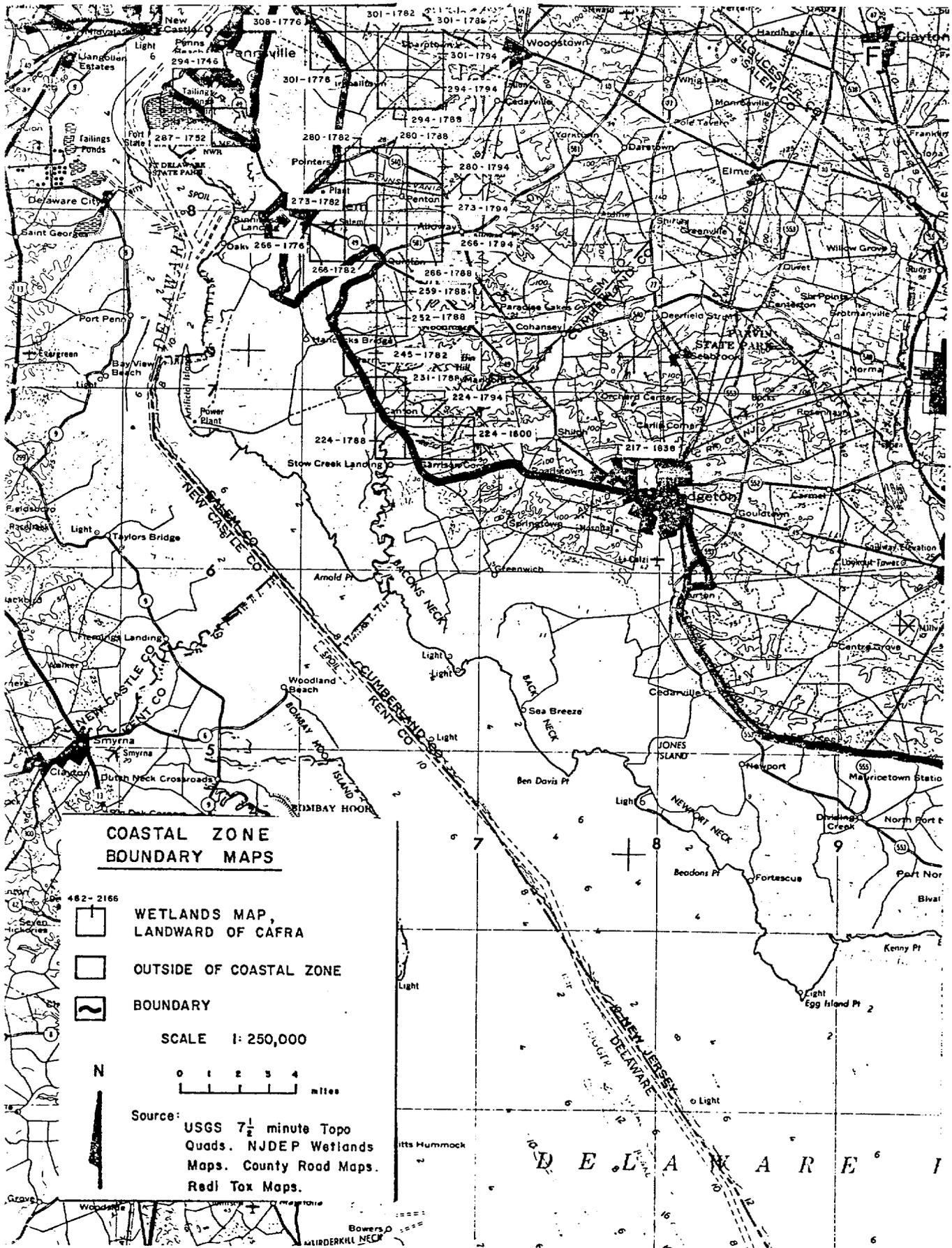
BOUNDARY

SCALE 1: 250,000



Source: USGS 7 1/2 minute Topo
Quads. NJDEP Wetlands
Maps. County Road Maps.
Redi Tax Maps.

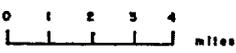




**COASTAL ZONE
BOUNDARY MAPS**

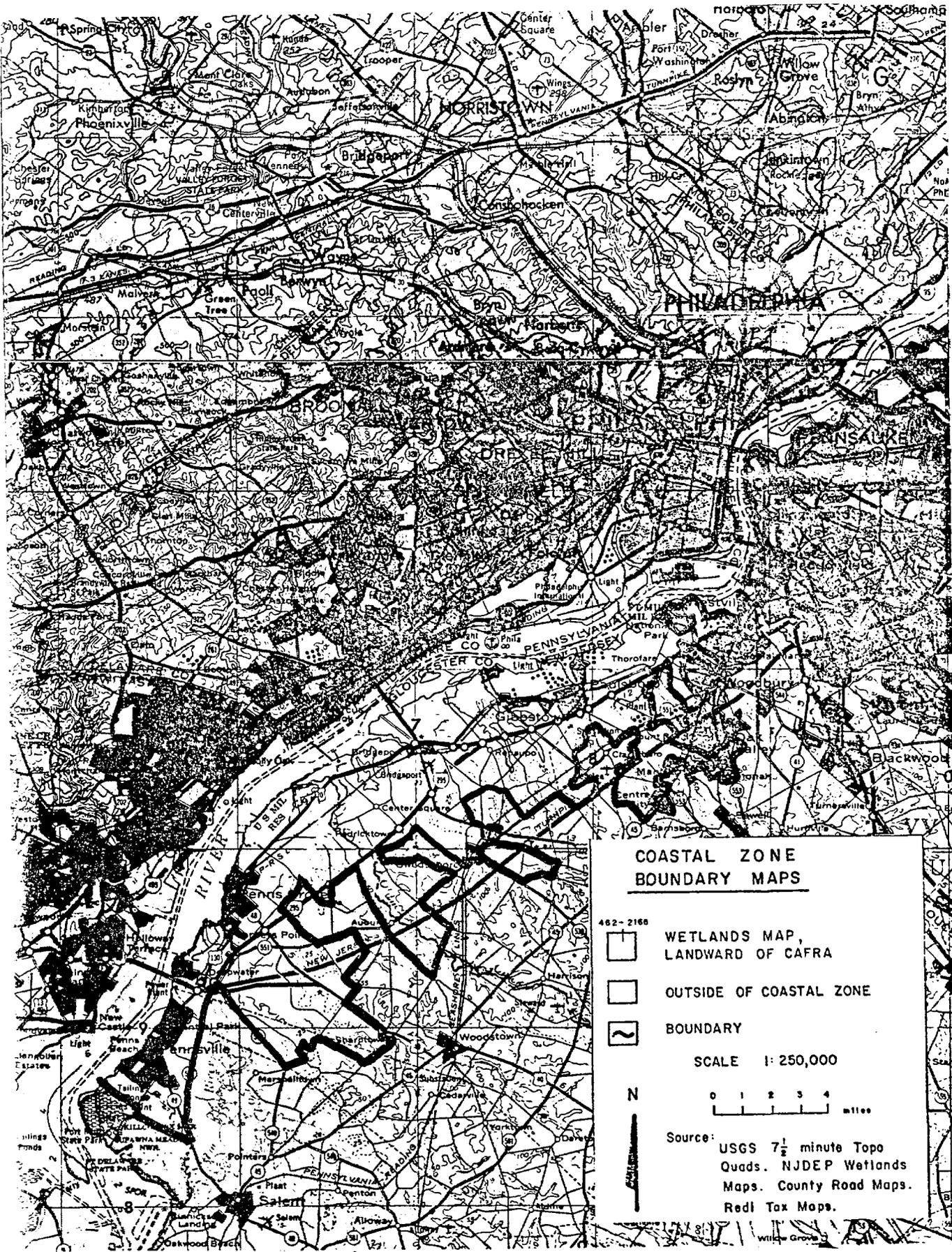
- 462-2166
-  WETLANDS MAP, LANDWARD OF CAFRA
-  OUTSIDE OF COASTAL ZONE
-  BOUNDARY

SCALE 1:250,000



Source: USGS 7 1/2 minute Topo Quads. NJDEP Wetlands Maps. County Road Maps. Redi Tax Maps.

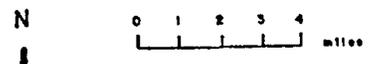
DELAWARE



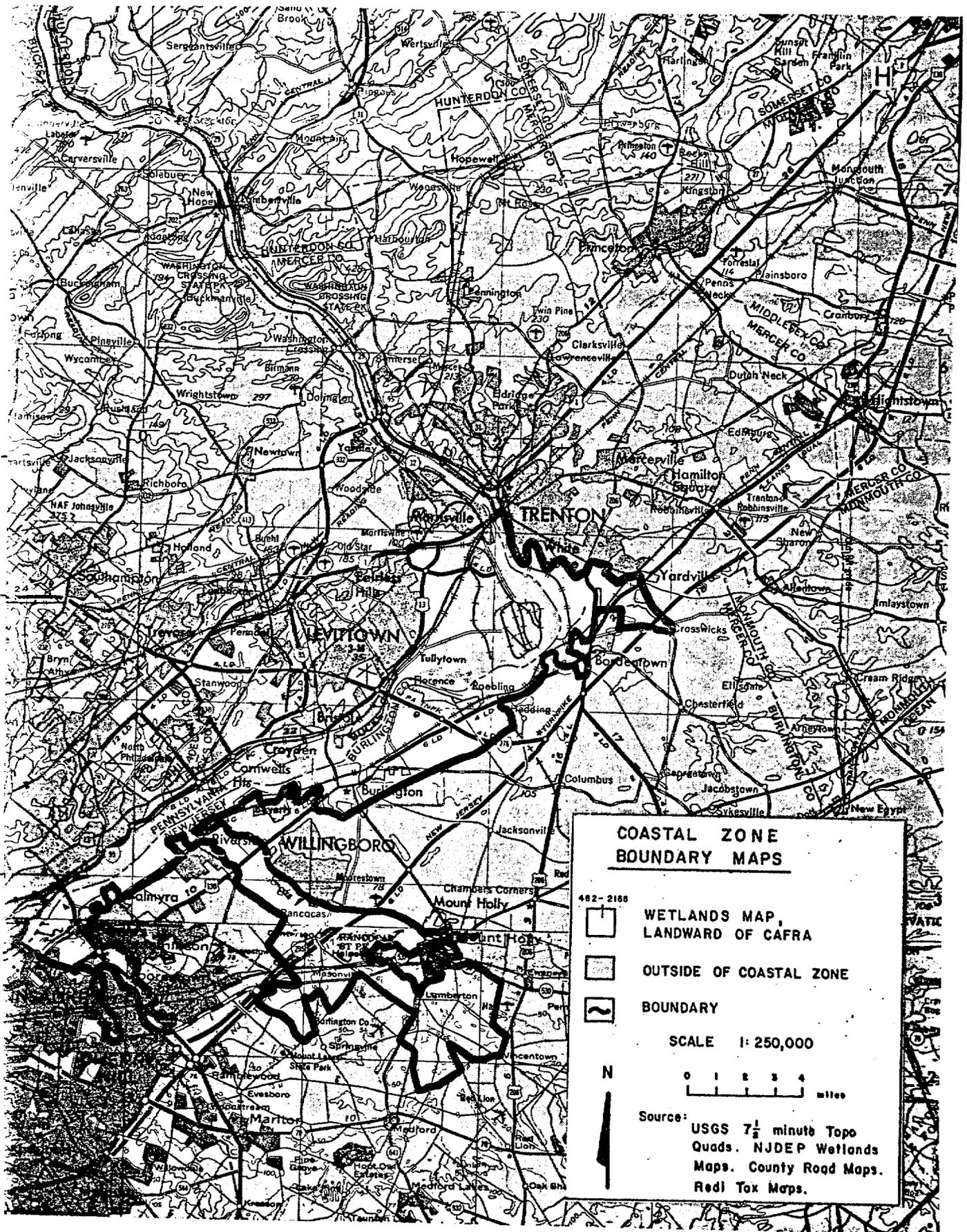
**COASTAL ZONE
BOUNDARY MAPS**

- 462-2168
-  WETLANDS MAP,
LANDWARD OF CAFRA
-  OUTSIDE OF COASTAL ZONE
-  BOUNDARY

SCALE 1: 250,000



Source: USGS 7½ minute Topo
Quads. NJDEP Wetlands
Maps. County Road Maps.
Redl Tax Maps.



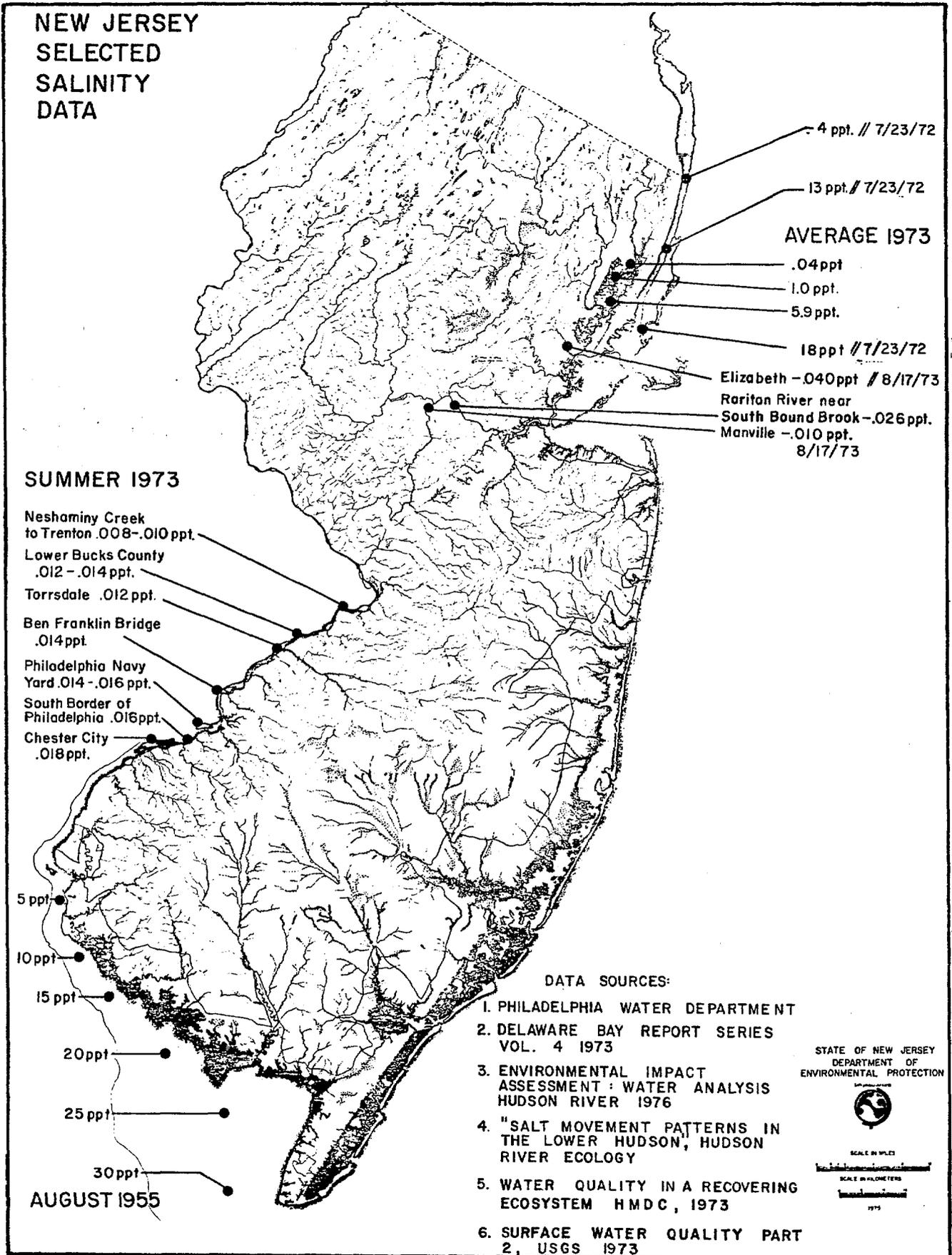
The preliminary inland boundary of the proposed coastal zone in this region is, therefore, the first road or cultural feature (such as a railroad or transmission line) that is parallel to the coastal watercourse, usually a river or stream. This definition includes wetlands and transitional areas between the tidal waters and the appropriate road or cultural feature. Moreover, this area should be part of the coastal zone under federal law because several land use activities are dependent on coastal waters, such as marine terminals. In addition, the area's coastal location provides certain attributes for recreation and industry. The Delaware River Area includes parts of Camden, waterfront residential communities such as Riverside, historical areas in Roebling and Bordentown, and two oil refineries in West Deptford and Greenwich Townships.

Tidal influence in New Jersey also extends north of the Bay and Ocean Shore Segment on the east side of the state. The tidally influenced water bodies in this region includes the Hudson River, Upper New York Bay, Newark Bay, Kill van Kull, Arthur Kill, Passaic River, Hackensack River, and Raritan River and Bay, and their tributaries. The proposed inland coastal boundary in the Northern Waterfront Area would be the first road or cultural feature along the Hudson River. This narrow preliminary boundary is appropriate because the highly developed state of this area confines direct coastal impacts. This region includes the industrialized waterfront with outmoded docks, abandoned piers, and closed industrial plants, as well as modern container ports, refineries, tank farms, shipyards, and new industrial facilities. The area also includes the developing Liberty State Park and other waterfront sites which could one day accommodate future parks.

The Hackensack Meadowlands Development District is a 19 600 acre area in Bergen and Hudson counties defined by the 1968 legislation establishing the Hackensack Meadowlands Development Commission (N.J.S.A. 13:17-1 et seq.), an autonomous agency associated with the New Jersey Department of Community Affairs. The District includes a large undeveloped expanse of salt marsh, disturbed land and built-up areas covering parts of 14 municipalities. The District also includes the New Jersey Sports Complex. Inclusion of some portion of the shorelands of the Meadowlands District within the coastal zone is required under the federal Coastal Zone Management Act because the salinity level of some of the tidal waters of the District is above the NOAA-OCZM threshold of 5 parts per 1000. Also, DEP already exercises coastal management responsibilities in the Meadowlands District in the riparian lands management program, as much of the District includes land now or formerly flowed by the mean high tide. Further, DEP's present riparian lands management and tidelands delineation programs in the Meadowlands are already carried out in close coordination with staff of the Hackensack Meadowlands Development Commission.

In conclusion, the inland boundary of the coastal zone beyond the boundary of the Bay and Ocean Shore Segment is a proposal to be debated and refined as DEP conducts further coastal planning in 1978. The final boundary for the entire coastal zone will depend in part upon the legal authority to carry specific coastal policies to be defined for these regions of the coast. At this stage, however, the most important boundary is the one defined in Chapter Two for the Bay and Ocean Shore Segment.

Figure 22



Municipalities Within the Preliminary Boundary of the Coastal Zone of the Entire State

All or part of 238 of New Jersey's 567 municipalities are included in the preliminary state-wide coastal zone. These municipalities, in addition to those listed above for the Segment, are listed below, by county, by regions, either Delaware River Area or Northern Waterfront Area (which includes the Hackensack Meadowlands District). It is important to note that this is only a proposal at this stage. The definition of the state-wide or the coastal zone will become final only after the Governor's submission of the coastal management program for the entire State to NOAA-OCZM, which is expected to take place in 1979.

DELAWARE RIVER AREA

Burlington County

Beverly City
Bordentown City
Bordentown Township
Burlington City
Burlington Township
Chesterfield Township
Cinnaminson Township
Delanco Township
Delran Township
Edgewater Park Township
Fieldsboro Borough
Florence Township
Hainesport Township

Lumberton Township
Mansfield Township
Maple Shade Township
Medford Township
Moorestown Township
Mount Holly Township
Mount Laurel Township
Palmyra Borough
Riverside Township
Riverton Borough
Southampton Township
Westhampton Township
Willingboro Township

Camden County

Audubon Borough
Barrington Borough
Bellmawr Borough
Brooklawn Borough
Camden City
Cherry Hill Township
Gloucester City
Gloucester Township
Haddon Township
Hi-Nella Borough

Laurel Springs Borough
Lindenwold Borough
Magnolia Borough
Mount Ephraim Borough
Pennsauken Township
Runnemede Borough
Somerdale Township
Stratford Borough

Gloucester County

Deptford Township
East Greenwich Township
Greenwich Township
Mantua Township
National Park Borough
Paulsboro Borough

Swedesboro Borough
Wenoah Borough
West Deptford Township
Westville Borough
Woodbury City
Woolwich Township

| | | |
|---------------------------------|-------------------------|-------------------------|
| Hamilton Township | <u>Mercer County</u> | Trenton City |
| Olmans Township | <u>Salem County</u> | Pennsville Township |
| Penns Grove Township | | Pilesgrove Township |
| <u>NORTHERN WATERFRONT AREA</u> | | |
| | <u>Bergen County</u> | |
| Alpine Borough | | Lyndhurst Township |
| Bogota Borough | | Moonachie Borough |
| Carlstadt Borough | | New Milford Borough |
| East Rutherford Borough | | North Arlington Borough |
| Edgewater Borough | | Oradell Borough |
| Englewood Cliffs Borough | | Ridgefield Borough |
| Fairview Borough | | River Edge Borough |
| Fort Lee Township | | Rutherford Borough |
| Garfield City | | Teaneck Township |
| Hackensack City | | Teterboro Borough |
| Little Ferry Borough | | Walington Borough |
| | <u>Essex County</u> | |
| Belleville Town | | Nutley Town |
| Newark City | | |
| | <u>Hudson County</u> | |
| Bayonne City | | Jersey City |
| East Newark Borough | | Kearny Town |
| Guttenberg Town | | North Bergen Township |
| Harrison Town | | Secaucus Town |
| Hoboken City | | West New York Town |
| | <u>Middlesex County</u> | |
| Carteret Borough | | Perth Amboy City |
| East Brunswick Township | | Piscataway Township |
| Edison Township | | Sayreville Borough |
| Highland Park Borough | | South Amboy City |
| New Brunswick City | | South River Borough |
| Old Bridge Township | | Woodbridge Township |
| | <u>Passaic County</u> | |
| Clifton City | | Passaic City |
| | <u>Somerset County</u> | |
| Franklin Township | | |
| | <u>Union County</u> | |
| Elizabeth City | | Rahway City |
| Linden City | | |

APPENDIX F: EXCLUDED FEDERAL LANDS - BAY AND OCEAN SHORE SEGMENT

Under the federal Coastal Zone Management Act, lands that are owned, leased, held in trust or whose use is otherwise by law subject solely to the discretion of the Federal Government, its officers, or agents are excluded from New Jersey's coastal zone. Several large-scale federal holdings are located within New Jersey's statutory "Coastal Area" and are excluded from the Bay and Ocean Shore Segment under federal law. Below is a list of all major federal lands located entirely or partially in the area defined by the Bay and Ocean Shore Segment. "Major" is defined as greater than 100 acres. These areas are also indicated in Figure 27. In addition to the areas noted, numerous Coast Guard stations and smaller federal land holdings are excluded from the Bay and Ocean Shore Segment. The listing below notes the federal agency responsible for the land and the county in which it is located.

Army Corps of Engineers

Artificial Island Disposal Area (Salem)
Cape May Canal (Cape May)
Kilcohook Spoil Disposal Area (Salem)

Army

Fort Monmouth (Monmouth)
Highlands Army Air Defense Site (Monmouth)

Navy

Leonardo-Earle Naval Ammunition Depot (Monmouth)

Fish and Wildlife Service

Barneгат National Wildlife Refuge (Ocean)
Brigantine National Wildlife Refuge (Atlantic)
Kilcohook National Wildlife Refuge (Salem)
Supawana Meadows National Wildlife Refuge (Salem)

National Park Service

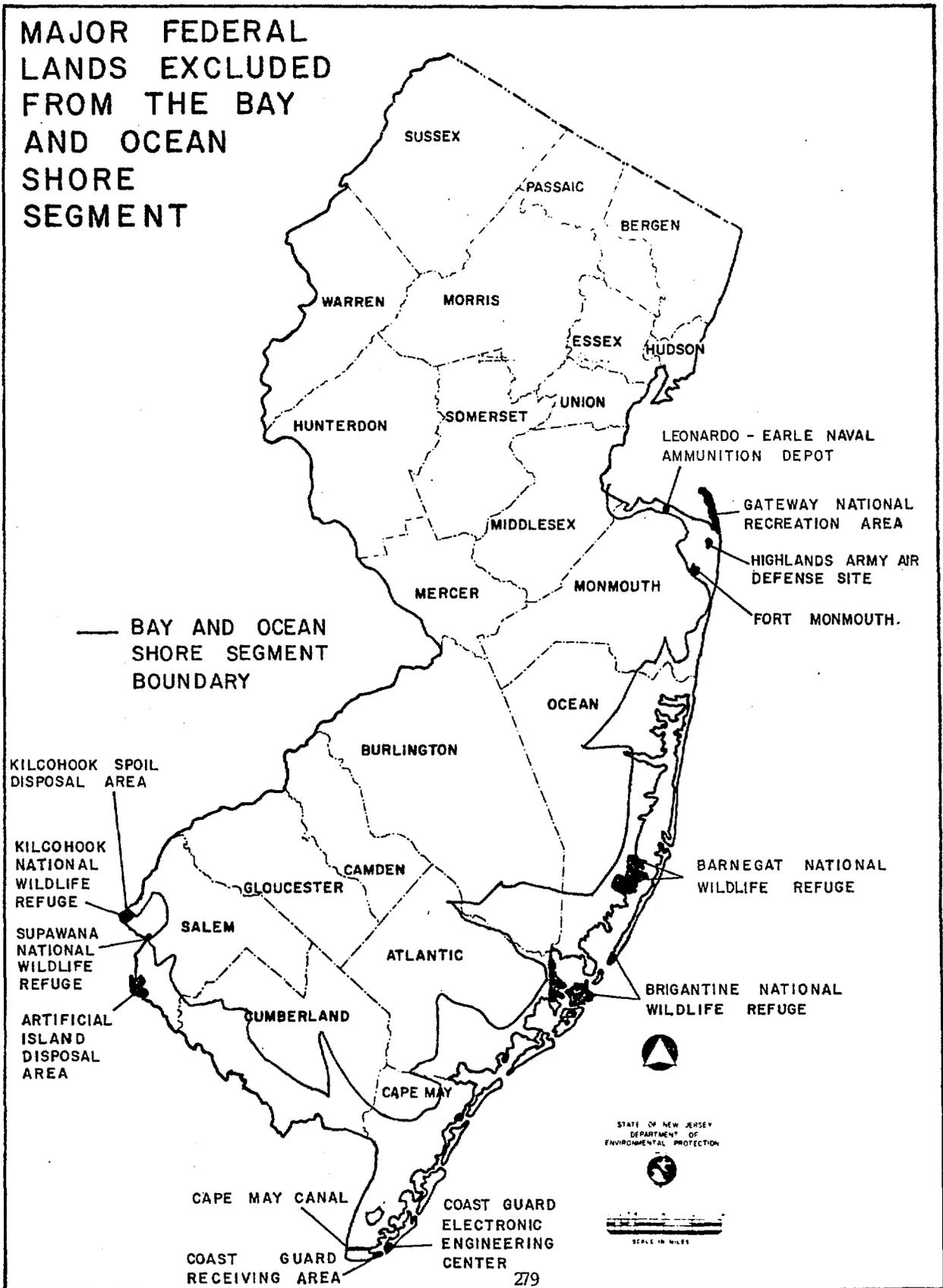
Gateway National Recreation Area - Sandy Hook (Monmouth)

Coast Guard

Coast Guard Receiving Center-Cape May (Cape May)
Coast Guard Electronic Engineering Center (Cape May)

The State of New Jersey considers the acquisition of new federal lands to be a direct federal action subject to the consistency provisions of Section 307 of the federal Coastal Zone Management Act. Also, federal actions on excluded lands that have spillover impacts that significantly affect coastal resources subject to the jurisdiction of the Bay and Ocean Shore Segment must also be consistent with State coastal policies. Chapter Six discusses the Program's federal consistency provision in greater detail.

Figure 23



Memorandum of Understanding
Between
New Jersey Department of Energy
and
New Jersey Department of Environmental Protection
on
Coordination of Permit Reviews

A. Purpose

This Memorandum of Understanding sets forth the areas of responsibilities and operating procedures to be followed effective immediately by the Department of Energy (DOE) and Department of Environmental Protection (DEP) under the State of New Jersey's coastal management program, as developed and as to be administered under the federal Coastal Zone Management Act of 1972 as amended (16 U.S.C. 1451 et seq.).

The DOE and DEP agree to the procedures and responsibilities that follow, recognize the statutory limitations of both agencies, and do not intend this Memorandum of Understanding to expand or limit their existing statutory powers in any way.

B. Definitions

As used in the Memorandum of Understanding, the following words and definitions shall have the following meanings unless the context indicates or requires another or different meaning or intent.

1. Complete for Review means that supplemental information requested by either the Department of Environmental Protection and Department of Energy on permit applications has been submitted and both agencies are satisfied as to form and content of such information.
2. Energy Report means the report in form and content specified by the Department of Energy Act N.J.S.A. 52:27F-13(c) or as further specified by Administrative regulation of the Department of Energy.
3. Energy Facility means any facility which produces, converts, distributes or stores energy or converts one form of energy to another consistent with applicable statutory authority and regulations of the DOE and DEP.
4. Final Agency Action means a final decision of the Commissioner of Environmental Protection or designated representative on a pending permit application except as noted in Section F.
5. Permits means administrative regulatory instruments issued by the Department of Environmental Protection on the construction or location of energy facilities, under the Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.), Wetlands Act (N.J.S.A. 13:9A-1 et seq.), and waterfront development permit program (N.J.S.A. 12:5-3). The definition of "Permits" may be extended by mutual agreement between DEP and DOE.

C. Statement of Existing Agency Responsibilities

1. The DEP is responsible for formulating comprehensive policies for the conservation of the natural resources of the State, promoting environmental protection, and preventing pollution of the environment (N.J.S.A. 13:1D-9).
2. The DEP is the agency designated by the Governor to develop and administer the State's coastal management program under Sections 305 and 306 of the federal Coastal Zone Management Act.
3. The DEP has selected and presented to the Governor and Legislature the Coastal Management Strategy for New Jersey - CAFRA Area (September 1977) as required by the Coastal Area Facility Review Act (hereafter CAFRA) (N.J.S.A. 13:19-16).
4. The DEP exercises regulatory responsibility over the construction of energy facilities in the coastal zone under three coastal permit programs: the Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.), the Wetlands Act (N.J.S.A. 13:9A-1 et seq.), and waterfront development permit program (N.J.S.A. 12:5-3).
5. The Coastal Area Review Board (hereafter CARB), in but not of DEP, may hear appeals of CAFRA permit decisions by DEP (N.J.S.A. 13:19-13, N.J.A.C. 7:7D-1 et seq.). DEP also provides a plenary hearing appeals procedure complying with the Administrative Procedures Act for CAFRA (N.J.A.C. 7:7D-2.8), Wetlands (DEP Administrative Order No. 12, December 8, 1977), and waterfront development (N.J.A.C. 7:1C-1.9(b)) permit decisions by DEP's Division of Marine Services.
6. The DOE is responsible for the coordinated regulation and planning of energy-related matters in the State (C. 146, L. 1977, N.J.S.A. 52:27F-1 et seq.).
7. The DOE, through its Division of Energy Planning and Conservation, is preparing the State Energy Master Plan for the production, distribution, consumption, and conservation of energy in the State, which will include the siting of energy facilities in the coastal zone (N.J.S.A. 52:27F-12).
8. The DOE, Division of Energy Planning and Conservation is empowered and directed to intervene in any proceeding and appeal from any decision of DEP with respect to the siting of energy facilities in the coastal zone. The DOE is a party of interest in any proceeding before DEP on coastal energy facility siting (N.J.S.A. 52:27F-13(a)).
9. The DOE has coextensive jurisdiction with DEP over permit applications on the siting of any energy facility in the State, including the coastal zone. The DEP must solicit the views of DOE prior to making a decision on the siting of an energy facility in the coastal zone. DOE's views must be transmitted to DEP in a report (hereafter Energy Report) within 90 days of DOE's receipt of the application. If the Energy Report differs from the decision of DEP, the conflict shall be referred for resolution to the Energy Facility Review Board (N.J.S.A. 52:27F-13(c)).

10. The DOE is the agency designated by the Governor to administer the State's participation in the Coastal Energy Impact Program (CEIP) under Section 308 of the federal Coastal Zone Management Act. DEP, as the state coastal management agency, must be involved in the CEIP Intrastate Allocation Process.

D. Coastal Planning and Energy Planning

DOE and DEP agree to work together, to the maximum extent practicable, to formulate, review, and revise plans, policies, and guidelines on the siting of energy facilities in the coastal zone, including but not limited to planning documents such as the State Energy Master Plan, Coastal Mangement Strategy for New Jersey - CAFRA Area, and New Jersey Coastal Management Program - Bay and Ocean Shore Segment.

E. Joint DEP-DOE Coastal Permit Application-Processing Sequence

DEP and DOE agree that coastal permit applications for energy facilities over which DOE has coextensive jurisdiction shall be processed according to the following sequence of steps and timetable.

1. DEP receives energy facility permit application and begins internal DEP permit application review process.
2. When complete for review, DEP promptly refers a copy of the energy facility permit application to DOE, Division of Energy Planning and Conservation for its review. The Division shall submit an Energy Report on the application to DEP within 90 days of DOE receipt of the complete application. The DOE Energy Report shall be transmitted to DEP at least thirty (30) days prior to the application statutory or regulatory deadline for decisions by DEP on CAFRA, Wetlands, or waterfront development permits (see the 90 Day Construction Permits Law, C. 232, L. 1975, N.J.A.C. 7:1C-1.8) in order to insure both timely consideration by DEP of DOE's views as well as expeditious decision-making on energy facility permit applications. The time period may be extended by mutual consent of both agencies and the applicant as deemed appropriate. Consistent with the provisions of the 90 Day Construction Permits Law C. 232, L. 1975, no decision will be made on energy facility permit applications until the DOE Energy Report or a memorandum from the DOE Commissioner that such a report will not be issued, is received by DEP.
3. For CAFRA permit applications, DEP shall request additional information from applicants, as reasonably requested in a timely manner by DOE, prior to declaring an application complete for filing (N.J.A.C. 7:7D-2.3(e)1.), at the required public hearing (N.J.A.C. 7:7D-2.3(e)5.iv.), or within 15 days after the public hearing (N.J.A.C. 7:7D-2.3(e)6.i.), prior to declaring the application complete for review (N.J.A.C. 7:7D-2.3(e)6.iii.), to insure that DOE has adequate information to prepare its Energy Report. At its discretion, DOE may submit a Preliminary Energy Report to DEP at least 15 days prior to the date of a scheduled public hearing on a CAFRA permit application, in order to assist DEP in preparing its Preliminary Analysis of the application (N.J.A.C. 7:7D-2.3(e)4.).

4. For Wetlands and waterfront development permit applications, DEP shall request additional information from applicants, as reasonably requested in a timely manner by DOE, before declaring an application complete (N.J.A.C. 7:1C-1.7(a)2.), to insure that DOE has adequate information to prepare its Energy Report.
5. For proposed coastal energy facilities that require a CAFRA permit and either or both of a Wetlands and waterfront development permit, DEP shall coordinate the review process, including review of the adequacy of submitted information, public hearings, and decision documents, under the auspices of the review process for the CAFRA permit application, including its information requirements. Specifically, a Wetlands or waterfront development permit application shall not be declared complete, triggering the 90 day permit decision period under the 90 Day Construction Permits Law (C. 232, L. 1975), until the CAFRA permit application is declared complete for review (N.J.A.C. 7:7D-2.3(e)6.iii.).
6. DEP issues decision on the energy facility permit application. If DOE has submitted an Energy Report in a timely manner, the DEP decision document shall refer to the Energy Report and indicate DEP's reasons for differences, if any, between the DEP decision and the DOE Energy Report.

F. Appeals of DEP Coastal Energy Facility Permit Application Decisions

DEP's decisions on CAFRA, Wetlands, and waterfront development permit applications may be appealed administratively by an applicant or an interested third party. DOE shall refer a DEP decision that differs with DOE's Energy Report to the Energy Facility Review Board for a decision binding upon DEP. Since multiple possible avenues of appeal exist on DEP coastal energy facility permit applications, DEP and DOE agree that appeals shall be heard according to the following procedure, to be incorporated by appropriate regulations of DEP: the Coastal Area Review Board, the Natural Resource Council and the Energy Facility Review Board.

1. DOE may convene the Energy Facility Review Board only if its Energy Report submitted to DEP differs with the DEP decision.
2. If an applicant and/or an interested third party appeals a CAFRA permit decision to the Coastal Area Review Board, or appeals a CAFRA or Wetlands decision by DEP's Division of Marine Services to the Commissioner for a plenary (quasi-judicial) hearing, or appeals a waterfront development permit decision by DEP's Division of Marine Services to the Natural Resource Council (N.J.A.C. 7:1C-1.9(b)), DOE shall be a party of interest at the appeal. If the final decision on appeal of either the Coastal Area Review Board, Commissioner, or Natural Resource Council differs with the DOE Energy Report submitted to DEP before the initial administrative decision, then DOE shall convene the Energy Facility Review Board.
3. The Energy Facility Review Board may affirm, reverse, or modify the initial DEP administrative decision or the decision on appeal. The DOE and DEP members of the Board agree that DOE shall, by September 28, 1978, promulgate regulations to establish the operating procedures of the Board, including, but not limited to a provision binding the Energy Facility Review Board to limit its review to the DEP decision and the

Energy Report, prepared pursuant to Section G of this Memorandum of Understanding, and to follow the New Jersey Administrative Procedures Act.

4. Appellant parties may seek judicial relief as appropriate.

G. Basis of Energy Report

1. DOE and DEP agree to accept the New Jersey Coastal Management Program - Bay and Ocean Shore Segment (and subsequent segment), as approved by the Governor, and particularly its Coastal Resource and Development Policies, and the State Energy Master Plan, as the basis for the formulation of the DOE Energy Report with respect to the siting of energy facilities in the coastal zone.
2. DOE and DEP agree that the DOE Energy Report shall include an evaluation of the need for the proposed energy facility, considering local, state, regional, and national interests, as one of many factors to be considered in preparation of the Energy Report and decision, respectively.

H. Coastal Energy Impact Program

1. DOE and DEP agree to work cooperatively in DOE's administration of the federal Coastal Energy Impact Program in New Jersey.
2. DEP will participate fully in the New Jersey CEIP Intrastate Allocation Committee's deliberations, as the designated lead state agency for coastal zone management.
3. One copy of all CEIP applications submitted to DOE shall be referred by DOE to DEP for an initial review of the application's compatibility or consistency, as appropriate, with the State's developing or approved coastal management programs (15 CFR 932.26(a)(3), Federal Register, Vol. 43, No. 37 - February 23, 1978, p. 7554).
4. One copy of all final work products and reports prepared with financial assistance under the Coastal Energy Impact Program shall be transmitted to DEP, as a standard condition of CEIP grants passed through to state agencies and units of local governments by DOE.

I. National Interests in Energy Facility Siting

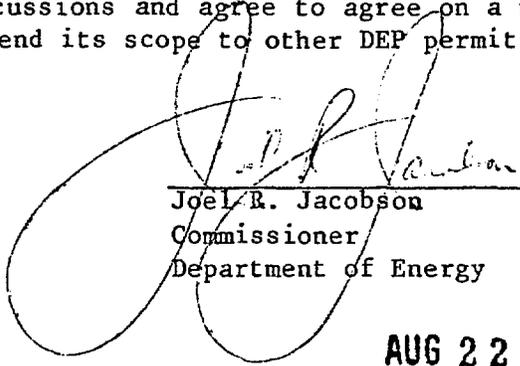
DEP and DOE agree to consider the national interests in New Jersey's coastal zone, as defined in the New Jersey Coastal Management Program - Bay and Ocean Shore Segment, as approved by the Governor, in the DEP permit application processes and the DOE Energy Report preparation process and the DOE State Energy Master Plan. DEP agrees to interpret the opportunity under CAFRA to consider the "public health, safety and welfare" (N.J.S.A. 13:19-4) as sufficient authority to consider these national interests. DOE agrees to interpret its mandate to "... contribute to the proper siting of energy facilities necessary to serve the public interest ..." (N.J.S.A. 25:27F-2) as sufficient authority to consider the national interests in the siting of coastal energy facilities.

J. Federal Consistency

DEP and DOE agree that both agencies shall participate in the State's decision to issue a determination of consistency under Section 307 of the Federal Coastal Zone Management Act for coastal energy facilities. As required by federal regulations (15 CFR 930.18), DEP shall receive, and forward promptly to DOE, all materials necessary for consistency determinations on coastal energy facilities. In the event of a disagreement between DEP and DOE, the Energy Facility Review Board shall be convened and shall make a recommendation to the Governor, who shall make the final determination within the applicable time limit. As required by federal regulations (15 CFR 930.18), DEP will then transmit the final federal consistency determination to the appropriate federal agency.

K. Effective Date

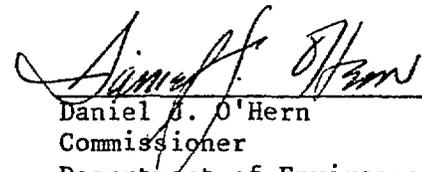
This Memorandum of Understanding shall take effect on September 28, 1978. DOE and DEP agree to continue discussions and agree to agree on a revision of this Memorandum of Understanding to extend its scope to other DEP permits.



Joel R. Jacobson
Commissioner
Department of Energy

AUG 22 1978

Date



Daniel B. O'Hern
Commissioner
Department of Environmental
Protection

AUG 22 1978

Date

Introduction

The New Jersey Coastal Management Program - Bay and Ocean Shore Segment relies upon certain New Jersey State laws and adopted rules for its legal authority and the enforceability of its Coastal Resource and Development Policies. This Appendix briefly describes these key legal authorities and gives the appropriate citation reference to either the New Jersey Statutes Annotated (N.J.S.A.) or the New Jersey Administrative Code (N.J.A.C.). In addition, this Appendix concludes by reprinting three laws in their entirety: the Coastal Area Facility Review Act, the Wetlands Act; and the Department of Energy Act. The CAFRA Procedural Rules and Regulations and regulations governing the wetlands and riparian permit processes are also published in the New Jersey Administrative Code and are available upon request from DEP.

Coastal Area Facility Review Act

Law

N.J.S.A. 13:19-1 et seq. enacted June 20, 1973; effective September 19, 1973 (reprinted in this Appendix).

Rules

N.J.A.C. 7:7D-1.0 et seq. - Coastal Area Review Board; effective November 18, 1975. These rules establish the procedures of the Coastal Area Review Board, a body composed of three cabinet members and created by N.J.S.A. 13:19-13, and which may hear appeals from decisions on CAFRA permit applications by the Director of the Division of Marine Services.

N.J.A.C. 7:7D-2.0 et seq. - CAFRA Procedural Rules and Regulations; effective April 5, 1977. These rules establish the permit application and exemption request procedures of DEP under the Coastal Area Facility Review Act.

Administrative Order

No. 32, November 3, 1975, by DEP Commissioner David J. Bardin; effective November 10, 1975. This Administrative Order delegated decision-making authority on CAFRA permit applications from the Commissioner to the Director, Division of Marine Services.

No. 35, December 4, 1975, by DEP Commissioner David J. Bardin, effective December 8, 1975. This Administrative Order established the Office of Coastal Zone Management in DEP's Division of Marine Services. Under the Administrative Order, the Chief of the Office of Coastal Zone Management reports directly to the DEP Commissioner with respect to planning under N.J.S.A. 13:19-16 and under the federal Coastal Zone Management Act, but reports to the Director of the Division of Marine Services with respect to the CAFRA permit program.

Wetlands Act

Law

N.J.S.A. 13:9A-1 et seq.; effective November 5, 1970 (reprinted in this Appendix)

Rules

N.J.A.C. 7:7A-1.1 et seq.; effective April 13, 1972. The New Jersey Wetlands Order Basis and Background, adopted in 1972, defined the rationale for the regulation of coastal wetlands. Independent contractors for DEP prepared maps of wetlands at a scale of 1:2,400 (one inch = 200 feet). DEP then adopted the Wetlands Order, including the maps delineating wetlands areas, on a county-by-county rule-making process, with notice to affected property owners, from 1972-1977 (N.J.A.C. 7:7A-1.2). The order defines regulated activities, and prohibits certain activities on wetlands, while the Procedural Regulations (N.J.A.C. 7:7A-1.3 et seq.) establish permit application procedures and project review criteria, and list the wetlands maps.

Administrative Order

No. 12, December 8, 1977, by DEP Commissioner Rocco D. Ricci; effective December 8, 1977. This Administrative Order delegated decision-making authority on Wetlands permit applications from the Commissioner to the Director, Division of Marine Services and specified that appeals of the Director's decision shall be submitted to the Commissioner.

Riparian Statutes

Law

N.J.S.A. 12:3-1 through 12:3-71; enacted at various dates beginning 1869. These laws define the procedures and standards for leases, grants, and conveyances of riparian lands.

N.J.S.A. 12:5-1 through 12:5-11; enacted at various dates beginning 1914. These laws define the procedures and standards for the management of waterfront and harbor facilities, including waterfront development permits.

N.J.S.A. 13:1B-10, 11, 12; enacted at various dates beginning 1948. These laws define the powers, functions, and duties of the Natural Resource Council, which decides riparian lands management real estate matters and reviews some waterfront development permit applications.

N.J.S.A. 13:1B-13; enacted 1948. This law defines the procedure for approval of riparian leases and grants.

N.J.S.A. 13:1B-13.1 through 13:1B-13.51; enacted 1968. This law, part of the statute creating the Hackensack Meadowlands Development Commission, mandates tidelands delineation studies and the surveys in the Meadowlands and defines procedures for conveyances of State-owned riparian lands in the Meadowlands.

90 Day Construction Permits Law

Law

C.232, L. 1975 (supplements N.J.S.A. 13:1D-1 et seq., amends N.J.S.A. 12:5-2, 12:5-3, 58:1-26 and 58:1-27, and repeals N.J.S.A. 12:5-4); enacted October 23, 1975; effective December 22, 1975. The law provides for the approval, conditional approval, or disapproval of applications under five DEP-administered construction permit programs within 90 days of completion of an application, otherwise the application is deemed approved.

Rules

N.J.A.C. 7:1C-1.0 et seq.; effective December 22, 1975; revised October 10, 1977. These rules implement the 90 Day Construction Permits Law, and govern the riparian permit process.

Shore Protection

Law

N.J.S.A. 12:6A-1 et seq.; enacted at various dates beginning 1940. The law authorizes DEP to carry out structural and non-structural shore protection programs and undertake dredging of waterways and streams.

Department of Energy

Law

N.J.S.A. 52:27-1 et seq.; enacted and effective July 11, 1977. This law created a new cabinet-level executive department, with co-extensive jurisdiction with other State agencies, including DEP, on energy facility siting. It should be noted that pending State legislation (s-1179) would amend the Department of Energy Act and increase and clarify the authority of the Commissioner of Energy.

N.J.S.A. 40:55D-19; effective August 1, 1976. This section of the municipal Land Use Law empowers the Board of Public Utilities to supercede any local action taken with respect to a public utility if the Board finds the service "necessary for the service, convenience, or welfare of the public".

Reprinted Laws

The Coastal Area Facility Review Act, the Wetlands Act, and the Department of Energy Act are reprinted in full on the following pages.

CHAPTER 185

A

AN ACT to provide for the review of certain facilities in the coastal area and making an appropriation therefor.

Enacted by the Senate and General Assembly of the State of New Jersey:

C. 13:19-1 Short title.

1. This act shall be known and may be cited as the "Coastal Area Facility Review Act."

C. 13:19-2 Declaration of policy.

2: The Legislature finds and declares that New Jersey's bays, harbors, sounds, wetlands, inlets, the tidal portions of fresh, saline or partially saline streams and tributaries and their adjoining upland fastland drainage area nets, channels, estuaries, barrier beaches, near shore waters and intertidal areas together constitute an exceptional, unique, irreplaceable and delicately balanced physical, chemical and biologically acting and interacting natural environmental resource called the coastal area, that certain portions of the coastal area are now suffering serious adverse environmental effects resulting from existing facility activity impacts that would preclude or tend to preclude those multiple uses which support diversity and are in the best long-term, social, economic, aesthetic and recreational interests of all people of the State; and that, therefore, it is in the interest of the people of the State that all of the coastal area should be dedicated to those kinds of land uses which promote the public health, safety and welfare, protect public and private property, and are reasonably consistent and compatible with the natural laws governing the physical, chemical and biological environment of the coastal area.

It is further declared that the coastal area and the State will suffer continuing and over-accelerating serious adverse economic, social and aesthetic effects unless the State assists, in accordance with the provisions of this act, in the assessment of impacts, stemming from the future location and kinds of facilities within the coastal area, on the delicately balanced environment of that area.

The Legislature further recognizes the legitimate economic aspirations of the inhabitants of the coastal area and wishes to encourage the development of compatible land uses in order to improve the overall economic position of the inhabitants of that area within the framework of a comprehensive environmental design strategy which preserves the most ecologically sensitive and fragile area from inappropriate development and provides adequate environmental safeguards for the construction of any facilities in the coastal area.

C. 13:19-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning, the following words shall have the following meanings:

a. "Commissioner" means the State Commissioner of Environmental Protection.

b. "Department" means the State Department of Environmental Protection.

c. "Facility" includes any of the facilities designed or utilized for the following purposes:

- (1) Electric power generation—
Oil, gas, or coal fired or any combination thereof.
Nuclear facilities.
- (2) Food and fowl byproducts—
Beer, whiskey and wine production.
Fish processing, including the production of fish meal and fish oil.
Slaughtering, blanching, cooking, curing, and pickling of meats and poultry.
Trimming, culling, juicing, and blanching of fruits and vegetables.
- Animal matter rendering plants.
Operations directly related to the production of leather or furs such as, but not limited to, unhairing, soaking, delimiting, baiting, and tanning.
Curing and pickling of fruits and vegetables.

C

CHAPTER 185, LAWS OF 1973

Pasteurization, homogenization, condensation, and evaporation of milk and cream to produce cheeses, sour milk, and related products.

Coffee bean and cocoa bean roasting.

(3) Incineration wastes—

Municipal wastes (larger than or equal to 50 tons per day).

Automobile body (20 automobiles per hour or larger).

(4) Paper production—

Pulp mills.

Paper mills.

Paperboard mills.

Building paper mills.

Building board mills.

(5) Public facilities and housing—

Sanitary landfills.

Waste treatment plants (sanitary sewage).

Road, airport, or highway construction.

New housing developments of 25 or more dwelling units or equivalent.

Expansion of existing developments by the addition of 25 or more dwelling units or equivalent.

(6) Agri-chemical production—

Pesticides manufacture and formulation operations or either thereof.

Superphosphate animal feed supplement manufacture.

Production of normal superphosphate.

Production of triple superphosphate.

Production of diammonium phosphate.

(7) Inorganic acids and salts manufacture—

Hydrofluoric acid and common salts.

Hydrochloric acid and common salts.

Nitric acid and common salts.

Sulfuric acid and common salts.

Phosphoric acid and common salts.

Chromic acid, including chromate and dichromate salts.

(8) Mineral products—

Asphalt batching and roofing operations including the preparation of bituminous concrete and concrete.

Cement production, including Portland, natural, masonry, and pozzolan cements.

Coal cleaning.

Clay, clay mining, and fly-ash sintering.

D

CHAPTER 185, LAWS OF 1973

Calcium carbide production.

Stone, rock, gravel, and sand quarrying and processing.

Frit and glass production.

Fiberglass production.

Slag, rock and glass wool production (mineral wool).

Lime production, including quarrying.

Gypsum production, including quarrying.

Perlite manufacturing, including quarrying.

Asbestos fiber production.

(9) Chemical processes—

Ammonia manufacture.

Chlorine manufacture.

Caustic soda production.

Carbon black and charcoal production, including channel, furnace, and thermal processes.

Varnish, paint, lacquer, enamel, organic solvent, and inorganic or organic pigment manufacturing or formulating.

Synthetic resins or plastics manufacture including, but not limited to, alkyd resins, polyethylene, fluorocarbons, polypropylene, and polyvinylchloride.

Sodium carbonate manufacture.

Synthetic fibers production including, but not limited to, semi-synthetics such as viscose, rayon, and acetate, and true synthetics such as, but not limited to, nylon, orlon, and dacron, and the dyeing of these semi and true synthetics.

Synthetic rubber manufacture, including but not limited to, butadiene and styrene copolymers, and the reclamation of synthetic or natural rubbers.

The production of high and low explosives such as, but not limited to, TNT and nitrocellulose.

Soap and detergent manufacturing, including but not limited to, those synthetic detergents prepared from fatty alcohols or linear alkylate.

Elemental sulfur recovery plants not on the premises where petroleum refining occurs.

Used motor or other oil or related petroleum product reclamation operations.

Petroleum refining, including but not limited to, distillation, cracking, reforming, treating, blending, polymerization, isomerization, alkylation, and elemental sulfur recovery operations.

Organic dye and dye intermediate manufacturing.

Hydrogen cyanide or cyanide salts manufacture or use.

Glue manufacturing operations.
Manufacturing, fabricating, or processing medicinal and pharmaceutical products including the grading, grinding, or milling of botanicals.

(10) Storage—

Bulk storage, handling, and transfer facilities for crude oil, gas and finished petroleum products not on the premises where petroleum refining occurs.

Bulk storage, handling, transfer and manufacturing facilities of gas manufactured from inorganic and organic materials including coal gas, coke oven gas, water gas, producer, and oil gases.

(11) Metallurgical processes—

Production of aluminum oxide and aluminum metal and all common alloys, such as those with copper, magnesium, and silicon.

Production of titanium metal, salts, and oxides.

Metallurgical coke, petroleum coke, and byproduct coke manufacturing.

Copper, lead, zinc, and magnesium smelting and processing.

Ferrous alloys manufacture such as, but not limited to, those combined with silicon, calcium, manganese and chrome.

Integrated steel and iron mill operations including, but not limited to, open hearth, basic oxygen, electric furnace, sinter plant, and rolling, drawing, and extruding operations.

Melting, smelting, refining, and alloying of scrap or other substances to produce brass and bronze ingots.

Gray iron foundry operations.

Steel foundry operations.

Beryllium metal or alloy production, including rolling, drawing and extruding operations.

Operations involving silver, arsenic, cadmium, copper, mercury, lead, nickel, chromium, and zinc including, but not limited to, production, recovery from scrap or salvage, alloy production, salt formation, electroplating, anodizing, and metallo-organics compound products preparation.

Stripping of oxides from and the cleaning of metals prior to plating, anodizing, or painting.

(12) Miscellaneous—

Operations involving the scouring, desizing, cleaning, bleaching, and dyeing of wool.

Wood preserving processes which use coal or petroleum based products such as, but not limited to, coal tars and/or creosotes.

CHAPTER 185, LAWS OF 1973

Road to its intersection with Cooper Road; thence southwesterly on Cooper Road to the intersection of State Highway 35; thence southerly on State Highway 35 to its intersection with State Highway 71; thence southeasterly on State Highway 71 to its crossing of the Central Railroad of New Jersey tracks; thence southerly along the Central Railroad of New Jersey tracks to its intersection of 6th Avenue (County 2); thence westerly on 6th Avenue (County 2) to the intersection of State Highway 33; thence westerly along State Highway 33 to the crossing of State Highway 18; thence southerly on State Highway 18 to its intersection of Marconi Road; thence southeasterly on Marconi Road to Adrienne Road, continuing south on Adrienne Road to Belmar Boulevard; thence easterly on Belmar Boulevard and 16th Avenue to the intersection of State Highway 71; thence southerly on State Highway 71 to the intersection of State Highway 35; thence northwesterly along State Highway 35 to State Highway 34 at the Brielle Circle; thence northwesterly along State Highway 34 to the Garden State Parkway at Exit 96; thence southwesterly along the Garden State Parkway to the intersection of the Monmouth, Ocean County boundary; thence westerly along said boundary to the intersection of the Central Railroad of New Jersey tracks; thence southwesterly along the tracks of the Central Railroad of New Jersey to its junction with the tracks of the Pennsylvania Railroad near Whiting; thence easterly along the tracks of the Pennsylvania Railroad to its intersection with the Garden State Parkway near South Toms River; thence southerly along the Garden State Parkway to its intersection with County Road 539 at Garden State Parkway exit 53; thence northerly along County Road 539 to its intersection with Martha-Stafford Forge Road; thence westerly along Martha-Stafford Forge Road to its intersection with Spur 563; thence northerly along Spur 563 to its intersection with County Road 563; thence southerly along County Road 563 to its intersection with County Road 542 at Green Bank; thence northwesterly along County Road 542 to its intersection with Weekstown-Pleasant Mills Road; thence southeasterly along Weekstown-Pleasant Mills Road to its intersection with County Road 563 at Weekstown; thence southeasterly along County Road 563 to its intersection with Clarks Landing Road leading to Port Republic; thence easterly along Clarks Landing Road to its intersection with the Garden State Parkway; thence southerly along the Garden State Parkway to its intersection with Alt. 559, and thence northwesterly along Alt. 559 to its intersection with County Road 559 at Gravelly Run; thence

Manufacture, use, or distillation of phenols, cresols, or coal tar materials.

Manufacture of lead acid storage batteries and/or storage batteries produced from other heavy metals, such as nickel or cadmium.

Installation of above or underground pipelines designed to transport petroleum, natural gas, and sanitary sewage.

Operations involving the dyeing, bleaching, coating, impregnating, or glazing of paper.

Dyeing, bleaching, and printing of textiles other than wool. Chemical finishing for water repelling, fire resistance, and mildew proofing, including preshrinking, coating and impregnating.

Sawmill and planing mill operations.

Marine terminal and cargo handling facilities.

d. "Person" means and shall include corporations, companies, associations, societies, firms, partnerships and joint stock companies as well as individuals and governmental agencies.

e. "Governmental agencies" means the Government of the United States, the State of New Jersey, or any other states, their political subdivisions, agencies, or instrumentalities thereof, and interstate agencies.

C. 13:19-4 "Coastal area" defined.

4. The "coastal area" shall consist of all that certain area lying between the line as hereinafter described and the line formed by the State's seaward (Raritan Bay and Atlantic ocean) territorial jurisdiction on the east thereof, the State's bayward (Delaware Bay) territorial jurisdiction on the south and southwest thereof, and the State's riverward (Delaware River) territorial jurisdiction on the west thereto. Beginning at the confluence of Cheesapeake Creek with the Raritan Bay; thence southwesterly along the center line of Cheesapeake Creek to its intersection with the Garden State Parkway; thence southeasterly along the Garden State Parkway to Exit 117 at State Highway 36; thence northeasterly along State Highway 36 to the intersection of Middle Road (County 516); thence easterly along Middle Road to the intersection of Palmer Avenue (County 7); thence northeasterly on Main Street to the intersection of State Highway 36; thence easterly on State Highway 36 to the intersection of Navesink Avenue; thence southerly on Navesink Avenue to the intersection of Monmouth Avenue at Navesink; thence westerly on Monmouth Avenue to its intersection with Browns Dock Road; thence southerly on Browns Dock

CHAPTER 185, LAWS OF 1973

northwesterly along County Road 559 to its intersection with U. S. 40 and S. R. 50 at Mays Landing; thence westerly along combined U. S. 40 and S. R. 50 to its intersection with S. R. 50; thence southerly on S. R. 50 to its intersection with Buck Hill Road near Buck Hill; thence westerly along Buck Hill (River Road) Road to its intersection with S. R. 49; thence southeasterly along S. R. 49 to its intersection with S. R. 50; thence southeasterly along S. R. 50 to its intersection with County Road 585; thence southwesterly along County Road 585 to its intersection with S. R. 47 at Dennisville; thence northwesterly along S. R. 47 to its intersection with State Road 49 at Millville; thence through Millville along State Road 49 to its intersection with County Road 555; thence southerly along County Road 555 to its intersection with County Road 27; thence southerly along County Road 27 to its intersection with County Road 70; thence southerly on County Road 70 to the Center of Mauricetown; thence through Mauricetown westerly on County Road 548 to its intersection with the tracks of the Central Railroad of New Jersey; thence northwesterly on the tracks of the Central Railroad of New Jersey to its intersection with County Road 93; thence easterly along County Road 93 to the intersection with County Road 38; thence northerly along County Road 38 to its intersection with S. R. 49 east of Bridgeton; thence westerly along S. R. 49 through Bridgeton to its intersection with County Road 5 (Roadstown Road); thence westerly along County Road 5 (Roadstown Road) to Roadstown; thence northwesterly along the Roadstown Road to County Road 47; thence southwesterly along County Road 47 to its intersection with County Road 19; thence along County Road 19 northwesterly to Gum Tree Corner; thence northwesterly along County Road 19 from Gum Tree Corner across Stowe Creek to its intersection with Salem County Road 50 (Hancock's Bridge Road); thence northwesterly along County Road 50 to its intersection with County Road 51 at Coopers Branch; thence northeasterly along County Road 51 to its intersection with S. R. 49 at Quinton; thence northwesterly along S. R. 49 to its intersection with County Road 50; thence southwesterly along County Road 50 to its intersection with County Road 58; thence southerly on County Road 58 to its intersection with County Road 24; thence westerly along County Road 24 to its intersection with County Road 65; thence northerly along County Road 65 (Walnut Street) to its intersection with County Road 4; thence westerly along County Road 4 and northerly along

County Road 4 and thence easterly along County Road 4 to its intersection with State Road 49; thence northerly along State Road 49 (Front Street) to its intersection with County Road 57; thence easterly along County Road 57 to its intersection with State Road 45; thence northerly along State Road 45 to its intersection with County Road 540 at Pointers; thence northerly and northwesterly along County Road 540 (Deepwater-Slapes Corner Road) to its intersection with the New Jersey Turnpike; thence westerly along the New Jersey Turnpike to its intersection with County Road 33; thence southerly along County Road 33 to its intersection with State Road 49; thence southeasterly along S. R. 49 to its intersection with County Road 26; thence northwesterly along County Road 26 to the Killbuck National Wildlife Refuge; thence northwesterly along this northeasterly boundary to the limits of the State's territorial jurisdiction on the Delaware River; provided, however, that the coastal area shall not include all that certain area in Cape May County lying within a line beginning at the intersection of S. R. 47 and County Road 54; thence westerly on County Road 54; to the intersection of County Road 3; thence southeasterly on County Road 3 through the intersection of County Road 3 with County Road 13 to the intersection with County Road 47; thence easterly and northerly along County Road 47 to its intersection with State Road 9; thence northerly along State Road 9 to its intersection with State Road 47; thence westerly along State Road 47 to its intersection with County Road 54.

C. 13:19-5 Permit to construct facility.

5. No person shall construct or cause to be constructed a facility in the coastal area until he has applied for and received a permit issued by the commissioner; however, the provisions of this act shall not apply to facilities for which on-site construction, including site preparation, was in process on or prior to the effective date of this act.

C. 13:19-6 Application for permit.

6. Any person proposing to construct or cause to be constructed a facility in the coastal area shall file an application for a permit with the commissioner, in such form and with such information as the commissioner may prescribe. The application shall include an environmental impact statement as described in this act.

C. 13:19-7 Contents of environmental impact statement.

7. The environmental impact statement shall provide the information needed to evaluate the effects of a proposed project upon the environment of the coastal area.

CHAPTER 185, LAWS OF 1973

position concerning the application and any data they may have developed in reference to the environmental effects of the proposed facility.

b. The commissioner, within 15 days after the hearing, may require an applicant to submit any additional information necessary for the complete review of the application.

C. 13:19-10 Review of applications; required findings.

10. The commissioner shall review filed applications, including the environmental impact statement and all information presented at public hearings. He shall issue a permit only if he finds that the proposed facility:

a. Conforms with all applicable air, water and radiation emission and effluent standards and all applicable water quality criteria and air quality standards.

b. Prevents air emissions and water effluents in excess of the existing dilution, assimilative, and recovery capacities of the air and water environments at the site and within the surrounding region.

c. Provides for the handling and disposal of litter, trash, and refuse in such a manner as to minimize adverse environmental effects and the threat to the public health, safety, and welfare.

d. Would result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies.

e. Would cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

f. Is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare.

g. Would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing scenic and aesthetic attributes at the site and within the surrounding region.

C. 13:19-11 Grounds for denial of permit applications; conditional permits; approval of nuclear electricity generating facility.

11. Notwithstanding the applicant's compliance with the criteria listed in section 10 of this act, if the commissioner finds that the proposed facility would violate or tend to violate the purpose and intent of this act as specified in section 2, or if the commissioner finds that the proposed facility would materially contribute

The statement shall include:

a. An inventory of existing environmental conditions at the project site and in the surrounding region which shall describe air quality, water quality, water supply, hydrology, geology, soils, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archeology; for housing, the inventory shall describe water quality, water supply, hydrology, geology, soils and topography;

b. A project description which shall specify what is to be done and how it is to be done, during construction and operation;

c. A listing of all licenses, permits or other approvals as required by law and the status of each;

d. An assessment of the probable impact of the project upon all topics described in a.;

e. A listing of adverse environmental impacts which cannot be avoided;

f. Steps to be taken to minimize adverse environmental impacts during construction and operation, both at the project site and in the surrounding region;

g. Alternatives to all or any part of the project with reasons for their acceptability or nonacceptability;

h. A reference list of pertinent published information relating to the project, the project site, and the surrounding region.

C. 13:19-8 Declaration of completeness of application.

8. a. Within 30 days following receipt of an application, the commissioner shall notify the applicant in writing regarding its completeness. The commissioner may declare the application to be complete for filing or may notify the applicant of specific deficiencies. The commissioner, within 15 days following the receipt of additional information to correct deficiencies, shall notify the applicant of the completeness of the amended application. The application shall not be considered to be filed until it has been declared complete by the commissioner.

b. The commissioner, within 15 days of declaring the application complete for filing, shall set a date for the hearing. The date for the hearing shall be set not later than 60 days after the application is declared complete for filing.

C. 13:19-9 Hearing.

9. a. The commissioner, or a member of the department designated by him, shall hold a hearing to afford interested parties standing and the opportunity to present, orally or in writing, both their

CHAPTER 185, LAWS OF 1973

to an already serious and unacceptable level of environmental degradation or resource exhaustion, he may deny the permit application, or he may issue a permit subject to such conditions as he finds reasonably necessary to promote the public health, safety and welfare, to protect public and private property, wildlife and marine fisheries, and to preserve, protect and enhance the natural environment. In addition, the construction and operation of a nuclear electricity generating facility shall not be approved by the commissioner unless he shall find that the proposed method for disposal of radioactive waste material to be produced or generated by such facility will be safe, conforms to standards established by the Atomic Energy Commission and will effectively remove danger to life and the environment from such waste material.

C. 13:19-12 Notification to applicant.

12. The commissioner shall notify the applicant within 60 days after the hearing as to the granting or denial of a permit. The reasons for granting or denying the permit shall be stated. In the event the commissioner requires additional information as provided for in section 9, he shall notify the applicant of his decision within 90 days following the receipt of the information.

C. 13:19-13 Coastal Area Review Board; creation, membership, voting, powers.

13. There is hereby created the Coastal Area Review Board, in but not of the Department of Environmental Protection, which shall consist of three voting members who shall be the Commissioner of Environmental Protection or his designated representative, the Commissioner of Labor and Industry or his designated representative and the Commissioner of Community Affairs or his designated representative. No vote on a permit request shall be taken unless all voting members are present.

The Coastal Area Review Board shall have the power to hear appeals from decisions of the commissioner pursuant to section 12. The board may affirm or reverse the decision of the commissioner with respect to applicability of any provision of this act to a proposed use; it may modify any permit granted by the commissioner, grant a permit denied by him, deny a permit granted by him, or confirm his grant of a permit. The board shall review filed applications, including the environmental impact statement and all information presented at public hearings and any other information the commissioner makes available to the board prior to the affirmation or reversal of a decision of the commissioner.

C. 13:19-14 Continuance in force of issued permit.

14. In the event of rental, lease, sale or other conveyance by an applicant to whom a permit is issued, such permit, with any conditions, shall be continued in force and shall apply to the new tenant, lessee, owner, or assignee so long as there is no change in the nature of the facility set forth in the original application.

C. 13:19-15 Effect of denial of application.

15. The denial of an application shall in no way adversely affect the future submittal of a new application.

C. 13:19-16 Environmental inventory; alternate environmental management strategies; environmental design for coastal area.

16. The commissioner shall, within 2 years of the taking effect of this act, prepare an environmental inventory of the environmental resources of the coastal area and of the existing facilities and land use developments within the coastal area and an estimate of the capability of the various area within the coastal area to absorb and react to man-made stresses. The commissioner shall, within 3 years of the taking effect of this act, develop from this environmental inventory alternate long-term environmental management strategies which take into account the paramount need for preserving environmental values and the legitimate need for economic and residential growth within the coastal area. The commissioner shall, within 4 years of the taking effect of this act, select from the alternate environmental management strategies an environmental design for the coastal area. The environmental design shall be the approved environmental management strategy for the coastal area and shall include a delineation of various areas appropriate for the development of residential and industrial facilities of various types, depending on the sensitivity and fragility of the adjacent environment to the existence of such facilities. The environmental inventory, the alternate long-term environmental management strategies and the environmental design for the coastal area shall be presented to the Governor and the Legislature within the time frame indicated herein.

C. 13:19-17 Rules and regulations.

17. The department is hereby authorized to adopt, amend and repeal rules and regulations to effectuate the purposes of this act.

C. 13:19-18 Injunctive relief; penalties.

18. If any person violates any of the provisions of this act, rule, regulation or order promulgated or issued pursuant to the provisions of this act, the department may institute a civil action in

the Superior Court for injunctive relief to prohibit and prevent such violation or violations and said court may proceed in a summary manner. Any person who violates any of the provisions of this act, rule, regulation or order promulgated or issued pursuant to this act shall be liable to a penalty of not more than \$3,000.00 to be collected in a summary proceeding or in any case before a court of competent jurisdiction wherein injunctive relief has been requested. If the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense. The department is hereby authorized and empowered to compromise and settle any claim for a penalty under this section in such amount in the discretion of the department as may appear appropriate and equitable under the circumstances.

C. 13:19-19 Applicability of act.

19. The provisions of this act shall not be regarded as to be in derogation of any powers now existing and shall be regarded as supplemental and in addition to powers conferred by other laws, including municipal zoning authority. The provisions of this act shall not apply to those portions of the coastal areas regulated pursuant to enforceable orders under the Wetlands Act, C. 13:9A-1 et seq., section 16 however shall apply to the entire area within the boundaries described herein.

C. 13:19-20 Construction of act.

20. This act shall be liberally construed to effectuate the purpose and intent thereof.

C. 13:19-21 Partial invalidity.

21. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

22. There is hereby appropriated to the Department of Environmental Protection for the purposes of this act the sum of \$100,000.00.

23. This act shall take effect 90 days from the date of enactment, except that section 22 shall take effect immediately.

Approved June 20, 1973.

CHAPTER 272

AN ACT concerning the protection of natural resources in coastal wetlands, providing for the designation by the Commissioner of Environmental Protection of certain coastal wetlands, after public hearing, and requiring permits from the Commissioner before or prior to the dredging, removing, filling or otherwise altering or polluting coastal wetlands.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C. 13:9A-1 Legislature's findings and declaration of policy; inventory and mapping of tidal wetlands; filing of maps.

1. a. The Legislature hereby finds and declares that one of the most vital and productive areas of our natural world is the so-called "estuarine zone," that area between the sea and the land; that this area protects the land from the force of the sea, moderates our weather, provides a home for water fowl and for 75% of all our fish and shellfish, and assists in absorbing sewage discharge by the rivers of the land; and that in order to promote the public safety, health and welfare, and to protect public and private property, wildlife, marine fisheries and the natural environment, it is necessary to preserve the ecological balance of this area and prevent its further deterioration and destruction by regulating the dredging, filling, removing or otherwise altering or polluting thereof, all to the extent and in the manner provided herein.

b. The Commissioner of Environmental Protection shall, within 2 years of the effective date of this act, make an inventory and map of all tidal wetlands within the State. The boundaries of such wetlands shall generally define the areas that are at or below high water and shall be shown on suitable maps, which may be reproductions or aerial photographs. Each such map shall be filed in the office of the county recording officer of the county or counties in which the wetlands indicated thereon are located. Each wetland map shall bear a certificate of the commissioner to the effect that it is made and filed pursuant to this act. To be entitled to filing no wetlands map need meet the requirements of R. S. 47:1-6.

C. 13:9A-2 Authority to regulate alteration of coastal wetlands; definition.

2. The Commissioner may from time to time, for the purpose of promoting the public safety, health and welfare, and protecting pub-

lic and private property, wildlife and marine fisheries, adopt, amend, modify or repeal orders regulating, restricting or prohibiting dredging, filling, removing or otherwise altering, or polluting, coastal wetlands. For the purposes of this act the term "coastal wetlands" shall mean any bank, marsh, swamp, meadow, flat or other low land subject to tidal action in the State of New Jersey along the Delaware bay and Delaware river, Raritan bay, Barnegat bay, Sandy Hook bay, Shewsbury river including Navesink river, Shark river, and the coastal inland waterways extending southerly from Manasquan Inlet to Cape May Harbor, or at any inlet, estuary or tributary waterway or any thereof, including those areas now or formerly connected to tidal waters whose surface is at or below an elevation of 1 foot above local extreme high water, and upon which may grow or is capable of growing some, but not necessarily all, of the following: Salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardi*), saltmarsh grass (*Spartina alterniflora*), saltworts (*Salicornia Europaea*, and *Salicornia bigelovii*), Sea Lavendar (*Limonium carolinianum*), salt-marsh bulrushes (*Scirpus robustus* and *Scirpus paludosus* var. *atlanticus*), sand spurrey (*Spergularia marina*), switch grass (*Panicum virgatum*), tall cordgrass (*Spartina pectinata*), high tide bush (*Iva frutescens* var. *oraria*), cattails (*Typha angustifolia*, and *Typha latifolia*), spike rush (*Eleocharis rostellata*), chairmaker's rush (*Scirpus americana*), bent grass (*Agrostis palustris*), and sweet grass (*Hierochloa odorata*). The term "coastal wetlands" shall not include any land or real property subject to the jurisdiction of the Hackensack Meadowlands Development Commission pursuant to the provisions of P. L. 1968, chapter 404, sections 1 through 84 (C. 13:17-1 through C. 13:17-86).

C. 13:9A-4 "Regulated activity" defined; permit application; contents; inspection; effect of work to be considered.

4. a. For purposes of this section "regulated activity" includes but is not limited to draining, dredging, excavation or removal of soil, mud, sand, gravel, aggregate of any kind or depositing or dumping therein any rubbish or similar material or discharging therein liquid wastes, either directly or otherwise, and the erection of structures, drivings of pilings, or placing of obstructions, whether or not changing the tidal ebb and flow. "Regulated activity" shall not include continuance of commercial production of salt hay or other agricultural crops or activities conducted under section 7 of this act.

b. No regulated activity shall be conducted upon any wetland without a permit.

c. Any person proposing to conduct or cause to be conducted a regulated activity upon any wetland shall file an application for a permit with the commissioner, in such form and with such information as the commissioner may prescribe. Such application shall include a detailed description of the proposed work and a map showing the area of wetland directly affected, with the location of the proposed work thereon, together with the names of the owners of record of adjacent land and known claimants of rights in or adjacent to the wetland of whom the applicant has notice. All applications, with any maps and documents relating thereto, shall be open for inspection at the office of the Department of Environmental Protection.

d. In granting, denying or limiting any permit the commissioner shall consider the effect of the proposed work with reference to the public health and welfare, marine fisheries, shell fisheries, wildlife, the protection of life and property from flood, hurricane and other natural disasters, and the public policy set forth in section 1. a. of this act.

lic and private property, wildlife and marine fisheries, adopt, amend, modify or repeal orders regulating, restricting or prohibiting dredging, filling, removing or otherwise altering, or polluting, coastal wetlands. For the purposes of this act the term "coastal wetlands" shall mean any bank, marsh, swamp, meadow, flat or other low land subject to tidal action in the State of New Jersey along the Delaware bay and Delaware river, Raritan bay, Barnegat bay, Sandy Hook bay, Shewsbury river including Navesink river, Shark river, and the coastal inland waterways extending southerly from Manasquan Inlet to Cape May Harbor, or at any inlet, estuary or tributary waterway or any thereof, including those areas now or formerly connected to tidal waters whose surface is at or below an elevation of 1 foot above local extreme high water, and upon which may grow or is capable of growing some, but not necessarily all, of the following: Salt meadow grass (*Spartina patens*), spike grass (*Distichlis spicata*), black grass (*Juncus gerardi*), saltmarsh grass (*Spartina alterniflora*), saltworts (*Salicornia Europaea*, and *Salicornia bigelovii*), Sea Lavendar (*Limonium carolinianum*), salt-marsh bulrushes (*Scirpus robustus* and *Scirpus paludosus* var. *atlanticus*), sand spurrey (*Spergularia marina*), switch grass (*Panicum virgatum*), tall cordgrass (*Spartina pectinata*), high tide bush (*Iva frutescens* var. *oraria*), cattails (*Typha angustifolia*, and *Typha latifolia*), spike rush (*Eleocharis rostellata*), chairmaker's rush (*Scirpus americana*), bent grass (*Agrostis palustris*), and sweet grass (*Hierochloa odorata*). The term "coastal wetlands" shall not include any land or real property subject to the jurisdiction of the Hackensack Meadowlands Development Commission pursuant to the provisions of P. L. 1968, chapter 404, sections 1 through 84 (C. 13:17-1 through C. 13:17-86).

C. 13:9A-3 Adoption, change or repeal of order; hearing, notice; recording, indexing and filing of order; mailing.

3. The commissioner shall, before adopting, amending, modifying or repealing any such order, hold a public hearing thereon in the county in which the coastal wetlands to be affected are located, giving notice thereof to each owner having a recorded interest in such wetlands by mail at least 21 days prior thereto addressed to his address as shown in the municipal tax office records and by publication thereof at least twice in each of the 3 weeks next preceding the date of such hearing in a newspaper of general circulation in the municipality or municipalities in which such coastal wetlands are located.

C. 13:9A-5 Restraint of violations.

5. The Superior Court shall have jurisdiction to restrain violations of orders issued pursuant to this act.

C. 13:9A-6 Filing of complaint; determination of issue exclusive.

6. Any person having a recorded interest in land affected by any such order or permit, may, within 90 days after receiving notice thereof, file a complaint in the Superior Court to determine whether such order or permit so restricts or otherwise affects the use of his property as to deprive him of the practical use thereof and is therefore an unreasonable exercise of the police power because the order or permit constitutes the equivalent of a taking without compensation. If the court finds the order or permit to be an unreasonable exercise of the police power, the court shall enter a finding that such order or permit shall not apply to the land of the plaintiff; provided, however, that such finding shall not affect any other land than that of the plaintiff. Any party to the suit may cause a copy of such finding to be recorded forthwith in the office of the county clerk or register of deeds, where it shall be indexed and filed as a judgment.

The method provided in this section for the determination of the issue shall be exclusive, and such issue shall not be determined in any other proceeding.

C. 13:9A-7 Certain powers and duties not to be restricted.

7. No action by the commissioner under this act shall prohibit, restrict or impair the exercise or performance of the powers and duties conferred or imposed by law on the State Department of Environmental Protection, the Natural Resource Council and the State Mosquito Control Commission in said Department, the State Department of Health, or any mosquito control or other project or activity operating under or authorized by the provisions of chapter 9 of Title 26 of the Revised Statutes.

C. 13:9A-8 Riparian rights or obligations not affected.

8. Nothing in this act or any permit issued hereunder shall affect the rights of the State in, or the obligations of a riparian owner with respect to, riparian lands.

C. 13:9A-9 Liability in event of violations; penalty.

9. Any person who violates any order by the commissioner, or violates any of the provisions of this act, shall be liable to the State for the cost of restoration of the affected wetland to

its condition prior to such violation insofar as that is possible, and shall be punished by a fine of not more than \$1,000.00, to be collected in accordance with the provisions of the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

C. 13:9A-10 Short title.

10. This act may be cited as "The Wetlands Act of 1970."

11. This act shall take effect immediately.

Approved November 5, 1970.

1977 Senate No. 3179 (Official Copy Reprint)

AN ACT concerning the production, distribution, conservation, and consumption of energy, establishing a Department of Energy as a principal department in the Executive Branch of State Government and repealing parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. This act shall be known and may be cited as the "Department of Energy Act."

2. The Legislature hereby finds and determines that a secure, stable, and adequate supply of energy at reasonable prices is vital to the State's economy and to the public health, safety, and welfare; that this State is threatened by the prospect of both near- and long-term energy shortages; that the existing dispersion of responsibilities with respect to energy and energy-related matters among various State departments, divisions, agencies, and commissions inhibits comprehensive and effective planning for our future energy needs; and that the State government does not now possess either sufficient information or adequate authority to provide for and insure the wise and efficient production, distribution, use, and conservation of energy.

The Legislature further finds and determines that only an agency with comprehensive powers can collect, collate, and analyze the information necessary to determine the amount of energy that is or may be available; develop mechanisms to insure a fair and equitable distribution of existing supplies; conduct the long-term planning and management needed to eliminate or alleviate the potential adverse effects of a supply of energy insufficient to meet

EXPLANATION—Matter enclosed in bold-faced brackets [like this] in the above bill is not enacted and is intended to be omitted in the law.

h. ["Energy"] "Energy" industry" means any person, company, corporation, business, institution, establishment or other organization of any nature engaged in the exploration, extraction, transportation, transmission, refining, processing, generation, distribution, sale or storage of energy;

i. "Fuel" means coal, petroleum products, gases and nuclear fuel, including enriched uranium, U235 and U238, and plutonium, U239;

j. "Gases" means natural gas, methane, liquefied natural gas, synthetic natural gas, coal gas and other manufactured gases;

k. "Person" means natural persons, partnerships, firms, associations, joint stock companies, syndicates and corporations, and any receiver, trustee, conservator or other officer appointed pursuant to law or by any court, State or Federal; "person" also means the State of New Jersey, counties, municipalities, authorities, other political subdivisions, and all departments and agencies within the aforementioned governmental entities;

l. "Petroleum products" means and includes motor gasoline, middle distillate oils, residual fuel oils, aviation fuel, propane, butane, natural gasoline, naphtha, gas oils, lubricating oils and any other similar or dissimilar liquid hydrocarbons;

m. "Public building" means any building, structure, facility or complex used by the general public, including, but not limited to, theaters, concert halls, auditoriums, museums, schools, libraries, recreation facilities, public transportation terminals and stations, factories, office buildings, business establishments, passenger vehicle service stations, shopping centers, hotels or motels and public eating places, owned by any State, county or municipal government agency or instrumentality or any private individual, partnership, association or corporation;

n. "Purchase" means and includes, in addition to its ordinary meaning, any acquisition of ownership or possession, including, but not limited to, condemnation by eminent domain proceedings;

o. "Retail dealer" means any person who engages in the business of selling fuels from a fixed location such as a service station, filling station, store, or garage directly to the ultimate users of said fuel;

p. "Sale" means and includes, in addition to its ordinary meaning, any exchange, gift, theft, or other disposition. In such case where fuels are exchanged, given, stolen, or otherwise disposed of, they shall be deemed to have been sold;

legitimate needs or from practices of production, distribution, and consumption detrimental to the quality of life or the environment; "contribute to the proper siting of energy facilities necessary to serve the public interest," coordinate New Jersey's energy policies and actions with Federal energy policies; and secure for New Jersey the maximum amount of Federal funding available for energy related research, development, and demonstration projects.

The Legislature further finds and determines that shortages of energy have the potential at certain times and in certain places to so seriously affect the public interest that it is necessary for State government to possess emergency powers sufficient to prevent or minimize health disasters and grave economic disruptions which could occur during said times.

The Legislature, therefore, declares it to be in the best interest of the citizens of this State to establish a principal department in the Executive Branch of State Government to coordinate authority, regulation and planning by the State in energy related matters.

3. As used in this act:

a. "Commissioner" means the Commissioner of the Department of Energy;

b. "Department" means the Department of Energy established by this act;

c. "Distributor" means and includes each person, wherever resident or located, who imports into this State fuels for use, distribution, storage, or sale in this State after the same shall reach this State; and also each person who produces, refines, manufactures, blends, or compounds fuels and sells, uses, stores, or distributes the same within this State. In no case, however, shall a retail dealer be construed to be a distributor;

d. "Energy" means all power derived from, or generated by, any natural or man-made agent, including, but not limited to, petroleum products, gases, solar radiation, atomic fission or fusion, mineral formations, thermal gradients, wind, or water.

e. "Energy facility" means any plant or operation which produces, converts, distributes or stores energy or converts one form of energy to another; in no case, however, shall an operation conducted by a person acting only as a retail dealer be construed as an energy facility;

f. "Energy information" means any statistic, datum, fact, or item of knowledge and all combinations thereof relating to energy;

g. "Energy information system" means the composite of energy information collected by the office;

q. "Supplier of fuel" means any refiner, importer, marketer, jobber, distributor, terminal operator, firm, corporation, wholesaler, broker, cooperative or other person who supplies, sells, consigns, transfers, or otherwise furnishes fuel. In no case, however, shall a retail dealer be construed to be a supplier of fuel;

r. "Trade secret" means the whole or any portion or phase of any scientific, technical or otherwise proprietary information, design, process, procedure, formula or improvement which is used in one's business and is secret and of value; and a trade secret shall be presumed to be secret when the owner takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes;

s. "Wholesale dealer" means any person who engages in the business of selling fuels to other persons who resell the said fuel. In no case shall a retail dealer be considered as a "wholesale" dealer.

4. There is hereby established in the Executive Branch of the State Government a principal department which shall be known as the Department of Energy.

5. The administrator and chief executive officer of the department shall be a commissioner who shall be a person qualified by training and experience to perform the duties of his office. The commissioner shall be appointed by the Governor with the advice and consent of the Senate, and shall serve at the pleasure of the Governor and until the appointment and qualification of the commissioner's successor. He shall devote his entire time to the duties of his office and shall receive such salary as shall be provided by law. Any vacancy occurring in the office of the commissioner shall be filled in the same manner as the original appointment.

5.1.a. There is hereby established in the department the Board of Public Utilities; provided, however, that such board shall be independent of any supervision or control by the department or by any officer or employee thereof, except as otherwise expressly provided in this act.

b. The Department of Public Utilities is abolished and its functions, powers and duties are hereby transferred to the Board of Public Utilities, except as provided in section 25 of this act.

c. The Board of Public Utility Commissioners and the positions of president and commissioners thereof shall be continued as the Board of Public Utilities and the president and commissioners thereof in the Board of Public Utilities. This act shall not affect the terms of office of, nor the salaries received by, the present mem

24 bers of the Board of Public Utility Commissioners, or of any
25 officers or employees thereof. The Department of Civil Service
26 shall not reclassify any title or position transferred from the De-
27 partment of Public Utilities pursuant to this act without the ap-
28 proval of the board. The President and Commissioners of the
29 Board of Public Utilities shall be appointed in the manner provided
30 by existing law for the appointment of the President and Commis-
31 sioners of the Board of Public Utility Commissioners, and shall
32 receive such salaries as shall be provided by law.

33 d. All functions, powers and duties now vested in the Board of
34 Public Utility Commissioners and in the positions of president and
35 commissioners thereof are hereby transferred to and assumed by
36 the Board of Public Utilities and the president and commissioners
37 thereof.

38 e. Whenever in any law, rule, regulation, order, contract, docu-
39 ment, judicial or administrative proceeding or otherwise, reference
40 is made to the Department of Public Utilities or the Board of Public
41 Utility Commissioners, the same shall mean and refer to the Board
42 of Public Utilities.

43 52.a. There is hereby established in the department the Division
44 of Energy Planning and Conservation.

45 b. The Division of Energy Planning and Conservation shall be
46 under the immediate supervision of a director who shall be ap-
47 pointed by the Governor, with the advice and consent of the Senate,
48 and who shall serve at the pleasure of the Governor during the
49 Governor's term of office and until the appointment and qualifica-
50 tion of his successor. The director shall receive such salary as
51 shall be provided by law.*

52 f. The commissioner shall organize the work of the department
53 and establish therein such administrative subdivisions as he may
54 deem necessary, proper and expedient. He may formulate and
55 adopt rules and regulations and prescribe duties for the efficient
56 conduct of the business, work and general administration of the
57 department. He may delegate to subordinate officers or employees
58 in the department such of his powers as he may deem desirable
59 to be exercised under his supervision and control.

60 g. Subject to the provisions of Title 11 of the Revised Statutes,
61 and within the limits of funds appropriated or otherwise made
62 available, the commissioner may appoint such officers and em-
63 ployees of the department as he may deem necessary for the
64 performance of its duties, fix and determine their qualifications,
65 duties, and compensation and retain or employ engineers and

7 private consultants on a contract basis or otherwise for rendering
8 professional or technical assistance.

9 S. "a." The commissioner shall make an annual report to the
10 Legislature and the Governor of the department's operations and
11 render such other reports as they shall from time to time request
12 or as may be required by law. These reports shall include, but not
13 be limited to, an analysis of existing problems and guidelines re-
14 lating to future energy use and availability.

15 "b. Within 6 months of the effective date of this act, the com-
16 missioner, after consultation with the Director of the Division of
17 Energy Planning and Conservation, the Board of Public Utilities,
18 the Attorney General, and the commissioners of appropriate execu-
19 tive departments, including but not necessarily limited to the De-
20 partments of Environmental Protection and Transportation, shall
21 prepare and submit a report to the Legislature and the Governor
22 identifying (1) those functions and duties currently exercised by
23 other departments, divisions, agencies, commissions, councils,
24 boards, or bureaus of State Government relating to energy that
25 might be appropriately transferred to the department; and (2)
26 those functions and duties transferred to the department pursuant
27 to the provisions of this act that might be appropriately transferred
28 to other departments. Such transfers may be effectuated by execu-
29 tive order or law, as the case may be."

30 9. The commissioner shall, "by and through" on behalf of the depart-
31 ment "through the Division of Energy Planning and Conservation":

32 a. Manage the department as the central repository within the
33 State Government for the collection of energy information;

34 b. Collect and analyze data relating to present and future
35 demands and resources for all forms of energy;

36 c. Have authority to require all persons, firms, corporations or
37 other entities engaged in the production, processing, distribution,
38 transmission or storage of energy in any form to submit reports
39 setting forth such information as shall be required to carry out the
40 provisions of this act;

41 d. Have authority to require any person to submit information
42 necessary for determining the impact of any construction or
43 development project on the energy and fuel resources of this State;

44 e. Charge other State Government departments and agencies
45 involved in energy-related activities*, including the Board of
46 Public Utilities,* with specific information gathering goals and
47 require that said goals be fulfilled;

17 f. Establish an energy information system which will provide
18 all data necessary to insure a fair and equitable distribution of
19 available energy, to permit a more efficient and effective use of
20 available energy, and to provide the basis for long-term planning
21 related to energy needs;

22 g. Design, implement, and enforce a program for the conservation
23 of energy in commercial, industrial, and residential facilities, which
24 program shall provide for the evaluation of energy systems as they
25 relate to lighting, heating, refrigeration, air-conditioning, building
26 design and operation, and appliance manufacturing and operation;
27 and may include, but shall not be limited to, the requiring of an
28 annual inspection and adjustment, if necessary, of oil-fired heating
29 systems in residential, commercial and industrial buildings so as to
30 bring such systems into conformity with efficiency standards
31 therefor prescribed by the department; the setting of lighting
32 efficiency standards for public buildings; the establishment of
33 mandatory thermostat settings and the use of seven-day, day-night
34 thermostats in public buildings; the development of standards for
35 efficient boiler operation; and, the preparation of a plan to insure
36 the phased retrofitting of existing gas furnaces with electric igni-
37 tion systems and to require that new gas "[furnaces,]" ranges "[,]"
38 and dryers be equipped with electric ignition systems*, and new
39 gas furnaces with electric ignition systems and automatic vent-
40 dampers*;

41 h. Conduct and supervise a State-wide program of education
42 including the preparation and distribution of information relating
43 to energy conservation;

44 i. Monitor prices charged for energy within the State, evaluate
45 policies governing the establishment of rates and prices for energy,
46 and make recommendations for necessary changes in such policies
47 to other concerned Federal and State agencies*, including the Board
48 of Public Utilities,* and to the Legislature;

49 j. Have authority to conduct and supervise research projects
50 and programs for the purpose of increasing the efficiency of energy
51 use, developing new sources of energy, evaluating energy conserva-
52 tion measures, and meeting other goals consistent with the intent
53 of this act;

54 k. Have authority to distribute and expend funds made available
55 for the purpose of research projects and programs;

56 l. Have authority to enter into interstate compacts in order to
57 carry out energy research and planning with other states or the
58 Federal Government where appropriate;

57 m. Have authority to apply for, accept, and expend grants-in-aid
58 and assistance from private and public sources for energy pro-
59 grams; notwithstanding any other law to the contrary, the com-
60 missioner is designated as the State official to apply for, receive,
61 and expend Federal and other funding made available to the State
62 for the purposes of this act;

63 n. Require the annual submission of energy utilization reports
64 and conservation plans by State Government departments and
65 agencies, "including the Board of Public Utilities," evaluate said
66 plans and the progress of the departments and agencies in meeting
67 these plans, and order changes in the plans or improvement in
68 meeting the goals of the plans;

69 o. Carry out all duties given him under other sections of this act
70 or any other acts;

71 p. Have authority to conduct hearings and investigations in
72 order to carry out the purposes of this act and to issue subpoenas
73 in furtherance of such power. Said power to conduct investigations
74 shall include, but not be limited to, the authority to enter without
75 delay and at reasonable times the premises of any energy industry
76 in order to obtain or verify any information necessary for carrying
77 out the purposes of this act;

78 q. Have authority to adopt, amend or repeal, pursuant to the
79 "Administrative Procedure Act" (C. 52:14B-1 et seq.) such rules
80 and regulations necessary and proper to carry out the purposes of
81 this act;

82 r. Administer such Federal energy regulations as are applicable
83 to the states, including, but not limited to, the mandatory petroleum
84 allocation regulations and State energy conservation plans.

85 s. Have authority to sue and be sued;

86 t. Have authority to acquire by purchase, grant, contract or
87 eminent domain title to real property for the purpose of demon-
88 strating facilities which improve the efficiency of energy use,
89 conserve energy or generate energy in new and efficient ways;

90 u. Have authority to construct and operate, on an experimental
91 or demonstration basis, facilities which improve the efficiency of
92 energy use, conserve energy or generate power in new and efficient
93 ways;

94 v. Have authority to contract with any other public agency or
95 corporation incorporated under the laws of this or any other state
96 for the performance of any function under this act;

97 w. Determine the effect of energy and fuel shortages upon con-
98 sumers, and formulate proposals designed to encourage the lowest

98 possible cost of energy and fuels consumed in the State consistent
99 with the conservation and efficient use of energy;
100 x. Keep complete and accurate minutes of all hearings held
101 before the commissioner or any member of the "[department]"
102 "Division of Energy Planning and Conservation" pursuant to the
103 provisions of this act. All such minutes shall be retained in a
104 permanent record and shall be available for public inspection at
105 all times during the office hours of the department.

1 10. There is created in the "[department]" "Division of Energy
2 Planning and Conservation" an Advisory Council on Energy "Plan-
3 ning and Conservation" which shall consist of "[10]" "25" mem-
4 bers representing the following: the natural gas industry, the
5 bottle gas industry, the home heating oil and coal industry, terminal
6 operators, oil refiners, gasoline retailers, electrical utilities, nuclear
7 fuel suppliers, "[the Department of Public Utilities and the con-
8 suming public]" "environmental organizations, the solar energy
9 industry, manufacturing industrial consumers, commercial con-
9a sumers, residential consumers, the transportation industry and the
9b academic community". Members shall be appointed by the Gov-
9c ernor, with the advice and consent of the Senate, and as practically
10 as possible represent the several geographical areas of the State.

10 The council shall elect a chairman, vice chairman and secretary
11 from its membership. Of the members first appointed, "[three]"
12 "[five]" shall serve for terms of 2 years, "[three]" "[five]" for
13 terms of 3 years and "[four]" "[five]" for terms of 4 years.
14 Thereafter all appointments shall be made for terms of 4 years.
15 Members shall serve after the expiration of their terms until their
16 respective successors are appointed and shall qualify, and any
17 vacancy occurring in the membership of the council by expiration
18 of term or otherwise, shall be filled in the same manner as the
18a original appointment for the unexpired term only.

19 Members of the council shall serve without compensation but
20 shall be reimbursed for expenses actually incurred in attending
21 meetings of the council and in performance of their duties as
22 members thereof. The council shall meet at least four times each
23 year, at the call of its chairman, and at such other times, at the call
24 of the commissioner, as he deems necessary.

1 11. The Advisory Council on Energy "Planning and Conserva-
1a tion" is empowered to:

2 a. Request from the commissioner "and from the Director of the
3 Division of Energy Planning and Conservation" such energy in-
3a formation as it may deem necessary;

27 delineated in the master plan. Each such public hearing shall concern
28 the overall content of the plan and those aspects thereof that
29 have relevance to the specific geographical area in which each such
30 public hearing is being held;

31 (2) At least 60 days prior to each public hearing held pursuant
32 to this section, notify each energy industry and each State depart-
33 ment, commission, authority, council, agency, or board charged
34 with the regulation, supervision or control of any business, in-
35 dustry or utility engaged in the production, processing, distribu-
36 tion, transmission, or storage of energy in any form of the time
37 and place for the hearing and shall publish such notice in a news-
38 paper of general circulation in the region where the hearing is to
39 be held, and in such newspapers of general circulation in the State
40 as the commissioner determines appropriate to reach the greatest
41 possible number of citizens of New Jersey.

42 c. Upon the completion of the requirements of subsection b. of
43 this section, the department shall consider the testimony presented
44 at all such public hearings and adopt the energy master plan,
45 together with any additions, deletions, or revisions it shall deem
46 appropriate.

47 d. Upon the adoption of the energy master plan, and upon each
48 revision thereof, the department shall cause copies thereof to be
49 printed and shall transmit sufficient copies thereof to the Governor
50 and the Legislature, for the use of the members thereof, and to
51 each State department, commission, authority, council, agency, or
52 board charged with the regulation, supervision or control of any
53 business, industry or utility engaged in the production, processing,
54 distribution, transmission, or storage of energy in any form. In
55 addition, the department shall advertise in the manner provided in
56 subsection b. of this section the existence and availability of the
57 energy master plan from the offices of the department for the use
58 of such citizens of New Jersey as may request same; provided,
59 however, that the department may charge a fee for such copies of
60 the energy master plan sufficient to cover the costs of printing and
61 distributing same.

1 13. a. The "[department]" "Division of Energy Planning and
2 Conservation" is "[further]" empowered and directed to intervene
3 in any proceedings before, and appeals from, any State depart-
4 ment, "division," commission, authority, council, agency or board
5 (hereinafter referred to as "State instrumentalities") "including
6 the Board of Public Utilities" charged with the regulation, super-
7 vision or control of any business, industry or utility engaged in the

4 b. Consider any matter relating to the production, distribution,
5 consumption or conservation of energy;

6 c. From time to time submit to the commissioner any recom-
7 mendations which it deems necessary for the long-term planning
8 and management of energy;

9 d. Study energy programs and make its recommendations
10 thereon to the commissioner;

11 e. Review, prior to their promulgation, proposed rules and regu-
12 lations, of the department, and make its recommendations there-
13 upon, except such rules and regulations determined by the commis-
14 sioner to be emergency measures essential to preserve the public
15 health, safety, or welfare.

16 f. Hold public hearings in regard to existing statutes and regu-
17 lations governing the production, distribution, consumption or con-
18 servation of energy.

1 12. a. The department, "through the Division of Energy Plan-
1a ning and Conservation," within 1 year of the effective date of this
2 act, shall prepare or cause to be prepared, and, after public hear-
3 ings as hereinafter provided, adopt a master plan for a period of
4 10 years on the production, distribution, consumption and conserva-
5 tion of energy in this State. Such plan shall be revised and updated
6 at least once every 3 years. The plan shall include long-term
7 objectives but shall provide for the interim implementation of
8 measures consistent with said objectives. The department may
9 from time to time and after public hearings amend the master plan.
10 In preparing the master plan or any portion thereof or amendment
11 thereto the department shall give due consideration to the energy
12 needs and supplies in the several geographic areas of the State, and
13 shall consult and cooperate with any Federal or State agency hav-
14 ing an interest in the production, distribution, consumption or con-
15 servation of energy.

16 b. Upon preparation of such master plan, and each revision
17 thereof, the department shall cause copies thereof to be printed,
18 shall transmit sufficient copies thereof to the Governor and the
19 Legislature, for the use of the members thereof, and shall advertise,
20 in such newspapers as the commissioner determines appropriate to
21 reach the greatest possible number of citizens of New Jersey, the
22 existence and availability of such draft plan from the offices of the
23 department for the use of such citizens as may request same. In
24 addition, the department shall:

25 (1) Fix dates for the commencement of a series of public hear-
26 ings, at least one of which shall be held in each geographical area

8 production, processing, distribution, transmission or storage of
9 energy in any form, when, in the discretion of the commissioner,
10 such intervention is necessary to insure the proper consideration
11 by such State instrumentalities of the State energy master plan,
12 or any part or aspect thereof, adopted by the department pursuant
13 to section 12 of this act, or any rule or regulation promulgated by
14 the department pursuant to the provisions of this act. To facilitate
15 the intervention provisions of this section, each such State instru-
16 mentality shall consider the department a party of interest in any
17 proceedings before such instrumentality with respect to energy and
18 shall give the same notice to the department as is given to every
19 other party of interest in such proceedings of any meeting, public
20 hearing or other proceeding of such instrumentality in implement-
21 ing its regulatory, supervisory or control powers, responsibilities
21a and duties with respect to such businesses, industries or utilities.

22 b. It being the intention of the Legislature that the actions,
23 decisions, determinations and rulings of the State Government with
24 respect to energy shall to the maximum extent practicable and
25 feasible conform with the energy master plan adopted by the de-
26 partment pursuant to section 12 of this act, the department shall
27 prepare, periodically revise and distribute to each State instru-
28 mentality charged with the regulation, supervision or control of any
29 business, industry or utility engaged in the production, processing,
30 distribution, transmission or storage of energy in any form, such
31 guidelines as the department determines to be relevant to assist
32 each such instrumentality in conforming with said energy master
33 plan in implementing its regulatory, supervisory or control powers,
34 responsibilities and duties with respect to such businesses, in-
35 dustries or utilities.

36 c. With respect to the siting of any energy facility in any part
37 of New Jersey, the department shall, the provisions of any law
38 to the contrary notwithstanding, have jurisdiction coextensive with
39 that of any other State instrumentality, and to that end, no State
40 instrumentality with the power to grant or deny any permit for the
41 construction or location of any energy facility shall exercise its
42 powers without referring to the Division of Energy Planning and
43 Conservation, for its review and comments, a copy of such applica-
44 tion and all papers, documents and materials appurtenant thereto
45 filed by the applicant with such State instrumentality. Prior to
46 making a final decision with respect to any such application, the
47 State instrumentality with power of approval over such application
48 shall solicit the views of the department thereupon. Such views

49 shall be communicated to the State instrumentality with the power
50 of approval over such application in the form of a report describing
51 the findings of the department with respect to such application.
52 Such report shall be prepared by the Director of the Division of
53 Energy Planning and Conservation and shall be signed by said
54 director and by the commissioner. In the event that such report
55 is not prepared and transmitted to the State instrumentality with
56 power of approval over such application within 90 days after the
57 department's receipt of such application, such State instrumen-
58 tality shall act upon such application pursuant to the law providing
59 its power of approval thereof. In the event that the views of the
60 department, as contained in its report, with respect to any such
61 application differ from the views of the State instrumentality with
62 the power of approval over such application, there shall be estab-
63 lished an Energy Facility Review Board which shall consist of the
64 Director of the Division of Energy Planning and Conservation, the
65 director or chief executive officer of the State instrumentality with
66 the power of approval over such application, and a designee of the
67 Governor. The decision of the Energy Facility Review Board cre-
68 ated with respect to a specific energy facility application shall be
69 binding with respect to such facility and shall be implemented forth-
70 with by the State instrumentality with the power of approval over
71 such application.
72 In implementing its responsibilities pursuant to this subsection,
73 the department shall have the power to adopt, by regulation, a fee
74 schedule for reviewing applications for the construction or location
75 of energy facilities; provided, however, that fees shall be charged
76 to applicants for permits to construct or locate energy facilities
77 only in those instances where the nature and extent of the proposed
78 energy facility are such as to necessitate the employment of con-
79 sultants or other expert personnel from without the department
80 before the department can make its determination with respect to
81 any such application, and that such fees shall in any event be
82 the minimum amount necessary to permit the department to fulfill its
83 responsibilities under this section.
84 The provisions of this section shall not be regarded as to be in
85 derogation of any powers now existing and shall be regarded as
86 supplemental and in addition to powers conferred by other laws,
87 including municipal zoning authority.
1 14. The commissioner shall prepare and adopt an emergency
2 allocation plan specifying actions to be taken in the event of an
3 impending serious shortage of energy which poses grave threats

4 to the public health, safety, or welfare. The commissioner shall
5 direct all State Government departments and agencies*, including
6 the Board of Public Utilities*, to develop, subject to his approval,
7 contingency plans for dealing with said emergencies.
1 15. a. Upon a finding by the commissioner that there exists or
2 impends an energy supply shortage of a dimension which endan-
3 gers the public health, safety, or welfare in all or any part of the
4 State, the Governor is authorized to proclaim by executive order
5 a state of energy emergency for a period of up to 6 months. The
6 Governor may limit the applicability of any such state of emergency
7 to specific kinds of energy forms or to specific areas of the State
8 in which such a shortage exists or impends.
9 b. During the duration of a state of energy emergency the com-
10 missioner to the extent not in conflict with applicable Federal
11 law or regulation but notwithstanding any State or local law or
12 contractual agreement, shall be empowered to:
13 (1) Order any person to reduce by a specified amount the use
14 of any energy form; to make use of an alternate energy form,
15 where possible; or to cease the use of any energy form;
16 (2) Order any person engaged in the distribution of any energy
17 form to reduce or increase by a specified amount or to cease the
18 distribution of such energy form; to distribute a specified amount
19 and type of energy form to certain users as specified by the
20 "[administrator]"* "commissioner"; or to share supplies of any
21 energy form with other distributors thereof;
22 (3) Establish priorities for the distribution of any energy form;
23 (4) Regulate and control the distribution and sale of any energy
24 form by:
25 (a) Establishing such limitations, priorities, or rationing
26 procedures as shall be necessary to insure a fair and equitable
27 distribution of available supplies;
28 (b) Establishing minimum and maximum quantities to be
29 sold to any purchaser;
30 (c) Fixing the days and hours of access to retail dealers;
31 (d) Compelling sales to members of the general public dur-
32 ing times when a retail dealer is open for the sale of an energy
33 form;
34 (e) Establishing methods for notifying the public by flags,
35 symbols, or other appropriate means whether such retail
36 dealers are open and selling the subject energy form;
37 (5) Direct the heads of those departments and agencies within
38 State Government that were ordered to develop contingency plans
39 pursuant to section 14 of this act to implement said plans;

40 (6) Adopt and promulgate such rules and regulations as are
41 necessary and proper to carry out the purposes of this section.
42 c. During the existence of a state of energy emergency, the Gov-
43 ernor may order the suspension of any laws, rules, regulations, or
44 orders of any department or agency in State Government or within
45 any political subdivision which deal with or affect energy and
46 which impede his ability to alleviate or terminate a state of energy
47 emergency.
48 d. Any aggrieved person, upon application to the commissioner
49 shall be granted a review of whether the continuance of any order
50 issued by the commissioner pursuant to this section is unreason-
51 able in light of then prevailing conditions of emergency.
52 e. During a state of energy emergency the commissioner may
53 require any other department or other agency within State Gov-
54 ernment to provide such information, assistance, resources, and
55 personnel as shall be necessary to discharge his functions and
56 responsibilities under this act, rules and regulations adopted here-
57 under, or applicable Federal law and regulations.
58 f. The powers granted to the Governor and the commissioner
59 under this section shall be in addition to and not in limitation of
60 any emergency powers now or hereafter vested in the Governor, the
61 commissioner, or any other State Government department or
62 agency pursuant to any other laws, including but not limited to
63 any power "[now]" vested in the Board of Public "[Utility Com-
64 missioners]"* "Utilities" to require utility companies to allocate
65 available supplies of energy; provided, however, that upon declar-
66 ing a state of energy emergency, the Governor may supersede any
67 other such emergency powers.
68 g. The state of energy emergency declared by the Governor pur-
69 suant to this section shall remain in effect until the Governor
70 declares by a subsequent executive order that the state of energy
71 emergency has terminated.
1 16. a. The commissioner shall adopt rules and regulations
2 requiring the periodic reporting by energy industries of energy
3 information which shall include but not be limited to the following:
4 (1) Electrical generating capacity in the State; long-range plans
5 for additions to said capacity; efficiency of electrical generation;
6 price and cost factors in electrical generation; types and quantities
7 of fuels used; projections of future demand, consumption of elec-
8 tricity by sectors; times, duration, and levels of peak demand;
9 (2) Petroleum refining capacity; amount and type of fuel pro-
10 duced; amount and type of fuel sold; interstate transfers of fuel;

11 price and cost factors in refining, production, and sale; long-term
12 plans for alterations or additions to refining capacity; location,
13 amount, and type of fuel storage;
14 (3) Storage capacity for gases; amount and end uses of gases
15 sold; price and cost factors in the sale and use of gases; and
16 (4) Such other information as the commissioner may determine
17 necessary for carrying out the purposes of this act.
18 b. The commissioner shall at least annually publish a report
19 analyzing all energy information collected.
20 c. The commissioner shall have the discretion to obtain energy
21 information from an affiliate of any energy industry or from an
22 association or organization of industries of which any such energy
23 industry is a member. Whenever energy information supplied by
24 an energy industry is so obtained by the commissioner, the energy
25 industry to which such information pertains shall be promptly
26 notified of the energy information so obtained and shall be given
27 an opportunity to correct or amplify such information.
28 d. Trade secrets collected under this section shall be exempt
29 from the requirements of P. L. 1963, c. 73 (C. 27:1A-1 et seq.).
30 The commissioner shall promulgate rules and regulations for the
31 conduct of administrative hearings on the issue of whether certain
32 energy information should not be disclosed to the public.
1 17. No person who is an official or employee of the department
2 shall participate in any manner in any decision or action of the
3 department wherein he has a direct or indirect financial interest.
1 18. The commissioner may issue subpoenas requiring the at-
2 tendance and testimony of witnesses and the production of books,
3 documents, papers, statistics, data, information, and records for
4 the purpose of carrying out any of his responsibilities under this
5 act. Whenever there arises a refusal to honor his subpoena, the
6 commissioner may petition a court of competent jurisdiction for
7 an order requiring the attendance and testimony of a witness or
8 the production of the requested books, documents, papers, statistics,
9 data, information, and records. Any failure to obey such an order
10 issued by a court shall be punished by the court as a contempt
11 thereof.
1 19. Upon a violation of this act or of any rules, regulations, or
2 orders promulgated hereunder, the commissioner, the county prose-
3 cutor of the county in which the violation occurs if he has the
4 approval of the commissioner, or any aggrieved person shall be
5 entitled to institute a civil action in a court of competent juris-
6 diction for injunctive relief to restrain such violation and for such

7 other relief as the court shall deem proper. The court may proceed
8 in a summary manner. Neither the institution of such action, nor
9 any of the proceedings therein shall relieve any party to such
10 proceedings from other fines or penalties prescribed for such a
11 violation by this act or by any rule, regulation or order adopted
12 hereunder.

1 20. Any person who fails to provide energy information in his
2 official custody when so required by the commissioner shall be liable
3 for a penalty of not more than \$3,000.00 for each offense. If the
4 violation is of a continuing nature, each day during which it con-
5 tinues shall constitute an additional and separate offense. Penalties
6 shall be collected in a civil action by a summary proceeding under
7 the Penalty Enforcement Law (N. J. S. 2A:58-1 et seq.).

1 21. Any officer or employee of the State who, having obtained by
2 reason of his employment and for official use, any confidential
3 energy information, publishes or communicates such information
4 for reasons not authorized by this or any other act shall be fined
5 not more than \$2,000.00 or imprisoned not more than 2 years or
6 both.

1 22. a. Any person purchasing or attempting to purchase energy
2 in violation of section 15 of this act or any rules, regulations, or
3 orders promulgated thereunder, shall be subject to a penalty of
4 not more than \$25.00 for the first offense, not more than \$100.00
5 for the second offense, and not more than \$200.00 for the third
6 offense or subsequent offenses.

7 b. Any retail dealer who violates section 15 of this act or any
8 rules, regulations, or orders promulgated thereunder, shall be
9 subject to a penalty of not more than \$25.00 for the first offense,
10 not more than \$200.00 for the second offense, and not more than
11 \$400.00 for the third offense or subsequent offenses.

12 c. Any distributor or any other supplier of energy who violates
13 any of the provisions of section 15 of this act or of any rules,
14 regulations, or orders promulgated thereunder, shall be subject to
15 a penalty of not more than \$1,000.00 for the first offense, not more
16 than \$5,000.00 for the second offense, and not more than \$10,000.00
17 for the third offense or subsequent offenses.

18 d. In addition to any other penalties provided under this or any
19 other act, the commissioner may recommend to the appropriate
20 agency the suspension or revocation of the license of any retail
21 dealer, gasoline jobber, wholesale dealer, distributor, or supplier
22 of fuel, who has violated this act or any rules, regulations, or orders
23 promulgated hereunder.

24 e. All penalties imposed pursuant to this section shall be collected
25 in a civil action by a summary proceeding under the Penalty
26 Enforcement Law (N. J. S. 2A:58-1 et seq.). If the violation is
27 of a continuing nature, each day during which it continues shall
28 constitute an additional and separate offense.

29 "22.1 The department shall transmit copies of all rules and
30 regulations proposed pursuant to this act "by or on behalf of the
31 Division of Energy Planning and Conservation" to the Senate and
32 General Assembly on a day on which both Houses shall be meeting
33 in the course of a regular or special session. The provisions of the
34 "Administrative Procedure Act" or any other law to the contrary
35 notwithstanding, no such rule or regulation, except a rule or regu-
36 lation adopted pursuant to an energy emergency declared by the
37 Governor, shall take effect if, within 60 days of the date of its
38 transmittal to the Senate and General Assembly, the Legislature
39 shall pass a concurrent resolution stating in substance that the
Legislature does not favor such proposed rule or regulation."

1 23. a. All appropriations, grants, and other moneys available to
2 the State Energy Office are hereby transferred to the department
3 created hereunder and shall remain available for the objects and
4 purposes for which appropriated, subject to any terms, restrictions,
5 limitations or other requirements imposed by Federal or State law.

6 b. The employees of the State Energy Office are hereby trans-
7 ferred to the department created hereunder. Nothing in this act
8 shall be construed to deprive said employees of any rights or protec-
9 tions provided them by the civil service, pension, or retirement
10 laws of this State.

11 c. All files, books, paper, records, equipment, and other property
12 of the State Energy Office are hereby transferred to the depart-
13 ment created hereunder.

14 d. The rules, regulations, and orders of the State Energy Office
15 shall continue with full force and effect as the rules, regulations,
16 and orders of the department created hereunder until further
17 amended or repealed.

18 e. Except as otherwise provided by this act, all the functions,
19 powers, and duties of the existing State Energy Office and its
20 administrator are hereby continued in the department and the
21 "commissioner thereof" "Director of the Division of Energy
22 Planning and Conservation" created hereunder.

23 f. This act shall not affect actions or proceedings, civil or crim-
24 inal, brought by or against the State Energy Office and pending
on the effective date of this act, but such actions or proceedings

25 may be further prosecuted or defended in the same manner and
26 to the same effect by the department created hereunder.

27 g. Whenever in any law, rule, regulation, order, contract, docu-
28 ment, judicial or administrative proceedings, or otherwise, refer-
29 ence is made to the State Energy Office or the administrator
30 thereof, the same shall be considered to mean and refer to the
31 State Department of Energy and the "[commissioner thereof]"
32 "Director of the Division of Energy Planning and Conservation".
33 created hereunder.

1 24. All the functions, powers and duties heretofore exercised
2 by the Department of Community Affairs and the Commissioner
3 thereof relating to the adoption, amendment and repeal of the
4 energy subcode of the State Uniform Construction Code pursuant
5 to P. L. 1975, c. 217 (C. 52:27D-119 et seq.) are hereby transferred
6 to, and vested in the Department of Energy and the Commissioner
7 of the Department of Energy; provided, however, that nothing in
8 this section shall be construed so as to interfere with the enforce-
9 ment of such energy subcode by the Commissioner of the Depart-
10 ment of Community Affairs pursuant to the aforesaid P. L. 1975,
11 c. 217; provided further, however, that this section shall not take
12 effect until 90 days after the effective date of this act, and any
13 energy subcode adopted by the Department of Community Affairs
14 within said 90 days shall continue in force and effect until amended
15 or repealed by the department as herein provided*.

1 25. The Bureau of Energy Resources in the Department of
2 Public Utilities, together with all of its functions, powers and
3 duties, is hereby transferred to the "Division of Energy Planning
4 and Conservation in the" Department of Energy established pur-
5 suant to this act.

1 26. The transfer of responsibilities directed by this act, except
2 as otherwise provided herein, shall be made in accordance with the
3 "State Agency Transfer Act," P. L. 1971, c. 375 (C. 52:14D-1
4 et seq.).

1 27. All acts and parts of acts inconsistent with any of the provi-
2 sions of this act are, to the extent of such inconsistency, superseded
3 and repealed.

1 28. If any section, part, phrase, or provision of this act or the
2 application thereof to any person be adjudged invalid by any court
3 of competent jurisdiction, such judgment shall be confined in its
4 operation to the section, part, phrase, provision, or application
5 directly involved in the controversy in which such judgment shall
6 have been rendered and it shall not affect or impair the validity

7 of the remainder of this act or the application thereof to other
8 persons.

1 29. The object and design of this act being the protection of the
2 public health, safety and welfare by means of the coordination of
3 State planning, regulation and authority in energy related mat-
4 ters, this act shall be liberally construed.

1 30. This act shall take effect immediately.

APPENDIX I - LEGAL COMMENTARY

Introduction

Judicial decisions in New Jersey courts have upheld the constitutionality of the State's key coastal laws, the Coastal Area Facility Review Act (N.J.S.A. 13:19-1 et seq.) and the Wetlands Act (N.J.S.A. 13:9A-1 et seq.). New Jersey courts have also expanded the Public Trust Doctrine to protect beach access and recreational uses of the waterfront, as well as the traditional navigation, commerce and fishing rights of the public at the water's edge. Also, the State of New Jersey is actively establishing its claim of ownership of the riparian lands now or formerly flowed by the mean high tide. This Appendix provides a legal commentary to the principal recent judicial decisions involving the laws concerning coastal management in New Jersey.

Coastal Area Facility Review Act

In the case of Toms River Affiliates and Lehigh Construction Company v. Department of Environmental Protection and Coastal Area Review Board 140 N.J. Super 135 (App. Div.), certif den. 71 N.J. 345 (1976), the Appellate Division of Superior Court upheld the constitutionality of CAFRA. The case arose after DEP denied a CAFRA permit application for a ten story, high-rise luxury apartment complex on a 9.5 acre tract of land in Toms River, Ocean County. The developer then administratively appealed to the Coastal Area Review Board. The Coastal Area Review Board unanimously upheld the Department's decision. The applicant then filed an appeal for relief to the Appellate Division, challenging the constitutionality of the CAFRA statute on five points. The applicant contended that: (1) CAFRA did not provide adequate standards for the administration of the Act prior to the preparation of the studies mandated in Section 16 of the Act; it therefore was in violation of Article III, Paragraph I of the New Jersey Constitution; (2) The Act granted zoning powers to the DEP in contravention of the constitutional delegation of such powers to a municipality in violation of Article IV, Paragraph II of the New Jersey Constitution; (3) the Act created an invalid classification by designating a delineated coastal area and omitted other coastal areas in violation of Article I, Paragraph I of the New Jersey Constitution; (4) The Act denied equal protection of the laws in contravention of the Fourteenth Amendment to the Constitution of the United States; and (5) The Act constituted the taking of property in violation of Article I, Paragraph 20 of the Constitution of New Jersey.

On the issue that the CAFRA statute lacked reasonably adequate standards to guide the administrative agency in processing permit applications, the Court stated that Sections 10 and 11 of the Act set forth specific criteria by which the Environmental Impact Statement required for a CAFRA permit could be evaluated.

The Court rejected the applicant's contentions that the statutory delegation of power to the DEP to grant or deny permits for construction of housing was in violation of the constitutional provision authorizing the Legislature to enact general laws under which municipalities may adopt zoning ordinances and that CAFRA did not provide guidelines parallel to those incorporated in the Municipal Zoning Enabling Act (N.J.S.A. 40:55-30 et seq.).

The Court stated unequivocally that the police power of the State was not exhausted by the delegation of zoning power to the municipality. The State retained a quantum of reserved police power to delegate such authority to one or more agencies of the State government as the Legislature may deem appropriate. The State's delegation of such authority to the Hackensack Meadowlands Development Commission provided a precedent on this issue. On the issue of conflict between a local zoning regulation and CAFRA, the Court noted that the exercise of such power by the State was a valid exercise of police power and that the conflict represents no constitutional infirmity.

The assertion by appellants that CAFRA violated Article IV, Section 7, Paragraph 9 of the New Jersey Constitution and the Fourteenth Amendment to the United States Constitution because it classified one section of the coastal area and excluded others was struck down as without substance. The Court noted that the CAFRA Statute should be read in light of the intention of the Legislature which recognized that the coastal area was a unique and irreplaceable portion of the state. Its importance to the public health and welfare supports the reasonableness of the special legislative treatment regulating that area. In view of the presumption of the constitutional validity, the court noted, the limitation of the Act to the portion delineated by the statutory boundaries constituted a valid exercise of discretionary power vested in the Legislature. Boundaries of areas demanding regulations cannot be formulated with mathematical perfection. The mere fact that the property of the appellants is subject to the Act's provision, while property in other parts of the state is not so regulated does not establish a Fourteenth Amendment deprivation of equal protection. In addition, the Court stated that the appellants presented no evidence for the claim of arbitrariness in the classification adopted by the Legislature. If the classification is not arbitrary and all persons within a controlled area are treated alike, the legislation is not a special law nor violative of the Fourteenth Amendment.

The Court labeled the taking issue in this case as specious. A particular use of property may be frustrated, but so long as alternative uses for development exist, no taking of private property can be claimed by the appellants.

In the case of Public Interest Research Group of New Jersey, et. al. v. Department of Environmental Protection and Public Service Electric and Gas Co., 152 N.J. Super 191 (App. Div.), certif. den. 73 N.J. 538 (1977), the Court upheld the decision of DEP, as upheld unanimously on appeal by the Coastal Area Review Board, to approve a CAFRA permit for the Hope Creek Nuclear Generating Station (Units 1 and 2) at Artificial Island in Lower Alloways Creek Township, Salem County. The Court rejected the appellants' procedural contention that DEP should have conducted an adversarial hearing with cross-examination of witnesses and findings of fact and conclusions of law, instead of the two quasi-legislative, fact-finding hearings held before the DEP decision. The Court also ruled that the DEP decision to grant a conditional permit was reasonable. The Court concurred with DEP that Public Service Electric and Gas Co. complied with the findings of Section 10 and 11 of the Act.

The Court also rejected the contention of appellants and the Public Advocate, who submitted an amicus brief, that the environmental impact statement submitted by Public Service Electric and Gas Company was legally deficient.

The Court further rejected appellants claim that the Commissioner's finding in the method for disposal of radioactive waste, as required by N.J.S.A. 13:19-11, was unsupported by the available data in the record. The Court noted the comprehensive federal legislation and regulations in the area of radiation hazards and stated that the Commissioner must satisfy himself that the applicant has conformed to the standards of the Nuclear Regulatory Commission. If such standards are met, the Court noted, the Commissioner has no authority to impose either lower or higher safety standards to regulate radiation (152 N.J. Super. at 216).

Wetlands Act

In the case of Sands Point Harbor, Inc. v. Richard J. Sullivan, Docket No. A-765-73, (App. Div. 1975), the New Jersey Superior Court found that the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq. and the regulations N.J.A.C. 7:7A-1 et seq. adopted pursuant to the Wetlands Act did not violate the Constitutions of the State of New Jersey and of the United States.

The applicant, a private developer, alleged that both the statute and regulations both deprived him of equal protection under the law as guaranteed by the Fourteenth Amendment of the Constitution of the United States and by Article I, Paragraph I of the New Jersey Constitution, and further that the statutes and regulations constituted a taking of property without just compensation in violation of Article I, Paragraph 20 of the New Jersey Constitution.

The applicant's "equal protection" argument was predicated upon the fact that only coastal wetlands were regulated by the Wetlands Act and that wetlands subject to the Hackensack Meadowlands Development Commission (N.J.S.A. 13:17-1 et seq.) were specifically excluded from the Wetlands Act. The Court tersely noted that classification in legislation is not constitutionally prohibited, and that the Legislature is granted a wide range of discretion to treat subject matter of legislation differently, so long as the classification is reasonable and related to the basic object of the legislation. The Appellate Division stated that classifying coastal wetlands as a separate object of protection was reasonable, considering that wetlands north of Raritan Bay are characterized by heavy industrial, commercial, or residential development. The only other broad contiguous area of wetlands in the state was within the special legislatively defined Hackensack Meadowlands Development District, and a classification by statute of this area afforded reasonable grounds for the disparate treatment of land in these different areas of the State.

On the so-called "taking issue", the applicant relied upon a New Jersey Supreme Court case which struck down a municipal zoning ordinance severely restricting the use of swamp land (Morris County Land, Parsippany, Hills Township, 40 N.J. 539, 1963). The restrictions in this case, however, were of such a nature that the only practical use which could be made of the property was as a hunting or fishing preserve. The taking test, as defined by the New Jersey Supreme Court, was whether no practical use could be made of the land so as to constitute a taking without just compensation.

The Appellate Division found in the Sands Point case that the only activities absolutely prohibited under the Wetlands Act were the dumping of solid waste, discharging of sewage, and storage and application of pesticides. Since the Commissioner of Environmental Protection must consider the effect of a proposed activity upon the public health and welfare, marine and shellfisheries, wildlife,

and the protection of property from flood, hurricane or other disasters, such criteria were reasonable and did not so restrain virtually all activities so as to be in violation of the New Jersey Constitution.

In Carton et al vs. State of New Jersey, Commissioner of Environmental Protection (Docket No. A-638-73, 1978), argued before the Appellate Division of the Superior Court in December 1977, the plaintiffs argued that the Wetlands Act constituted a taking of private property without just compensation. The plaintiffs contended that the Act was vague, unreasonable and unconstitutional, but the Court, citing Sands Point Harbor held that the Act was a valid exercise of governmental power and did not constitute a taking. A petition for appeal was denied by the New Jersey Supreme Court on May 16, 1978.

In American Dredging Co. v. State (Docket C-278-73 and C-1097-73), the Chancery Division, Superior Court held, on July 31, 1978, that DEP's Wetlands Order of 1973 was not a "taking", in a case involving a wetlands site along the Delaware River in Gloucester County.

Tidelands and Riparian Cases

Numerous issues concerning riparian or tidelands management in the coastal zone of New Jersey are not expressly addressed or resolved in Titles 12 and 13 of the Revised New Jersey Statutes, which contain the bulk of riparian statutory authority. The case law decisions described in this section have established key principles in riparian law.

The case of O'Neill v. State Highway Department 50 N.J. 307 (1967) involved an ownership dispute of lands along the Hackensack River. The State asserted title to these lands. In its opinion, the Court laid down several principles. First, the State owns in fee simple all lands that are flowed by the tide up to the high water line or mark. The high water line or mark is the line formed by the intersection of the tidal plain of mean high tide with the shore. In establishing this line, the average to be used should be, if possible, the average of all the high tides over a period of 18.6 years. Second, the State cannot acquire interior land by its construction of artificial works such as ditching which enables the tide to ebb and flow on lands otherwise beyond it. The riparian owner cannot, however, enlarge his holdings by excluding the tide. Third, the party who challenges the existing scene must satisfy the court that the tidelands status of the property was changed by artificial measures.

Rules concerning erosion and its effect on riparian ownership were discussed in the case of Leonard v. State Highway Department of New Jersey, 29 N.J. Super 188 (App. Div. 1954). Where erosion is by natural means, the riparian owner loses title to the State. The owner suffers no such loss, however, in the event of a sudden and perceptible loss of land. The high water mark may shift from time to time through erosion, and persons who own or purchase tide-flowed land are well aware of this natural process. Where there is erosion, they lose title to the State. Where there is accretion, they gain title at the expense of the State.

The State's procedure for tidelands delineation was challenged in the case of the City of Newark v. Natural Resources Council, 133 N.J. Super 245. (Law Div. 1974). Two riparian statutes relevant to the State's tideland delineation procedure provided that "the (Natural Resource) Council is hereby directed to

undertake title studies and surveys of meadowlands throughout the State and to determine and certify those lands which it finds are State owned lands." (N.J.S.A. 13:1B-13.2.) "Upon completion of each separate study and survey the Council shall publish a map portraying the results of its study and clearly indicating those lands designated by the Council as state owned lands". (N.J.S.A. 13:1B-13.4) The Natural Resource Council is a twelve member citizen body appointed by the Governor, with the advice and consent of the State Senate.

In 1970 the State issued a grey and white map of New Jersey which designated grey portions of the State as representing lands claimed by the State. However, in 1971 the Court held that these maps did not comply with the intent of the legislation.

The State then began a new delineation of tidelands based on aerial photography. This mapping procedure resulted in thirty-seven panels of land, each of approximately 964 acres, mapped at a scale of 1:2,400. In 30 of the 37 panels the maps produced resulted in substantial claims to the land by the State. However in seven of the panels it was very difficult for the State to determine ownership, and so these areas were characterised as "hatched" (areas of filled meadowlands adjacent to virgin meadowlands). The "hatched" areas indicated a claim by the State that the filled areas were once tide flowed, and so the State was likely to own them. The court held that the "hatching" procedure did not conform with the statutory requirement that the State define its interests in unequivocal terms. (N.J.S.A. 13:1B-1 et seq.). The State was ordered to prepare new maps clearly indicating the riparian lands. The Office of Environmental Analysis in DEP began the mapping based on new overlay techniques. The State filed these maps with the Court in January 1978. A decision by the Court on whether to accept their validity is now pending. If the validity of the maps is accepted, the Court will then have to determine the claims to the land.

An appeal by an owner of a riparian grant whose application for a waterfront development permit was denied by the Natural Resource Council was reviewed in Kupper v. Bureau of Navigation, Council of Resources, etc., Docket No. A-737-71 (unpublished opinion of Appellate Division, decided April 9, 1976). The application involved a request to construct a bulkhead connecting two existing bulkheads in a substantially developed residential area. The Court observed that although they were sympathetic to DEP's efforts to preserve the ecological balance in any area of the State, they were equally sympathetic to the rights of individual property owners who would be deprived of the economic use of their land. The Court felt that the trial evidence suggested that granting of a riparian permit in this case would lead to only a minimal effect on the immediate environment.

Public Access to Shorefront Areas

Increasing and maintaining public access to the shorefront in the coastal zone of New Jersey is public policy evolved from the Public Trust Doctrine as defined by New Jersey case law. (See Martin v. Waddel's Lessee 81 U.S. (PET) 367 (1842), Arnold v. Mundy 6 NJL 1 (Sup. Ct. 1821), and Avon v. Borough of Neptune , 61 N.J. 296 (1976).)

The cases concerning shorefront access have dealt with public access to publicly owned land rather than public access to privately owned land. This latter issue which concerns public access across privately owned land in order to reach publicly owned land, has not been decided by the courts although the issue was raised in Le Compte v. State of New Jersey, 65 N.J. 447, 450, (1975). The court

indicated that it would like to consider the problem at a suitable time. However, the court is expected to discuss this issue in Mathews v. Bay Head Improvement Association, (Docket No. L-23410-73).

The Avon case expanded the Public Trust Doctrine to cover recreational uses of the shoreline beyond the traditional public rights of navigation, commerce, and fishing. The New Jersey Supreme Court held that tidal lands between the mean high and mean low water marks, as well as the oceanland seaward, are owned by the public. In this case the beach front had been dedicated to the public. The court held that this dedication was irrevocable, and for the municipality to charge a discriminatory fee to users of the beach was analogous to erecting a physical barrier.

The Avon Court and the trial court in the case of New Jersey v. Borough of Deal 139 N.J. Super 83 (Ch. Div., 1976); rev'd 145 N.J. Super. 368 (App. Div. 1976); cert. granted 74 N.J. 262 (1976), held that the upland or dry sand areas may be subject to the Public Trust Doctrine and, in the Deal case, that a municipality cannot exclude a non resident from using the upland and beach area upon payment of a reasonable non-discriminatory fee. In the Deal case there was not a clear public dedication of land and the trial court decided the case on statutory construction. The court held that a municipality does not have the right to exclude people from beach front properties. However, in 1976 the Appellate Division of the Superior Court overturned a portion of the Deal trial court opinion which stated that a municipality's "residents-only policy", with respect to the upland beach areas was not beyond the scope of authority delegated to the municipality by State statutory enactment. The Appellate Division did not address the applicability of the Public Trust Doctrine to the dry sand area, but decided the case on whether a municipality had statutory authority to make a reasonable differentiation between residents and non-residents using a municipal beach, in a town which provides for equal access at an adjoining non-restricted beach. New Jersey Supreme Court heard oral argument on Deal in July 1978 (Supreme Court Docket No. 13,081).

The case of Allenhurst v. New Jersey A-1429-75 (1976), decided in the Appellate Division of Superior Court, partially modifies the Public Trust Doctrine with respect to artificial improvements placed in the dry sand area. The Appellate Division narrowly distinguished the Avon and Deal cases and noted that the Public Trust Doctrine applies only to access to natural resources and not to man-made improvements which may be placed upon the dry sand area. In the Avon case, there were no man-made improvements on the dry sand area. However, the Appellate Division left intact a section of the Allenhurst trial court opinion which required equal fees for both residents and non-residents. Thus, the central holding of the Avon case remains unchanged. The New Jersey Supreme Court heard oral argument on Allenhurst in July 1978 (Supreme Court Docket No. 13,709).

Board of Public Utilities

It has been held that the Board of Public Utilities, when exercising its authority under N.J.S.A. 40:55D-19 to supercede local actions taken with respect to utilities when necessary if the service conveniences the welfare of the public, may make a finding that such service is necessary if found to be "reasonably requisite to service public convenience" (emphasis added). Petition of Public Service Coordinated Transport, 103 N.J. Super 505 (1968). Under the Coastal Management Program, the Board's authority insures that key "uses of regional benefit" will not be unreasonably excluded by actions of local governments.

APPENDIX K: DATA SOURCES FOR LOCATION POLICIES

This appendix lists sources of the data needed to apply the Location Policies of Chapter Four of the New Jersey Coastal Management Program - Bay and Ocean Shore Segment. Data sources are indicated by groups, according to the sequence of steps in using CLAM, with the same reference number (in parentheses) that appeared in Chapter Four. In some cases, different data sources are indicated for the pre-application and application stages of the coastal decision-making process.

| DATA ELEMENT | PRE-APPLICATION | APPLICATION |
|--------------|-----------------|-------------|
|--------------|-----------------|-------------|

SPECIAL AREAS (3.2)

| | | |
|--|---|-------------|
| Shellfish Beds (3.2.2) | NJDEP Shellfishing Areas Charts 1-10... Haskin "Distribution of Shellfish Resources in Relation to New Jersey Intracoastal Waterway" | Site survey |
| Surf Clam Areas (3.2.3) | NJDEP Condemned Area Charts 1-10 | Site survey |
| Prime Fishing Areas (3.2.4) | B. L. Freeman & L. A. Walford "Angler's Guide to the United States Atlantic Coast Fish, Fishing Grounds and Fishing Facilities, Sections III and IV" | The same |
| Finfish Migratory Pathways (3.2.5) | H. E. Zich "New Jersey Anadromous Fish Inventory" | The same |
| Submerged Vegetation (3.2.6) | NJDEP "A Case Study of Little Egg Harbor of the Submerged Vegetation" | Site survey |
| Navigation Channels (3.2.7) | NOAA/National Ocean Survey Navigation Charts | The same |
| Shipwrecks and Artificial Reefs (3.2.8) | NOAA/National Ocean Survey Navigation Charts W. Krotee, R. Krotee "Shipwrecks off the New Jersey Coast" | The same |
| Marine Sanctuary (3.2.9) | (to be designated) | |

SPECIAL AREAS (3.2)Beaches:
(3.2.10)

| | | |
|---|--|--|
| Lower Limit Mean High Water Line | <u>Either</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Riparian, <u>or</u> maps where available | <u>Either</u> NJDEP Riparian maps where available <u>or</u> Topographic site survey identifying mean high water level as established by the National Ocean Survey of the National Oceanic and Atmospheric Administration (NOAA-NOS) |
| Upper Limit Natural limit of unvegetated sandy beach | <u>Either</u> NJDEP Photoquads (1972) <u>or</u> A more recent air photograph <u>or</u> Site survey <u>or</u> NJDEP Wetlands Maps where available | Site survey |
| Developed first cultural feature | <u>Either</u> NJDEP Photoquads (1972) <u>or</u> A more recent air photograph <u>or</u> Site survey | Site survey |
| Coastal Wetlands (3.2.11) | NJDEP Wetlands map | NJDEP Wetlands Map |
| High Risk Beach Erosion Areas (3.2.12) | Rutgers University "Coastal Geomor- phology of New Jersey". Volumes I & II | Site survey |
| Dunes (3.2.13) | <u>Either</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Wetlands Map where available | Site survey |
| Central Barrier Island Corridor (3.2.14) | <u>Either</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Wetlands map <u>or</u> NJDEP Photo Quad | The same |
| Historic Resources (3.2.15) | NJ State Register of Historic Places and National Register of Historic Places; DEP/Office of Historic Pres- ervation, Historic Sites Inventory | The same |
| Specimen Trees (3.2.16) | NJDEP-Bureau of Forestry (New Jersey Outdoors, Sept.-Oct. 1977) | Site survey |
| White Cedar Stands (3.2.17) | <u>Either</u> J. McCormick and L. Jones, "The Pine Barrens Vegetation Geogra- phy", <u>or</u> NJDEP Bureau of Forestry Maps | Site survey |

| DATA ELEMENT | PRE-APPLICATION | APPLICATION |
|---|---|---|
| <u>SPECIAL AREAS (3.2) - Cont.</u> | | |
| Endangered or Threatened Wildlife or Vegetation Species Habitats (3.2.18) | Site survey | Site survey |
| Critical Wildlife Habitats (3.2.19) | Site Survey | DEP review and site survey |
| Public Open Space (3.2.20) | <u>Either REDI Tax Maps or NJDEP Major Public Open Space and Recreation Areas in N.J. as of Oct. 1977.</u> | The same plus Municipal Planning Boards |
| Steep Slopes (3.2.21) | NJDEP 7 1/2 minute Slope Maps and SCS County Soil Survey. | NJDEP 7 1/2 minute Slope Maps and site survey |
| Farmland Conservation Areas (3.2.22) | SCS County Soil Survey and available county land use maps and/or aerial photography interpretation <u>or</u> N.J. Department of Agriculture Prime Open Agricultural Lands Maps. | Site survey |
| Bogs (3.2.23) | <u>Either</u> SCS County Soil Surveys in combination with <u>or</u> NJDEP Wetlands map where available <u>or</u> NJDEP Photo Quads <u>or</u> site survey. | Site survey |
| Emphemeral Stream Corridor (3.2.24) | <u>Either</u> SCS County Soil Survey <u>or</u> Site Survey. | Site survey |
| Special Hazard Areas (3.2.25) | USGS 7 1/2 minute type quads and data obtained from U.S. Dept. of Transportation, Federal Aviation Administration such as flight path and horizontal air surface, <u>and</u> NJDEP, Office of Radiation Protection <u>and</u> Dept. of Civil Defense. | The same |
| Excluded Federal Lands (3.2.26) | NJDEP Major Public Open Space and Recreation Areas in New Jersey. | The same |

DATA ELEMENT

PRE-APPLICATION

APPLICATION

WATER AREAS (3.3)Basin Types

| | | |
|--|--|----------|
| Ocean (3.3.4.1) | <u>Either</u> NOAA/National Ocean Survey Survey Navigation Charts <u>or</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Photo Quads. | The same |
| Open Bay (3.3.4.2) | <u>Either</u> NOAA/National Ocean Survey Survey Navigation Charts <u>or</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Photo Quads. | The same |
| Semi-Enclosed and Back Bay (3.3.4.3) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Topo Quads <u>or</u> NJDEP Photo Quads. | The same |
| Inland Basins (3.3.4.4) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Topo Quads <u>or</u> NJDEP Photo Quads. | The same |
| Man-Made Harbor (3.3.4.5) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Topo Quads <u>or</u> NJDEP Photo Quads. | The same |

Channel Types

| | | |
|--|---|-------------|
| Large River (3.3.4.6) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Topo Quads <u>or</u> NJDEP Photo Quads. | The same |
| Medium Rivers, Streams, Creeks (3.3.4.7) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Topo Quads <u>or</u> NJDEP Phot Quads. | The same |
| Intermittent Streams (3.3.4.9) | <u>Either</u> SCS County Soil Survey <u>or</u> Site Survey. | Site survey |
| Guts (3.3.4.10) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Photo Quads <u>or</u> NJDEP Wetlands Map. | The same |
| Inlets (3.3.4.11) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Photo Quads <u>or</u> NJDEP Wetlands Map. | The same |
| Canals (3.3.4.12) | <u>Either</u> NOAA/NOS Charts <u>or</u> USGS 7 1/2 minute Quads <u>or</u> NJDEP Photo Quads <u>or</u> NJDEP Wetlands Map where available. | The same |

WATER'S EDGE AREAS (3.4)

| | | |
|----------------------------------|---|-------------|
| Natural Water's Edge (3.4.2) | SCS County Soil Surveys and USGS 7 1/2 minute Quads and NJDEP Wetlands Maps and a more recent aerial photograph | Site survey |
| Retained Water's Edge (3.4.3) | Either USGS 7 1/2 minute Quads and NJDEP Wetlands Maps where available or NJDEP Photoquads (1972) or More recent air photo or Site Survey | Site survey |
| Filled Water's Edge (3.4.4) | Either USGS 7 1/2 minute Quads or NJDEP Wetlands Maps where available or NJDEP Photoquads (1972) or More recent air photo or Site Survey | Site survey |

| DATA ELEMENT | PRE-APPLICATION | APPLICATION |
|---|--|-----------------------------|
| <u>LAND AREAS (3.5)</u> | | |
| Coastal Regions (3.5.3) | NJDEP Coastal Regions Map | The same |
| Definitions of Environmental Sensitivity Factors (3.5.4.5) | | |
| (a) Forest Vegetation | <u>Either</u> NJDEP Forest Types Maps <u>or</u> NJ State Museum "The Pine Barrens: Vegetation Geography" | Site survey |
| (b) High Soil Fertility | <u>Either</u> SCS County Soil Survey <u>or</u> Site Survey | Site survey |
| (c) High Percolation Wet Soils | <u>Either</u> SCS County Soil Survey <u>or</u> Site Survey | Site survey |
| (d) Low Depth to Seasonal High Water Table | <u>Either</u> SCS County Soil Survey <u>or</u> Site Survey | Site survey |
| Development Potential (3.5.5) | | |
| High Potential (3.5.2.2.2) | | |
| (a) Roads | <u>Either</u> USGS 7 1/2 minute Quads <u>or</u> Site Survey | Site survey |
| (b) Sewage | <u>Either</u> NJDEP Atlas of New Jersey sewer overlays <u>or</u> County or municipal surveys <u>or</u> Utility company surveys <u>or</u> NJDEP Division of Water Resources | The same pre-application |
| (c) Infill | <u>Either</u> NJDEP Photoquads <u>or</u> a more recent air photograph <u>or</u> Site Survey | Site survey |
| (d) Shopping | Municipal Clerk | The same as pre-application |
| (e) Schools | Municipal Clerk | The same as pre-application |

INTRODUCTION

For the purpose of illustrating the use of the Location Policy step of the Coastal Resource and Development Policies (See Chapter Four), this case study assumes that either a development application has been received by DEP for a residential development with boat launching and mooring facilities or that DEP has initiated a prospective analysis of acceptable development of the area. The site to be studied is located in Pine Beach and Ocean Gate Townships in Ocean county (see location maps). This site is in the Central Region which is designated High Growth. The site is one of those used in the DEIS, to allow for comparison.

The study area was selected because it has a good mix of Water, Water's Edge, and Land Areas, variation of development potential and some Special Areas. The distribution of development acceptability in the site is characteristic of the Central Region. The policies, as revised in the FEIS, have not altered the distribution of use acceptability in the Water or Water's Edge areas, except to vary slightly the extent of the Filled Water's Edge. The policy regarding the White Cedar Area also remains unchanged.

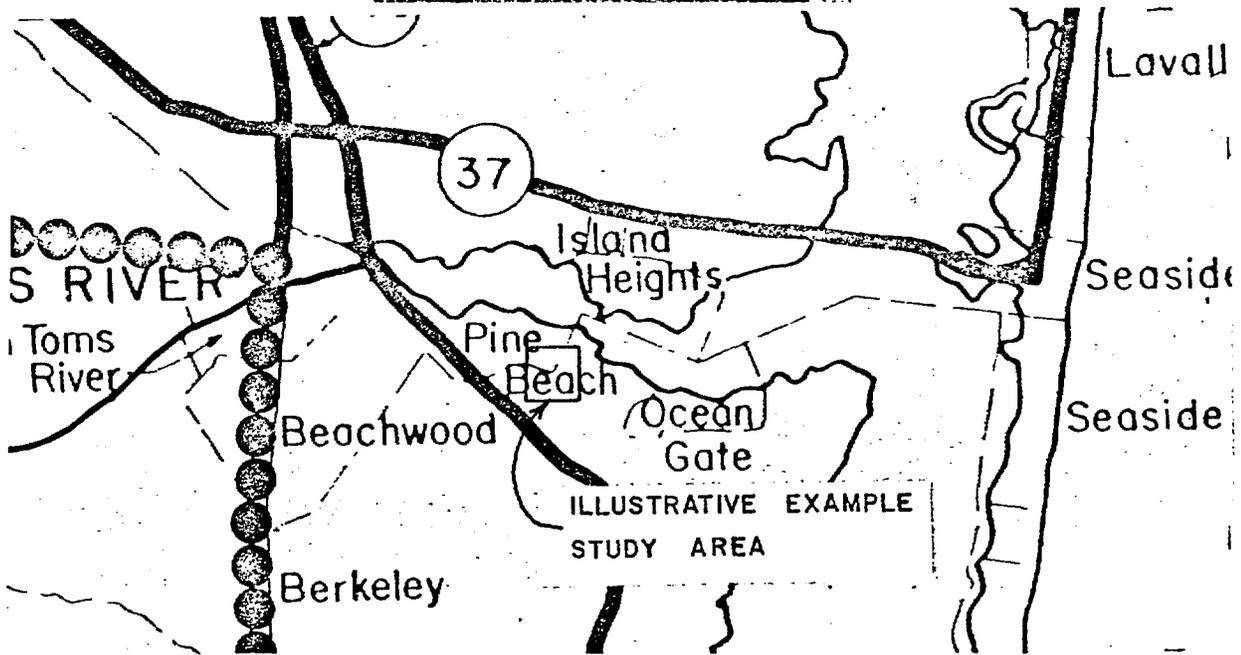
On land, however, the implications of various policy revisions are illustrated in this case. For example, forested Atsion soils adjacent to stream channels are categorized as high environmental sensitivity areas. Also, medium development potential does not override high environmental sensitivity in growth regions. The area of Atsion soils near the center of the study area is thus designated for low intensity development, whereas in the DEIS this area had been acceptable for moderate intensity development constructed to wet soil standards.

In another revision, the land areas of medium development potential and medium or low environmental sensitivity have been designated as acceptable for high, rather than medium development intensity.

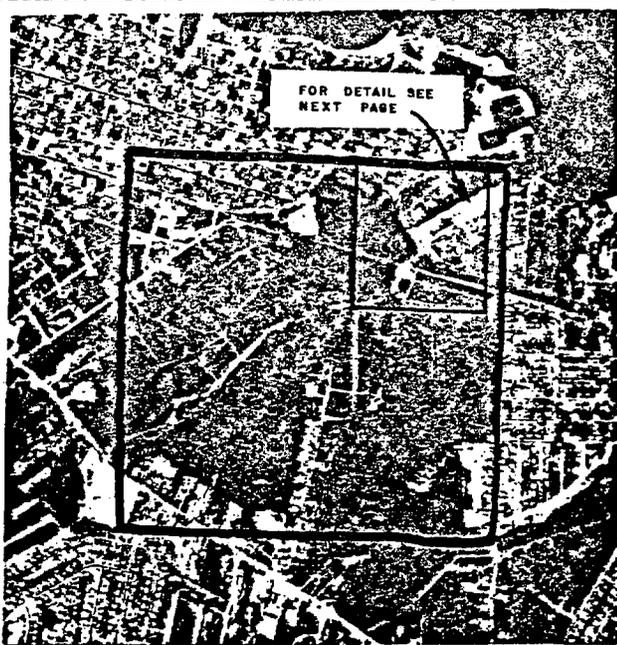
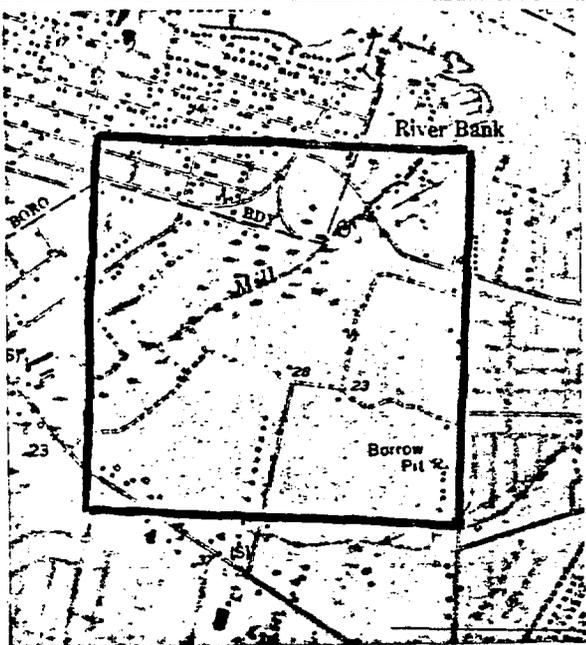
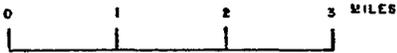
The result of these revisions in high growth areas is, therefore, to conserve some larger areas of the most sensitive land within a more intensely developed settlement pattern, rather than distributing open space among dispersed moderate intensity development. The reason for this change is the general policy of promoting concentrated development in high growth regions.

CLAM CASE STUDY

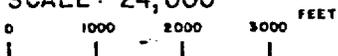
ILLUSTRATIVE EXAMPLE STUDY AREA



REGIONAL LOCATION MAP
SCALE: 1: 100,000



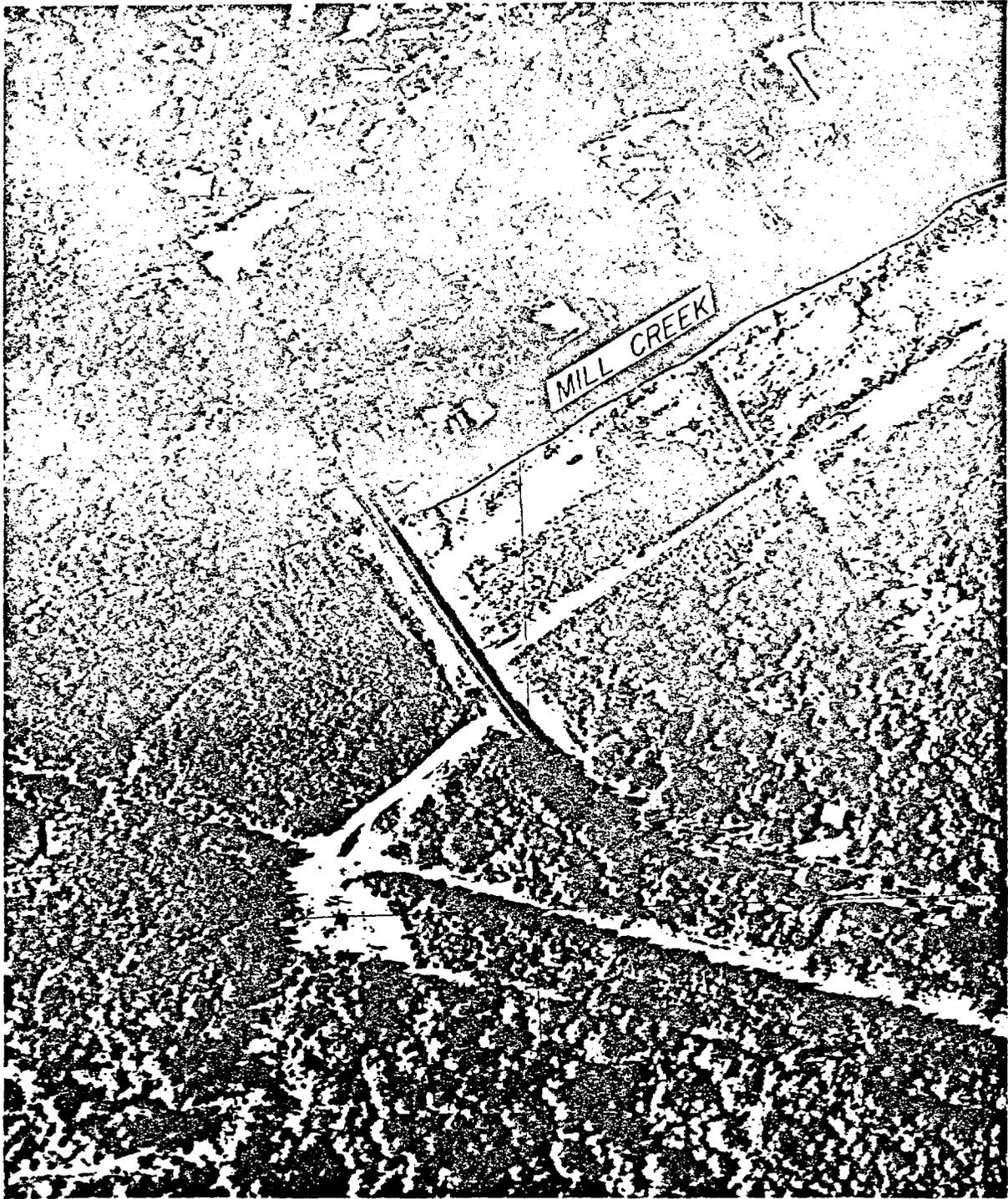
LOCATION MAP
SCALE: 24,000



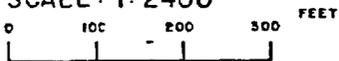
SOURCE: U.S.G.S. TOPOGRAPHIC QUADRANGLE - TOMS RIVER

CLAM CASE STUDY

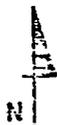
ILLUSTRATIVE EXAMPLE DETAIL STUDY AREA



LOCATION MAP
SCALE: 1:2400



SOURCE: WETLANDS MAP # 399-2142



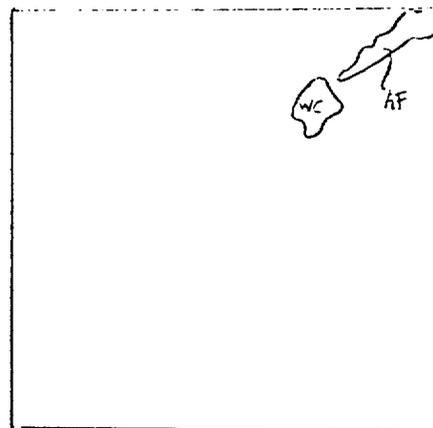
Step 1: Identify Site and Surrounding Region

For the purposes of illustration, it has been assumed that an application has been received by DEP for residential development with boat launching and mooring facilities on a site adjacent to the Toms River in Ocean County. Mill Creek diagonally cuts through the site as it flows into the river. The site and its surrounding region are therefore located and mapped on the appropriate USGS topographic quadrangle.

Step 2: Identify and Map Special Areas

There are two Special Areas located on this particular site: an Anadromous Fishing Area (Finfish Migratory Pathway) and an area with White Cedar Stands.

Data Source: H. E. Zich "New Jersey Anadromous Fish Inventory" J. McCormick and L. Jones, "The Pine Barrens Vegetation Geography", or NJDEP Bureau of Forestry Maps.

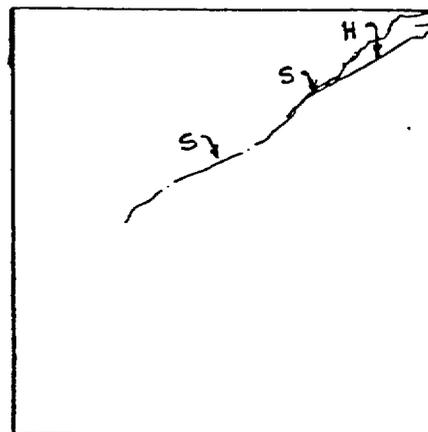


AF - ANADROMOUS FISH
WC - WHITE CEDAR STANDS

Step 3: Identify and Map Water Areas

The only Water Area present in the study site is a small creek.

Data Source: NOAA/NOS Charts or USGS 7 1/2 minute Topo Quads or NJDEP Photo Quads.



- 3

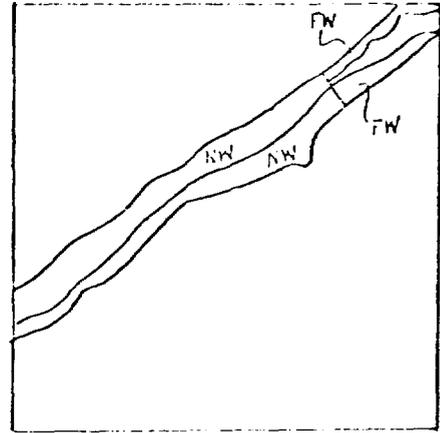
Water Areas

S = Small Stream
H = Harbor Area

Step 4: Identify and Map Water's Edge Area

This site has Filled and Natural Water's Edge Areas.

Data Source: SCS County Soil Survey or USGS 7 1/2 minute Quads or NJDEP Wetlands Map.



FW - FILLED WATER'S EDGE
NW - NATURAL WATER'S EDGE

Step 5: Identify and Map Land Areas

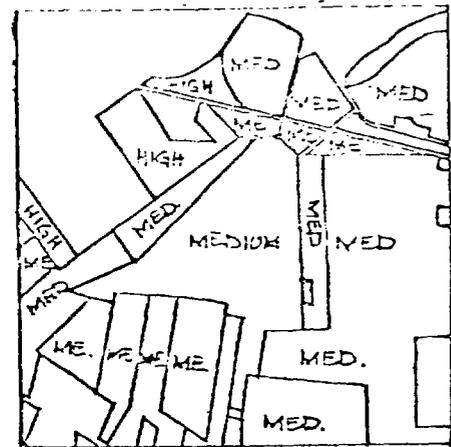
The development potential for this site is generally medium; however, a few tracts north of Mill Creek have high development potential.

All the Land Areas on the site are medium environmental sensitivity areas, except, for one tract south of Mill Creek which is a high environmental sensitivity area.

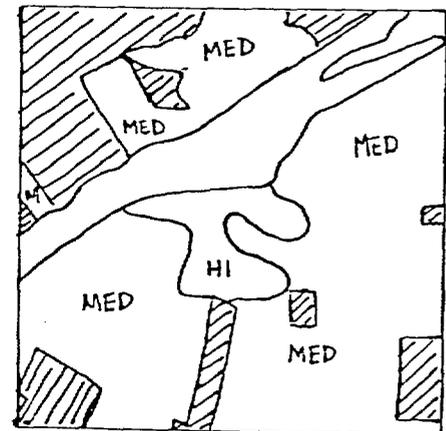
This site is in a High Growth Region.

Data Source:

- (a) Roads UGSG 7 1/2 minute Quads or Site Survey
- (b) Sewage NJDEP Atlas of New Jersey sewer overlays or County or municipal surveys or Utility company surveys or NJDEP Division of Water Resources
- (c) Infill NJDEP Photoquads or a more recent air photograph or Site Survey

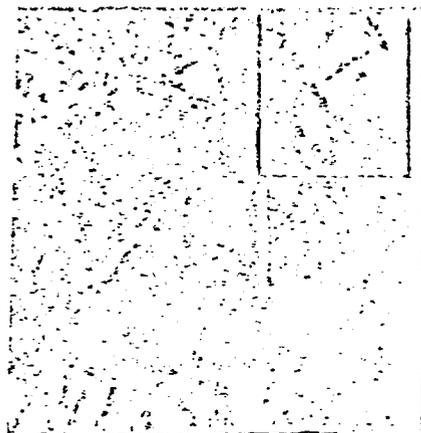
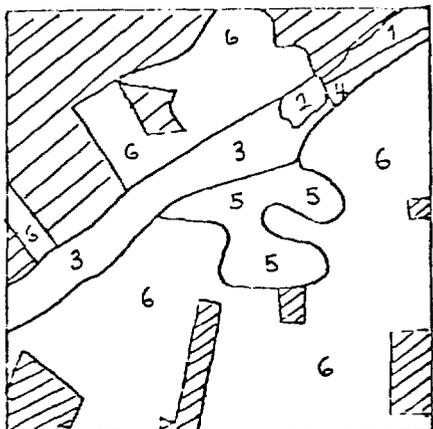


Development Potential



Environmental Sensitivity

Step 6: Determine Location Acceptability



LOCATION ACCEPTABILITY MAP

Photoquad of sample area

SPECIAL VALUE

1. Finfish Migratory Pathways - Development conditional on mitigation measures.
2. White Cedar Stands - Development prohibited.

WATER'S EDGE

3. Natural - Development conditional on water access, prudent alternatives, adjacency to existing water development, minimum alteration of on-site vegetation.
4. Filled - Development conditional on water dependent use, and if site reclamation is infeasible.

LAND

5. Low Intensity Development
6. High Intensity Development

CONCLUSION

In brief, on the basis of the Location Policy, high density residential development is acceptable in areas marked with a "6".

"If we are going to use littoral acronyms, we may complement CLAM with Method for Use Siting in Suitably Elected Locations (MUSSELS), or even Finding Industries Suitable Homes (FISH)"

Roger Thomas
 Committee for Better Environment
 June 30, 1978

TABLE OF CONTENTS

I. INTRODUCTION

LIST OF COMMENTORS

II. RESPONSE TO GENERAL QUESTIONS

- A. Legal Authority
- B. Segmentation Requirements
- C. Socio-Economic Impacts
- D. Consideration of Cumulative Impacts
- E. Master Plan
- F. National Interests
- G. Geographic Areas of Particular Concern
- H. Relationship Between Departments of Energy and Environmental Protection

Comment
 Number

Comment
 Number

1 General Questions

III. COMMENTS BY TOPIC FROM NEW JERSEY AGENCIES, GROUPS AND INDUSTRIES

COASTAL POLICIES

| | | | |
|-----|------------------------------------|-----|-----------------------------------|
| 49 | NEPA Summary | 236 | Prime Agricultural Area |
| 54 | General Coastal Policies | 243 | Bogs |
| 84 | Basic Coastal Policies | 245 | Stream Heads |
| 93 | Boundary | 246 | General Waters Edge |
| 101 | General Location Policies | 247 | Lower Water Edge |
| 126 | Special Water Areas | 261 | Upper Water Edge |
| 154 | Water Areas | 267 | Retained Waters Edge |
| 157 | Water Acceptability Tables | 275 | Filled Waters Edge |
| 170 | Water Acceptability Conditions | 277 | General Land Areas |
| 190 | Special Waters Edge and Land Areas | 278 | Depth to Sasonal High Water Table |
| 194 | High Risk Erosion Areas | 280 | Soil Permeability Factor |
| 204 | Dunes | 284 | Soil Fertility |
| 208 | Central Barrier Island Corridor | 289 | Vegetation Index |
| 215 | Flood Hazard Areas | 283 | Development Potential |
| 219 | Historic Resources | 341 | Regional Growth Potential |
| 222 | Specimen Trees | 353 | Land Acceptability Tables |
| 224 | Prime Forest Areas | 375 | Composite Mapping |
| 227 | Prime Wildlife Habitats | 379 | General Location Policies |
| 231 | Public Open Space | | |

Comment
Number

386 Housing Use Policies
423 Resort/Recreational Use Policies
454 Public Facility Use Policies
465 Ports
466 Industry Commercial Use Policies
476 Shore Protection Use Policies
483 General Resource Policies
485 Marine Fish and Fisheries
488 Water Quality
489 Surface Water Use
492 Groundwater Use
496 Run Off
513 Soil Erosion and Sedimentation
514 Vegetation

ENERGY

552 General Energy
564 Federal Preemption
568 General Energy Facility Siting Policy
581 General Outer Continental Shelf Policy
584 Onshore Support Bases
589 Pipeline Coating Yards
590 Pipelines and Associated Facilities
596 Gas Processing Plants
599 Storage of Crude Oil, Natural Gas,
and other Potentially
Hazardous Liquid Substances
600 Tanker Terminals
603 Base Load Electric Generating Stations
609 Nuclear Electric Generating Stations
620 Liquid Natural Gas
627 Conservation and Alternative Technologies
634 Federal Consistency

MANAGEMENT SYSTEM

638 General
677 Procedures
694 Local Authority
711 Uses of Regional Benefit

Comment
Number

514 Wildlife
520 Air
521 Public Services
522 Public Access to Shorefront
530 Scenic Resources and Design
532 Secondary Impacts
539 Buffer and Compatibility of Uses
544 Solid Waste
546 Energy Conservation
547 Neighborhoods and Special Communities
549 Traffic
550 Clam Case Appendix

716 National Interest
718 Participation
714 Next Steps
769 Detail Changes

IV. COMMENTS BY ORGANIZATION FROM FEDERAL AGENCY AND THE NATIONAL GROUPS

778 NEW JERSEY PETROLEUM COUNCIL

836 NATURAL RESOURCES DEFENSE COUNCIL

938 FEDERAL AGENCIES

938 Department of Agriculture
962 Department of Commerce - NOAA
965 Department of Defense

971 Department of Defense (Air Force)

974 Army Corps of Engineers

986 Department of Energy

1003 Department of Housing and Urban Development

1009 Department of Interior

1046 Department of Transportation

1055 Environmental Protection Agency

1125 Federal Energy Regulatory Commission

1136 Nuclear Regulatory Commission

Introduction

This appendix identifies the commentors and presents responses to the issues raised during the public review period for the New Jersey Coastal Management Program - Bay and Ocean Shore Segment and Draft Environmental Impact Statement (May 1978), including Part II, Chapter Three, Coastal Resources and Development Policies, which was proposed for adoption as a rule under the New Jersey Administrative Procedures Act (See 10 N.J.R. 184, New Jersey Register, May 4, 1978, p. 4). This appendix makes no attempt to distinguish between comments on the Coastal Management Program - Bay and Ocean Shore Segment, or Program, prepared by the State of New Jersey, comments on the Draft Environmental Impact Statement (DEIS), prepared by NOAA-OCZM, and comments on the Proposed Rules on Coastal Resource and Development Policies, or Proposed Rules, proposed for the adoption by the Commissioner of the New Jersey Department of Environmental Protection, due to the combined format of the document and the interrelated nature of the comments.

For a list of the recipients of the combined Program-DEIS, see Appendix H of the DEIS (May 1978).

The State and Federal responses to those comments have been coordinated between NOAA-OCZM and DEP-OCZM. The responses to the comments take one of a combination of formats:

- (1) Expansion, clarification, deletion or revision of the NJCMP-BOSS and DEIS, including the Proposed Rules,
- (2) Comments by DEP-OCZM and NOAA-OCZM in response to issues raised.

Several general issues were raised by a number of commentors; this appendix presents detailed responses to these issues. All other comments are answered specifically, usually with reference to specific changes in the Program and revisions reflected in the Final Environmental Impact Statement.

This Appendix will be of most value if readers refer to the Draft EIS released in May 1978 as well as the present document. Copies of the DEIS are available from DEP.

The comments are divided into three sections. Part II includes responses to central questions and some of the specific comments which led to the responses. Part III lists and responds to each other comment made by all commentors not included in Part IV. These comments are arranged by topic. Lastly, Part IV notes and responds to the comments made by the New Jersey Petroleum Council, Natural Resources Defense Council and federal agencies.

List of Commentors

NOAA-OCZM and DEP-OCZM received comments from public agencies, interest groups, companies and individuals both in writing and at the three public meetings conducted jointly by NOAA-OCZM and DEP-OCZM officials at Bridgeton (June 13), Toms River (June 14), and Trenton (June 15). Verbatim transcripts of the three hearings, prepared by certified shorthand reporters, may be consulted at the NOAA-OCZM and DEP-OCZM offices. This appendix identifies all commentors, and indicates whether the comments were made in writing or at a public hearing. In some cases, the same source provided comments on several occasions, but is

counted as only one source. In addition, several organizations commented on behalf of the New Jersey Builders Association and New Jersey Petroleum Council; each of those organizations is counted separately. Comments were recieved from the following sources:

| | |
|----------------------------------|-----------|
| Federal Agencies | 13 |
| State Agencies | 7 |
| Regional Agencies | 4 |
| County and Municipal Agencies | 18 |
| Special Interest Groups | 25 |
| Private Sector | 0 |
| Individuals | 9 |
| <u>TOTAL</u> | <u>85</u> |

| Commentor | Date | Hearing | Written |
|---|---------|---------|---------|
| <u>Federal Agencies</u> | | | |
| Department of Agriculture Soil Conservation Service P.O. Box 2890 Washington, D.C. 20013 R.M. Davis, Administrator | June 16 | | X |
| Department of Commerce National Oceanic and Atmospheric Administration National Marine Fisheries Service Federal Building, 14 Elm Street Gloucester, Mass. 01930 William G. Gordon, Regional Director | July 3 | | X |
| Department of Defense Deputy Assistant Secretary of Defense (Installations and Housing) Washington, D.C. 20301 Perry J. Fliakas, Deputy Assistant Secretary | June 19 | | X |
| Department of the Army Office of the Chief of Engineers Washington, D.C. 20314 Drake Wilson, Deputy Director of Civil Works | June 16 | | X |
| Department of the Air Force Regional Civil Engineer, Eastern Region 526 Title Building, 30 Pryor St., S.W. Atlanta, Georgia 30303 Robert L. Wong, Chief Environmental Planning Division | June 27 | | X |
| Department of Energy Deputy Assistant Secretary Oil, Natural Gas & Shale Resources Washington D.C. 200461 Dobie Langenkamp | No date | | X |
| Federal Energy Regulatory Commission Washington, D.C. 20426 Carl N. Shuster, Jr. Coordinator, Coastal Zone Management Affairs | June 19 | | X |

| Commentor | Date | Hearing | Written |
|---|---------|---------|---------|
| <u>Federal Agencies (continued)</u> | | | |
| Environmental Protection Agency Region II 20 Federal Plaza New York, New York Michael Bonchonsky, Acting Chief, Environmental Impacts Branch | June 26 | | X |
| Department of Housing and Urban Development Assistant Secretary for Community Planning and Development Washington, D.C. 20410 Robert C. Embry, Jr., Assistant Secretary | June 23 | | X |
| Department of Interior Assistant Secretary - Policy, Budget and Administration Washington, D.C. 20240 Larry E. Meierotto, Deputy Assistant Secretary | June 21 | | X |
| Fish and Wildlife Service 112 West Foster Avenue State College, Pa. 16801 Edward Perry, Environmental Planner | June 28 | X | X |
| Department of Transportation Regional Representative of the Secretary 26 Federal Plaza, Room 1811 New York, New York 10007 Norman H. Huff, Senior Staff Officer | No date | | X |
| Nuclear Regulatory Commission Washington, D.C. 20555 Robert G. Ryan, Director Office of State Programs | June 20 | | X |

| <u>Commentor</u> | <u>Date</u> | <u>Hearing</u> | <u>Written</u> |
|---|-------------|----------------|----------------|
| <u>State Agencies</u> | | | |
| New Jersey State Legislature Office of Fiscal Affairs State House, Suite 232 Trenton, New Jersey 08625 Thomas L. Bertone, Director Budget Review | June 16 | | X |
| Department of Community Affairs 363 West State Street Trenton, New Jersey 08625 Patricia Q. Sheehan, Commissioner | June 15 | | X |
| Richard A. Ginman, Director Division of State and Regional Planning | June 28 | | X |
| Jay T. Fiedler Bureau of Urban Planning | July 11 | | X |
| Department of Education New Jersey State Museum 205 West State Street Trenton, New Jersey 08625 Karen Flynn, Registrar Bureau of Archaeology & Ethnology | June 16 | | X |
| Department of Labor and Industry Labor and Industry Building Trenton, New Jersey 08625 John J. Horn, Commissioner | | | |
| Department of the Public Advocate Division of Public Interest Advocacy P.O. Box 141 Trenton, New Jersey 08625 R. William Potter, Deputy Director | June 30 | | X |

| <u>Commentor</u> | <u>Date</u> | <u>Hearing</u> | <u>Written</u> |
|---|-------------|----------------|----------------|
| <u>Regional Agencies</u> | | | |
| Delaware River Basin Commission P.O. Box 7360 West Trenton, New Jersey 08628 J.W. Thursby, Head Environmental Unit | July 3 | | X |
| Delaware River Port Authority World Trade Division Bridge Plaza Camden, New Jersey 08101 James R. Kelly, Director | June 30 | | X |
| Port Authority of New York and New Jersey Planning & Development Department One World Trade Center 72S New York, New York 10048 Clayton Peavey, Deputy Director | July 3 | | X |
| Tri-State Regional Planning Commission Regional Development Division One World Trade Center New York, New York 10048 Stephen C. Carroll, Director | June 2 | | X |

| <u>Commentor</u> | <u>Date</u> | <u>Hearing</u> | <u>Written</u> |
|---|--------------------|----------------|----------------|
| <u>County and Municipal Agencies</u> | | | |
| Atlantic County Executive's Office 741 Guarantee Trust Bldg. Atlantic City, New Jersey 08401 Charles D. Worthington, County Executive | June 16 | | X |
| Camden County Environmental Agency Camden, New Jersey Prepared by William G. Hengst, Consultant to the Camden County Environmental Agency. | June 30 | | X |
| Cape May County Planning Board Cape May Court House, New Jersey 08210 Elwood R. Jarmer, Director | June 13 June 19 | X | X X |
| Cumberland County Planning Board 800 East Commerce Street Bridgeton, New Jersey 08302 John Holland, Director | June 13 | | X |
| Czeslawa Zimolzak, Senior Planner | June 30 | | X |
| Cumberland County Board of Chosen Freeholders, Freeholder Director Charles Fisher, by James Oglive, Public Relations for Cumberland County 134 North Pearl Street Bridgeton, N.J. 08302 | July 5 | | X |
| Cumberland County Economic Development Board Dr. Phillip Phelon, Chairman | July 1 | | X |
| Gloucester County Planning Department Clayton, New Jersey 08312 Charles E. Romick, Coastal Management Program Coordinator | | | |
| Cumberland County Agricultural Extension Agent County Court House Bridgeton, N.J. 08302 Harry H. Fries | June 13 | | X |

| Commentor | Date | Hearing | Written |
|---|-------------------------------|------------|-----------|
| <u>County and Municipal Agencies (continued)</u> | | | |
| Middlesex County Planning Board 40 Livingston Avenue New Brunswick, New Jersey 08901 Douglas Powell, Director | June 14 | | X |
| Deborah Malek, Staff | June 30 | | X |
| Lower Raritan/Middlesex County 208 Water Quality Management Program Middlesex County Planning Building 40 Livingston Avenue New Brunswick, New Jersey 08901 John Runyon, Chairman, PAC | June 30 | | X |
| Monmouth County Planning Board 1 Lafayette Place Freehold, New Jersey 07728 Robert W. Huguley, Principal Environmental Planner | July 1 June 14 | | X |
| Ocean County Planning Board 1 Madison Avenue Toms River, New Jersey 08753 Alan Avery, Assistant Planner | June 14 | X | X |
| Salem County Planning Board Court House Salem, New Jersey Christopher J. Warren, Acting Planning Director | June 11 | X | X |
| Borough of Carteret Middlesex County, N.J. | June 21 | | X |
| Lawrence Township Planning Board Lawrence Township, N.J. Alvin Griffith, Secretary | June 13 | X | X |
| Middletown Township Environment Commission Kings Highway Middletown, N.J. 07748 Lynden J. Kibler, Chairman | July 6 | | X |
| City of Ocean City City Hall Ocean City, New Jersey 08226 Stephen Gabriel, Mayor's Staff Advisor for Coastal Zone Mgt. Alicia Gregg, Public Relations Dept. | June 14 June 21 June 14 | X X | X |
| Borough of Sea Bright Environmental Com. Monmouth County, New Jersey Loretta C. Hanley, Secretary | No date | | X |

| Commentor | Date | Hearing | Written |
|--|---------|---------|---------|
| <u>Special Interest</u> | | | |
| American Association for University Women, New Jersey Division 9 West Beardsly Avenue Brant Beach, New Jersey 08008 Winifred D. Meyer, Legislative Chairwoman | June 14 | X | X |
| American Littoral Society Sandy Hook Highlands, New Jersey 07732 | | | |
| D.W. Bennett | June 14 | X | X |
| Dana Rowan | July 7 | | X |
| Anna Penna | June 15 | X | X |
| Citizen Association to Protect the Environment (CAPE) South Dennis, New Jersey 08245 Ruth Fisher | June 15 | X | |
| Committee for A Better Environment P.O. Box 209 Holmdel, New Jersey 7737 Roger Thomas | June 30 | | X |
| Lacey Township Chamber of Commerce Joseph Heeney | June 14 | X | |
| League for Conservation Legislation Box 205 Teaneck, New Jersey 07666 Michael Havrisko, Legislative Agent | June 15 | X | X |
| League of Women Voters Of New Jersey 460 Bloomfield Avenue Montclair, New Jersey 07042 Kathleen H. Rippere Water Chairman | June 27 | | X |
| Marine Trades Association of New Jersey P.O. Box 70 Island Heights, New Jersey 08732 Michael Redpath, Executive Director | | | |
| | June 13 | X | X |
| | June 14 | X | X |
| | June 16 | | X |
| Mercedes Johnson | June 15 | X | |
| Natural Resources Defense Council, Inc. 917 Fifteenth Street, N.W. Washington, D.C. 20005 Frances Beinecke, Atlantic Coast Project | June 15 | X | X |
| | July 5 | | X |

| Commentor | Date | Hearing | Written |
|-----------|------|---------|---------|
|-----------|------|---------|---------|

Special Interest (continued)

| | | | |
|--|--------|--|---|
| New Jersey Conservation Foundation 300 Mendham Road Morristown, New Jersey 07960 Darryl F. Caputo, Assistant Director | July 5 | | X |
|--|--------|--|---|

| | | | |
|--|---------|--|---|
| New Jersey Independent Liquid Terminal Association 60 Park Place Newark, N.J. 07102 by Thomas V. O'Neill of Regional Public Relations, Inc. | June 22 | | X |
| | July 3 | | X |

| | | | |
|---|---------|---|---|
| New Jersey Petroleum Council 170 West State Street Trenton, New Jersey 08608 Leonard Ruppert, Executive Director | June 15 | X | X |
|---|---------|---|---|

N.J. Builders Association

| | | | |
|--|---------|---|---|
| Joseph Todino, Chairman CAFRA Committee | June 14 | X | X |
|--|---------|---|---|

| | | | |
|---|---------|---|---|
| Comments prepared by Michael J. Gross, Esq. Giordano, Halleran & Crahay 1005 Hooper Avenue Toms River, N.J. 08753 | June 14 | X | |
| | June 22 | | X |
| | June 30 | | X |

Additional comments submitted
on behalf of the N.J Builders
Association by the seven
following builders and consultants:

| | | | |
|---|--------|--|---|
| Barrymor Enterprises Inc. 81 River Avenue Lakewood, New Jersey 08701 Barry Weshnak, Vice President | June 9 | | X |
|---|--------|--|---|

| | | | |
|--|---------|--|---|
| Canetic Corporation Taunton Avenue P.O. Box 41 Berlin, New Jersey 08009 Craig Cunningham | June 19 | | X |
|--|---------|--|---|

| | | | |
|--|---------|--|---|
| Dresdner Associates Land Use and Environmental Consultants P.O. Box 624 Summit, New Jersey 07901 Allen Dresdner | June 12 | | X |
|--|---------|--|---|

| Commentor | Date | Hearing | Written |
|--|---------|---------|---------|
| <u>Special Interest (continued)</u> | | | |
| Fellows, Read and Weber, Inc. Consulting Engineers 310 Main Street CN 25 2546 Toms River, New Jersey 08753 Joseph R. Read | June 20 | | X |
| Maestro Associates 3 Spencer Lane RD #1 Absecon, N.J. 08201 Robert Maestro | June 15 | | X |
| Townplan Associates 26 Main Street Dover Township Toms River, New Jersey 08753 Thomas A. Thomas, President | June 30 | | X |
| Wilcox, Gravatt & Hacunda, Inc. Rt. 9 and Murray Grove Lane P.O. Box 756 Forked River, New Jersey 08731 George A. VanSant | June 16 | | X |
| New Jersey State Chamber of Commerce 5 Commerce Street Newark, New Jersey 07102 Donald H. Scott, President | July 5 | | X |
| Sierra Club 360 Nassau Street Princeton, New Jersey 08546 Diane Graves, New Jersey Chapter | June 15 | X | X |
| West Jersey Group | July 15 | | X |
| United States Labor Party Robert Bowan | June 15 | X | |
| Daniel O'Connor Save Our River Environment Port Norris, New Jersey | June 13 | X | |

| Commentor | Date | Hearing | Written |
|---|--------------------|---------|---------|
| <u>Private Sector</u> | | | |
| Columbia Gas System Service Corp. 20 Montchanin Road Wilmington, Delaware 19807 Robert W. Welch Jr., Vice President-Environmental Affairs | June 19 | | X |
| Debevoise and Liberman 700 Shoreham Bldg. 806 15th Street, N.W. Washington, D.C. 20005 | | | |
| On behalf of Public Service Electric and Gas, Jersey Central Power and Light, and New Jersey Natural Gas; Comments addressed to NOAA-OCZM on NJCMP-BOSS and DEIS. | June 21 | | X |
| On behalf of Public Service Electric and Gas, Jersey Central Power and Light, and New Jersey Natural Gas; Comments addressed to NJDEP on Pro- posed Rules on Coastal Resource and Development Policies. | July 5 | | X |
| Jersey Central Power and Light Co. Madison Avenue at Punch Bowl Rd. Morristown, New Jersey 07960 by Riker, Danzig, Scherer and Debevoise and Hyland 744 Broad Street Newark, N.J. 07102 | July 5 | | X |
| Jesse S. Morie and Son, Inc. P.O. Box 35 Noble Street Mauricetown, New Jersey 08329 by Gary Caprenter, Director of Governmental Affairs, on behalf of Pennsylvania Glass Sand Corp, Whitehead Brothers Co., George F. Petinos, Inc., and Unimin Corporation | June 15 June 27 | X | X X |
| Public Service Electric & Gas Co. 80 Park Place Newark, New Jersey 07101 James A. Schissias, General Manager, Environmental Affairs | June 15 | X | X |

| <u>Commentor</u> | <u>Date</u> | <u>Hearing</u> | <u>Written</u> |
|--|-------------|----------------|----------------|
| <u>Private Sector (continued)</u> | | | |
| Unimin Corporation Greenwich Office Park 4 Greenwich, Connecticut 06830 Kenneth Brunk, Vice President for Technology | June 30 | | X |
| <u>Individuals</u> | | | |
| Mrs. Leo B. Bicher Jr . Normandy Beach, New Jersey | June 14 | X | |
| Al Coleman Pennsville, N.J. | June 13 | X | |
| Mary and John Dowdy 2111 River Street Camden, New Jersey 08105 | June 15 | X | X |
| Fred Gentile Fairfield Township | June 13 | X | |
| Thomas Henry Sea Isle City, New Jersey | June 13 | X | |
| L.R. Hudson Bay Point, New Jersey | June 13 | X | |
| Katherine Kievitt Ocean and Second Avenues S. Seaside Park, N.J. 08752 | June 14 | X | |
| Alexander Ogden Port Norris, New Jersey | June 13 | X | |
| Alvin Wagner Secretary-Treasurer of Sunrise Beach, Inc. | June 14 | X | |

RESPONSES TO GENERAL QUESTIONS

Eight issues were raised by a sufficient number of commentors that they have each been addressed in detail. This section phrases the general questions and provides DEP's response. The specific comments from which the general questions were formed are listed after the eight responses.

A. DOES THE STATE HAVE ADEQUATE LEGAL AUTHORITIES TO MEET THE REQUIREMENTS OF THE FEDERAL COASTAL ZONE MANAGEMENT ACT (CZMA)?

The New Jersey Bay and Ocean Shore Segment has been submitted as a direct state control program (Section 306(e)(1) B) to meet the requirements of the CZMA. This particular section of the Act allows a state to develop a program based on a "single, comprehensive piece of legislation specific to coastal management and the requirements of this Act, or on the basis of several different, often pre-existing State authorities which are compatible with and applied on the basis of the coastal management policies." [923.42(d)(1)]. For the Bay and Ocean Shore Segment, the policies of the program have been promulgated as regulations for the Coastal Area Facility Review Act, Wetlands Act, Waterfront Development Permit Program and Shore Protection Program, thus assuring that these programs will be operating consistently with the program. In addition, the policies applicable to the the Spill Control and Compensation Act and the Soil Erosion and Sediment Control Act as well as to the Federal Clean Air Act and Federal Water Pollution Control Act have been drawn directly from those acts or their existing regulations or are incorporated by reference, thus assuring consistency with the program. Other DEP programs such as the Stream Encroachment Act, Flood Hazard Areas Act, Waterway Maintenance Program and the Green Acres Program will be consistent with the program by being subject to receiving permits from the CAFRA, Wetlands and riparian programs and/or by virtue of the. Commissioner's letter at the beginning of the FEIS which states that each agency within DEP will act consistently with the policies of the Bay and Ocean Shore Segment as outlined in Chapter Four. Specifically, Section 1.3 of the adopted rules (Chapter Four) states that the policies of the program will apply, to the extent statutorily permissible, to all coastal management and planning actions of DEP. Also, Chapter Five has outlined a conflict resolution process for resolving conflicts within DEP on actions affecting the coastal zone. Portions of the Department of Energy Act will also apply to the program as described in General Question H, Chapter Five and the Memorandum of Understanding in Appendix G.

Under the requirements of Section 306(e)(1) B, the State must demonstrate control over a sufficiently broad range of activities that have a direct and significant impact on coastal resources. Local governments need not be directly involved under this option. NOAA has determined that the range of authorities New Jersey has outlined in the Bay and Ocean Shore Segment is sufficiently comprehensive to meet the requirements of Section 302 and 303 of the CZMA and to meet the authorities requirement of Section 306(e)(1)(B). New Jersey is not required to identify the authorities upon which it will rely outside the Segment until it submits the second, and final, part of its program.

B. HOW DOES NEW JERSEY MEET THE REQUIREMENTS OF SECTION 306(h)-PROGRAM SEGMENTATION?

Many commentators questioned whether New Jersey has met the requirements of CZMA regulation 923.61 which establishes that states must identify the boundary and a means for consideration of the national interest throughout the entire coastal zone. The state has proposed a management boundary for the entire state (see Chapter Two and Appendix E) based on:

1.) Bay and Ocean Shore Segment

The landward and seaward boundary as defined in Chapter Two of the FEIS.

2.) Hackensack Meadowlands

The area defined by the jurisdiction of the Hackensack Meadowlands Development Commission.

3.) Delaware River Waterfront from the Delaware Memorial Bridge to Trenton:

The area from the water's edge inland to the first road or cultural feature.

4.) Northern Waterfront from Raritan Bay to the New York border:

The area from the water's edge inland to the first road or cultural feature.

The Hackensack Meadowlands, Delaware River, and Northern waterfront areas will be combined with the Bay and Ocean Shore to form the entire State program in 1979. The State has established a timetable and budget for completing the remainder of the State program to meet the requirements of 923.61(a)(2), (See Chapter Eight).

There seems to be confusion by some of the commentators over the requirements of 15 CFR 923.61(a)(3) of the federal regulations. This section recognizes that, before a program segment can be approved, it must meet approval requirements in the Coastal Zone Management Act and implementing regulations, just as a total program must. It also provides that the state must demonstrate that it will exercise policy control over each segment of its management program with respect to future segments. This requirement refers to control to be exercised in the future, after adoption and approval of such additional segments. If total policy control were in effect at the present time, the whole purpose of segmented approval would be obviated. In section 923.61(a)(3), two elements are specified which, at a minimum, must be considered by states at the time of segment approval: (a) boundary determination and (b) national interests in major facilities. Although such elements for future segments need not be in effect or operation at the time of approval of an earlier segment, the state must include at such earlier time a general description of its consideration of at least these two elements.

New Jersey has completed the management boundary for the Bay and Ocean Shore Segment and has proposed a management boundary for the remainder of the State's coastal zone. The state does not need to identify the authorities upon which it will rely in this area at this time.

New Jersey has also met the requirements defined in Section 923.61(a)(3) of the federal regulations for consideration of the national interests in a coastal zone segment. The state considered the national interests throughout the entire coastal zone in preparing the program for the Segment. Such consideration is demonstrated by the policies in Chapter Four, and is described specifically in Chapter Six. In addition, New Jersey will continue to consider the national interests in its preparation of a program for the rest of the coastal zone. NOAA will not approve the second, and final, part of New Jersey's program unless such consideration is demonstrated, and continued consideration is assured as the program is implemented. NOAA has determined that this is adequate to meet the requirements of Section 306(h).

C. DOES THE BAY AND OCEAN SHORE SEGMENT ADEQUATELY EVALUATE THE SOCIO-ECONOMIC IMPACTS OF PROGRAM IMPLEMENTATION?

It is not possible to discuss in an EIS the literally limitless decisions affecting environmental, social and economic variables that may be made by individuals and organizations influenced by the implementation of the state coastal zone management program. The program itself generally provides a broad rationale for the more important decisions which are reached, and specific rationales for each policy.

The principal concern of the commentors is a more detailed discussion of such potential socio-economic factors as the gain or loss of jobs, shifts of economic benefits to individuals or corporations, or the increase or loss of tax revenues to local governments which might result from program approval and implementation. The summary of Social and Economic Impacts in Part III, while general and intentionally concise, fully satisfies any requirements that the National Environmental Policy Act (NEPA) may impose as to discussion of socio-economic impacts. The impacts of a program on specific sites cannot be discussed because of the broad range of actions by individual land owners, interest groups and municipal and other governmental agencies. Thus, this EIS cannot be as specific as an EIS on a particular project.

Furthermore, the purpose of NEPA is to insure that the broad range of environmental factors are adequately analyzed prior to federal actions which will significantly affect them. Courts have consistently held that socio-economic impacts alone are not protected by the National Environmental Policy Act. Rather they are significant only in conjunction with related environmental impacts. Nevertheless, it should be noted that New Jersey has used social and economic factors as criteria for designing its coastal program. Although consideration of these factors does not lend itself to useful quantification, the many specific policies demonstrate the state's consideration of these issues.

D. HOW WILL THE COASTAL PROGRAM MANAGE THE CUMULATIVE IMPACTS OF SMALL PROJECTS NOT REGULATED UNDER CAFRA AND OF COASTAL DEVELOPMENT IN GENERAL?

Some commentors of the DEIS for the Bay and Ocean Shore Segment questioned how the State would address the cumulative impacts of developments not regulated under CAFRA. In 1973, the New Jersey Legislature established the threshold for coastal development permits under CAFRA at 25 or more dwelling units for new housing developments. On April 1, 1977, DEP adopted Procedural Rules and Regulations under CAFRA which defined the threshold limit for CAFRA review of commercial facilities at 300 or more parking spaces for motor vehicles. (N.J.A.C.

7:7D-2.2.) This definition of commercial facilities is presently under litigation (New Jersey Home Builders vs. DEP) and any changes to this administrative rule will require a revision to this program reflecting such changes.

The interim final federal regulations (15 CFR 923) promulgated pursuant to the CZMA do not require that a state address the cumulative impact of a series of small scale developments. The regulations speak instead in terms of issues of concerns to the state in its effort to protect and manage coastal resources. Given the developed nature of much of the shoreline of this proposed segment, NOAA believes that the decision of New Jersey to review all subdivisions in wetlands and riparian land and to limit review to major projects elsewhere in the Segment is a reasonable interpretation of the program approval requirements.

This is not to say that the New Jersey program does not consider and, to a large extent, manage cumulative impacts from a number of sources. First, the Resource Policy on Secondary Impacts (Section 5.14 of Chapter Four) insures that each decision subject to the Coastal Program will consider the potential impact on future development. Furthermore, the Coastal Location Acceptability Method is designed such that each decision will be influenced by existing development in the area.

Second, the small developments not directly regulated by the Coastal Program are indirectly affected by program decisions. The funding and siting of infrastructure, such as sewers, roads, and shore protection structures, has a major impact on future development. Similarly, the setting of air and water quality standards by DEP influences the pattern of development.

Several commentators particularly noted the impact of the increasing number of boats using New Jersey waters. Decisions made by DEP regarding marina location and size, dredging and maintenance of channels, and boat operation can all help control future boat usage as necessary.

E. WHY HAS THE STATE NOT PREPARED A COASTAL MASTER PLAN? DOES THE COASTAL LOCATION ACCEPTABILITY METHOD PROVIDE A SUFFICIENTLY REASONED AND PREDICTABLE TECHNIQUE FOR COASTAL DECISION MAKING?

A master plan is a collection of published geographic criteria sufficient to enable coastal policy to be determined in any location. Many commentators are uneasy because New Jersey has not prepared the colored maps traditional to master planning. The inclusion of a new chapter entitled "A Vision of the Coast" (Chapter Three) and a "Coastal Region" section in Chapter Four (Section 3.5.3) have been added to the FEIS in response to these concerns.

DEP chose not to produce a traditional "master plan" for two reasons. The first is that experience with master plans has shown that a static two-dimensional representation showing single use zoning cannot easily adapt to the changing circumstances of development. The second is that master planning and zoning, in the sense of assigning single uses to all areas within a jurisdiction, is the responsibility of local government in New Jersey. For a state agency to pre-empt this role to the extent of designating single use zones would be to deny the major role individual land owners and developers, and local officials play in planning the future of the coast.

The role of a state government should be to address regional concerns, to identify where development should be restricted, to protect regional resources, and to identify where development is especially appropriate because of existing regional infrastructure distribution or desired future regional growth patterns.

In some cases, it is desirable that regional guidelines be somewhat use specific. The New Jersey program does this, for example, in the planning of scarce area-types such as waterfronts or mineral concentrations, or the identification of development areas for uses with very different location criteria such as housing and energy facilities, or the identification of uses that would bring maximum benefit to economically depressed areas such as labor intensive industry. In general, however, regional planning should be concerned with the patterns of growth of different intensities without proscribing the exact positions and design of individual projects.

The fact that the criteria detailed by Chapter Four have not been mapped coast-wide does not mean they cannot be. DEP-OCZM has completed more than fifty case studies in all areas of the coast. In all the cases, the application of the Coastal Resource and Development Policies produced acceptability designations. This demonstrates that the technique has general applicability as a reactive process suitable for the permitting programs which are DEP-OCZM's implementation tools, and that the method can be applied to hypothetical or real situations to provide predictability.

The Coastal Policies may also be used for prospective planning. The Cape May County Planning Board has completed sub-regional analyses and found that the area-wide application of the geographic criteria of CLAM produces a well reasoned and useful basis for master planning. The analysis produces a general idea of the pattern and extent of buildable acreage available in a region without degrading stated coastal resources or promoting extensive sprawl. The revised secondary impact policy provides an opportunity to assess impacts on regional carrying capacity.

Some of the commentators questioned whether the criteria of the policies are sufficiently reasoned. Brief qualitative rationales were included throughout the Draft EIS and these have been refined and expanded in the final EIS. Wherever possible, DEP-OCZM has used thresholds that have gained consensus through use elsewhere. Frequently in the FEIS the use of single numerical thresholds has been changed to case-by-case maximizations or minimisations of certain elements to allow for the application of new understanding and impact mitigation technology and to allow some flexibility to address the individual variations of sites.

The language "to the maximum or minimum extent practicable" has been used in some cases to allow this flexibility. Several commentators have expressed fear that this phrase represents an unacceptable loophole. Experience with the CAFRA legislation which also contains this language has shown that the flexibility in language adds to the workability of the program without sacrificing the intent of the policies. See the "Principles" section of Chapter Four (Section 2.2.).

Many comments have also addressed mapping. All the spatial information necessary to make preliminary acceptability determinations under CLAM is presently publicly available as published maps. The soil surveys, the USGS topographic quadrangles, the wetlands maps, the tax records and the bathymetry maps are the chief information sources. Others are specified in the FEIS. The difficulty

with this mapped information is that the scale varies widely and therefore composite mapping is difficult. DEP-OCZM, in its first application for 306 funding, is proposing mapping efforts to improve the utility of existing data. See Chapter Eight which discusses "Next Steps".

F. HAS THE STATE ADEQUATELY CONSIDERED THE NATIONAL INTEREST IN PLANNING FOR AND SITING FACILITIES IN THE STATE'S COASTAL ZONE?

Some comments concerned the program's adequacy in considering the national interest in energy facility siting as required by Section 306(c) (8) of the CZMA. The comments suggest that the program's preference for oil fired generation over nuclear and coal-fired generation clearly conflicts with the national goal to encourage nuclear and coal-fired generation to reduce use of oil for generation of electric power. The comments criticized the program's failure to adequately consider the national interest in the orderly exploration, development, and transmission of domestic oil and natural gas and importation of LNG.

The coastal program as revised in the Final EIS does not express a preference for oil, natural gas or any other type of electric generation, nor does it exclude LNG or nuclear facilities. The program asks that facilities comply with applicable state and federal regulations, that a need for energy facilities be demonstrated in the State Energy Master Plan, that safeguards be in place, and that the facilities not conflict with areas of environmental sensitivity. The energy policies were written to provide adequate consideration of national health, welfare, and economic well-being.

The process for considering the national interest in planning for and siting facilities includes the three step decision-making process outlined in Chapter Four of the Bay and Ocean Shore Segment and utilizes the Energy Report prepared by the New Jersey Department of Energy (DOE) in accordance with the Memorandum of Understanding (MOU) in Appendix G. Furthermore, Section I of the MOU indicates that DOE will interpret its mandate to "... contribute to the proper siting of energy facilities necessary to serve the public interest ..." as sufficient authority to consider the national interest in the siting of coastal energy facilities. Chapter Four has been adopted as Administrative Rules of DEP which shall apply to CAFRA, the Wetlands Act and the riparian statutes. Thus, whenever a facility requires any one of these permits, the process for consideration of the national interest shall be Chapter Four of the Bay and Ocean Shore management program. If a permit application for an energy facility is submitted, DEP will forward copies of the applications to DOE which shall submit an energy report for consideration by DEP during its review process. The report shall describe national interests, if any, in the facility. DEP's decision must explain any differences with the report and, if necessary an Energy Facility Review Board can be convened to resolve such differences. NOAA feels this process is sufficient to meet the requirements for segmentation under 923.61(3)ii.

Further, under CAFRA, DEP shall issue a permit only if it finds the proposed facility is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety and welfare. The clause "public welfare" has been defined in Section 1.1 of Chapter Four, which has been adopted as Administrative Rules, to include a full consideration of national interests. NOAA feels this process fully meets the continued consideration of the national interest requirement (923.52(3) of the CZMA.

G. HAS THE PROGRAM ADEQUATELY ADDRESSED THE GEOGRAPHIC AREAS OF PARTICULAR CONCERN REQUIREMENTS OF THE CZMA?

Some commentors have questioned the State's designation of Areas of Particular Concern (APC) as being too limited. The State has added eight areas to the three noted in the DEIS. Each designated APC has established guidelines regarding priority of uses in these areas which meet the requirements of 923.21(4). The 176 publicly nominated APC's have been distributed to county and local planning groups for incorporation in local master plans. Also, many of the publically nominated APC's have been directly incorporated into Chapter Four as part of the management program. Ninety percent of the nominations fall into four categories (water's edge areas, wetlands, beaches and wildlife habitats) that are specifically addressed in Chapter Four. The remaining to percent of the nominations fall outside the Segment region and will be considered for designation upon completion of the entire state program. DEP has analyzed each nominated area and will publish further analyses by November 1978.

H. IS THE RELATIONSHIP BETWEEN NJ DEP AND THE NJ DOE SATISFACTORY FOR PROGRAM APPROVAL, AND IS THE MEMORANDUM OF UNDERSTANDING BETWEEN THE TWO AGENCIES LEGALLY ENFORCEABLE?

Several commentors questioned the relationship between the Department of Environmental Protection and the Department of Energy.

Section 305(b)(b) of the federal CZMA requires a state's management program to include a description of the organizational structure proposed to implement the program. Comment (c) to 15 CFR 923.45 (organizational structure) says "The main purpose of this requirement is to provide a closer understanding of the entities that have responsibility for administering various aspects of the management program and the interrelationship of these entities." NOAA believes that the memorandum of understanding in Appendix G accomplishes this.

The Memorandum outlines the decision making process to be followed and the policies on which such decisions will be based. Because both agencies are involved, it insures that all the various interests and needs addressed by the federal Act will be considered in any decision. In short, it clearly outlines the inter-relationship of the two agencies.

The procedure outlined by the memorandum has as its end product a CAFRA, Wetlands, or riparian decision, which not only makes the decision accountable to the coastal management policies, but also subject to appeal by affected persons. Assume, for example, that the Energy Department's report failed to adequately consider the national interest, and assume further that the CAFRA permit decision was made on the basis of the Energy report and was therefore in violation of the management policy by virtue of this failure. That decision would be subject to appeal by any aggrieved party. Through this process, the DOE report, would be held responsible to the program's policies.

Should a decision be referred by DOE to the Energy Facility Review Board, and keeping in mind that DOE has committed itself to the coastal management policies as well as the Energy Master Plan as the basis for its report, it then becomes a matter of resolving the different interpretations of the coastal policies by DEP and DOE. Such a procedure is recognized as valid in the federal regulations, 15 CFR 923.42 (control techniques). The revised memorandum reflects this in section F.3.

Procedural regulations governing the Energy Facility Review Board will be adopted during the first year of Coastal Program implementation (see revised memorandum). Because there are no current, active proposals for energy facilities, in New Jersey, NOAA does not believe that the short-term absence of such regulations will in any way delay or otherwise affect energy facility siting in New Jersey.

Several commentors also questioned the fact that the memorandum does not appear to bind the Board of Public Utilities, which would assure state authority to override local decisions that unreasonably restrict or exclude uses of regional benefit (as required by the Federal Coastal Zone Management Act).

Because of the procedural posture of appeals to the Board of Public Utilities, it is not necessary that the Board be bound to the Coastal Resource and Development Policies by a memorandum of understanding. This is because the Board's override authority is limited to municipal siting decisions and does not apply to state, including coastal, decisions. In fact, binding the Board is expressly forbidden by the Department of Energy Act, which provides that "... [the] Board shall be independent of any supervision or control by the Department or by an officer or employee thereof, except as otherwise expressly provided in this Act" (N.J.S.A. 52:27F.6).

NOAA recognizes that the Board is not a statewide planning agency. What it does represent however, is a State agency able to supercede local actions restricting regional uses, and as such plays an important role as an element in the network of state authority comprising the coastal management program.

GENERAL QUESTIONS

The first 48 comments helped form the General Questions addressed above. Printed below, therefore, are only the comment and name of the commentator. Most of the General Questions were also raised by the New Jersey Petroleum Council, Natural Resources Defense Council and Federal agencies. Comments 778-1143 summarize the comments raised by these groups.

COMMENTS 1 - 3, ARE ADDRESSED BY GENERAL QUESTION A:

1. New Jersey does not possess adequate legislative authority to implement the program.

Debovoise and Liberman
for Public Service
Electric & Gas Co.,
Jersey Central Power
and Light Co., and
New Jersey Natural Gas Co.

2. The Wetlands, riparian and CAFRA laws do not authorize the State to exercise authority over new housing developments which contain less than 25 units or the expansion of existing development by less than 25 units. This "regulatory gap" precludes the Secretary from approving the Program until comprehensive legislation has been enacted.

Debovoise and Liberman
for Public Service
Electric and Gas Co.,
Jersey Central Power
and Light Co., and
New Jersey Natural Gas Co.

3. The document may not satisfy two requirements of the Federal Coastal Zone Management Act: a) Referring to 15 CFR S. 923.4, the program must consider present ownership patterns of land and water resources including administration of publicly owned property, as well as present populations and further trends including assessment of population growth, present land uses, proposals for changes and the requirement of housing, mineral resources, transportation navigation and communication facilities.

Giordano, Halleran
and Crahay for N.J.
Builders Association

COMMENT 4 IS ADDRESSED BY GENERAL QUESTION B:

4. If a state proposes a segmented approach, it must demonstrate that: "A timetable and budget have been established for the timely completion of the remaining segments". There is no reference or discussion of the establishment of a budget to effect the completion of the Program. It should also be noted that there is no state legislation, existing or proposed, which empower the State to implement the remaining segments of the Program.

Debovoise and Liberman for
Public Service Electric
and Gas Co., Jersey
Central Power and Light
Co., and New Jersey
Natural Gas Co.

COMMENTS 5 - 14 ARE ADDRESSED BY GENERAL QUESTION C:

5. The economic impacts of the program are more significant and much longer term than predicted.

Marine Trades Association
of N.J.

6. One would expect that an EIS would assess the impact of the Program upon economic development.

Giordano, Halleran & Crahay
for N.J. Builders
Association

7. Treatment in the EIS of the economic and social ramifications of these regulations is inadequate.

Barrymor Enterprise, Inc.
for N.J. Builders Association

8. I do not believe that the total impact upon the populace has been adequately determined.

Wilcox, Gravatt
& Hacunda for
N.J. Builders Association

9. The economic impacts of land-use restrictions on new development and land values are consistently down-played. The relationship between economic and environmental issues in the permitting process must be spelled out.

Marine Trades Association
of N.J.

10. The primary impact and secondary impacts of many of the policies in the DEIS are not analyzed.

N.J. Builders Association

11. The rules and regulations could have a significant impact on employment, the construction industry, housing for all income levels and the economy in general.

Dresdner Associates for
N.J. Builders Association

12. Policies should better balance other considerations with the environmental ones in evaluating acceptable uses.

Patricia Q. Sheehan
N.J. Department of
Community Affairs

13. The first Basic Coastal Policy should be revised to read "Protect the coastal ecosystem while permitting its beneficial use and development."

James A. Schissias
Public Service Electric
& Gas Co.

14. The document's opening chapter, which discusses the program's purposes, totally ignores one of the basic mandates of the CAFRA law, namely, "the legitimate economic aspirations of the inhabitants of the coastal area" which the Legislature stated it "wishes to encourage".

Donald H. Scott
N.J. State Chamber of
Commerce

Giordano, Halleran &
Crahay for N.J. Builders Association

COMMENTS 15 - 23 ARE ADDRESSED BY GENERAL QUESTION D:

15.
The Coastal Program fails to disclose the cumulative impacts of its own implementation.

Elwood R. Jarmer
Cape May County
Planning Board

16.
The program is flawed because incremental small scale development may not be controlled and the cumulative impacts of development are not seriously addressed.

Christopher Warren
Salem County
Planning Board

17.
The case by case approach avoids answering, or even raising, fundamental questions necessary for proper resource planning. We feel that the Program does not reflect the planning mandates and purposes of either the state or federal legislation, and that the document does not adequately assess the program's environmental impact.

Darryl F. Caputo
N.J. Conservation
Foundation

18.
It is crucial that N.J. be required to assess the cumulative impacts and to develop a mechanism to remedy this problem.

Diana Graves
Sierra Club

19.
P. 11. The program has no method for determining the cumulative impacts not only of small scale projects, but even several large scale ones.

Thomas L. Bertone
N.J. Office of Fiscal Affairs

20.
The current program restricts our ability to prejudge the cumulative effects of individual decisions.

Patricia Q. Sheehan
N.J. Department of Community
Affairs

21.
Considering the significance, the geographic application and the controversial nature of the CZMP, the EIS is deficient. Indeed, it is fatally defective in terms of analyzing the impacts (consequences) of the Bay and Ocean Shore Segment of the CZMP.

Dresdner Associates
for N.J. Builders
Association

22.
We believe that guidelines could be established so that applicants could build upon the analyses made for previous projects and concentrate on the additional effects of their facility on land use, traffic, housing, etc., as well as environmental factors.

Richard A. Ginman
N.J. Department of
Community Affairs

23.
The cumulative impact of numerous housing developments should be addressed in this document.

Michael Havrisko
League of Conservation
Legislation

West Jersey Chapter of
the Sierra Club

Robert W. Huguley
Monmouth County
Planning Board

Ruth Fisher
Citizens Association
for Protection of the
Environment

Alicia Gregg
Ocean City Public
Relations Department

COMMENTS 24 - 39 ARE ADDRESSED BY GENERAL QUESTION E:

24.
We feel that you have done an excellent job of producing a structured, orderly approach to the whole complex subject that should go far toward clarifying the decisions of those who must regulate as well as those who want to build. We trust that the plan for the Segment will gain rapid approval at all levels. Especially considering the difficulty inherent in working up detailed formulas for use of as varied and complex an area as the New Jersey coast, we feel that you have done a monumental job. We find it forward-looking and thorough in its coverage and, basically, sufficiently clear to be readily understood by builders and lay people.

Kathleen H. Rippers
League of Women Voters
of New Jersey

25.
The EIS should contain an inventory of existing conditions, mapped clearly.

Ann Penna & Dana Rowan
American Littoral
Society

26.
Carrying capacity maps are essential for the further development of plans of CZM.

Thomas L. Bertone
N.J. Office of Fiscal
Affairs

27.
The federally-funded mapping project to commence after Program approval will identify development-suitable areas throughout the coastal zone and will

Robert W. Huguley
Monmouth County
Planning Board

28. A generalized graphic composite for the coast would help eliminate problems and should have been developed prior to program approval if the public was to be properly informed of the program's impact.

Christopher Warren
Salem County
Planning Board

29. Why has not a plan been laid out for the state as opposed to rules and regulations leading to such a plan? The program needs additional and more extensive mapping.

Barrymor Enterprises, Inc.
for N.J. Builders
Association

30. The need remains for an initial mapping and delineation of the coast, which would facilitate truly prospective planning.

William Potter
Public Advocate

31. There does not appear to be a sufficient inventory of natural and man-made coastal resources, a requirement of 15 C.F.R. 923.12(a)(2).

Giordano, Halleran
& Crahay for
N.J. Builders
Association

32. An adequate inventory of the coast's resources has not been compiled. In view of this deficiency there is little alternative for formulating a plan other than setting forth loose policies and reviewing projects on a case by case basis.

Darryl F. Caputo
N.J. Conservation
Foundation

33. The decision not to conduct a proper inventory was a mistake. No one knows specifically where developments can and cannot be located.

Diane Graves
Sierra Club

34. The lack of an inventory of coastal zone resources and of detailed mapping causes some concern.

Michael Havrisko
League of Conservation
Legislation

35. Our primary concern centers on the absence, at this time, of the fundamental elements of a master plan and a master planning process. Much of the fine work presented will profit with the availability of such a document for which there is clear authority and an explicit mandate.

Patricia Q. Sheehan
N.J. Department of
Community Affairs

36. The program needs a comprehensive land use plan that clearly delineates the spatial construction of acceptable uses under the plan, and identifies areas that are suitable or unsuitable for development.

Alan Avery
Ocean County
Planning Board

37. The lack of mapping is a major flaw in the Program

Thomas A. Thomas
Townplan Associates
for N.J. Builders
Association

38. The Coastal Location Acceptability Method or CLAM provides a sound basis for management decisions, but the management strategy should also include a detailed overall plan for the whole Coastal Area.

Katherine Kievitt
South Seaside Park

39. Certain critical problems will not be addressed either by looking for critical uses in each area, or preferred areas for each use, because they involve the impact of some areas on others. Resolution of broad regional problems requires the development of a master plan having persuasive advisory status if not the force of law.

Roger Thomas
Committee For A
Better Environment

COMMENTS 40 - 42 ARE ADDRESSED BY GENERAL QUESTION F:

40. The Programs Fail to adequately consider the national interest by severely restricting the construction of coal-fired electric generation facilities. New Jersey's criteria which prefer oil-fired generation over nuclear generation unquestionably conflict with the clearly defined national interest. The Program fails to provide adequate consideration to the national interest in oil and natural gas exploration, development, and transmission. The Segment does not accommodate the national interest in natural gas availability. There are other definitive expressions of national interest regarding energy facilities which New Jersey must consider and accommodate. They include the Atomic Energy Act, and the Energy Supply and Environmental Coordination Act, and the Natural Gas Act.

Debevoise and Liberman
for Public Service
Electric and Gas Co.,
Jersey Central Power
and Light Co., and
New Jersey Natural
Gas Co.

41. The program does not provide for adequate consideration of the national interests involved in siting facilities necessary to meet requirements which are other than local in nature. Electric generation and transmission facilities and other energy facilities clearly fit that category.

Riker, Danzig, Scherer
and Debevoise & Hyland
Jersey Central Power
and Light Co.

42. We believe the NJCMP does not adequately provide for the national and regional interests in electric

James A. Schissano

and in fact discriminates, discourages and effectively excludes those vital energy facilities from the coastal zone.

COMMENTS 43 - 46 ARE ADDRESSED BY GENERAL QUESTION G:

43.

Hundreds of places were nominated as geographic areas of particular concern (GAPC), yet only three places were mentioned in the document and two of the three are already subjected to state control.

Darryl F. Caputo
N.J. Conservation
Foundation

44.

The GAPC's nominated in the DEIS reveal extraordinary timidity on the part of DEP-OCZM since each is already owned by the state and is subject to strong state legislation. The idea should be to protect something that needs protection.

Daniel O'Connor
Save Our River
Environment

D. W. Bennett
American Littoral
Society

45.

We see GAPC designation for dunes and specific areas of high erosion as a significant means of protecting these fragile, productive ecosystems against development which falls below the CAPRA threshold.

Anne Penna &
Dana Rowan
American Littoral
Society

46.

Only one site nominated by a single citizen is listed as a nomination for a "geographic area of public concern" in Gloucester County. It would therefore seem apparent that either DEP's solicitation efforts for nominees in this area were not vigorous enough to be successful, or there was a distinct lack of interest in the County in DEP's nominating process.

Charles E. Romick
Gloucester County

COMMENTS 47 - 48 ARE ADDRESSED BY GENERAL QUESTION H:

47.

PSE&G believes that the DEP does not have the authority and jurisdiction to consider feasibility and economics. The New Jersey Legislature has mandated that the DOE shall have that jurisdiction and mandated that it is solely within that Department's responsibility.

James A. Schissias
Public Service
Electric & Gas Co.

48.

The MOU leaves several questions unanswered. For example, it states that where the DOE's Energy Report analyzing an energy facility "differs from the DEP, the conflict may be referred for resolu-

William Potter
Public Advocate

(emphasis added). The contents of the Energy Report are not specified (except for "evaluation of need"); accordingly, it is impossible to know the areas of review in which possible differences will arise. Moreover, what differences will be significant enough to trigger the Review Board? Additionally, there is no requirement that the Review Board limit its review to the record before it, or, if it finds that record sufficient, that it remand for the gathering of additional evidence.

COMMENTS BY TOPIC FROM NEW JERSEY AGENCIES, GROUPS AND INDIVIDUALS

The comments in this section (numbers 49 - 777) are organized by topic and individually addressed below. The left column summarizes the comment, the middle column indicates who made the comment, and the right column provides the combined response of NOAA-OCZM and New Jersey DEP-OCZM. Unless otherwise specified, numbers in the right column refer to sections of Chapter Four (Coastal Resource and Development Policies) in Part II of this Final Environmental Impact Statement.

| Comment | Commentor | Response |
|---|--|---|
| <u>COASTAL POLICIES</u> | | |
| <u>NEPA SUMMARY</u> | | |
| 49. P. ii. It is inappropriate to single out Atlantic City in item "g" on page ii because this creates the impression that Atlantic City will receive special consideration, which certainly must not be the case. | Marine Trades Association of N.J. | Atlantic City is under more intensive development pressure, because of legalized gambling and its impacts, than any other part of the coast. It would be negligent for DEP-OCZM not to recognize this and consider Atlantic City a special case. |
| 50. P. ii. The program takes an essentially negative approach to coastal zone management. On page ii, item "a" should identify the uses probably permissible in various segments of the coastal zone. | Marine Trades Association of N.J. John J. Horn N.J. Department of Labor & Industry | Disagree. Development potential criteria, the designation of certain uses and the encouragement of many regions as growth areas are all positive. Also the promulgation of specified policies will help potential developers to realistically plan. |
| 51. P. ii. "Supporting and promoting access" in item "h", p. ii, should be further defined. This should not entail the commitment of funds nor the diminishment of private property rights. | Marine Trades Association of N.J. | See policy 5.12 which does affect the commitment of funds, but does not inhibit constitutional rights to use of private property. |
| 52. The statement on page iii concerning economic impacts is understated, inaccurate and contradictory. An irreversible commitment of resources must result in long term impacts. | Marine Trades Association of N.J. | See General Question D. |
| 53. The alternatives listed are to accept, reject, or delay the program as set forth. However, alternative programs are not described, giving us concern that the document might fail to meet the NEPA requirements for a full discussion of alternatives. | Roger Thomas Committee for a Better Environment | The alternatives outlined in Part IV are the most feasible alternatives that are available to the Associate Administrator of NOAA. |

-35-

| Comment | Commentor | Response |
|---|---|--|
| <u>GENERAL COASTAL POLICIES</u> | | |
| 54. Document does not have an index; certain terms should be cross-referenced in the text. | Ann Penna & Dana Rowan American Littoral Society | There is a glossary, and extensive cross references within the text where appropriate. |
| 55. The document needs a bibliography and list of contributors. | Barrymor Enterprises, Inc. for N.J. Builders Association | Appendices B and K provide bibliographic material. In most instances, the source of the information is also mentioned in the text. |
| 56. The EIS is incomplete and inadequate. | Marine Trades Association of N.J. Barrymor Enterprises, Inc. for N.J. Builders Association | Disagree. Please see responses to General Question D and responses to more specific comments. |
| 57. The document is internally inconsistent. | Marine Trades Association of N.J. | See response 55. |
| 58. The document contains a detailed examination of a variety of types of sites and lists in detail certain uses that are declared to be more or less desirable for each area. This is an unsystematic approach when taken by itself, although it does serve to present some good ideas. What is needed to complement it is an examination of each use to determine where, if anywhere, it would be most suitably located. | Roger Thomas Committee For A Better Environment | Major uses under present regulation are examined in the development potential section of the document. See Section 3.5.5. The high degree of regulation suggested is largely a municipal zoning function in New Jersey. See also General Question D and E. |
| 59. The document is clear and straight-forward and should be comprehensible to anyone applying for a development permit. | D. W. Bennett American Littoral Society | No response necessary. |

| Comment | Commentor | Response |
|--|--|---|
| <u>GENERAL COASTAL POLICIES - Cont.</u> | | |
| 60., The only problems that we continue to have with clarity are in Section 6, Location Policies. Most of the wording and definitions are clear and readable, but we have some problem with the use of words such as Stream "Heads" and their attendant definition. It seems as if more common wording such as Stream "Sources" might help to clarify the presentation. | Kathleen H. Ripperer League Women Voters | Language has been made as simple as possible. In some cases, more technical language adds specificity. |
| 61. Camden County may need two sets of coastal policies: one for urban areas; another for undeveloped areas. CLAM may not be suitable for urban parts of Camden County. | William C. Hengst Camden County Environmental Agency | A distinction of this kind may be appropriate to the Delaware River shore. DEP-OCZM hopes that Camden County will join the discussion of planning strategies most appropriate to the Delaware River coastal zone. |
| 62. Middlesex County is expecting pressures for new energy development. We are concerned about unfavorable impacts if coastal program concentrates energy development in parts of county and state along the coast outside ROSS, where no coastal program has yet been prepared. | John Runyon Lower Raritan/ Middlesex County 208 Water Quality Management Program | Most energy facilities require riparian permits and therefore are now regulated by the Division of Marine Services. The completion of a state-wide coastal zone will follow segment approval. |
| 63. Coastal zone management program development and implementation should be coordinated with the Lower Raritan/Middlesex County "208" and Water Resources Association. | Middlesex County Planning Board | Agreed. DEP-OCZM has several staff members working on coordination with counties and 208 agencies. |

-357-

| Comment | Commentor | Response |
|---|---|--|
| <u>GENERAL COASTAL POLICIES - Cont.</u> | | |
| 64. Some policies regarding site plan and review procedures and requirements are too specific and of limited value. | Thomas A. Thomas Townplan Association for N.J. Builders Association | The specificity is needed to add certainty to the decision-making process. |
| 65. Some very broad policies are difficult to relate to an overall development plan in a community. | Thomas A. Thomas Townplan Associates for N.J. Builders Association | Disagree. A reading of the complete set of policies in Chapter Four will quickly produce an indication of the likely acceptability of a project. |
| 66. There is little rationale for many of the policies in this document | N.J. Builders Association | A rationale for every policy is included in the FEIS. |
| 67. The document lacks clear definitions -- is this an indication that it is only a general guide to decision-making and not meant to be more specific? | Marine Trades Association of N.J. | The FEIS includes specific definitions where lack of clarity was noted in the DEIS. |
| 68. Program needs a scheme for weighting different considerations so that a trade-off point can be determined when policies conflict. | Patricia Q. Sheehan N.J. Department of Community Affairs | Chapter Four now provides this scheme. |
| 69. Certain planning and engineering definitions are undocumented and questionable. There are glaring engineering and planning deficiencies in the document. | N.J. Builders Association | Revision from the DEIS, made in part on the basis of NJSBA comments have hopefully alleviated the problems. See revised Chapter Four. |
| 70. Will the State develop policy concerning the reconstruction or repair of existing discouraged, prohibited and/or non-conforming uses? | Stephen Gabriel Ocean City Mayor's Office | Not at this time. DEP will explore this suggestion in the next year. |

| Comment | Commentor | Response |
|---|--|---|
| GENERAL COASTAL POLICIES - Cont. | | |
| 71. DEP should allow handwritten drawings of a site in permit applications for relatively minor projects. | Daniel O'Connor Save Our River Environment | Agreed. DEP-OCZM permits handwritten drawings for all early analysis stages. |
| 72. All of the major industries in Cumberland County depend on local natural resources; I welcome the protection of these resources provided by the coastal program. Research must be done to determine how to develop these resources properly. | Daniel O'Connor Save Our River Environment | No response necessary. |
| 73. It is incredible that the impact analysis portion is only 28 pages in a document almost 200 pages in length. | Giordano, Halleran and Crahay for N.J. Builders Association | Part II also addresses impacts on specific locations, uses, and resources. |
| 74. We agree with the statement about water quality in paragraph three on page 7. | Marine Trades Association of N.J. | Thank you. |
| 75. P. 11. I especially endorse policies which protect coastal natural resources, and which constitute a rational decision-making process, and the energy and resort/recreational use policies. | Elwood R. Jarmer Cape May County Planning Board | No response necessary. |
| 76. If you own land along the bay and erosion carries it away, and then by an act of God the land is put back, would you have to buy that land back from the State? | Fred Gentile | Land lost to natural erosion is lost to the landowner; it becomes riparian and title reverts to the State. However, if the land returns by natural process, i.e.: gradual accretion, that land becomes part of the upland owner's property. He does not have to buy that back from the State. |

| Comment | Commentor | Response |
|---|--|---|
| GENERAL COASTAL POLICIES - Cont. | | |
| 77. The document does not satisfy the EIS provision of NEPA because it does not contain a detailed statement of all feasible alternatives. | Giordano, Halleran and Crahay for N.J. Builders Association | Alternatives have been explored before and after the publication of the Strategy and the DEIS Document. These documents together with the earlier Alternatives for the Coast, record an extensive exploration of alternatives. |
| 78. The report does not clearly set forth the underlying reasons for the conclusions reached. | Giordano, Halleran & Crahay for N.J. Builders Association | There are rationales throughout the FEIS document. |
| 79. The DEIS does not provide sufficient data on the project's economic feasibility and economic effects. | Giordano, Halleran & Crahay for N.J. Builders Association | See General Question C. |
| 80. This program is an open door to substantial state review and approval of a wide variety of activities, facilities and developments that heretofore have not been considered. It is important that this door be closed. | Dreadner Associates for N.J. Builders Association | Disagree. The program establishes policies to be used in administering existing laws and programs. |
| 81. Referring to 15 C.F.R. S. 923.12(a)(2), the program does not sufficiently inventory natural and man-made coastal resources. | Giordano, Halleran & Crahay for N.J. Builders Association | The referenced section which is incorrectly cited (the correct citation is 15 C.F.R. 923.11(b)) refers to such an inventory for the purposes of determining land and water uses subject to the management program and does not simply require an inventory. Existing documentation of soils, geology, topography, property ownership, vegetation, bathymetry, shellfish and finfish, demographic trends and many other planning elements provides sufficient inventory for all policies in this document. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

GENERAL COASTAL POLICIES - Cont.

| | | |
|---|--|--|
| 82. Many heavy industries dependent upon waterfront activities should be able to locate in areas designated for such uses. The DEP-OCZM fails to identify these areas. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | Areas suitable for water-dependent industries are clearly indicated in the water's edge policies. See section 3.4 of revised Chapter Four. |
|---|--|--|

| | | |
|---|---|--|
| 83. We object to one section of the State, South Jersey, being programmed first, and the other areas of Hackensack, the Meadowlands, the Delaware River, etc. being programmed last. | Joseph Heeney Lacey Township Chamber of Commerce | The time period between first and last is comparatively short, 6-9 months. The legislation inevitably simplified the regulatory task in this segment. DEP-OCZM felt that more discussion was appropriate in areas not regulated under CAFRA. See General Question 8. |
|---|---|--|

BASIC COASTAL POLICIES

| | | |
|--|---|------------------------|
| 84. We applaud the Segment's policy of concentrating development, and encouraging the preservation of open space. | Winifred D. Meyer American Association of University Women | No response necessary. |
|--|---|------------------------|

| | | |
|--|---|------------|
| 85. P. 11 We strongly endorse the four basic coastal policies of the coastal program. | Charles E. Romick Gloucester County Elwood R. Jarner Cape May County Planning Board Katherine Keivett | Thank you. |
|--|---|------------|

| | | |
|---|---|--|
| 86. P. 10-12. Phrases like "regional impact" and "major development" should be defined in terms of the coastal zone. | Patricia Q. Sheshan N.J. Department of Community Affairs | Major development is legislatively defined. Regional impact is defined as an impact, either immediately or casually related, that extends beyond a municipal boundary. See Glossary in Appendix J. |
|---|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

BASIC COASTAL POLICIES - Cont.

| | | |
|---|---|---|
| 87. P. 11. Where is the method for determining the limit on the concentration of development at which point development becomes so intense in any given area that it no longer respects the natural and built environment? | Thomas L. Bertone Office of Fiscal Affairs | The secondary impact analysis does take note of cumulative impact, ambient environmental quality relative to standards, and remaining carrying capacity. See also General Question D. |
|---|---|---|

| | | |
|--|---|--|
| 88. Basically, we support the concept of long-range planning to protect the ecology and our natural resources. However, the Lacey Township Chamber of Commerce strongly opposes the adoption of this program as it is presently proposed. | Joseph Heeney Lacey Township Chamber of Commerce | See responses to more specific comments. |
|--|---|--|

| | | |
|--|---|---|
| 89. The second Basic Coastal Policy to concentrate development does not recognize that nuclear generating stations cannot be located in concentrated development areas. | James A. Schissias Public Service Electric & Gas Co. | The rationale to the policy in both the DEIS and the FEIS specifically exempts nuclear and LNG facilities. See Chapter Three. |
|--|---|---|

| | | |
|---|---|--|
| 90. The Salem County Planning Staff endorses the basic coastal policies with a few reservations. We believe that the second policy means that development will occur in a concentrated manner and not that major new development must be contiguous to existing settled areas. | Christopher Warren Salem County Planning Board | The Basic Coastal Policy to concentrate the pattern of development means that new development should generally be contiguous or adjacent to existing settled areas, rather than be dispersed without regard for existing patterns of development. The Basic Coastal Policy is a broad goal which is to be carried out using the Coastal Resource and Development Policies. |
|---|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

BASIC COASTAL POLICIES - Cont.

| | | |
|--|---|--|
| 91. Our previous comments that certain facilities (nuclear plants, LNG) be excluded from the clustering policy has been heeded. However, a policy statement somewhere in the document should discourage such clustering without extensive safeguards. | Christopher Warren Salem County Planning Board | The Resource Policies are designed to address this concern. See Section 5.0. |
| 92. The Program fails to administer land and water use regulations and control development to resolve conflicts among competing uses. | Debevoise and Lieberman for Public Service Electric & Gas Co., Jersey Central Power & Light Co. and N.J. Natural Gas Co. | Disagree. The Coastal Program is a method to resolve such conflicts. |

BOUNDARY

| | | |
|--|--|--|
| 93. The CAFRA boundary should be extended to include the Raritan Bay coastal areas and Raritan River estuary to the Victory Bridge. | Middlesex County Planning Board | This would require new Legislative action and is not necessary for Federal approval. |
| 94. P. 13. The use of cultural features as a boundary line makes the coastal zone too inclusive in many areas of the coast. A boundary should be developed based upon sound planning principles regardless of whether the coastal zone lies within or beyond the existing CAFRA line. | Christopher Warren Salem County Planning Board | In the Segment area, the cultural feature line established by the Legislature corresponds closely with the boundary recommended by environmental analysis. |
| 95. P. 13. I recommend that the coastal zone boundary be the 10 foot contour line; this would be more meaningful and closer to the spirit of the Coastal Zone Act than the present boundary. | John Holland Cumberland County Planning Board Alvin Griffith Lawrence Township Planning Board | This was considered by the Legislature in 1973 in the setting of the CAFRA boundary and rejected. The Federal CZMA states that the boundary should include "shorelands the uses of which have direct and significant impact on |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

BOUNDARY - Cont.

| | | |
|---|--|--|
| 96. P. 13. I oppose the use of the 10 foot contour line for an alternate boundary; the present boundary is acceptable. | Daniel O'Connor Save Our River Environment | coastal waters". Given the diversity of New Jersey's coast, it is impossible for a single surface variable to satisfy this requirement. Agreed. |
| 97. The Federal Coastal Zone Management Act stipulates that areas beyond the CAFRA zone on the Delaware River need not be included in the State's Coastal Program as the salinity content of the water is less than 5 parts per thousand. DEP-OCZM in our opinion is exceeding the mandate of the Legislature as well as going beyond the requirements of the federal statute. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | The boundary for this area is still proposed and will be re-evaluated in the coming months. |
| 98. P. 13. Alternatives to the proposed boundary for segments outside BOSS, namely, the first cultural feature inland of coastal waters, may be more appropriate. These might include existing land uses or property lines. | William G. Hengat Camden County Environmental Agency | This is being investigated and debated in the development of the program of those segments. |
| 99. Maps should be prepared for public distribution delineating the new coastal zone boundary, as distinguished from the CAFRA boundary, in the Bay and Ocean Shore Region. | Daniel O'Connor Save Our River Environment | Appendix E includes maps depicting the entire coastal zone boundary at a scale of 1:250,000. Official DEP Wetlands maps are available for public consultation at County Offices, and at DEP's Division of Marine Services. |

Comment Commentor Response

BOUNDARY - Cont.

| | | |
|--|--|--|
| <p>100. Page 258 describes what the New Jersey DEP desires to delineate as coastal zone in New Jersey. ILTA submits that this must be determined by the State legislature.</p> | <p>Thomas V. O'Neill N.J. Independent Liquid Terminals Association</p> | <p>DEP proposes to use existing regulatory authority such as the Riparian Statutes to regulate activities within the area shown on page 258. Note that Figure 25 shows only regions "Proposed" for inclusion in New Jersey's Coastal Zone. If DEP's proposal goes beyond the area covered by existing statutes, it would obviously have to go to the Legislature for that authority.</p> |
|--|--|--|

GENERAL LOCATION POLICIES

| | | |
|---|---|--|
| <p>101. No one can know the suitability of particular areas of the coast for development or protection without initiating the CAFRA permit process by requesting a permit, because no sites are evaluated until a developer decides to build on a particular lot.</p> | <p>William Potter Public Advocate</p> | <p>Disagree. Any area can be subject to a CLAM analysis, and the OCZM staff is available to help. In Cape May County, the planning board has used CLAM to study many areas to judge compatibility with Master Plan. Therefore, it is not just a reactive technique. Also see Chapter Three</p> |
|---|---|--|

| | | |
|--|---|---|
| <p>102. The policies in the Bay and Ocean Segment do not provide for a comparison between potentially acceptable sites, but only distinguish a site as either acceptable or unacceptable in a particular case.</p> | <p>William Potter Public Advocate</p> | <p>Disagree. Two or more sites may be analyzed and their acceptability compared. The analysis does not give yes-no answers for entire sites but indicates the comparative extent of problems anticipated.</p> |
|--|---|---|

| | | |
|---|---|--|
| <p>103. The program can and probably will impose a tremendous tax hardship on communities and the taxpayers, as all tax losses will have to be borne locally and not with the State. It has built in regulations that will result in such tax ratable losses.</p> | <p>Joseph Heeney Lacey Township Chamber of Commerce</p> | <p>Disagree. The use of the Coastal Policies will guide development to appropriate locations, rather than drive it away.</p> |
|---|---|--|

Comment Commentor Response

GENERAL LOCATION POLICIES

| | | |
|--|--|-------------------------------|
| <p>104. Gloucester County is in agreement with DEP's desire to increase predictability and adding more specificity to its decision-making process by limiting administrative discretion. It is agreed that a group of policies embodying clearly defined standards that must be met in order for a proposed development to be deemed acceptable is necessary in accomplishing this desire.</p> | <p>Charles E. Romick Gloucester County</p> | <p>No response necessary.</p> |
|--|--|-------------------------------|

| | | |
|--|--|--|
| <p>105. The program inappropriately considers facilities of only local significance.</p> | <p>Patricia Q. Sheehan N.J. Department of Community Affairs</p> <p>Girodano, Halleran & Grahay for N.J. Builders Association</p> <p>Alan Avery Ocean County Planning Board</p> | <p>Disagree. The program considers only combinations of uses, locations and resources with regional impacts.</p> |
|--|--|--|

| | | |
|--|---|--|
| <p>106. P. 20, 4.0 The standards which are applicable to definitions must be clearly set forth for evaluation.</p> | <p>James R. Kelly Delaware River Port Authority</p> | <p>Agreed. The standards and their rationales are stated in Chapter 4 of the FEIS.</p> |
|--|---|--|

| | | |
|---|------------------------|---|
| <p>107. Does one still have to file with the NJDEP and with the federal government, or will this program consolidate those two?</p> | <p>Alexander Ogden</p> | <p>Where federal regulations are applicable, one will still have to apply to federal agencies. However federal policies will, to a large extent, be consistent with state policies.</p> |
|---|------------------------|---|

| | | |
|---|--|---|
| <p>108. 5.0 The decision-making process will make development of coastal lands possible for only the largest firms and proposals.</p> | <p>Dr. Phillip Phelon Cumberland County Economic Development Board</p> <p>Charles Fisher Cumberland County Board of Chosen Freeholders</p> | <p>Disagree. The process is already simpler than many municipal zoning requirements which are satisfied by small firms. Also, work on simplification is continuing.</p> |
|---|--|---|

| Comment | Commentor | Response |
|--|---|---|
| GENERAL LOCATION POLICIES - Cont. | | |
| 109. The regulations will "lock in" land uses almost forever. We believe that land uses should change as the economy, the state of scientific development, and our knowledge in general develop. | Dr. Phillip Phelon Cumberland County Economic Development Board | The Coastal program is written to be able to accommodate such change. The policies can also be revised should major change prove necessary. |
| 110. What will be the procedural difference between a determination by OCZH that the development should be "encouraged" as opposed to "acceptable"? | William G. Hengst Camden County Environmental Agency | See revised definitions in Section 2.3. |
| 111. The 3 stages are not clearly defined on page 22. It may help if the document briefly discusses the "how" along with the "what". | Bob Maestro for N.J. Builders Association | See discussions in sections 1.0 and 2.0. |
| 112. Present ownership patterns of the land, and water resources, including administration of publicly owned property must be considered as well as present population growth in the coastal zone and estuarine environment, present uses, proposals for changes and long-term requirements of the coastal zone, housing requirements, mineral resource requirements, transportation and navigation needs and communication facilities. | Giordano, Halleran and Crahay for N.J. Builders Association | Agreed. These are among the considerations that guided DEP-OCZH in the formulation of policy. |
| 113. We tend to disagree that the stated six factors are the principal location factors and that each is relevant to a particular development proposal. | Christopher Warren Salem County Planning Board | The six factors have been revised in the FEIS (See Section 3.5); some soil factors, for example, are now resource policies. The special value, location, use and resource policies are all used in decision making. |

| Comment | Commentor | Response |
|---|--|---|
| GENERAL LOCATION POLICIES - Cont. | | |
| 114. The identification of land use activity and growth trends and the issues implicit in these trends needs to be assessed in terms of their locational appropriateness. | Patricia Q. Sheehan N.J. Department of Community Affairs | Agree. See Chapter Three and Sections 3.5.3 and 3.5.7 of Chapter Four. |
| 115. The revised Program is greatly improved from the Strategy. | Robert W. Huguley Monmouth County Planning Board | No response necessary. |
| 116. This section has excellent guidance information for development, but must be presented in a manner that is less confusing to understand. | Bob Maestro for N.J. Builders Association | The FEIS includes substantial revisions in format based upon more specific comments by the Builders Association and others. |
| 117. The Resource Policies, as defined in the Segment, (on air, water, runoff and buffers) would not adequately address the fact that heavily developed areas in Middlesex County, as well as in similarly developed areas throughout the State, already suffer the highest levels of environmental pollution. | Middlesex County Planning Board | The Resource Policies do seem applicable to urban areas since they refer to standards which can vary in different areas. The entire set of policies will be re-evaluated as the program for the coastal area outside the Segment is prepared. |
| 118. CLAM may suffer from other infirmities related to its basis and background. For example, it is not clear from the accompanying explanation how each of these determinations was made. | William Potter Public Advocate | The FEIS simplifies the CLAM determinations and expands the rationales. |
| 119. CLAM is disingenuous for its failure to recognize the frequently inconsistent trends in prior DEP decisions, and its failure to identify the specific trends | William Potter Public Advocate | DEP used the experience gained from past decisions to write a coastal program which could respond to present and future needs, rather than to explain or justify the past decisions. |

Comment Commentor Response

GENERAL LOCATION POLICIES - Cont.

which like common law codified by statute, it wishes to formalize.

120.
The DEP still leaves the important first step -- what should happen to the land -- to the developer, contrary to the intent of CAFRA which emphasized a statewide interest in the well-being of coastal water and land. Rather than directing development (or non-development) on the coast, the State will react to the plans of others.

D. W. Bennett
American Littoral Society

Mr. Farmer

The state is not a builder. The Coastal Program deliberately restricts the actions of developers only to the extent necessary to manage resources. At the same time, DEP will work with other public and private agencies to encourage desirable development.

121.
P. 19. There is virtually no administration discretion nor flexibility in this program. For example:
a) Rule 6.3.8.3 discourages various retaining structures. There is no analysis of the rule's effects on development fronting lagoons.
b) There is no rationale for the policy generally discouraging the construction of bulkheads.
c) The acceptability criteria for new dredging in Rule 6.3.8.6 are almost impossible to meet.
d) Rule 6.4.10 should allow development on steep slopes if adverse environmental effects can be mitigated rather than if "no prudent or feasible alternative" exists, as the rule now reads.
e) Rule 6.4.11 should be made more flexible to allow farmers to sell their land to developers.

Giordano, Halleran
and Crahey for
N.J. Builders
Association

a) Noted, see revised policy and rationales in 3.4.3 and 3.4.4.

b) See revised policies 3.4.3 and 4.8.

c) See revised policy in 3.3.7.6.

d) See revisions in 3.2.21.

e) The soils are important to future food production and must be maintained. Nation-wide the percentage of fertile soils is small enough

Comment Commentor Response

GENERAL LOCATION POLICIES - Cont.

that this is an issue of not merely regional, but also national importance. The cumulative loss of fertile land progressively lowers the nation's ability to withstand economic hardship.

122.
One of the significant obstacles to the concentration of development and preservation of open space in the past has been the DEP's general unwillingness, even in the nominated Geographic Areas of Particular Concern, to deny CAFRA applications (although the required performance standards usually result in better projects). To channel development to some areas, one must prohibit it in others. By defining more clearly what constitutes an effective use and increasing the predictability of CAFRA decisions, the new policies, improved cooperation, suggested alternatives, better mapping, and the pre-application conference will all help to avert the difficult decision to deny proposals that are not infill.

Robert W. Huguley
Monmouth County
Planning Board

See revised section 3.2.2.2. No response necessary.

123.
Locational policies should address an area immediately adjacent to site (should be defined) as well as site itself.

Bob Maestro
for N.J. Builders
Association

Agreed. This is included in Resource Policies, 5.0, and especially 5.14 and 5.15.

124.
There is a presumption that all criteria and considerations are of equal value.

Patricia Q. Sheehan
N.J. Department of
Community Affairs

Disagree. For example, Water's Edge criteria are given more weight. See also revisions in 3.5 which give different weights to variables in the various regions. Also see Use Policies 4.3 and 4.6.

| Comment | Commentor | Response |
|--|---|---|
| GENERAL LOCATION POLICIES - Cont. | | |
| 125. Eliminate the language "no prudent or possible alternative" which is referred to as a reason for siting a type of development where it would otherwise be prohibited. | Katherine Kievitt | This is the language of the implementing legislation and therefore cannot be changed without legislative amendment. From the permit experience DEP-OCZM finds that this condition is adequately rigorous to ensure sound management. See Principles (Section 2.2) in Chapter Three. |
| SPECIAL WATER AREAS | | |
| 126. Measures required to mitigate the effects of shoreline erosion caused by dredging should be defined. Areas along the County's Delaware Riverfront have a long history of shoreline erosion that has directly resulted from maintenance dredging of the Delaware River Channel. | Charles E. Romick Gloucester County | See revised policy 3.3.7.5. These policies are not addressed to Gloucester County which is not in the BOSS area. Additional and alternative policies may be appropriate to the Delaware River. |
| 127. Special water areas need to be defined. | Bob Maestro for N.J. Builders Association | They are; see water related areas among the Special Areas in Section 3.2. |
| 128. The Planning Board supports the Special Water Areas guidelines. | Robert W. Huguley Monmouth County Planning Board | Thank you. See revisions in 3.2. |
| 129. Special Water Areas within the Delaware River coastal zone will need new categories. We recommend, as a new category, areas which support migratory waterfowl. | William G. Hengst Camden County Environmental Agency | Agreed. This will be discussed as part of the remainder of the state program. |
| 130. Within the Special Water Areas, supposing more than one Special Water Area condition occurs in the same area, how does OCZM propose to resolve conflicting standards? | William G. Hengst Camden County Environmental Agency | All the Special Areas are natural resource protective, with virtually no conflict between them. In conflict, the most restrictive would be effective. |

| Comment | Commentor | Response |
|---|---|--|
| SPECIAL WATER AREAS - Cont. | | |
| 131. There is a failure to treat certain elements of the environment as transient, changeable entities, i.e. shellfish beds, sand grasses. | Marine Trades Association of N.J. | This is why when mapped information is outdated, site specific information is required. The most current information should always be used. On the whole, final permit decisions will be based on contemporary site surveys. |
| 132. 6.2.1.2 For the purpose of maintenance dredging, consideration must be given to two special situations. The first would be where a shellfish bed has expanded into an existing dredge area. The other is where a channel or basin had been dredged near or partially into a condemned shellfish bed but the condemnation has been lifted at the time a permit for maintenance dredging is sought. | Marine Trades Association of N.J. | See revisions in policy 3.2.2. |
| 133. P. 31. The Association questions why shellfish transplants cannot be considered in areas needing maintenance dredging, if shellfish mortality can be minimized? | Marine Trades Association of N.J. | Agreed. CLAM relays (transplanting) are encouraged prior to dredging. See revisions in 3.2.2. |
| 134. The definition of shellfish beds on page 31 should include the blue mussel "mytilus edulis", a shellfish species. This edible mussel is found in commercial quantities in shallow waters along the Atlantic Coast and Delaware Bay. | Daniel O'Connor Save Our River Environment | Agreed. See revisions in 3.2.2. |
| 135. We commend the policies for surf clam areas because they might prohibit development which would result in the condemnation of surf clam stocks. | William G. Hengst Camden County Environmental Agency | Thank you. |

| Comment | Commentor | Response |
|--|---|---|
| SPECIAL WATER AREAS - Cont. | | |
| 136. Page 34, 6.2.3.2. Delete last sentence referencing pipelines or at a minimum delete words "or natural gas" in third to last line. Should for some unanticipated reason a natural gas pipeline leak, it will not impact prime fishing areas in tidal water areas and water's edge areas. Pipeline construction will not significantly alter bathymetric features of ocean bottom nor impact fisherman's ability to utilize or fish in pipeline corridors. | Robert Welch Columbia Gas System Service Corporation | Disagree. A natural gas pipeline leakage would cause damage to the water environment, including the tidal water areas, and water's edge areas if the leak were in proximity to the edge. |
| 137. P. 34. Why not restrict development which restricts downstream movement within finfish migratory pathways? The policies for finfish migratory pathways should be expanded to cover temporary construction or disturbances during migratory periods. Dredging activities, for example, should not be allowed during these periods. | William G. Hengst Camden County Environmental Agency | Agreed. See revised policy, 3.2.5. |
| 138. 6.2.4.1 The definition should not be limited to anadromous fish. Other species which are not truly anadromous also rely on less saline areas for part of their life cycle - e.g. blue fish. | Bob Maestro for N.J. Builders Association | The intent of designation of this Special Area (3.2.5) reflects the critical value of certain distinguishable water bodies to anadromous finfish, whereas other estuarine dependent species utilize the entire estuary. |
| 139. When will DEP complete its additional surveys of submerged vegetation? In the interim, we feel that requiring all applicants to survey this resource may be asking too much of all applicants. | William G. Hengst Camden County Environmental Agency | DEP will complete this work within two years. |

| Comment | Commentor | Response |
|---|---|--|
| SPECIAL WATER AREAS - Cont. | | |
| 140. 6.2.5.1 How about limited emergency species such as wild rice, which occurs on the Atlantic Coast? | Bob Maestro for N.J. Builders Association | Wild rice, <i>Zizania aquatica</i> , areas are regulated under NJ Wetlands Act of 1970, and therefore, fall into a Special Area, 3.2.11. |
| 141. Protection of shellfish beds in vitally important and we are glad to see it emphasized. Protection of the upstream movement of anadromous fish is essential as is prohibition of discharges that will lower the oxygen content of water or release hazardous chemicals into it. | Kathleen H. Rippere League of Women Voters | No response necessary. |
| 142. Does 6.2.5.2 include fresh water, tidal marshes? | Bob Maestro for N.J. Builders Association | Fresh water tidal marshes fall into Special Area, 3.2.11. |
| 143. 6.2.5.2 Just as with shellfish beds, submerged vegetation is not necessarily a stationary resource. While destruction of submerged vegetation must be discouraged a more flexible policy must be employed where vegetation has grown into an existing project in need of maintenance or where the only restraint to approval of a new project is a proposed minimal disturbance of a bed of vegetation. | Marine Trades Association of N.J. | Agreed. See revised navigation channel section 3.2.7. |
| 144. P. 35, 6.2.5.2, last paragraph on page. In line 5, delete word "dredging" and insert word "trenching". Further, at the end of paragraph, delete the phrase | Robert Welch Columbia Gas System Service Corporation | See revised policy, 3.2.6 where "trenching" has been substituted. Language similar to the second suggestion has been added. |

| Comment | Commentor | Response |
|---|---|---|
| SPECIAL WATER AREAS - Cont. | | |
| "and replanted with pre-development revegetation". Should this deletion be unacceptable, then it is recommended that the following phrase be added to existing paragraph: "if after a period of three growing seasons submerged aquatic vegetation does not naturally reinvade the trench area." | | |
| 145. 6.2.6.1 This definition is incorrect in that it does not encompass the majority of the navigation channels in New Jersey. | Marine Trades Association of N.J. | See revised definition for navigation channels in 3.2.7 which addresses the concerns indicated. |
| 146. 6.2.6.2 The prohibition of subaqueous disposal of dredge spoil must be modified. The practicality and value of the creation of dredge spoil islands in certain areas is just coming to light. The policy is also in conflict with the water acceptability table which shows disposal in deep and shallow ocean as well as shallow open bay as conditionally acceptable. | Marine Trades Association of N.J. | See revised policy, 4.8.6. |
| 147. 6.2.6.2 We are very concerned over the prohibition of subaqueous disposal of dredge spoil, but trust that Section 6.3.8.7 controls this policy. | Clayton D. Peavey Port Authority of N.Y. and N.J. | Revised policy 4.8.6 addresses this concern. |
| 148. 6.2.6.2 The recommendation that land disposal be used discourages such activity because "suitable areas" are rarely close to the channels you wish to widen and/or deepen. | Dr. Phillip Phelon Cumberland County Economic Development Board | See revised policies, 4.8.6. |

| Comment | Commentor | Response |
|--|---|---|
| SPECIAL WATER AREAS - Cont. | | |
| 149. 6.2.6.2 Maintenance dredging should be encouraged only if a suitable place for putting spoil is specified beforehand. | West Jersey Chapter of the Sierra Club | Agreed. See revised policies 3.3.7.5 and 4.8.6. |
| 150. 6.2.7 We find this section unclear with regard to harbor approaches and channels. We trust that the prohibition of commercial salvage of wrecks will not prevent prompt removal of vessels sunk in navigable waters keeping with federal law, including the New York Harbor Collection and Removal of Drift Project. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | Agreed. The intent of the policy is not to interfere with harbor clean up projects. |
| 151. P. 37. Are dredging activities prohibited in areas of shipwrecks? Perhaps the concept of a buffer surrounding shipwrecks should be employed so activities such as dredging can occur in their vicinity yet at a safe distance so as not disturb this underwater feature. | William G. Hengst Camden County Environmental Agency | Maintenance dredging is conditionally acceptable (See 3.3.7.5), new dredging is generally discouraged (See 3.3.7.6), and maintenance dredging of navigation channels is encouraged (See 3.2.7.2). |
| 152. 6.2.8.2 How about water areas that are heavily used concentration areas for waterfowl? | Bob Maestro for N.J. Builders Association | See policy 3.2.19. |
| 153. P. 38, 6.2.8.3 Recommend placing period after the word "value" at end of second line and deleting rest of the sentence. | Robert Welch Columbia Gas System Service Corporation | Disagree. Offshore oil and gas development could have impacts on marine sanctuaries which should be noted. See Section 3.2.9.3. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

WATER AREAS

| | | |
|--|--|---|
| 154. 6.3.3 So many variables come to play to determine assimilative capacity that calculation based on volume and flushing rate may be dangerously over-simplified. | Bob Maestro for N.J. Builders Association | Agreed. See revision in 3.3.3. |
| 155. P. 41, 6.3.5.2 The definition and classification of tidal streams is missing and is, therefore, unclear. | Elwood R. Jarner Cape May County Planning Board | See revision in 3.4; Back Bay channels (guts) have been added. |
| 156. The Coastal Program for "Water Areas" is sketchy when compared with "Land Areas"; perhaps the emphasis should be reversed. More mapping would clarify this. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. The program highlights water. See revised Chapter Four. |

WATER ACCEPTABILITY TABLES

| | | |
|---|---|--|
| 157. P. 45. The Water Acceptability Table is excellent. It provides firm, rational guidelines in an easy-to-use form. | Czeslawa Zimolzak Cumberland County Planning Board | Thank you. See revised table in 3.3.6. |
| 158. Pp. 46-59. Although "Water Acceptability Conditions" specify limitations on 18 uses, these are sketchy. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. The conditions are rather specific. See revised format of section 3.3.7. |
| 159. Water Uses/Water Acceptability should also follow a standard format, laid out as are the Special Water Areas: definition, policy and rationale. | Anne Penna & Dana Rowan American Littoral Society | Agreed. See revised format of section 3.3. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

WATER ACCEPTABILITY TABLES - Cont.

| | | |
|--|---|---|
| 160. P. 45. We have these questions regarding the Water Acceptability Table: (1) In the open bay, why is maintenance dredging in water 18'+ depth impractical? (2) In the open bay, what is the reasoning for filling activity in waters 0' to 6' being conditionally acceptable, rather than discouraged or prohibited? (3) The categories of water depths used for the ocean and open bay might be redefined to include a fourth range (18' to ??') in order to distinguish between some activities which might be acceptable in relatively deep waters as opposed to very deep waters. | William G. Hengst Camden County Environmental Agency | (1) See revised table, 3.3.6 where this has been changed to conditionally acceptable. (2) See revised table, 3.3.6 where this has been changed to discouraged. (3) This did not seem necessary, but will be considered in the future as a more specific rationale is presented. |
| 161. The Water Acceptability Table for Open Bay 18'+ boat ramps, docks and piers, dredging maintenance, dredging new and spoil disposal are in conflict with the fourth CAFRA objective which is to improve the economic position of the inhabitants. | James R. Kelly Delaware River Port Authority | Disagree. (Some of these uses are impractical in this water area.) DEP-OC2M has considered economic factors in determining and revising the tables and policies. (Note the revisions in 3.3 and especially 3.3.6; see also General Question C.) |
| 162. The point in time to which the water depth refers must be defined. | Marine Trades Association of N.J. | The time referred to is mean low water. |
| 163. Most waterways in New Jersey are in abominable condition. Future maintenance should not be contingent on existing conditions. In essence, | Marine Trades Association of N.J. | Disagree. Just because it has not been maintained does not prohibit its future maintenance. See revised tables and policies in 3.3. See also 4.8. |

| Comment | Commentor | Response |
|---|---|---|
| <u>WATER ACCEPTABILITY TABLES - Cont. (</u> | | |
| the policy would result in the eventual abandonment of many channels in New Jersey and the dooming of many waterfront home owners to own lovely docks with no water access. | | |
| 164. The maintenance dredging of lakes and ponds should be conditionally acceptable rather than prohibited. While we strongly oppose the wholesale channelization of streams, stream clearance should also be regarded as conditionally acceptable, and mosquito control commissions and agricultural operations exempt from the permit requirement. | Robert W. Huguley Monmouth County Planning Board | Noted. Stream clearance is not meant to be implied by the use of the term maintenance dredging. Mosquito Control Commissions are exempt from the policies. The agricultural uses of land are also not subject to coastal permit review. |
| 165. Acceptability of maintenance dredging for all areas must be changed to conditional. | Marine Trades Association of N.J. | See revised policies and tables in 3.3. where this has, for the most part, been accomplished. |
| 166. Spoil disposal should be rethought. A virtual across-the-board prohibition does not allow for the consideration of possible disposal alternatives such as the creation of spoil islands. | Marine Trades Association of N.J. | See revised policies in 3.3.7.7 and 4.8.6. |
| 167. We have felt for some time that the demand of the American Littoral Society and of other coastal groups to stop ocean dumping NOW will save us much grief. | Winifred D. Meyer American Association of University Women | Ocean dumping is prohibited. See Water Acceptability Table in 3.3.6. |
| 168. P. 45, Figure 5 Line 16 should be all "conditionally acceptable". Inasmuch as pipeline routes are | Robert Welch Columbia Gas System Service Corporation | Agreed. See revised Table 3.3.6. |

-368-

| Comment | Commentor | Response |
|---|--|---|
| <u>WATER ACCEPTABILITY TABLES - Cont.</u> | | |
| linear facilities as are cable routes, the acceptability factors for pipelines should therefore be equivalent to the cable route acceptability factors. | | |
| 169. We also recommend that the channel construction of dams and impoundments be discouraged rather than prohibited to permit the development of public potable water supplies and, in extreme cases where a non-structural approach is impractical or unfeasible, flood control structures. | Robert W. Huguley Monmouth County Planning Board | Disagree. Studies of reservoir locations have determined the impracticality of these sites within the coastal zone. See section 3.3.7.17. |
| <u>WATER ACCEPTABILITY CONDITIONS</u> | | |
| 170. You say aquaculture is "generally encouraged" but your Table, p. 45 does not reflect this. | Patricia Q. Sheehan N.J. Department of Community Affairs | See revised table in 3.3.6. |
| 171. 6.3.6.20 Temporary Spoil Storage (suggested addition): Temporary trench spoil alongside the excavated trench in a lineal pile or a specifically designed marine locations for temporary storage while the pipeline is installed in the trench. | Robert Welch Columbia Gas System Service Corporation | See revised pipeline routing policy in Section 3.3.7.16. |
| 172. 6.3.8.2 It is virtually impossible to create new boat ramps which would not in some way affect sub-aqueous vegetation. Other restrictions on boat ramps appear equally preposterous. | Dr. Phillip Phelon Cumberland Economic Development Planning Board | Disagree. This policy can be met. See revised policy 3.3.7.2. |

| Comment | Commentor | Response |
|--|---|---|
| <u>WATER ACCEPTABILITY CONDITIONS - Cont.</u> | | |
| 173. P. 46-47. The policy of retaining structures being generally "discouraged" should be changed to "conditionally acceptable" for developed areas where their being built may be very important to the stability of an area's developed shoreline. | Charles Romick Gloucester County | This concern is addressed in the retaining structure policy, 3.3.7.3, and re-inforced in the shore protection use policy, 4.8.2. It will be further considered as it applies to Gloucester and other counties outside the Segment in the coming year. |
| 174. The Planning Board has long favored the nonstructural approach to shore protection and is pleased by the document's preference for beach nourishment over groins. | Robert W. Huguley Monmouth County Planning Board | Thank you. |
| 175. The Association agrees with policy 6.3.8.5. However, the policy appears to contradict the Water Acceptability Table. | Marine Trades Association of N.J. | See revised Location Policy 3.3.7.5 and Water Acceptability Table 3.3.6. |
| 176. The document does not delineate policy that specifically deals with dredging channels necessary to support the marina uses. Tidal channels and lagoons should be more explicitly defined and policies to be applied toward new and maintenance dredging developed. | Elwood R. Jarner Cape May County Planning Board | See revised Dredging Policies, 3.3.7.5 and 3.3.7.6 and Water Acceptability Table 3.3.6. |
| 177. 6.3.8.6 We are very concerned over the general prohibition of new dredging, though case-by-case exceptions are possible. We assume "new dredging" does not include deepening, widening or other improvements to existing channels. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | That assumption is correct. Existing channels are separate from new channels. See also Location Policy 3.3.7.6 which has been revised to "discourage" rather than "prohibit" new dredging. |

| Comment | Commentor | Response |
|---|---|---|
| <u>WATER ACCEPTABILITY CONDITIONS - Cont.</u> | | |
| 178. A study aimed at increasing the compatibility of boats and their support facilities with the environment should be undertaken. | Marine Trades Association of N.J. | This study is suggested in Chapter Eight as a next step in Coastal Zone Management. |
| 179. Goals for site development based on dredging needs within specific geographic areas must be set. Investigation of alternative dredging methods and dredge spoil disposal and use must also be actively pursued, whether within state government or research institutes. | Marine Trades Association of N.J. | Agreed. These issues have been addressed in the revised dredge spoil disposal policy, in the Water Acceptability Table and in the Coastal Engineering Use Policy 4.8. DEP's intent to pursue additional research on these issues is noted in Chapter Eight. |
| 180. I would like to applaud the efforts of the DEP in recently funding a project to look at the overboard disposal of dredge spoils. | Thomas A. Henry | No response necessary. |
| 181. P. 36. The standard of "suitable" for the reuse of dredge soils is insufficient. What criterion will be used to define suitability? | William C. Hengst Camden County Environmental Agency | This language has been altered. See revised dredge spoil disposal conditions in Water Acceptability Table 3.3.6 in Chapter Four. |
| 182. 6.3.8.9 Since marine facilities are located in coastal waters, we are concerned that this "limited" filling concept could prevent necessary filling for the construction of docks and wharves. We suggest that the word "limited" be deleted. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | The policy has been changed to "discourage" rather than "prohibit". See Location Policy 3.3.7.9. |

| Comment | Commentor | Response |
|--|---|--|
| WATER ACCEPTABILITY CONDITIONS - Cont. | | |
| 183. 6.3.8.10 This wording and Section reference on piling needs clarification. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | Agreed. See revised policy 3.3.7.10 and revised Water Acceptability Table 3.3.6. |
| 184. 6.3.8.13 The restriction on bridges will make a proposed crossing of the Cohansey River south of the City of Bridgeton considerably more expensive. The new regulations also would probably delay its start and completion. | Dr. Phillip Phalon Cumberland County Economic Development Board | The policy (now 3.3.7.13) makes construction of this particular bridge extremely unlikely. Were it demonstrated that the proposal met the policies, the costs would be unaffected. |
| 185. 6.3.8.16 Overhead Transmission Lines: Consideration must be given to mast heights in order to eliminate all possibility of contact between mast and transmission lines. | Marine Trades Association of N.J. | Agreed. See revised Location Policy 3.3.7.15. |
| 186. 6.3.8.16 It is suggested that this paragraph be revised to be consistent with paragraph 6.3.8.14 - Cable Routes. | Robert Welch Columbia Gas System Service Corporation | Both policies have been revised (3.3.7.16 and 3.3.7.14) and are not contradictory. |
| 187. 6.3.8.18 and 6.3.8.19 Trenching (suggested addition) Trenching for pipeline facilities is conditionally acceptable in all water bodies. | Robert Welch Columbia Gas System Service Corporation | Trenching has now been addressed in Section 3.3.7.16 on Pipeline Routes. |
| 188. 6.3.8.20 and 6.3.6.21 Backfilling (suggested addition) Backfilling the trench following pipeline installation is acceptable provided that the backfilling operation reestablishes the bottom contours over the trench to as near as practicable to the original bottom contours. | Robert Welch Columbia Gas System Service Corporation | See revised policy 3.3.7.16 Pipeline Routes. |

-370-

| Comment | Commentor | Response |
|---|---|---|
| WATER ACCEPTABILITY CONDITIONS - Cont. | | |
| 189. 6.3.8.21 and 6.3.6.21 (suggested addition) Jetting pipelines into the bottom sediments is a conditionally acceptable burial method. | Robert Welch Columbia Gas System Service Corporation | See revised policy 3.3.7.16 which includes some of suggested language. |
| SPECIAL WATERS EDGE AND LAND AREAS | | |
| 190. The mixing of "special water's edge areas" and "special land areas" all within section 6.4, "Special Water's Edge and Land Areas" is confusing. | Thomas L. Bertone N.J. Office of Fiscal Affairs | The Location Policies in Chapter Four have been reorganized. All "Special Areas" are now listed together in Section 3.2, in part because these are the areas of greatest public concern. |
| 191. Most of the Special Water's Edge and Land Areas policies provide an added measure of protection for the unique and sensitive or unstable areas (including prime agriculture lands) which are not in the more general categories. | Robert W. Huguley Monmouth County Planning Board | No response necessary. Additional categories have been introduced. |
| 192. Especially in view of the many threats to the potable water supply both from pollutants and from overuse of groundwater, we are particularly glad to see bogs and stream heads included in protected areas and again regret that a number of these are not included in the CAFRA jurisdiction. | Kathleen H. Ripper League of Women Voters | No response necessary. |
| 193. P. 50, 6.4 Previously filled wetlands in close proximity to the Water's Edge Areas are an anomaly in the CLAM process. That policy should also reconcile itself with the policy at 6.5.1.3 (p. 71) regarding restoration of degraded wetlands. Criteria defining "degradation" should be developed. | Elwood R. Jarmer Cape May County Planning Board | See category Filled Water's Edge (3.4.4) which now considers the total extent of the filled area regardless of its location, or the origin of fill. The policy also identified the need to consider reclamation of these sites. The Wetlands policy applies to all proposed development in the Segment. |

| Comment | Commentor | Response |
|--|--|--|
| HIGH RISK EROSION AREAS | | |
| 194. 6.4.1(m) How do you measure "high long-term erosion rates?" Your "specific examples" would appear to preclude any development of the Delaware Bay shoreline of Cumberland County. | Dr. Phillip Phelon Cumberland County Economic Development Board | This is defined in the study cited in the rationale to Location Policy 3.2.12.3. Development is not precluded in Cumberland County. See "Delaware Bayshore Region" in Chapter Three. |
| 195. Pp. 50-54, 6.4.1 The County Planning Board and the Army Corps of Engineers have identified additional areas which should be added to the list of high risk erosion areas in Cape May County. | Elwood R. Jarmer Cape May County Planning Board Stephen Gabriel Ocean City Mayor's Office | The list is not inclusive but is meant to represent examples of High Risk erosion locations, which now have been moved from the policy section to the rationale section of Section 3.2.12 of Chapter Four. |
| 196. P. 52. Titled <u>High Risk Erosion Areas</u> , Figure 6 really refers to High Risk Beach Erosion Areas. Streams shown in heavier print give some vague indication of riverine erosion "power". | Czeslawa Zimolszak Cumberland County Planning Board | Agreed. The policy has been changed to High Risk Beach Erosion Areas. As noted in the text, this map merely indicates the location of these illustrative high risk erosion areas which were noted as examples and not meant to be considered an exhaustive list. The "heavier print" along some streams are county or township boundary lines. |
| 197. If beach replenishment fails to protect high risk areas, it would seem a wiser use of public funds to condemn endangered buildings and restore the beach to its normal fluctuating conditions. | Kathleen H. Ripper League of Women Voters | Such possibilities will be explored by DEP in the course of preparing the Shore Protection Master Plan during the next year. |

| Comment | Commentor | Response |
|---|---|--|
| HIGH RISK EROSION AREAS - Cont. | | |
| 198. 6.4.1.2 "Development that contributes to further erosion areas is discouraged." Why not simply prohibited? | William G. Hengst Camden County Environmental Agency West Jersey Chapter of the Sierra Club | See revised policy, 3.2.12 where development is prohibited with few exceptions. |
| 199. P. 51. How are areas that will erode in the mid-term future (less than 50 years) predicted? A reference to the source for prediction ought to be given. | William G. Hengst Camden County Environmental Agency | It is possible to determine sea level rise and then a corresponding horizontal distance inland. Also historic aerial photo interpretations will help determine the "horizontal distance" over a specified period of years. See revised Location Policy 3.2.12.2. |
| 200. The use of the 50 year criterion is unacceptable on the High Risk Erosion areas. | Ruth Fisher Citizens Association for Protection of the Environment | Disagree, the ocean has proved its ability to capture land and must become part of planning for the coast. |
| 201. 6.4.1.2 What are "non-structural solutions" to erosion problems? | Canetic Corporation for N.J. Builders Association | An example of a nonstructural solution is beach nourishment; a structural solution would be a bulkhead. See also Coastal Engineering Use Policies 4.8. |
| 202. P. 53. Who will conduct the cost-benefit studies of the feasibility and beneficiaries of shore stabilization? | William G. Hengst Camden County Environmental Agency | See revised policy 3.2.12, which has eliminated this requirement. |
| 203. P. 53. The use of cost-benefit studies, weighing both economic and environmental values, is a good approach to many permit considerations. | Marine Trades Association of N.J. | No response necessary. |

| Comment | Commentor | Response |
|--|--|---|
| <u>DUNES</u> | | |
| 204. We hope these policies will provide a big improvement in preserving all N.J.'s barrier islands' protective dunes. It is in our interest to sacrifice a bit economically now so that we do not ultimately destroy the true base of the coastal economy, the beaches. | Winifred D. Meyer American Association of University Women | No response necessary. |
| 205. P. 55. How can municipalities develop their dune ordinances so that they are not struck down or compromised by the courts? | Stephen Gabriel Ocean City Mayor's Office | DEP, particularly with the aid of county planning boards, will work with individual municipalities to address this issue. |
| 206. 6.4.2.2 The dune policy is not in the best interest of vegetation or structures created behind. It is extremely dangerous to utilize the dunes for any purpose but as a protection element. Thus, a better policy would be to construct the walkways along the back slope of the dunes with sufficient height to enjoy the natural beauty of the ocean. Requiring walkways to be "on piles" is unnecessary and costly. | Wilcox, Gravatt & Macunda for N.J. Builders Association Patricia Q. Sheehan N.J. Department of Community Affairs | See revised policy 3.2.13.2. |
| 207. We are very pleased with your approach to shore erosion and protection. Dunes should be preserved and, like wetlands, replaced wherever possible. In view of continuing increase in cost due to | Kathleen H. Rippere League of Women Voters | Thank you. |

-372-

| Comment | Commentor | Response |
|--|---|--|
| <u>DUNES - Cont.</u> | | |
| Flood losses, it is obviously time that high risk development on beaches in front of seawalls or dunes be stopped and that the littoral drift of sand be taken into account when bulkheads and groins are considered. | | |
| <u>CENTRAL BARRIER ISLAND CORRIDOR</u> | | |
| 208. 6.4.3 No distinction is made between seasonal and year-round communities at this location. Promoting some seasonal communities in these locations may be a useful strategy itself in protecting Central Barrier Island Corridors since major human impact is limited seasonally. | Patricia Q. Sheehan N.J. Department of Community Affairs | The distinction is not made because seasonal housing is often converted into year-round housing, thus causing identical impacts. |
| 209. P. 55. What will be the state's policy on barrier islands after a residential structure is destroyed by a natural disaster? | William G. Hengst Camden County Environmental Agency | See revised Central Barrier Island Corridor policy 3.2.14.2. No firm position can be taken on this yet. |
| 210. 6.4.3.2 Central Barrier Corridor policy is vague. | Canetic Corporation For N.J. Builders Association | Disagree. In addition, the policy has been revised. See Section 3.2.14. |
| 211. P. 55. 6.4.3.2 The conditions in policy 6.4.3.2 may encourage an undesirable level of development in some barrier island communities. This policy may encourage the year-round settlement of barrier island corridors. | Patricia Q. Sheehan N.J. Department of Community Affairs | Disagree. Proposals will have to meet Location Policy 3.5.3 for Coastal Regions. |

| Comment | Commentor | Response |
|--|---|---|
| <u>CENTRAL BARRIER ISLAND CORRIDOR - Cont.</u> | | |
| 212. P. 55. Barrier island policies should be more closely correlated with erosion policies to provide a more cautious approach to island development. | Robert W. Huguley Monmouth County Planning Board | The Location Policies regarding high risk beach erosion, dunes, beaches, coastal wetlands, Central Barrier Island corridors and the Use Policies on Coastal Engineering are all closely linked and do provide a cautious, yet balanced approach to the management of New Jersey's essentially built-up barrier islands. |
| 213. P. 55. The definition of dunes as "formations of partially stabilized, vegetated, drifting sand..." suggests that the eastern boundary of the Central Corridor in natural areas and at the foot of the most inland dune has been defined inadequately. | Robert W. Huguley Monmouth County Planning Board | Disagree. |
| 214. P. 55. Undeveloped barrier islands should remain in their natural state. | Robert W. Huguley Monmouth County Planning Board | Agreed. The only totally undeveloped barrier island in New Jersey is Pullen Island in the Brigantine National Wildlife Refuge. Undeveloped parts of the other islands and spits are protected by the Coastal Program. |
| <u>FLOOD HAZARD AREAS</u> | | |
| 215. P. 58. More precise definitions of the floodway and flood hazard area are needed. | William G. Hengst Camden County Environmental Agency | See new Resource Policy 5.23 Numerous sources of flood hazard area information exist. The best available information (the engineering method which is the most accurate) will be used in each specific decision. |
| 216. There should be a specific policy for filling activity in flood hazard areas due to the potential effect of this activity on the floodwater-storage capacity of the overall floodplain. | William G. Hengst Camden County Environmental Agency | Disagree. The Location Policy on Natural Water's Edge and the Resource Policy on Flood Hazard Areas adequately discourages filling flood hazard areas. |

| Comment | Commentor | Response |
|---|--|---|
| <u>FLOOD HAZARD AREAS - Cont.</u> | | |
| 217. The Monmouth County General Development Plan designates floodplains as conservation and drainage areas, and the Planning Board agrees that non water-dependent uses should not be permitted on the Upper Water's Edge. But will the coastal program policies be effective? | Robert W. Huguley Monmouth County Planning Board | DEP will work with other agencies, particularly the Federal Flood Insurance Administration to make the policies effective. |
| 218. Much of the land along the Delaware River in Camden County that is within the 100-year floodplain has been developed. Coastal policies for Camden County therefore, cannot discourage development within these urbanized portions of flood hazard areas, as long as water quality standards are observed. | William G. Hengst Camden County Environmental Agency | Agreed. But this does not mean that certain specific kinds of developments will not be prohibited nor that conditions will be placed on development that is allowed. Development in general may not be discouraged, but development decisions must be sensitive to flood hazard considerations. |
| <u>HISTORIC RESOURCES</u> | | |
| 219. P. 605, 6.4.5 A policy of "no development" is no guarantee of preservation. "What kind of development" is more crucial in terms of preserving a historical resource. | Czeslawa Zimolzak Cumberland County Planning Board | Development that would affect a historic resource is best analyzed on a case-by-case basis, using the general standards established in the policy. See section 3.2.15. |
| 220. The draft EIS should have included a set of procedures to determine the cultural resource base before granting permits for particular projects in any given area. | Karen Flinn N.J. State Museum Department of Education | The chapter on the Management System (DEIS and FEIS) describes the role of the DEP's Office of Historic Preservation and Office of Environmental Review, as staff to the Commissioner of DEP (as State Historic Preservation Officer), in reviewing individual coastal projects in terms of historic resources. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

HISTORIC RESOURCES - Cont.

| | | |
|---|-----------------------------|---|
| 221. P. 60, 6.4.5.2. Line 3, change "discouraged" to prohibited. At least prohibit demolition of historic resources. | Diane Graves Sierra Club | Disagree. "Discouraged" is the appropriate policy given public and private ownership of historic resources. |
|---|-----------------------------|---|

SPECIMEN TREES

| | | |
|--|---|---|
| 222. 6.4.6.1 Why not also consider individual plant communities which are limited and/or unique with respect to the region? The region may simply be defined as the CAFRA area? | Bob Maestro for N.J. Builders Association | See Section 3.2.18 concerning endangered or threatened vegetation species habitats. |
|--|---|---|

| | | |
|---|---|---|
| 223. 6.4.6.2 Such a policy could lead to the destruction of specimen trees to avoid the restrictions. Hopefully, an inventory of same could be made so we know where they are. | Patricia Q. Sheehan N.J. Department of Community Affairs | The policy includes a reference to the inventory of the specimen trees, published by DEP. |
|---|---|---|

PRIME FOREST AREAS

| | | |
|---|---|------------------------------------|
| 224. 6.4.7 This category should be labeled "White Cedar Stands". | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed; see revised policy 3.2.17. |
|---|---|------------------------------------|

| | | |
|---|---|--|
| 225. 6.4.7.1 Prime forest areas should not be limited to white cedar stands. Other forest areas which should receive special consideration: Sweet gum and black gum lowland swamps, pitch pine lowlands. | Daniel O'Connor Save our River Environment | Other species are protected through other policies, such as Natural Water's Edge Areas, Critical Wildlife Habitats, and Rare and Endangered Species Habitats. See also above comment and response. |
| | Bob Maestro for N.J. Builders Association | |
| | William G. Hengst Camden County Environmental Agency | |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PRIME FOREST AREAS - Cont.

| | | |
|--|---|--|
| 226. P. 61 How is development that adversely affects prime forest areas defined? To what extent and at what limits will off-site impacts be included? | William G. Hengst Camden County Environmental Agency | See revised section 3.2.17. Development that would threaten the continued survival of a white cedar stand, by, for example, changes in the water table through off-site drainage, would adversely affect the resource. |
|--|---|--|

PRIME WILDLIFE HABITATS

| | | |
|---|---|---|
| 227. 6.4.8.1 Should also include examples of habitat types which are limited and/or unique for the region. | Bob Maestro for N.J. Builders Association | See revised policy 3.2.18 on Endangered or Threatened Habitats. |
|---|---|---|

| | | |
|--|---|--|
| 228. P. 62. The buffer area to ensure continued survival of endangered or threatened species needs a better definition. | William G. Hengst Camden County Environmental Agency | Agreed. The definition of buffers is an on-going research project of DEP-OC2M. |
|--|---|--|

| | | |
|---|---|--|
| 229. We recommend a stronger policy which would prohibit development disturbing the nesting areas of rare and endangered fauna and the habitats for rare and endangered flora. | Bob Maestro for N.J. Builders Association | Agreed. New policy on Endangered and Threatened Habitats (Section 3.2.18). |
| | William G. Hengst Camden County Environmental Agency | |

| | | |
|---|---|--|
| 230. The impression given is that only those plants covered by the Federal Endangered Species Act of 1973 will be protected. However a list of over 200 rare and endangered N.J. plants was published in 1975 by the N.J. State Museum under the | Daniel O'Connor Save Our River Environment | Your interpretation is correct. Although the State Museum list is extensive, however, not all of these species are protected by legislation. |
|---|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PRIME WILDLIFE HABITATS - Cont.

editorship of Drs. Fairbrothers and Hough of Rutgers University. This publication is the only authoritative source on N.J. rare flora, and should be used in the program.

PUBLIC OPEN SPACE

231.
6.4.9.2 What constitutes "adversely affects". A plan should encourage the location of mutually compatible uses.

Patricia Q. Sheehan
N.J. Department of
Community Affairs
Adverse affects could be visual intrusions, water quality impacts, or a wide variety of concerns. See revised policy, Section 3.2.20.

232.
P. 64. We recommend that before development of additional campgrounds (public open spaces) is acceptable, sufficient demand must be demonstrated by the applicant.

William G. Hengst
Camden County
Environmental
Agency
Agreed. Demand for the facility is one of the concerns in the CAFRA permit application process.

233.
The open space policy emphasizes the protection of natural "corridors" which presently connect parcels of undeveloped land.

Bob Maestro
for N.J. Builders
Association
Agreed. See inclusion of "natural corridors" concept in rationale for critical wildlife habitats (Section 3.2.19).

234.
6.4.9.3 The assumption that open space can "retain contiguous farmland" was certainly not reached in consultation with farmers. Recreational facilities adjacent to farms frequently have a detrimental effect upon agricultural activities.

Dr. Phillip Phelon
Cumberland County
Economic Develop-
ment Board
This is a misinterpretation of the policy. It does not try to encourage siting recreation adjacent to agriculture when these uses would be incompatible.

235.
Your concern for the protection of steep slopes is excellent and leads us to regret that some of these critical areas have been eliminated from the CAFRA boundary.

Kathleen H. Rippere
League of Women
Voters
No response necessary.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PRIME AGRICULTURAL AREAS

236.
6.4.11 The policy on prime agricultural areas is vague, and appears to favor development over continued farming when the two uses come into conflict. Additionally this policy should mention the possibility of using Transfer of Development Rights to keep agricultural land actively farmed.

William Potter
Public Advocate
Disagree, but see revised policy 3.2.22. Also, state law does not yet authorize use of Transfer of Development Rights (TDR).
Patricia Q. Sheehan
N.J. Department of
Community Affairs

237.
6.4.11.1 To limit prime agricultural lands to agricultural use without the permission of the property owner can be counterproductive to your long-range intent.

Dr. Phillip Phelon
Cumberland County
Economic Develop-
ment Board
Disagree. The intent of the policy is to protect the soil resource. See revised section 3.2.22.

238.
6.4.11.3 The issue is whether the production of food and fibre in the Garden State is essential to the health, safety and general welfare of New Jerseyans. If so, what kind, how much, where is it best located.

Patricia Q. Sheehan
N.J. Department of
Community Affairs
See sections 3.2.22, 5.15 and 3.5 which define location policies for land areas.

239.
Farmed sites less than 20 acres in size cannot by the definition of page 65 be "prime agricultural areas" regardless of soil type. The sole criteria for determining whether a particular site is prime farmland should be its agricultural capability class.

Daniel O'Connor
Save Our River
Environment
Areas of less than 20 acres may be conserved through application of the Fertile Soil Resource Policy (Section 5.22).

240.
6.5.11.3 In Cumberland County many farmers are no longer able to compete even in the nearby metropolitan areas with foods grown

Dr. Phillip Phelon
Cumberland County
Economic Develop-
ment Board
Disagree. See revised policy 3.2.22 as well as Chapter Three.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PRIME AGRICULTURAL AREAS - Cont.

on the huge factory-farms of the South and West. This regulation may hinder rather than help the economy of Cumberland County in the long run.

| | | |
|--|--|------------------------|
| 241. P. 65-66. Implementation of this policy through governmental intervention that would provide both just compensation to land owners while at a reasonable cost to taxpayers is a problem that would appear to have no easy solution. It is policy that also has no support to date in the legislature, which has wrestled with the issue of the preservation of farmland for a number of years. | Charles E. Romick Gloucester County Planning Board | No response necessary. |
|--|--|------------------------|

| | | |
|---|--|--|
| 242. I would like to see undeveloped, highly productive agricultural wetlands and forests in Cumberland County receive the maximum amount of protection. Legislation may be the only way to do this. | Daniel O'Connor Save Our River Environment | Agreed. See policy 3.2.22 for farmland construction areas. |
|---|--|--|

BOGS

| | | |
|--|--|-------------------------------------|
| 243. 6.4.12.3 Bogs also assist in flood control | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed. See revised policy, 3.2.23. |
|--|--|-------------------------------------|

| | | |
|--|---|---|
| 244. P. 66. We recommend that the definition of bogs be expanded to include their common vegetative characteristics; the definition, as written, is so inclusive that an abandoned gravel pit could qualify as a bog. | William G. Hengst Camden County Environmental Agency | See revised definition in section 3.2.23. |
|--|---|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

STREAM HEADS

| | | |
|---|---|---|
| 245. 6.4.13.1 The definition of streamhead is confusing, unrealistic, has no basis and should be mapped. | Bob Maestro and Thomas A. Thomas, Townplan Associates for N.J. Builders Association, William Hengst, Camden County Environmental Agency | The concept of a stream head has been deleted. See the new, related policy on Ephemeral Stream Corridor Special Area. (Section 3.2.24). |
| | Thomas L. Bertone N.J. Office of Fiscal Affairs | |

GENERAL WATERS EDGE

| | | |
|---|---|--|
| 246. 6.5. This section pertaining to water edge areas should be thoroughly reviewed and revised. | Thomas A. Thomas Townplan Associates for N.J. Builders Association | The Water's Edge Area has been revised. See section 3.4. |
|---|---|--|

LOWER WATERS EDGE

| | | |
|--|--|--|
| 247. 6.5 The regulations on wetlands will have the effect of eliminating small competitors for proposals in the area. | Dr. Phillip Phelon Cumberland County Economic Development Board | Disagree. Identical wetlands regulations have been in existence since 1972 and the problem suggested has not occurred. |
|--|--|--|

| | | |
|---|---|--|
| 248. The section pertaining to wetlands definitions is too severe, and many taxpayers will find that they do not even own the homes they have bought and paid taxes on for many years. | Joseph Heeney Lacey Township Chamber of Commerce | This section on wetlands is no more or less severe than the Wetlands regulations in existence since 1970, which have not caused the problem suggested. |
|---|---|--|

| | | |
|--|--|---|
| 249. 6.5.1.2. The wetlands policy does not include the criteria to be utilized in the new procedure pursuant to N.J.A.C. 7:7A-1.7(b)1 et seq. | Giordano, Halleran and Crahay for N.J. Builders Association | The Coastal Wetlands Special Area policy clearly defines the required findings on the use of delineated Coastal Wetlands. See glossary. |
|--|--|---|

| Comment | Commentor | Response |
|--|--|--|
| LOWER WATERS EDGE - Cont. | | |
| 250. 6.5.1.2 What does DEP define as: "development that requires water access or is water oriented"? | Canetic Corp. for N.J. Builders Association | Development that needs water for use such as boats, fishing, swimming, beach use, and viewing. See glossary in Appendix J. |
| 251. 6.5.1.2.6 Wetlands can provide an important function in natural "tertiary" treatment of treated sewage and effluents. A statement of this type would eliminate innovative wastewater treatment approaches which would be of less cost than conventional methods. | Bob Maestro for N.J. Builders Association | Agreed. See section 3.2.11.3 Innovative approaches to wastewater treatment will be examined on a case-by-case basis. |
| 252. The general prohibition against filling in coastal waters should not include the grading and planting of new wetlands in nonsensitive areas. | Robert W. Huguley Monmouth County Planning Board | See the revised policy on Water areas which discourages filling of most water bodies. Proposals to create new wetlands will be examined on a case-by-case basis. |
| 253. We are pleased that only water-dependent uses will be permitted on the coastal wetlands. | Robert W. Huguley Monmouth County Planning Board | No response necessary. |
| 254. The DEP should complete its delineation of the State's wetlands and coordinate its permit program with the Army Corps of Engineers. | Robert W. Huguley Monmouth County Planning Board | DEP does not coordinate with the Corps of Engineers. Additional delineated coastal wetlands will be brought under regulation in 1979. |
| 255. P. 69. We question the inclusion of Wetlands under Water's Edge Areas instead of under Special Water's Edge Areas. | William C. Hengst Camden County Environmental Agency | Wetlands are now included under Special Areas; See 3.2 and especially 3.2.11. |

| Comment | Commentor | Response |
|--|---|---|
| LOWER WATER EDGES - Cont. | | |
| 256. P. 71, 6.5.1.4 While the public undeniably must use the beach environment unimpeded, they must do so via controlled access points which are designed and created that storm and wave action will not create undue problems. | Wilcox, Gravatt and Hacunda for N.J. Builders Association | Agreed. |
| 257. 6.5.1.4 We see no reason for the "unless" in the beach policy unless the structure is coastline dependent. | West Jersey Chapter Sierra Club | Disagree, but see revised policy 3.2.10.2(b). |
| 258. 6.5.1.4 (c) Additions on beaches shown to be "in the public interest" should be conditionally acceptable in this location. | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed. See revised policy 3.2.10.2.b. |
| 259. 6.5.1.4 Delete the beach policy and substitute "Public access for recreational purposes to the maximum extent practicable is desirable. Provide flexible guidelines for shorefront municipalities for obtaining State funds for shore protection purposes will be in conformity with Federal Law 79-727, approved April 13, 1946." | Loretta C. Hanley Sea Bright Environmental Commission | See the revised policy on Beaches. Shore Protection is addressed in the revised Chapter Five - Management System. |
| 260. Page 71, 6.5.1.4(a) Rewrite the beach policy "Public access to public beaches is encouraged". | Loretta C. Hanley Sea Bright Environmental Commission | Disagree. The Public Trust Doctrine applies to the wet beach area. |

-378-

| Comment | Commentor | Response |
|--|--|--|
| <u>UPPER WATERS EDGE</u> | | |
| 261. 6.5.2.2 This is much too inflexible and does not take into account peculiarities and unique characteristics of certain sites as well as mitigating measures which can be undertaken. | Giordano, Halleran and Crahay for N.J. Builders Association | Disagree, see revised Water's Edge policies, 3.4. The Upper Water's Edge is now included within the Natural Water's Edge. The policy provides the appropriate degree of flexibility. |
| 262. Pp. 72-81, 6.5.2 The Upper Water's Edge guidelines do not seem to exclude much development at all, if closely examined. | Czeslawa Zimolzak Cumberland County Planning Board | Disagree. The standards are rigorous. See revisions in 3.4 and 3.5 also. |
| 263. P. 72. The definition of the Upper Water's Edge is difficult to comprehend, as it appears in the text. | William G. Hengst Camden County Environmental Agency | See revisions in 3.4. |
| 264. P. 74. The format for conditional approval should be standard through the document; the layout of Upper Water's Edge Policy makes it clear that all conditions must be satisfied, then lists them in an easy-to-read manner. | Anne Penna & Dana Rowan American Littoral Society | DEP has tried to present all the policies in the document as clearly as possible. |
| 265. What is the basis for the definition of Upper Water's Edge at 50 feet horizontally from the lower limit whichever is further from the lower limit? | William G. Hengst Camden County Environmental Agency, Bob Maestro and Giordano, Halleran and Crahay for N.J. Builders Association, and Thomas L. Bertone N.J. Office of Fiscal Affairs | See revised policy, 3.4. |

| Comment | Commentor | Response |
|---|--|---|
| <u>UPPER WATERS EDGE - Cont.</u> | | |
| 266. 6.5.2.4 The type of "forested" vegetation also reflects the relative value of the area. | Bob Maestro for N.J. Builders Association | Agreed, but the revised Natural Water's Edge policy (see 3.4.2) does not refer to the type of vegetation on-site. |
| <u>RETAINED WATERS EDGE</u> | | |
| 267. 6.5.3.2 All locations in the Retained Water's Edge may not have equal merit. There may be places where conventional land use in this highly aesthetic setting may be appropriate. | Patricia Q. Sheehan N.J. Department of Community Affairs | See revised policy, 3.4.3. |
| 268. 6.5.3.2 Isn't residential housing (second homes) a recreation/resort use? | Canetic Corp. for N.J. Builders Association | No, and it is not water dependent. It's impacts on a site are virtually the same as year round housing and it is therefore included in Section 4.2 with housing. However, see 3.4.3.3 for comments about housing on existing lagoons. |
| 269. Would not any development in this area extend into the Central Barrier Island Corridor? | Canetic Corp. for N.J. Builders Association | No. There are many infill sites whose impact would clearly be seen at the vacant ends of the island, which do not represent significant development areas. |
| 270. 6.5.3.2(c) The "net benefit" criteria, is meaningless and should be deleted. | Patricia Q. Sheehan N.J. Department of Community Affairs Giordano, Halleran, and Crahay for N.J. Builders Association | This criterion has been eliminated. See revisions, 3.4.3. |
| 271. P. 78. 6.5.3.3 Next to last line, delete "hotels" and "restaurants". We disagree that such developments "are desirable". | Diane Graves Sierra Club | Agreed. See revisions, 3.4.3.3. |

Comment Commentor Response

RETAINED WATERS EDGE - Cont.

272.
6.5.3 The policy that runoff from paved areas may not be discharged directly into adjacent water bodies is ludicrous, since there is no place else to dispose of runoff from lagoon development than into lagoons. There is also evidence that such discharge improves circulation and the water quality of these lagoons. Assimilative capacity should be the criteria.

Giordano, Halleran and Crahay for N.J. Builders Association
Patricia Q. Sheehan N.J. Department of Community Affairs

Agreed, see revised policy 3.4.3.

273.
We question the requirement that such development be water dependent or utilized for public recreation or resort use. Traditionally, the State has not considered housing to be water dependent even if the housing is purchased by persons who wish to utilize the lagoons and bulkheads for recreational boating. We contend that such uses are water dependent and in any case, there is no basis for the policy of requiring water dependency.

Giordano, Halleran and Crahay for N.J. Builders Association

See section 3.4.3 and especially the discussion of existing bulkheaded lagoons in 3.4.3.3. Housing is not water dependent although water front locations may be desirable from a marketing view point.

274.
The indication that new private housing would be an inefficient use of a scarce resource as opposed to hotels and restaurants is not based on any practical experience. As a practical matter, more paving will probably be required for restaurants and hotels than would be required for resi-

Canetic Corp. and Giordano, Halleran and Crahay for N.J. Builders Association

Hotels and restaurants are considered more efficient uses of the waterfront than private housing because they would provide greater access to and use of the waterfront for a greater number of people. Note that hotels and restaurants would also be subject to high rise policies. See also revisions in 3.4.3.3 which discusses housing on existing lagoons.

Comment Commentor Response

RETAINED WATERS EDGE - Cont.

dential development on lagoon lots. Also restaurants and hotels will probably not be compatible with adjacent uses. Hotels may cause shadowing problems.

FILLED WATERS EDGE

275.
6.5.4 Not enough consideration was given to development on existing bulkheaded lagoons. It would seem that there should be no impediment to development and these developments should be considered no different from inland development in terms of the criteria applied.

N.J. Builders Association

Agreed, see revisions in sections 3.4.3., and 3.4.4.

276.
6.5.4.2 (b) As presented, the "net benefit" is meaningless.

Patricia Q. Sheehan N.J. Department of Community Affairs

Agreed. The criterion has been deleted. See revised policy, 3.4.4.2.

GENERAL LAND AREAS

277.
P. 81. There are other reasons to reconsider "Land Areas" criteria, in particular. These involve consistency with county level and other state agency criteria and sewage criteria are now being developed on areawide bases by counties.

Thomas L. Bertone N.J. Office of Fiscal Affairs

Agreed. DEP will continue to work closely with other state and local agencies.

DEPTH TO SEASONAL HIGH WATER TABLE

278.
Pp. 82-84, 6.6.3 This criterion is difficult to determine. All over coastal

Czeslawa Zimolzak Cumberland County Planning Board

The depth to seasonal high water table is considered critical in the determination of environmental

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

DEPTH TO SEASONAL HIGH WATER TABLE - Cont.

South Jersey test borings will be necessary. Who will provide personnel and money for such intensive testing.

sensitivity. The National Cooperative Soil Survey data gives an indication of the extent of 0' SHWT soils. If site testing is needed for applications, the test to determine SHWT at surface are not expensive and will be the responsibility of the applicant. See revisions in 3.5.4.

279.
6.6.3.2 Selection of the three foot thresholds must be tempered by the soil type.

Patricia Sheehan
N.J. Department of
Community Affairs

See revision in 3.5.4 and especially 3.5.4.5.c. The rationale for the selection of 3' is mainly the limit of frost penetration (18" to 24") plus a depth for foundations and a cutoff for depth to seasonal high water table indicating concern of lateral transmissibility of pollutants.

SOIL PERMEABILITY FACTOR

280.
Pp. 85-86, 6.6.4 There is no provision made for assessing the factors of percolation and upward movement of soil waters through capillary action. The charting of hard pans is virtually impossible and active pan formation is occurring in some local areas.

Czeslawa Zimolzak
Cumberland County
Planning Board

Disagree. See the revised Resource Policy based on soil texture, which incorporates both permeability and percolation. Some flexibility is also included to allow for a case by case inspection of particular site concerns. See also sections 3.5.4, 5.20 and 5.21.

281.
6.6.4.2 Does not account for use of detention basins for mitigation.

Bob Maestro
N.J. Builders
Association

Disagree, see revised policies where permeability is not included as a general location factor. High percolation wet soils are now included in resource policies. The prime reason for these revisions is the migrating effect of the detention and recharge implied by the Runoff Resource Policy.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

SOIL PERMEABILITY FACTOR - Cont.

282.
P. 85. The reasoning behind some of the intensity determinations is dubious. For example, certain areas of the coast have low water tables but excessively drained soils. These areas are particularly sensitive to groundwater contamination yet the acceptability table indicates moderate intensity development is acceptable. Although the soils information of a specific application may reveal this excessive permeability problem, the situation is widespread and therefore should be noted.

Christopher Warren
Salem County
Planning Board

The revised location policy has eliminated permeability and depth to water table as general location factors. The resource policies emphasize concern in high percolation wet soils (SHWT <3') for reasons of pollutant contamination. The rationale for the runoff policy discusses the problems of contaminant mobility in sandy soils.

283.
What is critical is soil class, not the nature of the vegetation itself; while recognizing that a minimum requirement of vegetation of some type is essential for a variety of reasons, as discussed in greater detail on page 155. Consolidation of "herb, shrub, and forest" into a single category would lead to simplification of proposed standards. Specifically, developers would not have to differentiate between "Forested Vegetation (over 10 feet high) and Unforested Vegetation (under 10 feet)" (p. 73), nor between the three classes of "Vegetation Index" (p. 88).

Thomas L. Bertone
N.J. Office of
Fiscal Affairs

There are two issues here. One is the value of fertile soils for landscaping and individual food production policies. The revised Resource Policy on Fertile Soils (5.22) reflects this.

The second issue is the varying value of existing vegetation for screening microclimate control, wildlife habitat and aesthetic reasons. See section 5.8.

Comment Commentor Response

SOIL FERTILITY FACTOR

284. The soil fertility definitions on page 86 are somewhat unclear. Daniel O'Connor Save Our River Environment See revisions, especially 3.5.4.5.b, and 5.2.2.
285. 6.6.5 is not this factor somewhat redundant with 6.4.11. Are these policies coordinated? Bob Maestro N.J. Builders Association Both sections have been revised. See sections 3.2.22 and 5.22. Patricia Q. Sheehan N.J. Department of Community Affairs
286. Pp. 86-87, 6.6.5 Soil fertility is also a questionable criterion in developed agricultural areas. Years of farming, plowing, fertilization and irrigation have greatly modified soil structure and fertility. Czeslawa Zimolzak Cumberland County Planning Board See above response.
287. Forest and Class III soils should have medium, not low, potential. Thomas L. Bertone N.J. Office of Fiscal Affairs See revised definition of Environmental Sensitivity Factor in 3.5.4.5. DEP is now using USDA criteria.
288. 6.6.5.2 The current rationale does not explain the value of soil fertility as a factor in location policy, particularly in the absence of a farmland and productivity plan. Patricia Q. Sheehan N.J. Department of Community Affairs See revised policy for Farmland Conservation Areas 3.2.22 and Fertile Soils in 3.5.4.

VEGETATION INDEX FACTOR

289. Pp. 86-87, 6.6.6. The basic questions remain: Is vegetation a reliable indicator of soil fertility and water conditions? Should the use of vegetation data Czeslawa Zimolzak Cumberland County Planning Board There is no intention that vegetation is to be used to indicate soil fertility (see revised policies on Farmland Conservation Areas 3.2.22, and Fertile Soils, 3.5, 4.5, and 5.22.) The vegetation itself

Comment Commentor Response

VEGETATION INDEX FACTOR - Cont.

be limited to only certain, highly reliable indicator types and those types with commercial value or to botanical rarities? Does vegetation act as an indicator of anything not divulged by and mapped with criteria 1, 2 and 3? Slope might be a more important factor. has a value for screening, microclimate control, wildlife habitat and aesthetic reasons and the time investment in tree growth therefore indicates a degree of conservation. Clear cutting of areas outside the limits of disturbance of grading, structures and paving for example is unacceptable. See 3.5.4. Also steep slopes are considered a special area, 3.2.21.
290. P. 88. We question the sole emphasis on forested areas for determining the vegetation index factor. Successional meadows provide greater benefits for wildlife habitation than do forested areas. William G. Hengst Camden County Environmental Agency See rational in 3.5.4.6.
291. When numbers are used such as 15' tree heights there must be a solid rationale or the layman will argue about its arbitrary nature. Patricia Q. Sheehan N.J. Department of Community Affairs Agreed. Revisions have been made accordingly.
292. P. 88. The vegetation index types are too simplistic. (Builders) or need rationales (DCA). Bob Maestro for N.J. Builders Association Patricia Q. Sheehan N.J. Department of Community Affairs The vegetation index has been revised and incorporated with other environmental sensitivity factors. See Section 3.5.4.

DEVELOPMENT POTENTIAL

293. P. 89. 6.6.7.2.1 These criteria work against maintaining seasonal communities. Also, their use would perpetuate and expand developments and certain growth locations that would have been better off never happening. Patricia Q. Sheehan N.J. Department of Community Affairs It is true that development potential criteria currently require proposed seasonal communities to meet the same criteria as proposed year-round communities. This is in part because seasonal communities have a tendency to gradually become year-round communities. See revised definition of subregions 3.5.3 and revised development potential criteria 3.5.5.2.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

DEVELOPMENT POTENTIAL - Cont.

| | | |
|---|--|--|
| 294. P. 89. The definition of infill is too mechanical. If a general area was identified for promoting growth, it would be unimportant what percent of boundary lengths were involved. You can't reduce the development process completely to matter of distances and percentages. | Patricia Q. Sheehan N.J. Department of Community Affairs | See revised definitions 3.5.5.2. This policy is to concentrate development. In this sense it accomplishes the desired goal. In new "Coastal Regions" (3.5.3) classifications the infill criterion has been expanded to respond to the different desired goal in each area. |
|---|--|--|

| | | |
|---|------------------|------------------------|
| 295. I strongly support the practice of infill, for example, locating new housing and commercial and industrial development within areas which have already been developed, rather than in undeveloped areas. I also support the policy proposed for locating Atlantic City casinos along the boardwalk and/or where public transportation is available. | Katherine Kievet | No response necessary. |
|---|------------------|------------------------|

| | | |
|--|---|---|
| 296. P. 89. Monmouth County should be classified as "Forest" rather than "Class III soils". | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. Counties are not classed as units of "forest". The classification is site specific. Both soil and vegetation criteria apply to sites or parts of sites. |
|--|---|---|

| | | |
|---|---|------------------------|
| 297. P. 89. Development Potential criteria will help to prevent sprawl and unneeded development by considering the site's proximity to roads, railroads, water supply, sanitary sewer facilities, schools, and similar uses. | Robert W Huguley Monmouth County Planning Board | No response necessary. |
|---|---|------------------------|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

DEVELOPMENT POTENTIAL - Cont.

| | | |
|--|--|---|
| 298. The statement in Rule 6.6.7.6 that High Development Potential sites are most desirable to a developer is not based on any study. | Giordano, Halleran and Crahay for N.J. Builders Association | Development potential criteria are designed to implement the basic policy of concentrating rather than dispersing settlement. The language of the rationale has been modified. See 3.5.5.5. |
|--|--|---|

| | | |
|--|--|---|
| 299. P. 89. The policy to concentrate the pattern of development has not been sufficiently studied. How much infill land is available in Bay and Ocean Shore Segment. | Giordano, Halleran and Crahay for N.J. Builders Association | The policy and its rationale are stated in Chapter Three. They are based on the desire to balance many activities in a finite area. The exact amount of infill land is not known. Through mapping DEP will undertake with Coastal Administration funds, such information will be available. |
|--|--|---|

| | | |
|--|--|--|
| 300. P. 89. Previously, infill and extensions of existing development were encouraged. Under this new policy only infill is encouraged. | Giordano, Halleran and Crahay for N.J. Builders Association | See revised policy 3.5.5 and 3.5.3.1 which defines "high growth" area. |
|--|--|--|

| | | |
|--|---|--|
| 301. P. 89. The categories for development potential should be expanded to include other recreation and industrial areas. | William G. Hengst Camden County Environmental Agency | The categories have been expanded somewhat. See revised policy 3.5.5. If criteria have not yet been defined for a category of development, then medium development is assumed. |
|--|---|--|

| | | |
|--|---|---|
| 302. P. 89. "Development Potential Factors" discussion of water supply is limited to site conditions, without reference to area wide impacts. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Water supply is no longer considered as a development potential factor. |
|--|---|---|

| | | |
|--|-----------------------------------|---|
| 303. P. 89. A site must be chosen, mapped and evaluated before there is any assessment of the need for the development. | William Potter Public Advocate | The "Coastal Regions" now direct development dependent in part on the characteristics used to define each area. This incorporates the needed or desired development patterns within these areas. See Chapter Three and section 3.5.3 of Chapter Four. |
|--|-----------------------------------|---|

| Comment | Commentor | Response |
|---|---|---|
| DEVELOPMENT POTENTIAL - Cont. | | |
| 304. P. 89. The ordering of priorities in the management program seems backward, particularly when it concerns Public Service Facilities. These should be evaluated on the basis of need and alternatives before money and time is spent mapping and evaluating individual sites. | William Potter Public Advocate | The public facility policies have been revised. See section 4.5. |
| 305. P. 90, 6.6.7.2.1 Explicit instructions should be included here indicating that the residential development criteria apply to marinas. | Elwood R. Jarmer Cape May County Planning Board | See revision 3.5.5.2.1. Residential development criteria do not apply to marinas. The Water Acceptability Table (3.3.6) and Marina Use policies (4.3.7) are most applicable. |
| 306. 6.6.7 The whole idea of developmental potential raises immense controversy. Obviously, any area not already developed has potential for development. There is such a thing as over development. Its problems and destructive potential for the environment may be even greater than that of certain types of dispersed development. | Cumberland County Planning Board | The entire CLAM method has been developed to eliminate "overuse" by analyzing the capability of a site to receive the proposed use. New "Coastal Region" classification has also been developed to respond to the fact that different areas will receive different patterns of settlement (see Section 3.5.3). See also Secondary Impact Policy in section 5.14. "Development Potential" ranks individual sites with respect to, mainly, existing infrastructure. The potential of a region to accept new infrastructure and its associated development is the subject of secondary impact analysis (see Policy 5.14). |
| 307. 6.6.7 Much of the potential for Bridgeton's expansion into non-coastal zone areas conflicts with agricultural land use. Which resource is more important, coastal area or agricultural land? | Cumberland County Planning Board | These are both important and must be balanced with other interests. Industrial development has not been excluded from Bridgeton by the protection of wetlands or agricultural soils. |

| Comment | Commentor | Response |
|---|---|--|
| DEVELOPMENT POTENTIAL - Cont. | | |
| 308. 6.6.7 Both development potential and regional type are arbitrary and unclear categorizations. Much more effective guidelines are needed. What is limited growth? What are limits? | Cumberland County Planning Board | Limits on growth are not arbitrarily determined by development potential and regional type. These two factors work in conjunction with environmental sensitivity to describe the intensity of development which would be acceptable on a given site. See section 3.5.6 for limits on intensity of development. |
| 309. The hypothetical case used in the report is good. The methodology will be difficult to evaluate until multiple, factual cases are done. | Cumberland County Planning Board | Thank you. DEP prepared more than 50 case studies which were used to revise method. |
| 310. There is overall confusion in the CLAM methodology in terms of what is general guideline and what is site specific. It seems that more money and a comprehensive data collection program are necessary before this proposed methodology can work. | Cumberland County Planning Board | Disagree. See revisions. The method analyzes a site regarding special value areas specific to a site, while also considering development intensities based on regional concerns. The program is workable as presented, but will be improved with use. |
| 311. There are no guidelines to show how far away one can be from supplies and facilities and still be considered acceptable. | Cumberland County Planning Board | Disagree. The guidelines are indicated in the Development Potential Section (3.5.5) and are rather specific. |
| 312. P. 92. The whole idea of infill is questionable. Many metropolitan/regional planners hold that infilling can compound congestion and create a host of other problems. | Cumberland County Planning Board | See revisions. Infill has been expanded and made to vary according to newly defined "Coastal Regions". The problem of congestion is addressed by the resource policies. |
| 313. We are also concerned with what appears to be unreferenced criteria and standards and pages of confusing tables which are contained in Chapter three. | Richard Ginman N.J. Department of Community Affairs | See revised tables and rationale (Section 3.5.5 and 3.5.7). |

| Comment | Commentor | Response |
|--|--|---|
| DEVELOPMENT POTENTIAL - Cont. | | |
| 314. P. 90; This definition is suggested for Marina: "A waterfront facility, predominantly used for the dockage, (wet or dry stack) and/or moorage for recreational boats for which dockage or moorage a fee is charged". | Marine Trades Association of N.J. | The development potential for marinas is no longer analyzed in Section 3.5.5. See glossary in Appendix J. |
| 315. P. 90. Define "water harbor of adequate depth". | Marine Trades Association of N.J. | This phrase no longer appears, since the development potential for marinas is no longer analyzed in Sections 3.5.5. |
| 316. P. 90. A plan would relieve the heavy burden presently borne by the "infill" criteria since development rarely occurs in a neat sequence of consecutively developed parcels. | Patricia Q. Sheehan N.J. Department of Community Affairs John J. Horn N.J. Department of Labor and Industry | Newly added Chapter Three and "Coastal Regions Section" (3.5.3) of Location policies. |
| 317. The infill policy conflicts with runoff, development potential, low income housing, air quality, water quality, groundwater policy and, therefore, may not be desirable in terms of overall environmental quality. | Thomas A. Thomas Townplan Associates for N.J. Builders Association John J. Horn N.J. Department of Labor and Industry | The infill policy (see revisions, Section 3.5.5) is but one input into the decision-making process. Development must also meet the resource policies. |
| 318. P. 90. It is unclear whether the infill criteria apply only to high potential residential development or to shopping, school, and marina development as well. We recommend that these criteria apply to all of these uses. | William G. Hengst Camden County Environmental Agency | This has been revised, and is now explained in Section 3.5.3.1. |
| 319. 6.6.7 Does not offer the flexibility to determine on a case by case basis the environmental effects of infill as opposed to some extentions. | Giordano, Halleran, and Crahey for N.J. Builders Association | See above response. One objective was to provide fixed criteria to aid predictability of permit application responses. |

| Comment | Commentor | Response |
|--|--|--|
| DEVELOPMENT POTENTIAL - Cont. | | |
| 320. 6.6.7.3.1 (a) Road improvements are seldom ahead of growth, save for on-site improvements. | Patricia Q. Sheehan N.J. Department of Community Affairs | See revised criteria in Section 3.5.5.2.2a. Major road applications will be evaluated in terms of the secondary impact resource policy 5.14. |
| 321. 6.6.7.3 Industrial site potentiality should be determined by more than just proximity to a rail line or highway, which in isolation could introduce rigidities and ignore trade-offs with other locational assets. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | Sewerage and infill are also considered. Potential is just one factor weighed in making a decision. As stated in Section 3.5.5.1, suggestions for additional criteria are welcome. |
| 322. 6.6.7.3 The definition of "commercial" is unclear. | Elwood R. Jarmer Cape May County Planning Board | Noted. See revised definition in Section 3.5.5.3.1. |
| 323. 6.6.7.3.3 The "low potential" criteria appear to apply only to industrial development. "Low commercial" criteria should be developed. | Elwood R. Jarmer Cape May County Planning Board | Agreed. See revised policies (3.5.5.3.4). |
| 324. It would seem that Congress intended that a proper balance be developed for foreign and domestic maritime commerce as well as for conservation and recreation in a good management strategy. Yet it appears that DEP is tipping the scale towards the protection of the environment and further extending their power beyond the CAFRA zone. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | The energy, mining and other policies indicate that DEP has not omitted industrial uses from the coastal zone. See also section on the National Interest (Chapter 6). Except for tidal wetlands adjacent to the CAFRA area, the present program deals only with the CAFRA. |

| Comment | Commentor | Response |
|---|--|--|
| <u>DEVELOPMENT POTENTIAL - Cont.</u> | | |
| 325. While the DEP-OCZM might say industrial development would be allowed under CAFRA rules, not one industrial application has been approved since the rules were implemented in 1973. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | This is not true. All 12 applications for industrial facilities under CAFRA have been approved. |
| 326. What types of commercial development activity are intended to be covered under development potential criteria? CAFRA applies primarily to industrial facilities. | William G. Hengst Camden County Environmental Agency | See revised policy 3.5.5.3. |
| 327. 6.6.7.4.1 (a) Anyone travelling these roads on a summer weekend knows that this criteria is impractical since traffic is most often generated by other destinations. | Patricia Q. Sheehan N.J. Department of Community Affairs | The development potential factor for "roads" merely states that in order to establish the optimum location for a facility it must have road access and that the road should have present capacity to absorb increases. Commuter and tourist traffic may well be the limiting factor. |
| 328. 6.6.7.4.1 (d) What does "surrounding region shall be accessible to campground users" mean? If someone else owns it, you are promoting trespassing. What's the definition of the "surrounding region"? | Patricia Q. Sheehan N.J. Department of Community Affairs | This requirement has been eliminated. |
| 329. P. 93. Are campgrounds of all sizes to be included? | William G. Hengst Camden County Environmental Agency | Any size campground falling within the jurisdiction of the Management System defined in Chapter Five is included. |
| 330. 6.6.7.5 In the last line of of this definition the term "moderate" is used. Is the term supposed to be "moderate" or "medium"? | Robert Welch Columbia Gas System Service Corporation | Moderate. |

| Comment | Commentor | Response |
|--|--|---|
| <u>DEVELOPMENT POTENTIAL - Cont.</u> | | |
| 331. The Plan is <u>prima facie</u> in violation of regulation for its failure to be a complete document as evidenced in Section 6.6.7.5, Energy Facility Criteria. | James A. Schissia Public Service Electric & Gas Co. Elwood R. Jarner Cape May County Planning Board | Disagree. Use of the moderate development potential ranking as one factor is adequate for predictability in energy facility siting in land areas. Additional predictability may be afforded by further energy facility siting studies. See also General Question A and section 3.5.5.4. |
| 332. Since the development potential of energy facilities is assumed to be moderate, I would presume from that that the policy is go ahead on all energy sitings, especially on dangerous nuclear power plants. | Ruth Fisher Citizens Association for Protection of the Environment | This assumption is incorrect. See Energy Use Policies in Section 4.4. and see previous answer. |
| 333. 6.6.7.6 Location policies should not be designated to address the "needs of developers" but the needs and desires of the general public. | Patricia Q. Sheehan N.J. Department of Community Affairs | Section 3.5.5 indicates that the intention of the development potential rankings is, among other things, to implement the general policy of concentration for the general policy of concentration for the general benefit. |
| 334. 6.6.7.4.3 Your criteria for Low Potential defines just the recreation experience desired by some, i.e., minimum conveniences. | Patricia Q. Sheehan N.J. Department of Community Affairs | Note variation in revised policies between high and low intensity recreation criteria. See Section 3.5.5. |
| 335. In the State Development Guide Plan all of Camden County is a growth area. OCZM should distinguish between areas suitable for high density, multiple use development from those areas suitable for low density growth. | William G. Hengst Camden County Environmental Agency | This will appear in the second segment submission of the coastal plan when non-CAFRA coastal areas are defined and policies for these areas are developed. |

| Comment | Commentor | Response |
|--|--|--|
| DEVELOPMENT POTENTIAL - Cont. | | |
| 336. P. 95. The DEP still makes no guarantee that it will require adequate Environmental Impact Statements (EIS) with the CAFRA permit application. | William Potter Public Advocate | The CLAM process lists in detail the requirements at each level of the application, and the application will not be considered complete until this information is forthcoming from the applicant. |
| 337. 6.6.8.2 "Growth Areas" should include places where sewerage conveyance systems are planned for the near future. | Bob Maestro for N.J. Builders Association | This section has been deleted, but the idea is incorporated in Section 3.5.5.3.2(d). |
| 338. 6.6.9 This policy is too stringent because it ignores the relative merits of the subareas. | Patricia Q. Sheehan N.J. Department of Community Affairs | Disagree. See new Chapter Three and Section 3.5.3 of Chapter Four. |
| 339. Why do we need so many sewers? It's a well developed area now and I just wonder why the Ocean County Sewerage Authority has received permits from CAFRA and from the Federal Government to build a duplicate sewer system. | Mrs. Leo Bichner, Jr. | In the future, DEP-OC2M will judge sewer extensions carefully through the coastal policies. See revised secondary impact policy 5.14 and section 4.3. |
| 340. There are numerous examples of planning policies and engineering decisions set forth with absolutely no basis in fact. For instance: What is the source for allowable percentage of impermeable paving and structures? For instance for high density development 90% impervious paving is allowed and for moderate density development 30% impermeable paving is allowed. What is the level of density allowed for impermeable parking between 30 and 90%? | N.J. Builders Association | The intention is to designate two general levels of development intensity based on past building practices. Revisions in the FEIS indicate that the maximum intensity should be compatible with surroundings, thus introducing more variation. |

-386-

| Comment | Commentor | Response |
|---|--|--|
| REGIONAL GROWTH POTENTIAL | | |
| 341. 6.6.8.1.1 (a) According to recent Atlantic County Planning Division Statistics additional municipalities should be added. | Bob Maestro for N.J. Builders Association | The regional growth potential factor has been deleted. See instead Chapter Three and Section 3.5.3 of Chapter Four. |
| 342. We object to using the State Development Guide Plan, since it has not had official state or federal acceptance. | Darryl Caputo New Jersey Conservation Foundation | Disagree. The Guide Plan has identified specific areas with possible concerns in these areas, which is just one input into the planning process. It is not used as a regulatory mechanism. |
| 343. The coastal program fails to take into account that sprawl can take place if its criteria are met. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. See revised "coastal areas" policy in Section 3.5.3 which is concerned with the settlement patterns within these areas. See also General Question D. |
| 344. The Coastal Program limits growth areas to 10 municipalities in Ocean County, 6 of which are essentially developed. This has the potential for causing more environmental problems than the orderly, managed expansion of development into environmentally suitable areas. It also conflicts with the State Department Guide Plan, Ocean County Plan, and the 208 Water Quality Plan. | Alan Avery Ocean County Planning Board | The section has been deleted. See Chapter Three and Section 3.5.3 of Chapter Four. |
| 345. We take issue with the definition of growth areas. How much growth can be accommodated in these areas? | Giordano, Rallaran and Crahay for N.J. Builders Association | See response 337. |

| Comment | Commentor | Response |
|---|--|-----------------------------|
| <u>REGIONAL GROWTH POTENTIAL</u> | | |
| 346. The "regional growth factor" which classifies the coastal zone into growth areas and limited growth areas is inappropriate for the situation facing Atlantic County for these areas are almost totally developed. | Atlantic County Executive's Office | See response 337. |
| 347. DEP's adoption of the term's "growth" and "limited growth" that the Department of Community Affairs used in developing its <u>Guide Plan</u> , yet choosing different criteria for defining each category, may lead to unnecessary confusion. | Charles E. Romick Gloucester County | Agreed. See response 337. |
| 348. The reason for the difference between the two development plans is not addressed. | Wilcox, Gravatt & Hacunda for N.J. Builders Association Alan Avery Ocean County Planning Board N.J. Builders Association Patricia Q. Sheehan N.J. Department of Community Affairs Thomas L. Bertone N.J. Office of Fiscal Affairs | See response 337. |
| 349. Judgements need to be made as to whether observable regional trends should be reinforced, redirected or even stopped. If 6.6.8 were given greater significance, it could be used to answer a number of recreation potential questions. | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed. See above response. |

| Comment | Commentor | Response |
|--|---|---|
| <u>REGIONAL GROWTH POTENTIAL - Cont.</u> | | |
| 350. The Monmouth County shore area is categorized as a "growth area". It is already packed to potential. | Cumberland County Planning Board | See response 337. |
| 351. The delineation of growth areas needs refinement. This is another example of reacting to development pressure rather than planning it. | D.W. Bennett American Littoral Society | See response 337. |
| 352. P. 98. The inclusion of maps on page 98 on an equal basis with the sensitivity factors is questionable. | John Holland Cumberland County Planning Board William Potter Public Advocate | The map and section has been deleted. See response 337. |
| <u>LAND ACCEPTABILITY TABLES</u> | | |
| 353. If the water acceptability Tables (Fig. 5) are good, the land acceptability tables (Fig. 18) are not. The physical environment cannot be categorized in just 6 characteristics. | Cumberland County Planning Board | The tables are only one step in the multi-stepped process for determining land acceptability. See revised "Coastal Areas" Policy. See also revised tables in 3.5.7 which now use three factors, each in itself a composite of several other factors. Many other factors of concern are now included either in special areas or resource policies. |
| 354. The development acceptability criteria appear to be unnecessarily stringent, demonstrating a lack of consistency at the very least and suggesting over-regulation of uses contemplated in less critical areas. | Czeslawa Zimolzak Cumberland County Planning Board | See revised policy, 3.5. |

Comment Commentor Response

LAND ACCEPTABILITY TABLES - Cont.

355. Vast acreages will fall into one of four development intensities. No studies or evaluations have been made as to the amount or distribution of these development intensities.

Dresdner Associates for N.J. Shore Builders Association

The land area within the segment is 1,382 square miles or 884,480 acres. Of this approximately 91.5% is either water's edge, special value or already developed; thus only 75,180 acres are included in the land tables. The mapping DEP proposes to or sponsor will make the distribution more apparent.

356. Do development intensities inhibit or do violence to local, county and state plans for land use development, conservation or preservation?

Dresdner Associates for N.J. Builders Association

No. The intensive category, for example, allows almost unlimited development. The experience of Cape May County in applying these criteria is that the resultant distribution of development is so close to their master plan that they are considering adopting CLAM.

357. The most glaring omission is the failure to assess the impacts of the Land Acceptability tables on pp. 103 - 111.

Giordano, Halleran & Crahay for N.J. Builders Association

Over 50 in-house case studies have been completed, giving a good idea of impacts. The tables are based on a codification of CAPRA practices, drawing on many other site decisions. These tables are now much simplified and when the tables are final, the coast-wide distribution will be investigated. Also see Chapter III "A vision of the Coast", and revised Land Acceptability Tables, 3.5.7.

358. P. 102. How can the tables or policies be based on permit decision if a comparison between the tables and the decisions is yet to be completed, and how reasonable is it to develop a rationale for the method after it is promulgated as a regulation?

William Potter Public Advocate

A comparison has been done and is an ongoing operation which will enable the reworking of the method, if a problem surfaces. The tables are a codification of CAPRA practice and have been checked against a number of real and hypothetical cases including Wetlands and

Comment Commentor Response

LAND ACCEPTABILITY TABLES - Cont.

riparian decisions and Green Acres proposals. Revisions have been made in the FEIS in response to comments and findings from the studies.

359. 6.6.9.5 All factors have been treated equally. It might help if the information were presented in four sets of tables - each set representing one of the four development intensities. Such a format would lend itself to weighting.

Patricia Q. Sheehan N.J. Department of Community Affairs

The tables have been revised and simplified, moving some factors either to special areas or to resource policies. See revised Section 3.5.

360. 6.6.9.6 The present array of information is highly confusing to the reader, particularly those not directly working on the program. It is not clear why the x's start and stop where they do.

Patricia Q. Sheehan N.J. Department of Community Affairs

The revised tables in Section 3.5.7 are much shorter and simpler.

361. Designation as a growth or limited growth area intended to further the policy of concentrating new development, and thereby reversing a historical propensity toward "sprawl" or "suburban growth" which degrades the environment, water resources, and undermines the recreation-tourism appeal of the coast.

William Potter Public Advocate

This is correct. The development potential ranking with its infill requirements is an important tool in the implementation of the policy of concentration as is the designation of limited growth areas.

362. The Land Acceptability Table is to be used only when the NJDEP review applications pursuant to CAPRA, Wetlands or Riparian permits; however, Table 18 could be used as a control on many more situations which would be undesirable.

Dresdner Associates for N.J. Builders Association

The jurisdiction of DEP-OCZN is clearly detailed in the DEIS, and is legislatively defined. If county and municipal plans were consistent with state policy this could be to everyone's benefit, particularly developers, since the permit process would be much simplified. This is not required, however.

| Comment | Commentor | Response |
|--|---|--|
| <u>LAND ACCEPTABILITY TABLES - Cont.</u> | | |
| 363. Table 18 usurps land use prerogatives traditionally accepted to be local in nature. It has, in all likelihood, extensive conflicts with local planning and zoning. This can only be determined by a test application of CZMP's location policies on several typical communities. This has not been done. | Dresdner Associates for N.J. Builders Association | Disagree. These criteria have been extensively tested throughout the coast. It in no way extends DEP authority. |
| 364. Table 18 is not internally consistent or, stated another way, there is no rationale for going from the land area factors to the Maximum Acceptable Development Intensities. | Dresdner Associates for N.J. Builders Association | The table has been greatly revised. See Section 3.5.7. |
| 365. Do all of the land area factors have equal weight or value? | Dresdner Associates for N.J. Builders Association | No. They do not; see revised tables, 3.5.7. |
| 366. Are any of the factors exclusive or controlling regardless of the other factors? | Dresdner Associates for N.J. Builders Association | No Factors in combination are what is considered. See revised table 3.5.7. |
| 367. Are not several of the land area factors derived from soils data, and therefore duplicative? | Dresdner Associates for N.J. Builders Association | In the revised tables, in Section 3.5.7, the categories of criteria have been reduced, eliminating duplication. |
| 368. Special care should be taken to insure that the sensitivity definitions for the vegetation index do not reward the clearance of forested land, particularly on fertile soils where development is not contemplated. | Robert W. Huguley Monmouth County Planning Board | During the implementation phase of the program, monitoring and surveillance function will be established. Large areas of fertile forested land are protected under the farmland conservation special area policy (3.2.23). The revised |

| Comment | Commentor | Response |
|---|--|---|
| <u>LAND ACCEPTABILITY TABLES - Cont.</u> | | |
| plated for some time, hence, not clearly associated with development under Ch. 237 (Soil Erosion and Sediment Control Act). | | land tables (3.5.7) protect some forest in developing areas, and the revised resource policies on vegetation (5.8) and fertile soils (5.22) outside prime farm land also offer some protection to these resources. |
| 369. 6.6.9.5 The acceptable land coverage percentages should be clarified and amplified by the addition of the range of densities by subarea category. Without such specific information, the full implications of CLAM remain unclear or unknown. | Elwood R. Jarner Cape May County Planning Board Girodano, Halleran & Crahay for N.J. Builders Association | Agreed. See revisions to "coastal area" policy in "coastal regions" (3.5.3) of Chapter 4 which deals with the settlement patterns within "subregions". |
| 370. 6.6.9.6 Define "pervious paving". | Canetic Corporation for N.J. Builders Association | This phrase is no longer used. Impervious paving is paving that does not allow passage of water vertically through the paving; permeable paving is paving that does allow such passage. |
| 371. We question limiting planting materials for coverage requirements to native forest species, because it would seem just as beneficial to retain these areas of natural vegetation rather than to require the planting of native mature forest species. The policy might cause the replacement of some natural areas with a single species of sapling size trees. | William G. Hengst Camden County Environmental Agency | See revised policy in Chapter 4, Section 5.8.1. The vegetation resource policy requires all existing vegetation to be preserved unless clearance is inevitable for structures, paving or infrastructure. The intention of requiring native forest species (note the plural) is to create new mixed native planting that blends with existing. |
| 372. You have an obligation to specify and reference what the acceptability levels are based on. | Patricia Q. Sheehan N.J. Department of Community Affairs | See revised land tables and rationales (Section 3.5.7). |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

LAND ACCEPTABILITY TABLES - Cont.

| | | |
|---|--|---|
| 373. 6.6.9.6.6 This section overstates the benefit of restrictive pavement in its relationship to impact and resource. | Patricia Q. Sheehan N.J. Department of Community Affairs | Many impacts are directly proportional to paving extent, vegetation and soil disturbance, and ground and surface water impacts, for example. Most others are related to population density, air pollution and solid waste which is closely linked to pavement extent (except in high rise areas which have special policies). |
| 374. P. 121. These standards don't address filling activity within the floodplain or flood hazard area. | William G. Hengst Camden County Environmental Agency | See flood hazard policy in resource section (5.2.3), and permitted activities in the revised natural water's edge policy (Chapter 4, 3-4). |

COMPOSITE MAPPING

| | | |
|---|---|---|
| 375. P. 123. Several specific areas should be mapped and referenced in the report, including prime agricultural areas, prime wildlife habitats, areas of endangered species, including buffer areas. | William G. Hengst Camden County Environmental Agency | Prime agricultural areas are mapped by the SCS. They were also mapped by DEP-OCZM in the <u>Interim Guidelines</u> cited in Appendix B. Endangered species are listed and will be located as site survey work is done. The criteria for prime wildlife habitats will be established by the Estuarine contract currently underway. |
| 376. P. 123. We question the utility of doing environmental mapping on a scale of 1:24,000. | N. J. Builders Association | There are many good reasons for this scale. See Lower Cape May Pilot Study for example cited in Appendix B. |
| 377. P. 125. Is flood prone area the same as flood hazard area? | William G. Hengst Camden County Environmental Agency | Hazard areas include fluvial and coastal areas. Flood prone areas are fluvial, subdivided into "fringe" and "wxy". |
| 378. P. 126, 6.9.8 Some statement allowing flexibility should be added. | N.J. Builders Association | See revisions, particularly Section 2.2 which states principles for use of Chapter Four. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

GENERAL LOCATION POLICY

| | | |
|--|---|---|
| 379. 6.11 The general location policy is an "escape clause" which must be used judiciously and with the utmost discretion. | Patricia Q. Sheehan N.J. Department of Community Affairs | It is used in such a fashion; the language of the CAFRA legislation and the CAFRA experience shows that DEP-OCZM has used it with discretion. |
| 380. A policy must be established to cover instances where a required service is prohibited by municipal or county regulations. | Marine Trades Association of N.J. | Selective administration discretion has been provided by Section 2.2 and rewording of Section 4.3.7. |
| 381. Chapter 3 does not establish criteria for the design of on-site parking needs. Not doing this could result in too much reliance on local zoning requirements which are often inadequate. | Richard A. Ginman N.J. Department of Community Affairs | Specific criteria for on-site parking needs will be developed during the Program Implementation phase, in cooperation with interested state and local agencies and interest groups. |
| 382. Your regulations would not prohibit development of wetlands. But the number and complexity of these regulations would permit only the largest and most destructive projects to consider undertaking the procedure. | Charles Fisher Cumberland County Board of Chosen Freeholders | Disagree. The wetlands policies are as the Wetlands Act lists them, and will be applied as the Wetlands office has, which has dramatically reduced the filling of wetlands. |
| 383. CLAM remains primarily untested. It is not known at this point what the overall impact of the location policies will be. Thus, many case studies should be undertaken. It is also felt that improvement is needed, in some cases, in DEP's data sources that are used in making CLAM determinations. | Charles E. Romick Gloucester County Planning Board | Case studies have now been done for many CAFRA, wetlands and riparian applications. They have been used extensively to refine the CLAM method. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

GENERAL LOCATION POLICY - Cont.

| | | |
|---|--|--|
| 384. Compatibility of scale, site design and architecture is highly subjective because it leaves so much discretion in the hands of project reviewers. | Patricia Q. Sheehan N.J. Department of Community Affairs | Legislating aesthetic factors is a difficult and usually fruitless occupation. Great flexibility is needed because ultimately someone must look at a final design and make a subjective judgement. This policy states merely that proposals that are markedly different from their surroundings and are therefore conspicuous, will be particularly scrutinized and with the additional criterion of visual compatibility. |
|---|--|--|

| | | |
|--|--|---|
| 385. The use policies are very disturbing because if the location acceptability table discloses that a project should not be built, then the use and resource policies don't enter the picture. The housing, dredging, filling or bulkheading policies all seem too inflexible. | Giordano, Halleran & Crahay for N.J. Builders Association | The bulk of the use policies are already incorporated into the location analysis. They for the most part repeat and reinforce decisions already made. Flexibility has been added so that all policies are considered before a decision is made. |
|--|--|---|

HOUSING USE POLICIES

| | | |
|---|---|--|
| 386. Housing should be given greater attention in identifying regional needs and growth potential. | Jay T. Fiedler Bureau of Urban Planning | See revised "coastal areas" policy in Chapter 4, 3.5.3 which addresses the issue of regionality. |
|---|---|--|

| | | |
|--|--|--|
| 387. I think that some kind of a grandfather clause should be included as an amendment to the Wetlands Act and CAFRA to permit real estate developments which were in the process of development before those laws were passed to be given consideration. | Alvin Wagner Sunrise Beach, Inc. | Water's Edge policies have been revised to address the issue of half-built lagoon housing developments, see Chapter 4, 3.4.3.2 and 3.4.4.2. Also, CAFRA does include "grandfather" or exemption clause. (See Section C13:19-6 of CAFRA in Appendix H). |
|--|--|--|

| | | |
|--|--|---|
| 388. 7.2.1 Housing is prohibited on the water's edge because it does not depend upon water access, but the pro- | Genetic Corporation for N.J. Builders Association | Correct. The thrust of the document is the use to waterfront for the uses that cater to the most rather than the fewest amount of |
|--|--|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

HOUSING USE POLICIES - Cont.

| | | |
|--|--|---|
| gram does encourage recreation and resort development in water's edge areas. | | people. Also note that intensive recreation and resort development are only permitted in filled or bulkheaded water's edges unless water dependent. |
|--|--|---|

| | | |
|---|--|------------------------|
| 389. We thoroughly approve of your approach to housing, encouraging clustering and a mix of types. Avoiding the current trend to separate people by monetary class could dramatically assist in raising the standards and performance of less fortunate people. We also like the approach to high-rise structures. | Kathleen R. Rippers League of Women Voters | No response necessary. |
|---|--|------------------------|

| | | |
|---|--|---|
| 390. 7.2.1 While dependence on water access may be true, should we rule this out absolutely in all instances as a matter of locational preference? | Patricia Q. Sheehan N.J. Department of Community Affairs | OCZM interprets the question to mean that in certain instances shouldn't non-water access functions be located at the water's edge? It is not only a locational preference but an environmental concern, e.g. houses on dunes, and the elimination of biologically valuable wetlands. |
|---|--|---|

| | | |
|--|---|---|
| 391. P. 132, 7.2.1 This policy does not allow for innovative design and mitigative measures which could offset potential environmental impacts. | Bob Maestro for N.J. Builders Association | See revised policy for existing lagoon housing (3.4.3.2 and 3.4.4.2) and Section 2.2. |
|--|---|---|

| | | |
|---|--|--|
| 392. 7.2.2 Recent case history shows us that clustering is not a preferred housing choice, and DEP is interfering with the right of a community to decide its own character. | Patricia Q. Sheehan N.J. Department of Community Affairs | It is not always possible to provide preferred choices with limited resources. Everyone would prefer a detached house overlooking the sea; clearly this is not possible. Undeveloped coastal areas are a |
|---|--|--|

Comment Commentor Response

HOUSING USE POLICIES - Cont.

393. We, too, would encourage clustering provided the site does not have septic tanks and the developer makes the usable common space available to the public.

West Jersey Chapter of the Sierra Club

limited and fragile resource contributing to estuarine productivity, water quality and marine life as well as being in demand for recreation and industry. Clustering allows the maximum number of people to enjoy coastal amenities with minimum environmental disturbance. DEP will work with other interested public and private agencies to publicize the advantages of clustering.

394. A more detailed definition of "clustering" is needed.

Barrymor Enterprises for N.J. Builders Association

Agreed. See water quality policies at 5.3, and public access at 5.12.

395. Since the cluster developments favored by DEP involve higher densities than those allowed by the township or subareas of the project site, DEP's must provide a rationale for the cluster concept before the municipal body demonstrates a cooperative spirit.

Robert W. Ruguley Monmouth County Planning Board

Agreed. See responses to previous questions.

396. We question the basis for the statement that housing is not dependent on water access.

Giordano, Halleran & Crahay for N.J. Builders Association

Housing is not dependent on water access. Desire does not constitute dependence.

397. The definition of "clustering" is questioned as being contrary to many other clustering policies.

Giordano, Halleran & Crahay for N.J. Builders Association

No response is possible as "other clustering policies" are not specified.

Comment Commentor Response

HOUSING USE POLICIES - Cont.

398. P. 133, 7.2.2 This policy encourages zoning variances where minimum lot sizes preclude cluster.

Canetic Corp. for N.J. Builders Association

This is correct. DEP-OCZM has a basic policy of concentrating development that is in conflict with some municipal ordinances. The zoning variance procedure is an orderly way of debating such conflicts.

399. The housing policies are inconsistent; 7.2.3 states that housing should provide a mix of dwelling types, but other policies encourage clustering and make high-rise structures virtually impossible.

Canetic Corp. for N.J. Builders Association

Disagree. High rises are not prohibited and there are many varieties of house-type possible in a clustered layout.

400. P. 133. It should be clear that proposed uses not specifically "encouraged" can still be built.

Giordano, Halleran & Crahay for N.J. Builders Association

Agreed. See definitions for "prohibit", "discourage", "conditionally accepted", "acceptable" and "encouraged" in Section 2.3.

401. P. 133, 7.2.3 Is there a socio-economic basis for 7.2.3?

Giordano, Halleran & Crahay for N.J. Builders Association

Yes. Many studies show that separation of housing into social, economic, or age enclaves diminishes the quality of residential life.

402. P. 133. Why should policies encourage low cost housing? Won't this perpetuate low economic levels which have discouraged economic expansion of these areas?

Dr. Phillip Phelon Cumberland County Economic Development Board

Distributing low income population rather than restricting it to ghettos does not affect regional economic levels and in the long term will help a region by improving access to education for people with low incomes.

403. P. 133 7.2.4 What if a housing development meets a municipality's fair share of high income housing?

Giordano, Halleran & Crahay for N.J. Builders Association

The project would be encouraged. See revised policy 4.2.5.

| Comment | Commentor | Response |
|---|---|--|
| <u>HOUSING USE POLICIES - Cont.</u> | | |
| 404. Although OCZM proposes to "encourage" low and moderate income housing developments which contribute to municipality's fair share, the OCZM's policies, as now written, contain no provisions to contribute materially to the supply of low and moderate income housing. | William G. Hengst Camden County Environmental Agency | While the provision of least cost housing often depends upon state and federal financial assistance, the Program can facilitate the construction of needed housing proposed for appropriate locations through simplified and shortened permit application review procedures, particularly with use of the pre-application conference procedure, for encouraged projects. |
| 405. P. 133. We object to any development exclusions in the Pine Barrens except in jurisdictions of permit programs. | Giordano, Halleran & Crahay for N.J. Builders Association | Such exclusions are not within the DEP-OCZM jurisdiction. |
| 406. P. 134. Development which would demolish historic sites should be prohibited. | Michael Havrisko League of Conservation Legislation | They are discouraged. See revised policy 4.2.8. |
| 407. P. 133, 7.2.5 Requirement that "some" units in developments of more than 250 units have barrier-free design is vague and should be more specific. | Patricia Q. Sheehan N.J. Department of Community Affairs Atlantic County Executive's Office | See revised policy (4.2.6) that increases the flexibility but maintains the intent to provide a barrier free environment. |
| 408. P. 133, 7.2.5 Will exclusion of barrier free design in single-family units justify a permit denial? If so, we question the wisdom of this. | Patricia Q. Sheehan N.J. Department of Community Affairs | No. See revised policy 4.2.6. |
| 409. P. 134, 7.2.6 Policy should include specific criteria which outline what densities and locations contribute to mass transit opportunities. | Atlantic County Executive's Office | The understanding of DEP-OCZM is that densities of over 7 dwelling units per acre can be economically served by mass transit. This is included in the rationale. |

| Comment | Commentor | Response |
|--|--|---|
| <u>HOUSING USE POLICIES - Cont.</u> | | |
| 410. P. 134, 7.2.7 Is re-development and demolition discouraged even in areas that are neither of historic or aesthetic interest? | Canetic Corp. for N.J. Builders Association | Yes. Policy 4.2.8 states "unless rehabilitation of existing structure is demonstrated to be impractical and infeasible." |
| 411. P. 134, 7.2.7 Policy 7.2.7 is too restrictive especially in urban areas. Changes in intensity, use, or occupancy may be desirable and defensible. "Conditionally acceptable" would be a more appropriate statement than "Discouraged." | Patricia Q. Sheehan N.J. Department of Community Affairs | Disagree. There is no requirement that the structure be used as it was in the past; therefore, changes in density are possible within this policy. |
| 412. The planning board supports the housing use policies, including those containing high rise construction which is prohibited east of oceanfront road or equivalent park distance. Because even single detached units have the same effect of preventing uninterrupted or uninhibited visual and physical access to the beach, the prohibition should be extended to all non-recreational development of the oceanfront. | Robert W. Huguley Monmouth County Planning Board | No response necessary. |
| 413. P. 134, 7.2.8 While recognizing that high-rise housing development is out of context with established rural communities, concentrating it yields the same secondary impacts as recreation. | Wilcox, Gravatt and Hacunda for N.J. Builders Association | Housing development and recreational development need vastly different percentages of cover, and therefore, have different impacts, which are treated separately in the document. |
| 414. P. 134, 7.2.8 In many cases the required distance separating high-rise from water would be inadequate. We would prefer at least 200' requirement. | Wilcox, Gravatt and Hacunda for N.J. Builders Association | The combined conditions will produce this result. |

| Comment | Commentor | Response |
|---|--|--|
| <u>HOUSING USE POLICIES - Cont.</u> | | |
| 415. P. 134, 7.2.8.a What is meant by an "equivalent park distance"? | Atlantic County Executive's Office | The distance of a road right-of-way or greater. |
| 416. P. 134, 7.2.8.a Is the Boardwalk considered a public road in this case? | Atlantic County Executive's Office | Yes. |
| 417. P. 134, 7.2.8.(c) The policy is impractical because a developer can construct single family homes which may block as much or more of the view. | Wilcox, Gravatt, and Hacunda for N.J. Builders Association | Disagree. The policy is sound, but the Coastal Program does not manage the location of a single family house. |
| 418. P. 134, 7.2.8.(c) This policy makes any high rise impossible; any high rise will to some degree block the features. | Canetic Corp. for N.J. Builders Association | Disagree. High rise projects meeting this criteria have been approved by DEP. |
| 419. P. 134, 7.2.8.(d) Term "overshadow" is too vague; requirement must be defined better. | Canetic Corp. for N.J. Builders Association | "Overshadow" is not vague. If a shadow is cast on a beach between May and October this qualifies for this category. "Beaches" are defined; shadow sun tables are available to do analysis, providing a definite yes-no answer. |
| 420. P. 134, 7.2.8.(e) This policy precludes the phased redevelopment of an area where a consciously determined change in character, use, or intensity may be at work. | Patricia Q. Sheehan N.J. Department of Community Affairs. | The policy addresses the construction of high rise buildings in areas where they already exist. It does not address the establishment of a new center. A phased change of character is possible however, since surrounding heights may progressively increase. See revised policy 4.2.9. |

-394-

| Comment | Commentor | Response |
|---|--|---|
| <u>HOUSING USE POLICIES - Cont.</u> | | |
| 421. P. 134, 7.2.8.(f) When does an impact, particularly with respect to traffic, become "adverse"? | Atlantic County Executive's Office | N.J. DOT has criteria for acceptable levels of service at intersections. |
| 422. The Segment cites certain decisions from state courts concerning fair housing opportunities. Conceding that these cases recognize such a right, they certainly do not constitute or contribute to a comprehensive coastal management power." | James A. Schissias Public Service Electric & Gas Co. | See response to general question A, and Section C13:19-11 of CAFRA. DEP must address the needs of all New Jersey residents. |
| <u>RESORT RECREATIONAL USE POLICIES</u> | | |
| 423. Recognition of the importance of recreation on the coast has been too long coming. The Marine Trades Association of New Jersey applauds this recognition and calls upon the administration to show its support of this philosophy by returning a greater share of coastal recreation generated state revenues for coastal programs such as waterway maintenance and shore protection. | Marine Trades Association of N.J. | Thank you. The DEP-DMS shore protection master plan effort and the Rutgers overboard disposal study are recent examples of efforts by the State to increase shore protection and contribute to better waterway maintenance. |
| 424. P. 135. While the policy of Resort/Recreation Uses having priority over all other uses may be suitable for the BOSS Segment, a more balanced policy between Resort/Recreation and other uses may be better suited to the industrialized Delaware River area. | Charles E. Romick Gloucester County | Agreed. This document refers only to the Bay and Ocean Shore Segment, the subsequent segments both Delaware and Northern will highlight specific issues in these areas. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

RESORT RECREATIONAL USE POLICIES - Cont.

| | | |
|---|--|--|
| 425. Throughout the Segment we appreciate your emphasis on protecting the tourist and fishing interests as vital to the state's economy. | Kathleen H. Rippere League of Women Voters | Thank you. |
| 426. 7-3 All these uses will be stressful on an area, creating more impervious surfaces, traffic burdens, and air pollution from automobiles. | Canetic Corp. for N.J. Builders Association | The location and resource policies will prevent such impacts. |
| 427. The Planning Board is encouraged by the Resort/Recreational Policies which stress facilities shall provide equal opportunity access to large numbers of people. | Robert W. Huguley Monmouth County Planning Board | No response necessary. |
| 428. P. 135. The economic impact of tourism should be studied and quantified; this is especially important for evaluating alternative uses of the coastal zone. | Atlantic County Executive's Office | Agreed. |
| 429. P. 135. We question the wisdom of and need for mixing recreational and industrial development. | Atlantic County Executive's Office | Some types of recreation and industry are compatible and may significantly improve the working environment. Sailing and ball fields are examples of recreation that may thrive near industry if properly designed, and would provide recreational opportunities for the workforce. |
| 430. The preservation of open space policy seems self-contradictory when it names hotels and restaurants as desirable along the coastline. | Michael Havrisko League of Conservation Legislation | Disagree. These uses are acceptable only under restrictive conditions; see Section 4.3.5. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

RESORT RECREATIONAL USE POLICIES - Cont.

| | | |
|--|---|--|
| 431. 7.3.1 A policy advocating resort/recreation uses over all others will not work in New Jersey because different portions of coastal zone have different priorities. In Camden County and other urbanized portions of New Jersey other kinds of development must be encouraged and guided. | William G. Hengst Camden County Environmental Agency | This FEIS refers only to the Bay and Ocean Shore Segment where recreation predominates. DEP-OC2M will work with Camden County in the formation of policy for the Delaware River. |
| 432. 7.3.3 It is not the responsibility of a private investor to provide off-site supporting services and facilities as a condition of approval. | Patricia Q. Sheehan N.J. Department of Community Affairs | Disagree. The Public Trust doctrine imposes special obligations on developers of waterfront property. |
| 433. 7.3.4 The definition of "existing resort-oriented areas" is unspecific and unclear. | Elwood R. Jarmer Cape May County Planning Board | Agreed. The revised Coastal Regions Section (3.5.3) can be used to identify these areas more clearly. |
| 434. 7.3.5 Hotel/casino uses in existing resort areas is encouraged in Atlantic City, usually on water's edge location, while high rise housing types are discouraged. | Canetic Corp. for N.J. Builders Association | Atlantic City is exactly the type of area where some new high-rise construction is appropriate. |
| 435. The Casino Development Policy should be written to specifically apply to the housing standards. | William Potter Public Advocate | See the revised policy 4.3.6 and the explicit reference to the high rise housing policy. |
| 436. P. 137, 7.3.6(c) Add,"and if wastewater disposal from such pump out stations is consistent, with all applicable federal and state laws, rules and regulations." | Diane Graves Sierra Club | Agreed, see revised policy 4.3.7(c). |

Comment Commentor Response

RESORT RECREATIONAL USE POLICIES - Cont.

437.
P. 137. Launching ramps are effective means of serving transient small boat owners but they also produce land use problems that make them unsuitable for some sites. A ramp launched boat requires at least twice the land space of a stack stored or docked boat because of the presence of the trailer in addition to the owner's car.

438.
Public marinas must be discouraged because they have an unfair competitive advantage over private enterprise and use land that would otherwise be available for privately financed business that provides tax revenues.

439.
We feel that your approach to marina construction is excellent, especially in your support of provision for sail and rowboats and the requirement that need for the new marina be shown. We feel strongly that along with requiring sewage facilities in marinas, a law is needed to require large boats to install chemical toilets. Otherwise pollution in marina areas is unavoidable.

Marine Trades Association of N.J.

See revised policy 4.3.7(b) which states that these uses be dependant upon the site conditions.

DEP regulates the construction and operation of both public and private marinas equally.

Kathleen H. Rippere
League of Women Voters

No response necessary

Comment Commentor Response

RESORT RECREATIONAL USE POLICIES - Cont.

440.
P. 137. If the terms mean a dry stack, in-and-out system and a public launching ramp, we are opposed.

441.
P. 137. If the term "public" means "free," the Marine Trades Association is vehemently opposed.

442.
P. 137. The Marine Trades Association supports the requirement for "adequate pump out stations for wastewater disposal" at all new marinas.

443.
Public launching facilities might be better defined: Any facilities, available for use by the general public on a free or fee basis, used for launching and returning recreational boats. Facility operators retain the right to restrict usage of the launching facility when parking, docking or launching capabilities are exceeded.

444.
7.3.6 New marinas are acceptable if demand is made apparent; however, marinas and related activities are sources of both severe air and water pollution.

445.
7.3.6 If demand is not being met by expandable facilities, are you going to prevent new boating facilities? You can't force existing

Marine Trades Association of N.J.

Genetic Corp. for N.J. Builders Association

Patricia Q. Sheehan
N.J. Department of Community Affairs

In the final analysis, the site and regional demand will determine the extent of the facilities. See revised policy 4.3.7.

The term does not mean "free", it means "not private".

No response necessary.

This definition is now in the Glossary. The second sentence of the comment is addressed by revised policy 4.3.7.

Marinas will be acceptable as any other use, based on the ability for the use-location combination to adhere to the Resource Policies which consider both air and water quality.

No. The policy suggests that marinas will be considered based on an understanding of the regional demand for them. Therefore, if marina capacity

| Comment | Commentor | Response |
|--|--|---|
| RESORT RECREATIONAL USE POLICIES - Cont. | | |
| marinas to enlarge basically because of economic restraints. | Marine Trades Association of N.J. | exists within a region this must be examined before new marinas are built. A regional analysis might direct developers to appropriate locations. |
| 446. 7.3.6 Policy does not address the marina-recreation development along the intracoastal waterway. Policies to deal with the siting of marinas on the intracoastal waterways, tidal channels, and lagoons should be developed. | Elwood R. Jarmer Cape May County Planning Board | Agreed. See revised water acceptability tables (3.3.6) which include guts and harbors and their potential use for marinas. |
| 447. 7.3.6 How will the "demonstrated regional demand" be determined? | Marine Trades Association of N.J. | Waiting lists for marina membership is an obvious way. DEP-OCZM is planning a tourism/recreation study to assess regional supply and demand. |
| 448. P. 137. The Marine Trades Association suggests the following definitions: Dry storage areas- Land space for the purpose of storing boats when they are removed from the water. They may be either for seasonal storage or for holding between uses (dry-sailings, dry stacking, etc.). A major portion of seasonal storage area may be the same area used for parking during the boating season. | Marine Trades Association of N.J. | Specific definitions have not been developed. Conflicts between boats and car space have been addressed in that the site characteristics will dictate the design of the site. |
| 449. 7.3.7 Who can assure that a marina for sail and/or boating (encouraged) will not be converted to a primarily motor boat marina after completion? | Canetic Corp. for N.J. Builders Association | The statement reflects OCZM's concern for energy conservation and water quality. A permit condition could address this issue. |
| 450. The program puts restraints on the growth and even maintenance of recreational | Marine Trades Association of N.J. | The program channels growth rather than restricting it and encourages maintenance and ex- |

| Comment | Commentor | Response |
|---|---|--|
| RESORT RECREATIONAL USE POLICIES - Cont. | | |
| boating in N.J. and on its supporting industries. | | pansion. The program will not deter recreation uses of a recreationally oriented coast, but balance these uses with environmental concerns. |
| 451. 7.3.9 Dredging of dry land marina expansion is encouraged. What about the effects of water action, erosion, new breakheading, etc. on this procedure? | Canetic Corp. for N.J. Builders Association | This policy has been deleted. |
| 452. P. 135, 7.3.11 Amusement piers are a valid recreational opportunity; a better policy would recognize the demand for these uses and plan for acceptable locations. | Patricia Q. Sheehan N.J. Department of Community Affairs Wilcox, Gravatt & Hacunda N.J. Builders Association | Disagree. The vulnerability of the piers is a sufficient reason to curtail the use of this resource for heavy structural uses. New amusement parks can be located inland. |
| 453. Why are private owners treated the same as commercial owners, such as marinas, and forced to do a lot of unneeded surveying and engineering to legalize a pier? Why can't we get a separate set of procedures for private owners? | L.R. Hudson | Conveyance of State-owned tidelands to legalize a pier requires that legal procedures be followed. The Riparian permit procedure will be looked at carefully for possible streamlining, as part of the Administration of this program. |
| PUBLIC FACILITY USE POLICIES | | |
| 454. P. 148, 7.5.10 Line 1, delete "proper"; line 2, after "installation", delete ", and "; after "operation", insert "and maintenance". | Diane Graves Sierra Club | Agreed. See revised policy 4.7.5(b). |
| 455. P. 148, 7.5.11 Does the phrase "highly treated effluents" refer to a | Atlantic County Executive's Office | The appropriate level of treatment varies with soil and vegetation conditions. In soils |

Comment Commentor Response

PUBLIC FACILITY USE POLICIES - Cont.

specific level or type of sewage, and if so, what is it? The standards for defining what qualifies as "consistently high quality effluent" and "acceptable recharge techniques" should be spelled out as well.

with high cation exchange and harvested vegetation trickle or spray irrigation secondary treatment is appropriate. In sandy soils tertiary treatment would probably be necessary. Some flexibility here is desirable. See comment and response below.

456.
P. 148, 7.5.11 Rerword to read "wastewater treatment systems that recharge the groundwater are encouraged provided that effluents and recharge techniques are consistent with all applicable federal and state laws, standards, rules and regulations".

Diane Graves
Sierra Club

Agreed. See policy 4.5.7(c) This statement is stated in Resource Policies and applies to every policy.

457.
P. 148, 7.5.8 Line 1 after "must" delete the remaining sentence and insert, "be consistent with all applicable federal and state laws, rules and regulations and standards".

Diane Graves
Sierra Club

See response above.

458.
P. 148 7.5.9-7.5.11 On-site sewage disposal systems should be preferred over regional treatment plants except where there is no feasible on-site disposal alternative and where there is a water quality need which cannot be otherwise corrected. This policy does not differentiate between regional and other facilities, with both given "encouraged" status. Rather, unnecessary wastewater treatment systems should be prohibited.

William Potter
Public Advocate

DEP-OCZM in general favors localization of impact and mitigation as close to the source as possible. In particular, site sewage treatment is favored that recycles water and nutrients either through septic systems or site plant or more innovative techniques such as spray irrigation, artificial marshes or aquaculture as close to the source of sewage generation as possible. Also secondary impact analysis address the location of regional treatment plants.

Comment Commentor Response

PUBLIC FACILITY USE POLICIES - Cont.

459.
P. 147, 7.5.5 Bicycle and foot paths design must be sensitive to today's concern for security and the general concern for privacy.

Patricia Q. Sheehan
N.J. Department of
Community Affairs
The policy does not imply loss of privacy or security. See policy 4.5.5.

460.
P. 147, 7.5.5 Bicycle and foot paths in some instances may not be feasible or fit with the development scheme or with surrounding development patterns.

William G. Hengst
Camden County
Environmental
Agency
See revised policy 4.5.5 which addresses this concern. They usually represent increased multi-use, open space areas.

Giordano, Halleran
& Crahay for
N.J. Builders
Association

Atlantic County
Executive's Office

461.
The approach to public facilities is excellent requiring that development should be encouraged where adequate facilities exist and discouraged where they do not. Also, we like the provision that new roads prove their need and that public transportation should be encouraged, but should not block access to or the use of waterways. We like the idea of fishing catwalks on bridges, since, if fish are available, people will fish from bridges anyway - and often at their peril. We hope, however, to see the day when some limit on the size of salt water fish that are kept will be enforced.

Kathleen H. Rippere
League of Women
Voters
No response necessary.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PUBLIC FACILITY USE POLICIES - Cont.

| | | |
|--|---|--|
| 462. P. 147. The pre-application conference provides an excellent opportunity for the developer and DEP to explore new technologies and design concepts on suitable lands. | Robert W. Huguley Monmouth County Planning Board | No response necessary. |
| 463. P. 147, 7.5.6-7.5.8 These policies are greatly improved, although there is no mention of reclamation. Sanitary landfills are unsightly and environmentally hazardous. They deserve the same reclamation requirements as mines. | William Potter Public Advocate | Agreed, see revised policy 4.3.6. |
| 464. P. 147, 7.5.4, 7.5.5, and 7.5.9 Policy 7.5.4 should read "discouraged" rather than "prohibited" and 7.5.5 should read "encouraged" rather than "required". Section 7.5.9 should also be modified. | Thomas A. Thomas Townplan Associates for N.J. Builders Association | Agreed. Policy 7.5.4 has been deleted, 7.5.5 and 7.5.9 has been revised addressing this concern. (See 4.5.5 and 4.5.7) |

PORTS USE POLICIES

| | | |
|--|---|--|
| 465. 7.7.1 Confinement of new port facilities to sites adjacent to existing port facilities may be encouraged, but new ports should not be prohibited from non-adjacent locations where there is no other recourse and the non-adjacent site is in all other ways acceptable under the location, use and resource policies. Page 182 would appear to afford such flexibility. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | There are unused areas within the port areas that can be considered for reclamation and will satisfy the port policy. This policy applies only to the Segment. |
|--|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

INDUSTRY/COMMERCE USE POLICIES

| | | |
|--|---|--|
| 466. P. 148, 7.6.1 When determining the ratio of jobs to land provided by a developer, does "development" just mean the building or the parking area and other open space on site. If the former meaning is used, then this policy will discourage retention of open space in a development plan. | Giordano, Halleran & Crahay for N.J. Builders Association John J. Horn N.J. Department of Labor and Industry | The intention is to measure jobs/acre on the gross acreage of the site including parking open space etc., and compares one industrial use with another, both subject to the same set of policies including the open space resource policy. |
| 467. P. 148, 7.6.2 Use policy should also consider an additional limitation because of water pollution potential. | Thomas L. Bertone Office of Fiscal Affairs | See revisions, Section 4.6.3(f). |
| 468. To restrict mining "only to sites immediately adjacent to current mining operations," regardless of good reclamation plans, is an inflexible policy. | Thomas L. Bertone Office of Fiscal Affairs | See revised policy 4.6.3(b). |
| 469. 7.6.2 By drawing lines to depict where mining can and cannot occur, OC2M fails to recognize that one must mine wherever the deposit is. | Kenneth Brunk Unimin Corp. | See revised policy, 4.6.3. |
| 470. P. 148. Regarding mining, how is "immediately adjacent" defined? What branch of the state government enforces reclamation policies? | William G. Hengst Camden County Environmental Agency | DEP would enforce reclamation requirements included in a permit approval. See revised policy on adjacency, Section 4.6.3(b). |
| 471. P. 148, 7.6.2 Policy is too brief. | Gary Carpenter Pennsylvania Glass & Sand | See revised policy. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

INDUSTRY/COMMERCE USE POLICIES - Cont.

| | | |
|--|---|---|
| 472. P. 148. Why is mining looked at so negatively when it is so important to the state? | Kenneth Brunk Unimin Corp. Gary Carpenter Pennsylvania Glass & Sand Dr. Phillip Phelon Cumberland County Economic Develop- ment Board | See revised policy, 4.6.3. |
| 473. 7.6.2 This policy needs to be more restrictive. Reclamation efforts must be enforced. | William Potter Public Advocata | See revised policy conditions Section 4.6.3 especially (e). |
| 474. 7.6.2 Mining operations should not be exempt from the location policies. | Robert W. Huguley Monmouth County Planning Board | They are not, water's edge policies apply; the use is so highly specialized they can not be handled similarly to residential uses in the Land Acceptability Tables. |
| 475. 7.6.2 If reclamation plans are acceptable, mining should be acceptable, even if it is not adjacent to current mining operations. | Giordano, Halleran & Crahay for N.J. Builders Association | These issues have been addressed in revised policy 4.6.3. |

SHORE PROTECTION USE POLICIES

| | | |
|---|--|--|
| 476. P. 149. Am I correct in assuming that the Shore Protection Use Policies apply only to developments of 25 or more units? | Stephen Gabriel Ocean City Mayor's Office | No; shore protection usually is regulated by riparian statutes which have no threshold. Also the Office of Shore Protection does not operate with such thresholds. |
| 477. P. 149-150 7.8.3 Add "Such as, state highways, public utilities, sewers, water, electric, gas and telephone lines." | Loretta C. Hanley Sea Bright Environmental Commission | The term infrastructure includes these uses. See Section 4.8.5(c). |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

SHORE PROTECTION USE POLICIES - Cont.

| | | |
|--|--|--|
| 478. P. 149, 150, 7.8.3 Delete "urban." | Loretta C. Hanley Sea Bright Environmental Commission | Disagree. Urban shorefront areas must be addressed. |
| 479. P. 150, 7.8.3.d Does the State have a particular bulkhead design for oceanfront properties which could be required by municipalities to help them locally enforce policy 7.8.3.(d)? | Stephen Gabriel Ocean City Mayor's Office | DEP's Office of Shore Protection provides technical assistance to municipalities on the design of shore protection structure. Also the shore protection master plan will specifically address municipal-state liaison in the design of struction shore protection methods. |
| 480. P. 149-150, 7.8.3 Delete "including fishing (too specific and discriminating) and other recreational (too broad) opportunities"...Add "where practicable for safety and health." Substitute "The structure will protect and enhance public access to the shorefront, where practicable for safety and health". | Loretta C. Hanley Sea Bright Environmental Commission | Disagree. It is the thrust of the program to provide enhanced recreational facilities wherever possible. The shorefront is especially important in this respect. |
| 481. 7.8.3 Adverse economic impacts as well as potential secondary impacts and an assignment of responsibility for any impact not foreseen within the permit must be included in shore protection project permit considerations. | Marine Trades Association of N.J. | Agreed. See policies in Section 4.8. |

Comment Commentor Response

SHORE PROTECTION USE POLICIES - Cont.

482. Add the federal Public Law 79-727, approved August 13, 1946. "Federal Policy as established in Public Law and as amended which provides for Federal participation in the construction of such improvements along public shores. Shores other than public are also eligible, if there is benefits arising from public use. Or from the protection of nearby public property. Or if the benefits are incidental to the project with the Federal contribution being adjusted in accordance with the degree of such benefits." State policy should conform to the above Federal Law.

Loretta C. Hanley
Sea Bright
Environmental
Commission

Such inclusion is unnecessary. State policy does conform to the federal law. See shore protection use policies 7.8.3(a-c).

GENERAL RESOURCE POLICIES

483. A number of the resource policies have considerable merit.

Robert W. Huguley
Monmouth County
Planning Board

No response necessary.

484. P. 151. The policies as they are written are so vague and incomplete that local concerns will not be ferreted out from regional ones.

Thomas L. Bertone
Office of Fiscal
Affairs

Disagree. The distinction between local and regional concerns is addressed largely by the management system which indicates that some decisions are of regional importance and others strictly local.

MARINE FISH & FISHERIES

485. Separate commercial fishing area from private owners, so that private owners are not treated like commercial fishing owners.

L.R. Hudson

Since recreational fishing harvests more fish than the fishing industry, regulation of both is a concern to the extent there are conflicts between the two activities, the buffer policy will be employed (Section 5.15).

Comment Commentor Response

MARINE FISH & FISHERIES - Cont.

486. P. 151, 8.2.1 This policy does not appear to be in accordance with the shellfish beds special area policy which prohibit outright some uses.

Marine Trades
Association of
N.J.

Disagree. Development may affect living marine resources outside of shellfish beds.

487. 8.2.2 You cannot avoid increased turbidity levels, or siltation with any type of land development.

Bob Maestro for
N.J. Builders
Association

Policy does not call for complete control of turbidity or sedimentation minimum feasible, mitigation techniques are available to localize these impacts to acceptable levels in some cases. See policy 5.2.1.

WATER QUALITY

488. P. 152. A policy which requires coastal development to be in conformance with all applicable state surface and groundwater quality standards, as established and administered by DEP's Division of Water Resources, should also reflect the water quality management policies of adopted water quality management plans developed under New Jersey Statute PL 1977, Chapter 75.

Middlesex County
Planning Board

This is the intent of the policy. See revised policy 5.3.1.

SURFACE WATER USE

489. The surface water policy should adopt a more regional view and should incorporate the recommendations of State Water Supply Master Plan, and adopted "208" Water Supply Elements.

Middlesex County
Planning Board

Agreed. See policy 5.3.1.

| Comment | Commentor | Response |
|---|---|---|
| <u>SURFACE WATER USE - Cont.</u> | | |
| 490. P. 152, 8.4.1, line 5. "Disturbances" is unclear despite Glossary definition; if drawdown is what is meant, than change "disturbance" to "drawdown". | Diane Graves Sierra Club | Disturbances include entrapment of aquatic organisms, bottom scour, alteration of flow nutrient transport patterns as well as drawdown. See policy 5.4.1. |
| 491. 8.4.1 This policy should include phasing, with expansion plans for potable water systems. | Patricia Q. Sheehan N.J. Department of Community Affairs | This is included in the demonstration of adequate capacity. See policy 5.4.1. |
| <u>GROUNDWATER USE</u> | | |
| 492. There are no location policies dealing with outcrops of important aquifers. | Robert W. Huguley Monmouth County Planning Board | The deep aquifer outcrops do not occur in the Segment. |
| 493. 8.5 When it comes to groundwater, the water supply people seem to allow excessive withdrawal rates to everybody, will you tell them they can't? | West Jersey Chapter of the Sierra Club | This is not quite true. The Water Policy and Supply Council issues the permits on diversion rights based on the input from the Division of Water Resources on the groundwater quantity, salt water encroachment, etc. DEP has a continuing concern about techniques of estimating the impacts of groundwater withdrawal and rationales for establishing safe sustained yield and will continue to study this issue. |
| 494. P. 152, 8.5 Policy is prohibitively expensive and may not be technically possible except on a regional level. | Thomas A. Thomas Townplan Associates for N.J. Builders Association Patricia Q. Sheehan N.J. Department of Community Affairs | The language has been modified. See revised policy 5.5.1. DEP is aware of the problems of estimating groundwater impacts, but considers that in areas with a history of salt water intrusion such a policy is essential. Continuing aquifer studies in the future will assist both DEP and developers. |

-402-

| Comment | Commentor | Response |
|---|---|---|
| <u>GROUNDWATER USE - Cont.</u> | | |
| 495. 8.5.1 Policy should include "and not significantly decrease base flow of adjacent water courses." | Bob Maestro for N.J. Builders Association | Agreed. See revised policy 5.5. |
| <u>RUNOFF</u> | | |
| 496. There is a question as to whether "runoff" is limited to the runoff generated from the subject development or from all upstream sites. The nature of the receiving stream should be taken into consideration, since runoff exceeding mature forest vegetation may not in all cases cause an adverse environmental effect. | N.J. Builders Association | The runoff is as stated limited to that of a particular site. See policy 5.6 which has been substantially revised. |
| 497. To water runoff standards are unrealistic. | Joseph Heeney Lacey Township Chamber of Commerce Jordan, Halleran & Grahay for N.J. Builders Association | See revised policy 5.6 which introduces some flexibility. Calculations by DEP-OCZM and the U.S. Soil Conservation Service indicate that these standards are realistic. |
| 498. P. 153, 8.6 When it comes to runoff, nobody exceeds the standards but we keep having more floods; local government seems to feel that it's the problem of the guys downstream. | West Jersey Chapter of the Sierra Club | Standards of this kind have not been generally applied before. If they had been, the flash flood surge problem would not have occurred. This is one of the reasons for these standards. |
| 499. P. 153. I find it difficult to use the draft and apply it to a specific development site as criteria for design. | Fellows, Read & Weber for N.J. Builders Association | See revised policy 5.6 which expands and clarifies the criteria and allows more flexibility of design. |

| Comment | Commentor | Response |
|--|---|---|
| RUNOFF - Cont. | | |
| 500. P. 153. The section on runoff would in effect postpone development in the CAFRA zone. | N.J. Builders Association | Disagree, these standards can easily be met in most typical CAFRA applications. Revised Policy 5.6 does however introduce more flexibility. |
| 501. The imposition of having to construct extensive treatment facilities is unreasonable. Better policies would acknowledge the contributions of other point sources and a fair share allocation of costs should be implemented. | Wilcox, Gravatt & Racunda for N.J. Builders Association | The section 208 program coordinated by the Division of Water Resources is working on this, but it is a very complicated problem. Extensive treatment is not required, but rather treatment that meets applicable water quality standards. See revised policy 5.6. |
| 502. P. 153. The policy seems to imply that runoff from a site cannot exceed that which would occur if the site were covered with a "mature forest vegetation" regardless of the existing conditions of this site. | Fellows, Read & Weber, Inc. for N.J. Builders Association | This is correct, however see revised policy 5.6 which limits peak surges to those from existing conditions with some exceptions where existing conditions generate high runoff. |
| 503. P. 153. The guidelines should specify the type of treatment required for the stormwater runoff from the pavement on intensely developed site. | Robert W. Huguley Monmouth County Planning Board | Some guidelines are included in revised policy 5.6 but the exact nature of required treatment to meet water quality standards varies so much that case by case review is necessary. |
| 504. P. 153, 8.6.1 How does one quantify the runoff rate of mature forest vegetation? | Patricia Q. Sheehan N.J. Department of Community Affairs | Enter the curve number for forest vegetation into either of the two required formulae. |
| 505. P. 153, 8.6.2(c) Won't this significantly increase the cost of each unit to the buyer? | Bob Maestro for N.J. Builders Association | No. In some cases, it may even reduce the cost because of savings from not building curbs, gutters and sewers. |

| Comment | Commentor | Response |
|---|---|---|
| RUNOFF - Cont. | | |
| 506. At the present time DEP control over groundwater use and diversion rights is inadequate and we hope the forthcoming Water Resources Master Plan will work toward rectifying this situation. Meanwhile, protecting groundwater from runoff pollutants in intensive development areas is certainly important and we are pleased to see this included in the Plan. | Kathleen H. Rippere League of Women Voters | No response necessary. |
| 507. P. 153, 8.6.2(d) It is impossible to analyze storm water runoff quality or to predict such quality. | N.J. Builders Association | It is difficult, not impossible. The 208 program is studying this problem meanwhile there is empirical data from techniques proven by experience. |
| 508. P. 153. Some of the retention requirements may be physically impossible on the site depending on topography, groundwater elevation, and other physical features. | Fellows, Read & Weber for N.J. Builders Association | Disagree. See revised policy and rationale 5.6. |
| 509. P. 153. It does not appear to be a clear indication of the degree to which storm water must be treated prior to discharge. | Fellows, Read & Weber for N.J. Builders Association | There will be considerable variation of appropriate treatment depending on intensity of vehicle traffic, street cleaning techniques, length of swales, design of detention basins, soil texture and depth to water table. |
| 510. P. 153. Modifications suggested: 1) remove the requirement for treatment facilities until a plan could be worked out for | Fellows, Read & Weber for N.J. Builders Association | See revised policy 5.6. These recommendations have not been adopted since they would not address the concerns raised by runoff. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

RUNOFF - Cont.

feasibility, 2) existing condition runoff should be allowed with retention required for a 10-15 year storm, and 3) on site recharge should be encouraged with minimal restrictions.

511.
P. 153. Policies dealing with the management of storm water quality should interface with policies that are developed in the "208" Water Quality Management Program now being developed.

Charles E. Romick
Gloucester County

Agreed. See revised policy 5.6 and 5.3.1.

512.
P. 154. What will constitute "unacceptable" ground-water pollution?

William G. Hengst
Camden County
Environmental
Agency

Pollution that violates existing state standards.

SOIL EROSION SEDIMENTATION

513.
8.7 We like your policy of requiring the standards of the Soil Erosion & Sediment Control Act be met, but we are concerned that the soil district personnel will not be able to accommodate this.

Bob Maestro for
N.J. Builders
Association

West Jersey
Chapter of the
Sierra Club

These are the policies which soil districts now administer. DEP will provide support and assistance as necessary

VEGETATION

514.
P. 155. We disagree with mandating that a developer plant certain shrubs and trees around each individual dwelling unit.

Bob Maestro for
N.J. Builders
Association

See revised policy 5.8. The policy does not require planting around individual dwelling units. Policies do require planting of appropriate native coastal species where necessary in certain developments because adopted species can survive in sandy acid soils, without liming, fertilization and irrigation, which would have serious water quality impacts.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

VEGETATION - Cont.

515.
The requirement that soil characteristics throughout a site be analyzed is very good, as is protection and restoration of greenbelts and stabilization of soils with suitable vegetation.

Kathleen H. Rippers
League of Women
Voters

516.
P. 153, 8.8.1 To plant appropriate native coastal species may not be practical if such native coastal species are not available.

Giordano, Halleran
& Crahay for
N.J. Builders
Association

DEP-OC2M can provide a list of local nurseries stocking such species.

517.
Two of the recommended species of new vegetative planting to be used in the inner coastal or southern outer coastal plain are not indigenous. We recommend gray birch instead of white birch and deletion of the eastern hemlock.

William G. Hengst
Camden County
Environmental
Agency

Agreed; see revisions in 5.8.2.c.

518.
8.9 Uses which generate high levels of human disturbance should not be located adjacent to important habitat areas.

Bob Maestro for
N.J. Builders
Association

The revised policy 3.2.19 addresses "appropriate mitigation measures" which includes the buffering necessary to protect a critical wildlife habitat. (5.9 and 3.2.19 should be read together)

WILDLIFE

519.
8.9 No development should restrict movement of wildlife through the adjacent open space areas.

Bob Maestro for
N.J. Builders
Association

This would be difficult to ensure since the disturbances associated with development almost always interrupt wildlife movement and cannot be mitigated. DEP anticipates that stream branching networks will provide movement corridors between larger contiguous habitats. See also revisions in 5.9.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

Air

| | | |
|--|---------------------------------|---|
| 520. P. 157. The air quality policy is not adequate to reduce the level of pollutants in Middlesex County. DEP-OCZM should assess the secondary impacts of this Policy. | Middlesex County Planning Board | DEP-OCZM can only address air quality to the existing state of the art. Until offsite policies are established a clear picture of the air quality laws cannot be obtained. Also see revised secondary impact policy, 5.14. This issue will be addressed further in the program for the remainder of the coastal zone. |
|--|---------------------------------|---|

PUBLIC SERVICES

| | | |
|---|---|---|
| 521. We recommend that the policy regarding public services be expanded so that applicants must estimate what additional demands for services will be. | William G. Hengst Camden County Environmental Agency | Such an estimate is implied in this policy. |
|---|---|---|

PUBLIC ACCESS TO SHOREFRONT

| | | |
|--|---|--|
| 522. State and federal funds should not be spent for shore and bay maintenance unless the Jersey Shore is open to the public. | Ann N. Szalag for the Council of the Borough of Carteret | Agreed. See Resource Policy 5.12 in Chapter Four. |
| 523. P. 158, 195. The recreational potential and public access needs to bay-shore as well as ocean front beaches should be recognized and added to the Program. | Elwood R. Jarmer Cape May County Planning Board | This is implicit throughout the program. The designation of Higbee Beach as a CAPC in Chapter Seven is an example. |
| 524. We also approve the requirement for public access when state funds are involved in repair or construction. | Kathleen H. Rippere League of Women Voters | No response necessary. |

| Comment | Commentor | Responses |
|---------|-----------|-----------|
|---------|-----------|-----------|

PUBLIC ACCESS TO SHOREFRONT - Cont.

| | | |
|---|---|--|
| 525. P. 158. The state is doing a good job assuring access to publically owned beaches but it needs to establish prescriptive use easements on privately owned beaches. | Stephen Gabriel Ocean County Mayor's Office | DEP-OCZM will be looking at public access to all beaches where public funds are used for shore protection. |
| 526. The term "public access" is not defined. The term "unrestricted access" is used throughout the report. | Loretta C. Hanley Sea Bright Environmental Commission | Public access is synonymous with unrestricted access. |
| 527. P. 158. It is beyond the scope of a program to regulate access in a given municipality since this would be the legitimate province of the courts. | Giordano, Halleran & Crahay for N.J. Builders Association | Disagree. The state does have an obligation to provide access to public trust lands in its funding and regulatory decisions. |
| 528. P. 158, 8.11.2 The wording "through agreements with revelant agencies" should be deleted. | N.J. Builders Association | Agreed. See revisions in 5.11.2. |
| 529. The State has sold certain beach front lands in grants to private property owners. Public access to privately owned and managed beach facilities that provide beach use without discrimination, together with provisions for public health and safety, is within the law. | Loretta C. Hanley Sea Bright Environmental Commission | The coastal policies on public access were formulated with consideration of existing laws. See Section 5.12. |

SCENIC RESOURCES & DESIGN

| | | |
|--|---|------------------------|
| 530. We recommend the inclusion of additional language in the document to better define what OCZM intends by "visual compatibility", thereby removing the problem of enforcing this policy solely on the basis of subjective, individual taste. | William G. Hengst Camden County Environmental Agency | See revisions in 5.13. |
|--|---|------------------------|

| Comment | Commentor | Responses |
|---------|-----------|-----------|
|---------|-----------|-----------|

SCENIC RESOURCES & DESIGN - Cont.

| | | |
|---|--|----------------------------------|
| 531. 8.13 Revise the policy so that visual compatibility is only "encouraged", and not more strongly mandated. | Thomas A. Thomas Townplan Associates for N.J. Builders Association | Agreed; see revisions in 5.13.1. |
|---|--|----------------------------------|

SECONDARY IMPACTS

| | | |
|--|--|--|
| 532. 8.1.4 We believe that a Secondary Impact analysis should be required only on a selected basis where substantial adverse secondary impacts are anticipated. We seriously question whether secondary impacts are even predictable. | Giordano, Halleran & Crahay for N.J. Builders Association | See revision in 5.14.1 and general question D. |
|--|--|--|

| | | |
|---|--|---|
| 533. P. 159, 8.14 It is not clear how any decision-making process is going to insist that the secondary impacts from sewage placement are going to be considered at all. | Ruth Fisher Citizens Association For the Protection of the Environment | See revisions in 5.14 and general question D. |
|---|--|---|

| | | |
|--|-----------------------------|--|
| 534. P. 159, 8.14 Change the first sentence to read: "Information on the probable secondary impacts of a proposed development must be included (or is required) in all applications for development." | Diane Graves Sierra Club | While this wording was not used, the revised policy 5.14 accomplishes the same effect. |
|--|-----------------------------|--|

| | | |
|---|---|---|
| 535. Pp. 159, 210. It is hard to see a working relationship between CLAM and the Secondary Impacts policy. | Anne Penna & Dana Rowan American Littoral Society | The policy, 5.14, requires that secondary impacts of a proposed development meet the Coastal Resources and Development Policies which include CLAM. |
|---|---|---|

| | | |
|--|---|---|
| 536. 8.14.1 This policy must be expanded to include secondary environmental and economic impacts beyond those envisioned by the policy. | Marine Trades Association of N.J. | See revised policy. Secondary impacts 5.14 which briefly discusses the fact that DEP-OCZM will require a secondary impact analysis based on the scale of the project. This will include environmental and economic impacts. |
|--|---|---|

| Comment | Commentor | Responses |
|---------|-----------|-----------|
|---------|-----------|-----------|

SECONDARY IMPACTS - Cont.

| | | |
|--|--|--|
| 537. 8.14 Although we are pleased to see a secondary impact policy in the Segment, the present wording is vague and ill defined. There is no indication of the degree of specificity expected in this analysis. | William Potter Public Advocate William G. Hengst Camden County Environmental Agency | See revised policy, 5.14. Note that DCA's study "Secondary Impacts of Regional Sewer Systems" (1975) is cited as a model for secondary impacts analyses. |
|--|--|--|

| | |
|--|--|
| We would like to see this analysis tied to standard studies of secondary impacts, where available. Secondary impacts need specific guidelines for use by prospective applicants. | Giordano, Halleran and Crahay for N.J. Builders Association Patricia Q. Sheehan N.J. Department of Community Affairs |
|--|--|

Anne Penna &
Dana Rowan
American Littoral
Society

| | | |
|--|---|---|
| 538. Potential induced growth, particularly with sanitary conveyance systems, should be analyzed with respect to its potential impacts on the natural & man-made environment. | Bob Maestro for N.J. Builders Association | Agreed. See revised policy, 5.14, and general question D. |
|--|---|---|

BUFFERS & COMPATABILITY OF USES

| | | |
|---|---|---|
| 539. Buffering requirements should be designed to ensure that different areas of the coastal ecosystem are not harmed by the development of adjacent land. | William G. Hengst Camden County Environmental Agency | Agreed; the policy seeks to assure that the operation of any activity in the coastal zone is not unnecessarily harmful to neighboring activities. |
|---|---|---|

| | | |
|---|---|---|
| 540. 8.15 The issue of compatibility of uses is central to the planning process and cannot be dealt with as a matter of buffer requirements. | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed. It is not only dealt with in the buffer requirements. The basic policy of concentration reflects it, as do the various use policies and the different development potential criteria. |
|---|---|---|

| Comment | Commentor | Responses |
|---|---|--|
| <u>BUFFERS AND COMPATABILITY OF USES - Cont.</u> | | |
| 541. The requirements for buffers in industrial developments are unrealistic. If a buffer requirement is going to be established, it should be encouraged in accordance with municipal zoning and subdivision regulations. | Thomas A. Thomas Townplan Associates for N.J. Builders Association Charles E. Romick Gloucester County Giordano, Halleran and Crahay for N.J. Builders Association | The policy has been revised. See 5.15. |
| 542. There is no reason given for the specific requirements like the height of saplings and the spacing of plantings. Also, the requirement that residential uses may have to buffer an industrial site is contrary to accepted planning techniques of the industrial use buffering the residential use. | Giordano, Halleran & Crahay for N.J. Builders Association | See revised policy, 5.15. Also, reread 5.15.2. There is no suggestion that residential development should provide the buffer to industrial uses. |
| 543. What are the buffers required between residences, between residential areas and agriculture, or concerning special communities? | Thomas L. Bertone N.J. Office of Fiscal Affairs | Buffers requirements are evaluated through the permit program on a case by case basis. See policy 5.15. |
| <u>SOLID WASTE</u> | | |
| 544. This County has been concerned with the control of dredge spoils disposal operations. There are no procedures established to control the effects of improper land disposal of dredge material. The management program should | Christopher Warren Salem County Planning Board | See Coastal Engineering Use Policies, 4.8, and especially 4.8.6. |

| Comment | Commentor | Responses |
|--|---|---|
| <u>SOLID WASTE - Cont.</u> | | |
| require the submission of disposal site plans by the Army Corps of Engineers to verify that their operations are not significantly affecting coastal resources. | | |
| 545. P. 161, 8.16.1 I suggest: "Solid waste shall be handled & disposed of (or managed) in a manner consistent with the Resource Conservation & Control Act (P.L. 94.580) and New Jersey's Solid Waste Management Act (Chap. 326, N.J.S.A. 13:2E-1 et seq). Coastal development is encouraged to recover material and energy from solid waste to the maximum extent practicable." | Diane Graves Sierra Club | Similar language has been used; see revisions in 5.16. |
| <u>ENERGY CONSERVATION</u> | | |
| 546. P. 162, 8.17.1. On line 1 change "encouraged" to "required". | Diane Graves Sierra Club | The policy has been revised and approaches this suggestion. See 5.17. |
| <u>NEIGHBORHOODS & SPECIAL COMMUNITIES</u> | | |
| 547. P. 162. The policy for neighborhoods and special communities is too broad and might be used to prevent desired development in the coastal zone. For example, it might be invoked to prevent low- and moderate-income housing in a particular ethnic neighborhood through the argument that such development would affect the neighborhood adversely. | William G. Hengst Camden County Environmental Agency | This hypothetical example is clearly contrary to the interest of the program. See, for example, policy 4.2.5 as well as 5.18. |

| Comment | Commentor | Responses |
|---------|-----------|-----------|
|---------|-----------|-----------|

NEIGHBORHOODS & SPECIAL COMMUNITIES - Cont.

| | | |
|--|--|---------------------------------------|
| 548. It was somewhat disconcerting to see Bivalve and Shellpile, two towns associated with Cumberland County's oyster industry, singled out for preservation under the Neighborhoods and Special Communities resource policies. | Daniel O'Connor Save Our River Environment | Agreed. See revised rationale 5.18.2. |
|--|--|---------------------------------------|

TRAFFIC

| | | |
|---|---|---|
| 549. 8.19.1 The traffic policy should recognize that marine traffic congestion may come about when a navigation channel, otherwise capable of handling large volumes of traffic, is restricted due to shoaling. The traffic volume and congestion should be projected on the basis of the ability of the waterways to carry traffic when they are properly maintained. | Marine Trades Association of N.J. | Disagree. Estimates of marine traffic congestion must also consider the likelihood of state and federal appropriations to maintain waterways. |
|---|---|---|

CLAM CASE APPENDIX

| | | |
|--|---|---|
| 550. We urge that Appendix N be expanded in the final FEIS with respect to both geographical location of the sites studied and the nature of developments analyzed. | Elwood R. Jarmer Cape May County Planning Board | Appendix L includes one case study. Additional case studies can be consulted at the DEP-OCZM office and may be published separately by DEP. |
|--|---|---|

| | | |
|---|--|--|
| 551. Appendix O. The CZMP would have been better served if Appendix O was constructed from the complete CAFRA permit review files rather than a series of individual site plans. | Patricia Q. Sheehan N.J. Department of Community Affairs | Appendix O was intended to show pavement intensities in typical housing developments. The results would not be different if CAFRA examples were taken. One case study is included in Appendix L. |
|---|--|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

ENERGY

GENERAL ENERGY

| | | |
|--|--|--|
| 552. In general, we believe that the section covering energy is strong, clear and much improved over earlier drafts. | D. W. Bennett American Littoral Society | No response necessary. |
| 553. With this energy program, it will be virtually impossible for N.J.'s utilities to supply essential electric energy needs. | Riker, Danzig, Scherer & Debevoise and Hyland for Jersey Central Power & Light Co. | Disagree. The energy policies provide for a diversity of energy sources and facilities. |
| 554. Pgs. 141-144. We specifically support sections 7.4.4, 7.4.5, 7.4.7 and 7.4.8 as protective of resources important to recreation boating. | Marine Trades Association of N.J. | Thank you. They have been revised slightly. See policies 4.4.5, 4.4.6, 4.4.8, and 4.4.9. |
| 555. The Energy Facility Review Board is heavily weighted towards energy interests and does not provide for third party participation. | D. W. Bennett American Littoral Society | The Board was established by the Legislature and can only be changed by them. Its "weighting" depends upon who the Governor chooses to appoint to the third position. See revised MOU in Appendix G. |
| 556. The makeup of this Energy Review Board is not broad enough to provide diverse and complete input. We suggest wider representation including input from the Department of Labor and Industry and the Department of Community Affairs. | James A. Schissias Public Service Electric & Gas Co. | The restructuring of the Energy Facility Review Board as constituted by the 1977 Department of Energy Act would have to be amended by the Legislature. |
| 557. DEP should possess the power to overrule siting decisions by DOE. Also, DOE should not overrule siting decisions on the local level unless such policies are clearly obstructionist and interfere with the location of a pipeline or other corridor. | Robert W. Huguley Monmouth County Planning Board | The Department of Energy Act does not permit DEP or any agency to overrule DOE. The powers of the Board of Public Utilities do conform to the second concern raised. |

| Comment | Commentor | Response |
|--|---|--|
| <u>GENERAL ENERGY - Cont.</u> | | |
| 558. We heartily approve your approach to energy with emphasis on recycling and conservation. Also, we support the routing of pipelines, wherever possible, along established rights-of-way and avoidance of the center of the Pine Barrens. Knowing that leaks in gas pipelines cause the death of trees, we wonder why the standards for their use through the Pine Barrens is less stringent than those for oil pipelines. We like your criteria for the acceptability of nuclear generating stations. | Kathleen R. Rippare League of Women Voters | Thank you. See revised policies in Section 4.4. |
| 559. 7.4.1: Until rules for arbitration between DOE and DEP by the Energy Facility Review Board are defined, it is impossible to comment on general energy facility siting policy. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | While it would be desirable to have these rules in place at this time, the siting policies are sufficiently articulated by virtue of NJDOE's adoption of the CZMP siting policies in section 6 of Appendix G to allow comment. |
| 560. We question the legal strength of the memo of understanding (MOU) between the two departments and its effectiveness in protecting marine resources. | D. W. Bennett American Littoral Society | See Appendix G, Chapter Five, and General Question H. |
| 561. I don't understand why a PSE&G representative would say that nuclear power is discouraged. They have gotten all the permits that they ever wanted from the state. | Ruth Fisher Citizens Association for Protection of the Environment | No response necessary. |

-409-

| Comment | Commentor | Response |
|--|---|---|
| <u>GENERAL ENERGY - Cont.</u> | | |
| 562. We agree with policies 7.4.2 - 7.4.11 | Riker, Danzig, Scherer & Debevoise & Hyland for Jersey Central Power & Light Co. | These policies are now 4.4.3-4.4.12. The language has been modified slightly. |
| 563. The Coastal Program should note that ocean shore tourism is much more important to the State's economy than bay shore recreation. With this in mind, the Delaware Bay should be reexamined for potential for port sites. | Thomas L. Bertone Office of Fiscal Affairs | The new Chapter Three does recognize the first part of the comment. The expansion of existing port areas, rather than creation of new ones, is permitted. See policy 4.7. |
| <u>FEDERAL PREEMPTION</u> | | |
| 564. The Bay and Ocean Shore Segment infringes on the exclusive power of the Nuclear Regulatory Commission to regulate nuclear generating facilities. | Debevoise and Lieberman for Public Service Electric & Gas Co., Jersey Central Power & Light, Co., and New Jersey Natural Gas Co. | The policy has been changed and is consistent with existing laws. See policy 4.13(d) and (e). |
| 565. N.J.'s authority to regulate nuclear power plants siting and safety, liquefied natural gas siting safety and gas pipeline siting has been pre-empted by a pervasive scheme of federal legislation. | Debevoise and Lieberman for Public Service Electric & Gas Co., Jersey Central Power & Light, Co., and New Jersey Natural Gas Co. James A. Schissias Public Service Electric & Gas Co. Robert Brown U.S. Labor Party | See above response and also revisions to LNG policy 4.4.14. |

| Comment | Commentor | Response |
|--|---|--|
| <u>FEDERAL PREEMPTION - Cont.</u> | | |
| 566. The program fails to give adequate consideration to the national policy regarding nuclear generating facilities by imposing unreasonably stringent siting standards. | Debevoise and Liberman for Public Service Electric & Gas Co., Jersey Central Power & Light, Co., and New Jersey Natural Gas Co. | See revised policy 4.1.13 and responses to Nuclear Regulatory Commission comments. |
| 567. The disposal of spent fuel from nuclear plants poses no unacceptable safety or environmental hazards to N.J. residents. No depository is planned nor expected to be built in N.J. | James A. Schissias Public Service Electric & Gas Co. | See revised policy 4.13. |
| <u>GENERAL ENERGY FACILITY SITING POLICY</u> | | |
| 568. P. 139. The use of the "maximum extent feasible" provision is totally inappropriate in policy 7.4.1. | Atlantic County Executive's Office | The policy has been thoroughly changed. See 4.4.2. |
| 569. We are concerned that the NJ CMP may not be consistent with the intent of Congress and the purposes of the national Coastal Zone Management Act. While the proscribing of electric energy and LNG facilities from the coastal zone is not intended by the Act, this can be the result of the implementation of the NJ CMP with its present provisions. | James A. Schissias Public Service Electric & Gas Co. | The Program addresses the range of energy facilities and provides rationales for the siting of energy facilities. It complies with the intent and spirit of Section 303 of the federal CZM Act. See revised energy policies in Section 4.4. See also General Question A. |
| 570. The restrictions of this program regarding built up areas and the provisions | James A. Schissias Public Service Electric & Gas Co. | Disagree. See Energy policy 4.4. |

| Comment | Commentor | Response |
|--|---|--|
| <u>GENERAL ENERGY FACILITY SITING POLICY - Cont.</u> | | |
| of the Clean Air Act could make the siting of fossil fuel plants virtually impossible in N.J. and leave only the exotic energy types open. | | |
| 571. P. 137, 7.4.1 To avoid overlapping responsibilities and unnecessary delays in the development of energy facilities we suggest that a phrase be added to the existing paragraph: "State reviews should <u>not duplicate</u> and extend existing fact finding studies and should be limited to those areas not already covered in detail by the Federal regulatory process." | James A. Schissias Public Service Electric & Gas Co. | Agreed. See CAFRA Procedural Rules and Regulations, N.J.A.C. 7:7D-2.4(b)2. |
| 572. The CAFRA policies and guidelines must be specifically outlined with respect to energy siting in the coastal zone. Furthermore the Pine Barrens must be protected from exploitation by the oil and gas industries. | Michael Havrisko League of Conservation Legislation | Agreed. See energy use policies 4.4. |
| 573. P. 212. The program actively discourages and effectively excludes nuclear and LNG facilities from the coastal zone. | James A. Schissias Public Service Electric & Gas Co. | Disagree. The program establishes stringent conditions which such facilities must meet. |
| 574. No protection exists such as grandfathering for existing facilities. | Thomas V. O'Neill New Jersey Independent Liquid Terminals Association | Use of existing facilities will be unaffected. Expansions, additions, modifications so sizeable as to require a federal or state permit will be subject to review. |

| Comment | Commentor | Response |
|--|--|---|
| <u>GENERAL ENERGY FACILITY SITING POLICY - Cont.</u> | | |
| 575. Siting flexibility is needed and must be provided in the final program | James A. Schissias Public Service Electric & Gas Co. | Agreed. Most siting policies are qualified by the statement "to the extent feasible" and "consistent with the national interest". |
| 576. The General Energy Facility Siting Policy still does not require that utility applicants demonstrate that there are no "feasible and prudent alternatives" to the proposed facilities. | William Potter Public Advocate | See revised policy 4.4.2(b). |
| 577. The NJDOE master plan is not contained in the Coastal Program, yet under the program, energy facilities must demonstrate consistency with the master plan. Thus it is impossible to conduct a meaningful review of this. | Robert W. Welch Columbia Gas System Service Corporation | The State Energy Master Plan in draft form, but the letter from the Commissioner of N.J. DOE contained in Appendix G, certifies that the part of the plan relevant to this program will be consistent with Chapter Four. Thus, the CZM policies and the relevant parts of the Energy plan are consistent. |
| 578. The policy of clustering energy facilities fails to consider the Clean Air Act amendments of 1977. | Robert W. Welch Columbia Gas System Service Corporation | Disagree. The purpose of clustering is to protect air quality and promote orderly development. Complying with Clean Air Amendments does not conflict with this goal. |
| 579. The Plan violates CZMA regulations for its failure to be a complete document as evidenced by Section 6.6.7.5 which states only "this Section is reserved pending completion of joint coastal energy facility siting studies by DEP and DOE..." | James A. Schissias Public Service Electric & Gas Co. | Disagree. The program as revised contains all the necessary elements required by 15 CFR 923.14 that will allow DEP-OCZM to make a siting decision. See also General Question A. |

| Comment | Commentor | Response |
|---|---|--|
| <u>GENERAL ENERGY FACILITY SITING POLICY - Cont.</u> | | |
| 580. Will this act (CAPRA) be amended when the energy siting bill is signed into law. | Alfred Coleman | If any new legislation affecting the coastal zone is passed, the policies and procedures of the Coastal Program will be changed as necessary. Such changes will follow public review and comment. |
| <u>GENERAL OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION AND DEVELOPMENT POLICY</u> | | |
| 581. 7.4.2. This board objects to the encouragement of OCS related facilities to locate in developed areas. This would preclude Cumberland County from participating in what may be the largest new economic opportunity to come to N.J. | Dr. Phillip Phelon Cumberland County Economic Development Board | Due to channel depths, distance from the OCS tracts, and existing land use patterns, Cumberland County is largely unsuited for energy facilities. See, however, Use Policy 4.4.6 which suggests the county as a possible site for repair and maintenance facilities. |
| 582. We agree with the encouragement of OCS related facilities only in developed areas and that pipelines must follow already developed rights-of-way. | Winifred D. Meyer American Association of University Women | No response necessary. |
| 583. The areas where pipeline corridors are prohibited should be enlarged. Also, the same prohibition should apply to all possible pollutants. | Winifred D. Meyer American Association of University Women | Disagree. The conditions for approval of a pipeline (Location Policy 4.4.8) will protect other areas, while giving New Jersey the flexibility to evaluate alternate locations for pipelines. |
| <u>ONSHORE SUPPORT BASES</u> | | |
| 584. 7.4.3 The policy does not prohibit support structures in undeveloped areas but merely encourages such development in already-built-up urban waterfronts. In short, the policy is too open-ended. | William Potter Public Advocate | Agreed. The policy has been changed. See Use Policy 4.4.4. |

Comment Commentor Response

ONSHORE SUPPORT BASES - Cont.

585.
P. 140, 7.4.3 We disagree with the predetermination of location, e.g. Perth Amboy. The management program should evaluate all alternatives.

James R. Kelly
Delaware River
Port Authority

Perth Amboy was cited as an example in the DEIS. It was examined in depth by a Rutgers University study team and found to satisfy the necessary siting criteria for a support base. Applications to site in Perth Amboy or elsewhere will still have to meet the location, use and resource policies.

586.
Pp. 140 and 204. Statements regarding onshore support bases in Atlantic City on page 140 and 204 are inconsistent.

Atlantic County
Executive's Office

Agreed. The first reference, discouraging onshore support bases in the Segment including Atlantic City (now Use Policy 4.4.4) is correct. The latter reference in Part III has been corrected.

587.
7.4.4 The bridges crossing the Delaware River prohibit the fabrication of platforms in Salem, Gloucester and Camden counties because of clearance restrictions.

Cumberland County
Planning Board

Agreed. This is reflected in Use Policy 4.7.5.

588.
Cumberland County has the most suitable sites for platform construction yards and our economy needs such activity more than adjacent counties do.

Dr. Phillip Phelon
Cumberland County
Economic Development Board

Disagree. The possible short-term economic benefits would be greatly outweighed by the long-term economic and environmental disruption in the region. See revised Use Policy 4.7.5.

PIPE COATING YARDS

589.
7.4.6. The encouragement of pipe coating yards in the waterfront north of CAFRA is inappropriate for this Segment. This subject should be thoroughly reconsidered in the Northern Waterfront and Meadowlands Segment Program, and not foreclosed in that area.

Clayton D. Peavey
The Port Authority
of N.Y. and N.J.

While this subject will be reconsidered in greater detail in the next part of the Coastal Program, it is appropriate for New Jersey to indicate that energy facilities inappropriate in the Segment can be accommodated elsewhere in the coastal zone.

Comment Commentor Response

PIPELINES AND ASSOCIATED FACILITIES

590.
The pipeline policy is not coterminous with your boundary with regard to the Central Pine Barrens area and may be in conflict with the preliminary policy statement of NJDOE entitled "Determination of the Need for Energy Facilities".

Patricia Q. Sheehan
N.J. Department of
Community Affairs

Disagree. The pipeline policy (4.4.8) deliberately recognizes efforts by DEP, DCA and others to protect the Pine Barrens. The pipeline policies enunciated by DOE and DEP are compatible.

591.
P. 180. On line 6, after "feasible" insert "that oil pipelines are prohibited from the Central Pine Barrens and gas pipelines shall," or refer to page 141-142, Section 7.4.7 (c), or both.

Diane Graves
Sierra Club

Agreed. See revised Part III. This sentence is also part of Use Policy 4.4.8(c).

592.
P. 142, 7.4.7 (e), line 12. After "Segment" insert "and the Central Pine Barrens".

Diane Graves
Sierra Club

This is accomplished by the language of Use Policy 4.4.8 and 4.4.10.

593.
P. 142, 7.4.7(e) To the second sentence add "and compressor stations" after "... processing plants."

Robert W. Welch
Columbia Gas
System Service
Corporation

Agreed. This has been added to Use Policy 4.4.8(f).

594.
We feel both oil and gas pipelines should be prohibited from the Central Pine Barrens. However, we are concerned that NJDOE can override DEP's policies.

Diane Graves
Sierra Club

Gas pipelines may be subject to federal preemption. Oil pipelines must take account of national interest provisions of the CZM Act. BLM's proposed transportation study should do much to ensure that pipeline corridor routes follow rights-of-way having the least adverse environmental impacts and that decisions be made which will mutually acceptable.

-42-

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PIPELINES AND ASSOCIATED FACILITIES - Cont.

| | | |
|--|--|---|
| 595. I believe it was DEP'S intent that the term "rights-of-way" included in line six of this paragraph was meant to be "transportation corridors". The use of the term "pipeline corridor" is properly used in line eight of this paragraph. | Robert W. Welch Columbia Gas System Service Corporation | Agreed. See revised language in Part III. |
|--|--|---|

GAS PROCESSING PLANTS

| | | |
|--|---|---|
| 596. P. 144, 7.4.9 We recommend that someone at DEP should be developing a capability to determine, independently of oil company advice or judgement, "maximum feasible distances". | Atlantic County Executive's Office Diane Graves Sierra Club | Agreed. Such a capability is being developed. |
|--|---|---|

| | | |
|---|--|---|
| 597. P. 144. Policies should emphasize that gas processing and gas separation plants can only be built if they do not unacceptably contribute to the area's overall air and water quality degradation. | Charles E. Romick Gloucester County | This is stated in Resource Policies 5.3 and 5.10. |
|---|--|---|

| | | |
|---|--|---|
| 598. P. 211, (3) The criteria "technical and economic reasons" are vague and should be made more explicit. | Elwood R. Jarmer Cape May County Planning Board | The language in Part III has been changed. The phrase can be clarified by reference to the Energy Use Policies in Section 4.4 of Part II. |
|---|--|---|

STORAGE OF CRUDE OIL, NATURAL GAS AND OTHER POTENTIALLY HAZARDOUS LIQUID SUBSTANCES

| | | |
|--|---|---|
| 599. P. 144. The "Delaware River Port" needs to be defined. We interpret the policies for storage sites as permitting their location inland from the coastal zone and ports | William G. Hengst Camden County Environmental Agency | This is a proper interpretation. The implications of the policy outside the Segment will be defined specifically in the Program for that area, in part through the work being done by the Environmental Agency. |
|--|---|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

STORAGE OF CRUDE OIL, NATURAL GAS AND OTHER POTENTIALLY HAZARDOUS LIQUID SUBSTANCES Cont.

| | | |
|---|--|--|
| providing they do not contribute unacceptably to the degradation of air or water quality. | | |
|---|--|--|

TANKER TERMINALS

| | | |
|--|---|---|
| 600. Policies concerning deepwater petroleum ports are omitted. | Thomas L. Bertone Office of Fiscal Affairs | Deepwater ports are now addressed in Use Policy 4.4.12. |
|--|---|---|

| | | |
|--|---|---|
| 601. Port policies limiting port-related development only to "established port areas" are too constraining. | Thomas L. Bertone Office of Fiscal Affairs | Disagree. See rationale to Use Policies 4.4.12 and 4.7. |
|--|---|---|

| | | |
|--|---|---|
| 602. 7.4.11 This policy appears inconsistent with Appendix A to <u>A Draft of the State Energy Master Plan</u> , May, 1978, p. 24, regarding offshore LNG facilities and deepwater ports. | Thomas L. Bertone Office of Fiscal Affairs | This policy, now 4.4.12, and all the energy policies have been prepared jointly by DEP and DOE. |
|--|---|---|

BASE LOAD ELECTRIC GENERATING STATIONS

| | | |
|---|---|--|
| 603. P. 145, 7.4.12 We find the policy confusing, and consider that compliance with the Clean Air Act may prevent fossil fuel plants from siting in the Coastal Zone. Since the trade-offs between nuclear and fossil fuel stations are unclear, the fossil fuel option should be kept open. | James A. Schissias Public Service Electric & Gas Co. | This policy has been revised. See Use Policy 4.13. |
|---|---|--|

| | | |
|---|-----------------------------------|---|
| 604. P. 145, 7.4.12-13 These policies should be specifically extended to plants currently under construction, even if new legislation is required. | William Potter Public Advocate | Disagree. New legislation would be required. DEP is an administrative agency. |
|---|-----------------------------------|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

BASE LOAD ELECTRIC GENERATING STATIONS - Cont.

| | | |
|---|-----------------------------------|--------------------------------|
| 605. 7.4.13.d The requirement should be extended to coal-fired plants. | William Potter Public Advocate | Agreed. See Use Policy 4.13(c) |
|---|-----------------------------------|--------------------------------|

| | | |
|--|--|---------------------------------------|
| 606. 7.4.12. This policy combined with federal air quality standards would in effect ban new coal plants, in direct opposition to Federal policy. | Clayton D. Peavey The Port Authority of N.J. and N.Y. | Disagree. See revised Policy 4.13(c). |
|--|--|---------------------------------------|

| | | |
|---|---|---------------------------------------|
| 607. 7.4.12. As set forth in Section 7.4.1, the siting and construction of proposed new electric generating stations must be in compliance with the rules and regulations of the NJDOE expressed in its Master Plan, and must satisfy the need criteria set forth therein. | Riker, Danzig, Scherer, Debevoise and Hyland for Jersey Central Power & Light Co. | Agreed. See revised Use Policy 4.4.2. |
|---|---|---------------------------------------|

| | | |
|--|---|---|
| 608. Insufficient electrical energy can have a significant adverse impact on the welfare and economic well-being of N.J. residents. Nuclear energy provides the safest and least expensive means to meet the State's needs now and in the immediate future. | James A. Schissias Public Service Electric & Gas Co. | The relative benefits of nuclear power alternatives are addressed in detail in the Presidents' National Energy Plan with which this program is consistent. See Chapter Six for further information. |
|--|---|---|

NUCLEAR ELECTRIC GENERATION STATIONS

| | | |
|--|---|---|
| 609. P. 180 and 181. The stipulations "feasible and economical energy alternative" on pages 180 and 181 should be modified. | James A. Schissias Public Service Electric & Gas Co. | The entire nuclear energy policy has been modified. See Use Policy 4.13(d) and (e). |
|--|---|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

NUCLEAR ELECTRIC GENERATING STATIONS - Cont.

| | | |
|--|--|---|
| 610. P. 145, 7.4.13.b-c The nature and extent of the evidence that constitutes "clear proof" of "need and vital importance" should be specified in a detailed and comprehensive statement. Likewise, the information requirements leading to the required "assurance" should also be specified. | Elwood R. Jarmer Cape May County Planning Board | The policy has been revised. See Use Policy 4.13. |
|--|--|---|

| | | |
|---|---|---|
| 611. The statement that the Atlantic Generating Station application was filed since 1975 appears to be in error. | James A. Schissias Public Service Electric & Gas Co. | Agreed. This has been corrected in policy 4.13. |
|---|---|---|

| | | |
|--|---|--|
| 612. 7.4.13.c Since population increases are analysed in NRC applications and because DEP has significant controls around nuclear plants, language should be changed to "the proposed nuclear facility has been proven to the Department of Energy as the most effective from a cost/benefit standpoint." | James A. Schissias Public Service Electric & Gas Co. | This is the intent of the revised Use Policy 4.13. |
|--|---|--|

| | | |
|---|---|--|
| 613. Nuclear energy is indispensable to meet energy demands. | Robert Bowen U.S. Labor Party | Nuclear energy is one of many sources which must be considered. See revised Use Policy 4.13. |
| | James A. Schissias Public Service Electric & Gas Co. | |

| | | |
|--|----------------|--|
| 614. We do not believe that under-estimating radiation exposure by a factor of 100,000 or more is acceptable. | Alfred Coleman | Both the DEP and Department of Public Advocate have been working with the Nuclear Regulatory Commission to reduce unacceptable risk. |
|--|----------------|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

NUCLEAR ELECTRIC GENERATING STATIONS - Cont.

| | | |
|--|--|---|
| 615. P. 145, 7.4.13 This entire section is biased, implying that nuclear plants are unsafe. The entire section should be revised. | James A. Schissias Public Service Electric & Gas Co. | The section has been revised. See 4.4.13. |
| 616. The Program fails to give adequate consideration to the national policy regarding nuclear generating facilities by imposing unreasonably stringent siting standards. | Debevoise & Liberman for Public Service Electric & Gas Co., Jersey Central Power & Light Co., and New Jersey Natural Gas Co. | See the national interest policy regarding nuclear facilities in revised Chapter Six. Also see responses to Nuclear Regulatory Commission comments. |
| 617. Does the Act provide for a CAFRA EIS to be amended to provide the redesign or increased capacity for spent fuel pools. | Alfred Coleman | The decision to increase capacity for spent fuel requires an amendment to the operating license issued by the Nuclear Regulatory Commission. A public hearing on the Salem 1 matter was held in June 1978. Any change or addition to a facility approved by DEP under CAFRA will have to be reviewed. |
| 618. The grandfather clause protects those nuclear facilities approved prior to the enactment of CAFRA. | Alfred Coleman | Agreed. Any modification to the structure or change in operations however, must be reported and approved by the Nuclear Regulatory Commission. A hearing on PSEG's proposal to increase storage of spent fuel at Salem 1 held by NRC in June 1978. |
| 619. I approve of the nuclear facility siting policy on page 145. | Alfred Coleman | Thank you. Please note revisions to Use Policy 4.13. |

LIQUIFIED NATURAL GAS

| | | |
|---|--|--|
| 620. Pp. 146, 181. NJOCZM continues to assert that LNG projects are unacceptable and the policies effectively preclude LNG facilities from the coastal zone. | James A. Schissias Public Service Electric & Gas Co. | Disagree. See revised Use Policy 4.4.14. |
|---|--|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

LIQUIFIED NATURAL GAS - Cont.

| | | |
|---|---|---|
| 621. P. 181 and 146. The LNG facility referred to on Staten Island is not a "proposed" facility but is an <u>actually existing facility</u> on which approximately \$180 million in funds have been expended. | James A. Schissias Public Service Electric & Gas Co. | True, although it has not yet received all the federal approvals necessary to operate. |
| 622. As stated in the National Energy Plan on page 181 of the document, LNG "can be an important supply option through the mid 1980's and beyond until additional gas supplies may become available", and "the previous Energy Resource Council guidelines are being replaced with a more flexible policy that sets up no upper limit on LNG imports", yet the program discourages LNG facilities. | James A. Schissias Public Service Electric & Gas Co. | Revised Use Policy 4.4.14 is fully consistent with the quote. Further information will be necessary before the word "can" which starts the quote can be made stronger. |
| 623. The position to deny approval until the Federal Energy Regulatory Commission responds to the petition of N.J. to establish a general siting criteria, for LNG facilities is impractical. | James A. Schissias Public Service Electric & Gas Co. | This policy has been changed. See policy 4.4.14. |
| 624. The State says that LNG terminals are acceptable only at sites remote from population centers, contravening its previous determination of the national interest in recreational uses for this segment. | Thomas V. O'Neill New Jersey Independent Liquid Terminals Association | This misinterprets the policies of the Program. Recreational uses have highest priority for use of waterfront sites, but other interests must also be accommodated and balanced. See Use Policies 4.3.2 and 4.4.14. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

LIQUIFIED NATURAL GAS - Cont.

| | | |
|--|--|--|
| 625. If FERC has fulfilled the requirements for LNG siting and safety suggested in the NJCMP-BOSS, then any siting decisions should be made by that Federal agency. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | The policy has been revised, but the state must fulfill its responsibility to balance competing uses for the coast. See Use Policy 4.4.14. |
|--|--|--|

| | | |
|--|--|---|
| 626. The program seeks to control both safety aspects of LNG facilities as well as their siting. Additionally, the program seeks to control siting of interstate gas lines (7.4.7), gas processing plants (7.4.9), natural gas and other hazardous substance storage facilities (7.4.10) and tanker terminals (7.4.11), which are federally pre-empted. | Debevoise and Liberman for Public Service Electric & Gas Co., Jersey Central Power & Light Co., and N.J. Natural Gas Co. | This issue is addressed by the revised Use Policy 4.4.14 and revised rationale. |
|--|--|---|

CONSERVATION AND ALTERNATE TECHNOLOGIES

| | | |
|--|----------------------------------|--|
| 627. Solar energy is less efficient than other energy forms and more expensive. | Robert Bowen U.S. Labor Party | While solar energy is more expensive now, it is expected to become competitive with other energy forms by the mid 1980's. See Council on Environmental Quality's 1978 study <u>Solar Energy Progress and Promise</u> . |
|--|----------------------------------|--|

| | | |
|---|---|--|
| 628. Exotic sources are encouraged in the report, but are not technically or economically justified. | James A. Schissias Public Service Electric & Gas Co. | The Council on Environmental Quality report cited above indicates otherwise. CEQ notes that electricity produced by photovoltaic cells may be possible by the mid-1980's at a cost of 50¢ per peak watt (p. 17). At this price it is considered competitive with conventionally produced electricity. So-called "exotic" sources of fuel must be developed and encouraged as |
|---|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

CONSERVATION AND ALTERNATE TECHNOLOGIES - Cont.

| | | |
|--|--|---|
| | | traditional sources are depleted. This policy supports N.J.'s energy conservation program pursuant to the Energy Policy and Conservation Act. |
|--|--|---|

| | | |
|---|--|--|
| 629. Why "encourage" only the use of solar energy when other sources years ahead may prove to be more desirable. Your position will discourage efforts to find the best possible energy sources by concentrating efforts upon solar. | Dr. Phillip Phelon Cumberland County Economic Development Board | The use of solar energy was included here as an example. There is no intent to limit new energy sources to solar energy alone. |
|---|--|--|

| | | |
|--|---|--|
| 630. The coastal plan asks that conservation of energy be "encouraged" in coastal development. The League feels this policy should be "required". | Michael Havrisco League for Conservation Legislation | The policy has been revised to require such techniques when practicable. See Resource Policy 5.17.1. |
|--|---|--|

| | | |
|---|---|---|
| 631. We have repeatedly said that you can't go after nuclear power and solar power at the same time. | Ruth Fisher Citizens Association for Protection of the Environment | Disagree. New Jersey's vulnerability to the OPEC embargo was related in large part to its heavy dependence on oil. The use of several energy forms is necessary during the switch from non-renewable to renewable energy sources. |
|---|---|---|

| | | |
|--|-----------------------------------|--|
| 632. P. 147, 7.4.15 This policy is commendable. | Marine Trades Association of N.J. | Thank you. It is now Use Policy 4.13(f). |
|--|-----------------------------------|--|

| | | |
|--|--|------------------------------|
| 633. We feel strongly that there should be stringent limitations on the use of nuclear reactors, and acceleration of the technology leading to the development of adequate energy sources other than nuclear, with emphasis on renewable sources. | Winifred D. Meyers American Association of University Women | Agreed. See Use Policy 4.13. |
|--|--|------------------------------|

| Comment | Commentor | Response |
|--|--|--|
| FEDERAL CONSISTENCY | | |
| 634. N.J. may not apply the federal consistency requirement to the entire CAFRA "coastal zone"; the State must restrict it to the zone defined in the federal CZMA. | Debevoise and Liberman for Public Service Electric & Gas Co. Jersey Central Power and Light Co. New Jersey Natural Gas Co. | The revised section of Chapter Six on consistency indicates that consistency will be applied largely within the Segment, but also to activities effecting the Segment in compliance with the federal regulations 930.20. |
| 635. Because the program fails to protect facilities already existing in the coastal zone prior to the adoption of the Plan in conjunction with the federal consistency clause it would appear that the State's adoption of the Plan and its approval by NOAA would be arbitrary and capricious and a denial of equal protection under the law. | James A. Schissias Public Service Electric & Gas Co. | There is no intent or provision in the Program to decommission existing facilities before the expiration of their life. The federal consistency requirements became operative only where additional federal permits, licenses, or re-licensing procedures are already required by law. New standards and criteria can always be imposed on these procedures provided they apply equally to parties in similar circumstances. See the revised section on consistency which defines major additions, expansions or modifications to existing facilities which would require consistency certificate. |
| 636. Submission and approval of a partial Program does not trigger the federal consistency provisions of Section 6 of the CZMA which only applies to final approval of a complete CZMP. | Robert W. Welch Columbia Gas System Service Corporation | Disagree. Consistency will apply within the defined Segment. |
| 637. Second full paragraph on page 187. Since specific natural gas pipeline alignments are not known and will not be known at the time DEP is considering | Robert W. Welch Columbia Gas System Service Corporation | Disagree. DEP will not be able to review a pipeline proposal until its route is determined. At that time, notification of adjacent landowners will be feasible. |

-417-

| Comment | Commentor | Response |
|---|---|---|
| FEDERAL CONSISTENCY - Cont. | | |
| | | sidering a consistency determination, we suggest that the following sentence be added to this paragraph following the second sentence: "The submission of a written notice to landowners is not required for natural gas pipeline facilities subject to the Natural Gas Act." a consistency determination, we suggest that the following sentence be added to this paragraph following the second sentence: "The submission of a written notice to landowners is not required for natural gas pipeline facilities subject to the Natural Gas Act." |
| MANAGEMENT SYSTEM GENERAL | | |
| 638. For 300 years, this area has managed its affairs quite well without all this red tape. Your actions are likely to bring about changes far more disruptive than those which would occur otherwise. | Dr. Phillip Phelon Cumberland County Economic Development Board | With rapid growth along the coast creating increased demand for the coast's resources, the U.S. Congress, the N.J. State Legislature and many individuals agree that a state coastal management program is necessary to balance these competing demands and provide for both economic development and for areas of preservation. The Coastal Management Program relies solely on existing legislation and therefore lessens rather than adds the red tape. Condemned shellfish beds, waters so contaminated that swimming would be harmful to health, oil spills, declining estuarine productivity, flash floods, eroding beaches, over harvesting of fish, and air and drinking water hazardous to health, can hardly be described as "managing quite well" and are some of the reasons that Federal and State government singled this area out as being of special concern. |

Comment Commentor Response

MANAGEMENT SYSTEM GENERAL - Cont.

639.
It is difficult to see how this program with its emphasis on site specific considerations, will adequately consider the regional impacts of, for instance, 208 area-wide Water Quality Plans and projects submitted for A-95 review.

Alan Avery
Ocean County
Planning Board

DEP will review applications for projects over which it has authority. The authority, as articulated by the Legislature, is over aspects of projects which could have regional impacts. The program is being coordinated with the 208 program through sharing of documents and meetings, and the reciprocal review of program drafts for consistency.

640.
Does the N.J. program contain more stringent requirements than are required by federal regulations?

Jesse T. Morie
Commercial
Township
Planning
Board

Yes, in some areas the New Jersey program exceeds the federal minimum requirements. Air and water requirements, however, will be governed by standards set under the Federal Clean Air and Water Pollution Control Acts.

641.
Who are beneficiaries of policies?

N.J. Builders
Association

The beneficiaries are the people of New Jersey and elsewhere who value the coast for many different reasons and purposes.

642.
What are the costs associated with implementation?

N.J. Builders
Association

See General Question C.

643.
We found the Decision-Making Section an extremely informative compilation of laws affecting coastal area decisions. This should be of use to many people. We also appreciate the arrangement for inter-governmental cooperation and hope that out of it the federal policy regarding flood insurance may live up to its original promise to lessen development in flood-plains and flood-prone areas.

Kathleen H. Ripper
League of Women
Voters

Thank you. The goal expressed is shared by the coastal program. See Section 4.23 in Chapter Four.

-418-

Comment Commentor Response

MANAGEMENT SYSTEM GENERAL - Cont.

The problems caused by construction in them are well documented in your Rationale.

644.
P. 11. The State must actively assist in the development and maintenance of private facilities that complement the State's goals for the coastal zone.

Marine Trades
Association of
N.J.

Agreed.

645.
It is essential to have a management program administered at the State level, as this program will be, although local input is invaluable in forming policies which suit each area's unique resources and problems.

Katherine Kievitt

No response necessary.

646.
How can you develop a tax base in a community filled with natural resources?

N.J. Builders
Association

Each municipality in the coastal zone segment has developed, and developable, land to form a tax base. Were a municipality totally or largely composed of lands unsuitable for development, special tax-sharing legislation might be necessary.

647.
As part of a regulatory program, will encouragement of maintenance dredging be passive, applying only to actual permit applications; or will the program actively seek maintenance of the State's navigation channels? The latter should be the case.

Marine Trades
Association of
N.J.

The State will actively seek maintenance of the channels.

648.
This draft environmental impact statement should have considered all three alternatives (local implementation, direct state

James R. Kelly
Delaware River
Port Authority

The New Jersey Legislature, in establishing CAFRA, the Wetlands Act and the Riparian Statutes, has made direct state control the only feasible approach. The

| Comment | Commentor | Response |
|--|--|---|
| MANAGEMENT SYSTEM GENERAL - Cont. | | |
| control, case by case review) as required by law and let the people know what their options are. | | Alternatives Section in Part IV describes the alternative of local implementation. |
| 649. The objective of the Coastal Zone Management Program should be the same objective as the Coastal Area Facility Review Act. | James R. Kelly Delaware River Port Authority | The program is fully consistent with, and in fact helps to carry out, the objective of CAFRA. |
| 650. The policies must be clearly stated to show how they promote predictability and eliminate administrative discretion in meeting the CAFRA objectives. | James R. Kelly Delaware River Port Authority | The CAFRA objectives are listed in Section 10 and 11 of the Act, and are reprinted in the DEIS and FEIS. The Coastal Resource and Development Policies are considerably more specific than those sections of the Act. |
| 651. We think it is time for state government to take an in-depth look at the multiplicity of programs in the light of its overall impact upon New Jersey's economy. Governmental costs have escalated in good measure due to the proliferation of regulatory bureaucracies. | Donald H. Scott N.J. Chamber of Commerce | The Coastal Program is designed to improve and, to a large extent, combine the administration of three existing laws. The program is also intended to prevent unwise land and water use decisions now which would lead to increased public and private costs in the future. |
| 652. We feel strongly that New Jersey should have one state-level program with respect to land usage, not six or seven. Such a program should be so constituted that it will accommodate the full scope of the public's interests in land use planning, not the much more limited, special concerns that are represented, for example, in the Wetlands or CAFRA laws | Donald H. Scott N.J. Chamber of Commerce | The coastal program is a step in this direction by closely coordinating three laws, and providing a framework for all state decision making in the coastal zone. |

| Comment | Commentor | Response |
|--|--|---|
| MANAGEMENT SYSTEM GENERAL - Cont. | | |
| 653. So as not to delay implementation or to risk loss of Federal funds, we suggest that DEP perfect the policies in the final EIS on "water areas" and "water's edge areas" under the option for direct State control, while reducing the use of "land area" policies under the option of case-by-case reviews. | Thomas L. Bertone N.J. Office of Fiscal Affairs | This is not possible. Under New Jersey law, DEP must continue to decide upon all CAFRA, Wetlands and Waterfront Development Permit applications. Moreover, within the CAFRA area, direct state control already exists. |
| 654. We suggest that the procedures for regulating land use through the Office of Shore Protection be made part of this document. | D.W. Bennett American Littoral Society | That is the intent. The section of Chapter Five on the Shore Protection Program has been expanded accordingly. Also, the policies of Chapter Four guide every office in DEP. See Section 1.3. |
| 655. We wish to eliminate red tape in the process of CAFRA, wetlands and riparian decision making on agricultural lands. | Harry Fries Cumberland County Cooperative Extension Service | Agreed. DEP policy is to simplify the permit process. It should be clear, however, that CAFRA permits are not required for any agricultural activities. |
| 656. We are not certain exactly how DEP would coordinate energy facilities siting in the coastal zone with energy facilities siting outside the coastal zone, over which DOE will probably have prime responsibility (Bill S 1179). | Roger Thomas Committee for A Better Environment | The comment refers to proposed state legislation. Were such legislation to be enacted, administrative details and regulation would have to be clarified. |
| 657. These standards should also be consistent with development limitations now being considered by the Pinelands Review Committee. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Agreed. The DEIS and previous drafts have been reviewed by the Pinelands Review Committee staff and reciprocally, the Chief of DEP/OCZM spoke before the Committee, and OCZM staff have reviewed the draft report of the Governor's Pinelands Review Committee. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

MANAGEMENT SYSTEM GENERAL - Cont.

| | | |
|--|---|---|
| 658. A major concern is that the EIS provides no criteria for making regional decisions. | West Jersey Chapter of the Sierra Club | The policies were formulated only after evaluating regional considerations. See Chapter Three which has been added to demonstrate regional issues. Also see Chapter Six, "Uses of Regional Benefit". |
| 659. In general, the acceptance of the program can impose a financial disaster to every community it encompasses. | Joseph Heaney Lacey Township Chamber of Commerce | Disagree. The Coastal Resource and Development Policies provide a method for making wise coastal land and water use decisions based on the best available information, and minimize the number of short-sighted decisions which can, in the long run, lead to great costs for a land owner or municipality. |

| | | |
|---|---------------------------------|---|
| 660. The potential loss of vegetated wetlands due solely to an incomplete wetlands mapping effort on the part of DEP is disturbing. Only the coastal lands regulated by the riparian statutes can be protected against the adverse environmental impacts of unregulated and unmanaged coastal development. | Middlesex County Planning Board | DEP decided in 1971 to not undertake the aerial photography prerequisite to coastal wetlands designation along portions of the Raritan River west of the Garden State Parkway for financial reasons. However, DEP did delineate the Flood Hazard Area along the Raritan River, which encompasses coastal wetlands and triggers restrictive regulation by DEP's Division of Water Resources under New Jersey's Flood Plains Act of 1977. Also, the U.S. Army Corps of Engineers regulates wetlands along the Raritan. Therefore, coastal development is regulated and managed along the Raritan River. |
|---|---------------------------------|---|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

MANAGEMENT SYSTEM GENERAL - Cont.

| | | |
|--|---|---|
| 661. The State of New Jersey lacks the statutory authority to resolve conflicts between state and local governments as sought by the New Jersey Plan. The DEP and DOE have no authority other than that given to them by the Legislature. The adoption of the Plan is beyond the scope of their respective authorities and thus, <u>ultra vires</u> . Prior to the passage of the necessary legislation, the State, through the DEP or DOE, does not have the authority to overrule local determinations on projects of regional and national interest. | James A. Schissias Public Service Electric & Gas Co. | The program is adopted not by DEP or DOE but by the State through the Governor. Because state policy, the plan guides DEP and DOE on decision making within their jurisdiction. See "Conflict Resolution" section of Management System, and General Question A for further response. The Program relies on existing authorities to assure that uses of regional benefit are not arbitrarily excluded from the coastal zone. |
|--|---|---|

| | | |
|---|--|--|
| 662. A complete disclosure that New Jersey as a sovereign State has sold Riparian Lands in the Atlantic Ocean in certain areas, should be made in <u>APPENDIX L - LEGAL COMMENTARY</u> . | Loretta C. Hanley Sea Bright Environmental Commission | This is unnecessary, given the lengthy discussion of the State's riparian powers at several places in the program. On the State's past practice of selling riparian rights, see the reference in Chapter One - Coastal Management Efforts in New Jersey. |
|---|--|--|

| | | |
|--|---|------------------------|
| 663. The County Planning Staff believes that a rational decision-making mechanism should be employed which relates to the advantages and disadvantages of development as stated in the third policy. However, we also believe that OCZM's responsibility to manage the coast does not end with such a method. | Christopher Warren Salem County Planning Board | No response necessary. |
|--|---|------------------------|

| Comment | Commentor | Response |
|---|--|---|
| MANAGEMENT SYSTEM GENERAL - Cont. | | |
| 664. The Littoral Society questions the validity of the DEP's claim that this plan is one of direct state control as defined in the federal CZMA sec. 306(e) (1) (B). The plan states "Most regulatory decisions will be made through the permit process," leaving the balance to the discretion of municipalities. | Anne Penna & Dana Rowan American Littoral Society | As the three alternatives are defined by the CZMA and Federal Regulations, New Jersey's program is indeed one of direct state control. See General Questions A and B. Because some coastal decision making is local in nature does not alter the fact that the management program is one of direct state control. |
| 665. The EIS has glossed over issues of significance that touch not only on socio-economic impacts but also on the philosophy of governance in this State. A more substantial EIS is required by NJDEP for an inland, 25 unit subdivision than was prepared for this major and significant document which affects dozens of communities within the coastal zone. | Dresdner Associates for N.J. Builders Association | Parts III-VIII of the EIS have been made more substantial. Also, see General Question C. |
| 666. Elimination of ambiguous language is crucial to: 1) increase predicability of the permit process, 2) assure consistent regulation with changing administrations, 3) be understandable to non-specialists as required by CZMA, and 4) fulfill the intent of New Jersey's Coastal Area Facility Review Act. | Anne Penna & Dana Rowan American Littoral Society | Agreed. |
| 667. The program should serve as guidelines and not as definitive rules. | Giordano, Halleran & Crahay for N.J. Builders Association | Disagree. Promulgation of the policies as Rules adds to the certainty of their enforcement. |

| Comment | Commentor | Response |
|--|--|--|
| MANAGEMENT SYSTEM GENERAL - Cont. | | |
| 668. The Lawrence Township Planning Board makes the following requests of NOAA/OCZM: a. On submitting Coastal Program to the Secretary it should be noted that certain regulations set forth in Riparian and Wetland Laws, and the coastal boundary line in Cumberland County are unresolved conflicts between the state and those local governments. b. That NOAA/OCZM set a target date for those conflicts to be resolved. | Alvin Griffith Lawrence Township Planning Board | The Assistant Administrator for CZM cannot conditionally approve a coastal program. The boundary proposed for the Segment is sufficient to meet the requirements of the CZMA. The boundary is also legislatively established by the CAFRA statute. See also General Questions A and B. |
| 669. It is legal for the State to control some land use decisions in the coastal zone. Both CAFRA and the Wetlands Act have stood up under court challenge. Neither law is arbitrary. Neither law constitutes a taking without compensation. In fact, it is absolutely necessary for the State to have a say in coastal land use, for two reasons: first, municipalities cannot withstand the pressures to add tax rates at the expense of the environment; and second, coastal land use decisions influence environmental conditions far beyond the limits of the development itself or the municipality where it takes place. | D.W. Bennett American Littoral Society | No response necessary. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

MANAGEMENT SYSTEM GENERAL - Cont.

| | | |
|--|---|--|
| 670. Overall, while the rules are a vast improvement over the prior listing of policies, they are too site-permit oriented, overly complex and confusing. Furthermore, the proposed standards lack commonality with those of existing agencies in the area, i.e., county planning board criteria. | Thomas L. Bertone N.J. Office of Fiscal Affairs | The different state and local criteria result in part from the different concerns that each must address. It is anticipated that, over time and through co-operation, criteria will become more uniform. The state-county coordination project, now in its second year, is a step in this direction. |
|--|---|--|

| | | |
|--|---|--|
| 671. Resource Policies are overly involved with matters that should be of local concern only and conversely provide too little concrete basis for long-term beneficial impacts related to protecting water quality, water supply, air quality, etc., as intended. | Thomas L. Bertone N.J. Office of Fiscal Affairs | The Resource Policies, like the other policies, apply only the developments with regional impacts defined in the Management System Chapter. Also see General Answer D. |
|--|---|--|

| | | |
|---|---|-----------------------|
| 672. What is still lacking is the basis upon which the State could determine "carrying capacity" or ability to assimilate development. | Thomas L. Bertone N.J. Office of Fiscal Affairs | See General Answer D. |
|---|---|-----------------------|

| | | |
|--|---|--|
| 673. The EIS does not appear to take a hard look at the impacts the implementation of the Coastal Program will have in non-CAFRA areas. | Elwood R. Jarmer Cape May County Planning Board | See General Question D. The EIS has focused on the most probable impacts occurring within the Segment boundary. When appropriate, the impacts beyond the Segment are addressed. However, numerous secondary impacts that could occur outside the boundary would be too speculative to describe and are not included. |
|--|---|--|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

MANAGEMENT SYSTEM GENERAL - Cont.

| | | |
|--|---|---|
| 674. The economic growth of Cumberland County may well be impeded with adoption of these regulations in their present form. | Dr. Phillip Phelon Cumberland County Economic Development Board | Adoption of these policies, by lessening uncertainty, will speed the decision-making process. Decisions on CAFRA, Wetlands and Water-front Development Permit applications are bound by the 90 day law. |
|--|---|---|

| | | |
|--|---|---|
| 675. Unless you develop some way which allows the smaller entrepreneur to operate, your regulations may have the further effect of eroding our property tax base in CAFRA areas. Municipalities with a few large tax-paying property owners may be more subject to undue pressures than those with many smaller businesses. | Charles Fisher Cumberland County Board of Chosen Freeholders | Outside of wetlands and riparian lands, the coastal program will have limited effect on small land owners. See also General Question C. |
|--|---|---|

| | | |
|---|--|--|
| 676. New Jersey's DEP regulations should conform to the Federal regulations. | Loretta C. Hanley Sea Bright Environmental Commission | New Jersey's Coastal Program does meet the requirements of the federal Coastal Zone Management Act, and other DEP programs operate in conformance with relevant federal requirements and standards. See General Questions A and B. |
|---|--|--|

PROCEDURES

| | | |
|---|---|---|
| 677. DEP should have a staff member that knows about operating a marina. | Marine Trades Association of N.J. | DEP has staff members with knowledge about marinas, and also learns more from the active role played by the Marine Trades Association and other interested people in the preparation of this and other documents. |
|---|---|---|

| Comment | Commentor | Response |
|---|---|---|
| <u>PROCEDURES - Cont.</u> | | |
| 678. The <u>N.J. Coastal Management Program</u> document is illegal under New Jersey's law on professional planners (N.J.S.A. 45:14A-1 et seq.) | Wilcox, Gravatt & Hacunda for N.J. Builders Association | Disagree. The NJCHP-BOSS is not a plan nor a product of the "practice of professional planning" in the context of N.J.S.A. 45:14A-2.(c). Rather it is a program for managing coastal resources. |
| 679. Procedures should be simplified so that only one permit application is needed for any proposed project. | Robert W. Huguley Monmouth County Planning Board | This is a goal of DEP. Exploration of this idea is a future DEP task to be conducted during the next year. |
| 680. The costs of the permitting process may discourage many desirable facilities which are marginally profitable like recreational ones, from siting in the coastal zone and thus frustrate the goal of "accommodating future needed development" stated on page 6. | Marine Trades Association of N.J. | Streamlining the permit processes after program approval should reduce this cost. There is a misunderstanding of the complexity involved; the DEIS document is already simpler than some municipal ordinances and the FEIS is even simpler. |
| 681. I didn't try to get a riparian lease, but it isn't worth anything to me because it states it can be revoked without cause. And then after getting that lease, I am sent to the Army engineers to get another permit, and I'm still waiting on that. | L.R. Hudson | Riparian leases are cancelable only for forfeiture or non-payment. Leases do have expiration dates however. |
| 682. A general theme in the document is one of requiring applicants (including municipal and county governments) to evaluate many complex and difficult questions | Thomas A. Thomas Townplan Associates for N.J. Builders Association | It is admittedly difficult for an individual developer to evaluate regional questions. That is a major purpose of the coastal program and its policies. Sensitive areas outside the coastal zone are afforded |

-423-

| Comment | Commentor | Response |
|--|---|---|
| <u>PROCEDURES - Cont.</u> | | |
| 687. Will the Coastal Resource and Development Policies replace the requirements for an environmental impact statement, as described under Sections 6 and 7 of CAFRA? | William C. Hengst Camden County Environmental Agency | No, but the Permit Review Officers will use the policies in the pre-application conferences to indicate the specific information required. This will, in many cases, lessen the amount of information submitted as provided in Section 4.3.2 of the CAFRA Rules and Regulations. |
| 688. The Bay and Ocean Shore Segment is a lengthy document, both intimidating and redundant in its current form. It would be more manageable broken into two parts. A schematic diagram or timeline which presents the application process in a straight-forward manner would be helpful. | Anne Penna & Dana Rowan American Littoral Society | The requirements of NEPA for an EIS, and the many different interests of potential readers unfortunately necessitate a long document. The schematic diagram is a good idea and has been added to Chapter Five. DEP will continue to prepare other types of more manageable-sized reports. |
| 689. Would it not be possible for proposed development of the wetlands below a designated geographic and/or dollar size to use a simplified permit system? Must everyone go through the complete application procedure? | Charles Fisher Cumberland County Board of Chosen Freeholders | The DEP administers two types of wetlands permits - Type A and Type B - for this purpose. DEP will explore further simplification in the next year. |
| 690. Does DEP make site visits when reviewing an application and what is done on a site visit? | Larry Wolinsky Salem County Planning Board | Yes. Site visits are made for each application. The site is surveyed to note the accuracy of the environmental impact statement. Particular attention is paid to those areas of the site that may be environmentally sensitive or may present unusual problems for development. Samples and/or photographs may also be taken during the site visit. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PROCEDURES - Cont.

| | | |
|--|---------------------------------|--|
| 691. We are concerned over the fact that DEP does not have a general riparian lands policy to guide coastal development other than reacting to individual applications on a case by case basis. | Middlesex County Planning Board | The Coastal Resource and Development Policies apply to riparian decisions within the Segment. The program for the remainder of the Coastal Zone will include policies for all riparian decisions. See also General Question D. |
|--|---------------------------------|--|

| | | |
|---|---|--|
| 692. The DEP does not have enough staff to do a thorough job of processing CAPRA applications. While this document states that its policies can be enforced under present law (Wetlands, CAPRA, Riparian, Shore Protection), this is only true if there are enough people to process applications. Staff in both the CAPRA and Wetlands Section must be doubled. | D.W. Bennett American Littoral Society | DEP is attempting to increase the number of staff. |
|---|---|--|

| | | |
|--|-----------------------------------|---|
| 693. Some prepurchase or preplanning guidance is desirable including, perhaps, a general mapping of the coastal zone showing what uses would probably be acceptable in each area as well as what uses would probably not be accepted. | Marine Trades Association of N.J. | Agreed. With the funding under an approved Coastal Program, DEP will work to clarify and simplify these procedures. |
|--|-----------------------------------|---|

LOCAL AUTHORITY

| | | |
|--|---|------------|
| 694. The Planning Board has worked with OCZM staff on a number of projects and appreciates the cooperation shown in the past. The present State-County Coordination Project, which requires a review of local master plans and zoning | Robert W. Huguley Monmouth County Planning Board | Thank you. |
|--|---|------------|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

LOCAL AUTHORITY - Cont.

| | | |
|---|--|--|
| ordinances and meetings with local officials, should help to provide for sound development which respects the natural environment of the coast. | | |
|---|--|--|

| | | |
|--|---|---|
| 695. A procedure should be developed by DEP to affirm County plans as the conceptual policy for the area. The integration of County plans and the State program has not been adequate to date but the coastal coordination program should help address this problem | Christopher Warren Salem County Planning Board | Agreed. The county coastal coordination program does provide a framework for considering the integration of county plans which are consistent with the coastal program. |
|--|---|---|

| | | |
|---|---------------------------------|---|
| 696. Toward the end of actually implementing coordination and full participation among federal, state, county and municipal governments, the Middlesex County Planning Board recommends that present coordination activities between NJDEP - OCZM and other governmental agencies continue particularly for the Northern Waterfront. | Middlesex County Planning Board | DEP is committed to continuing such coordination, and will, when necessary and feasible, selectively use federal funds to enhance the coordination. |
|---|---------------------------------|---|

| | | |
|---|---|------|
| 697. We assume that an applicant, seeking permission to develop within the coastal zone, must obtain approval both under OCZM's policies as well as under municipal and county land use regulations. | William G. Hengst Camden County Environmental Agency | Yes. |
|---|---|------|

| Comment | Commentor | Response |
|---|--|---|
| <u>LOCAL AUTHORITY - Cont.</u> | | |
| 698. Will denial of development approval by either level of government prevent proceeding with the project? Or, will either of these approvals take precedence over the other? | William G. Hengst Camden County Environmental Agency | State approval of a proposal cannot override municipal denial. This is stated in explicit terms in the Municipal and County Government Section of Chapter Five. Very limited exceptions to this situation are discussed in the Regional Benefit Decision Section of Chapter Six. These limitations pre-exist the coastal program. |
| 699. The Bay and Ocean Shore Segment reflects a lack of coordination with county and local land use planning efforts. | Thomas A. Thomas Townplan Associates for N.J. Builders Association | Disagree. DEP's contracts with 12 counties, and county and municipal review of the DEIS and previous coastal documents has added local expertise to the program. See revised Chapter Five and Appendix D. |
| 700. It is debatable if the policies set forth under the coastal laws of New Jersey are legitimately necessary, and do they exceed reasonable definition of the federal Coastal Zone Management Act of 1972. | Alvin Griffith Lawrence Township Planning Board | The federal CZMA requires states to prepare comprehensive programs which will address a multitude of issues described in the findings and policies of the CZMA. NOAA feels New Jersey's program is a proper interpretation of the Act. |
| 701. I question whether the state has cooperated and participated with local governments throughout the development process as Congress intended. In September 1977 Lawrence Township Planning Board requested NJ/OCZM pass through funds to the county to serve and educate the people on coastal issues. NJ/OCZM responded by passing on \$4,335 which is not adequate for | Alvin Griffith Lawrence Township Planning Board | The state has worked with, and will continue to work with county and municipal governments. See, for example, the Appendices on the Coastal Planning Process and Local Planning Process and Local Government Participation. Before committing additional funds, DEP will need to both obtain further funding, and evaluate the results of the funding granted to date (a total of \$19,335 to Cumberland County). |

-425-

| Comment | Commentor | Response |
|---|--|--|
| <u>LOCAL AUTHORITY - Cont.</u> | | |
| this purpose and has created a climate of uncertainty toward the state which will affect the opinion of the proposed coastal program. | | |
| 702. Delay to correct deficiencies in Chapter Three policies for subsequent incorporation into a unified State Coastal Program at the end of 1978 would appear desirable. Such action would avert what appears to be unnecessary interference with home rule concerns. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. Federal approval of the program for the Segment does not affect home rule. Such approval also provides additional funds for New Jersey to further refine and implement the program. |
| 703. Decisions about "land areas" should be deferred to county planning until better standards for interpreting the importance of environmental factors is developed. | Thomas L. Bertone N.J. Office of Fiscal Affairs | Disagree. The standards are clear and the counties do not have complete regulatory mechanisms to implement the plans. |
| 704. Should the municipal planning board send a developer to DEP before he buys the property or begins to prepare a state design? | Jesse S. Morie Commercial Township Planning Board | This is not required, but is an excellent idea. DEP will conduct a pre-application conference and furnish written information which will help the potential developers learn what types of projects are likely to be approved. |
| 705. The institutional arrangements between local, county and state programs must be better defined. The Coastal Program apparently does not consider local concerns as reflected in local and county zoning and master plans. | Alan Avery Ocean County Planning Board | The program, by its very nature, leaves a great deal of room for local plans. The state-county coordination project is addressing this question. |

Comment Commentor Response

LOCAL AUTHORITY - Cont.

706.
The Bay and Ocean Shore Segment presents guidelines (which will later become rules and regulations) for controlling development in a significant portion of the State of New Jersey. These rules and regulations will usurp elements of local land use authority.
- Dreadner Associates for N.J. Builders Association
- The program does not change the existing relationship between local and state governments.
707.
The provision regarding override of local decisions which unreasonably restrict uses of regional benefit appears to conflict with the Management Systems's provision that development proposals must meet all local requirements.
- Charles E. Romick Gloucester County
- They are not inconsistent. The override provision is narrowly applied as defined in Chapter Six; and pre-existed the coastal management program.
708.
The document may conflict with the legal authority of municipalities and counties.
- Thomas A. Thomas, Townplan Associates for N.J. Builders Association
- Disagree. The program relies upon existing state laws which define the specific responsibilities of the state vis a vis municipal and county governments.
709.
We find an extreme set of regulations that take away from the vital and necessary home rule features of townships and counties.
- Joseph Heeney Lacey Township Chamber of Commerce
- The DEIS in no way changes the state-local relationship now existing since it is based on existing regulatory authority.
- Thomas V. O'Neill N.J. Independent Liquid Terminals Association
710.
Another issue that is brought up in Part III, Probable Impacts of the Proposed Action on the Environment, is that of the cumulative impact of a number of small projects which are not subject to the
- Atlantic County Executive's Office
- Agreed. This is one of the goals of the state-county project. See also General Question D.

-426-

Comment Commentor Response

LOCAL AUTHORITY - Cont.

- policies and regulations of the Coastal Management Program. Quite correctly, you point out that these impacts could be as great or greater than that of one large project. Very recent events have pointed out that developers are finding ways to avoid coastal regulations by developing several smaller projects instead of one large project. It goes without saying that there exists a need for administrative mechanisms to close these loop-holes. In the meantime however, while these mechanisms are being developed, we would like to strongly recommend that DEP-OCZM adopt a posture of actively lobbying with municipalities where this type of development is taking place to ensure that local planners are aware of and consider the cumulative impacts of several small-scale projects.
- USES OF REGIONAL BENEFIT
711.
The Department of Environmental Protection (NJDEP) lacks the authority to implement the Program as contained in the DEIS. There is no doubt that this agency does not have the authority to override local objection to any of its policy, plans or guidelines.
- Robert W. Welch Columbia Gas System Service Corporation
- Disagree. See revised language in Chapters Five and Six and General Question A.

| Comment | Commentor | Response |
|---|--|---|
| <u>USE OF REGIONAL BENEFIT - Cont.</u> | | |
| 712. N.J.S.A. 40:55-50 alone cannot satisfy the requirement that the Program contain authority to override local ordinances or regulations. | James A. Schissias Public Service Electric & Gas Co. | Disagree. 306(c)(2) requires a method that bars <u>unreasonable</u> local restrictions on use of regional benefit (emphasis added). New Jersey fulfills this requirement as described in "Uses of Regional Benefit" in Chapter Six, and does not rely solely on the authority of the Board of Public Utilities (N.J.S.A. 40:55-550-19). |
| 713. It is self-evident that these statutes [eminent domain] do not empower New Jersey to implement the comprehensive land use policies described in the segment. | James A. Schissias Public Service Electric & Gas Co. | Eminent domain fits into the coastal zone program since it is available for open space acquisition. See General Question A. Moreover, these policies are for resource management rather than land use planning. |
| 714. While this legislative authority (N.J.S.A. 40:55D-19 Board of Public Utilities) allows New Jersey to assure that local ordinances could be overridden with respect to public utility facilities, this authority certainly would not satisfy the requirement with respect to non-utility facilities. | James A. Schissias Public Service Electric & Gas Co. | Because of the strong municipal reliance on local property taxes in New Jersey, the exclusion of facilities other than utilities by many municipalities would not be "unreasonable." See section on Uses of Regional Benefit, Chapter Six. |
| 715. The Segment cites numerous "authorities" embodied in existing legislation to support its contention that the override set out in Section 306(3)(2) has been met. However, these authorities were not | Kiker, Danzig, Scherer and Debevoise and Hyland for Jersey Central Power & Light Co. | The FCZMA recognizes that the legal authorities for comprehensive CZM may already exist, but that a management system is required to take advantage of them. The argument that special authority is necessary does not note this aspect of |

| Comment | Commentor | Response |
|---|---|--|
| <u>USE OF REGIONAL BENEFIT - Cont.</u> | | |
| enacted for the purpose of providing for comprehensive land-use management of the coastal zone; they do not provide the override authority, individually or collectively, required by applicable regulations. | | the Act. Also see General Question A. |
| <u>NATIONAL INTEREST</u> | | |
| 716. All references to the National Energy Plan should be deleted because the plan is only a proposal which has not been adopted by Congress. | James R. Kelly Delaware River Port Authority | New Jersey has used many sources to define the national interest. Although the energy plan has not been approved by Congress, it does reflect the views of the Executive Branch and therefore contributes to an understanding of the national interest. See also General Question F. |
| 717. The program fails to take into account a realistic analysis of the national interest in energy facility siting. | James A. Schissias Public Service Electric & Gas Co. | Energy facilities are not excluded from the Segment. See revised Chapter Six. |
| <u>PARTICIPATION</u> | | |
| 718. New Jersey's proposed coastal management program appears to be consistent with DRBC policies and objectives, including relevant criteria, standards, and guidelines by which to evaluate impacts that could occur on the environment as a result of implementing the program. We agree that implementation of the State's management program should generate net gains in preserving, conserving, and enhancing the environment. We notice that many of the factors considered in the | J. W. Thursby Delaware River Basin Commission | No response necessary. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PARTICIPATION - Cont.

State's decision-making process are compatible with DRBC's Comprehensive Plan for development of the water resources of the Delaware Basin, including wetlands, and that there is enough flexibility in the State's processes to allow coordination of policies that could conflict with other levels of government and with public agencies.

719.
The public participation measures simply are not adequate. There is still no guarantee of sufficient time between public notice of a hearing and the hearing date to ensure that the public will have time to prepare reasoned testimony. Also, reliance on a mailing list does not ensure adequate public awareness of issues or hearings. Finally, permission to examine DEP documents does not satisfy the public's need for access to the preliminary analysis.

William Potter
Public Advocate

The public participation program followed by DEP-OCZM is perhaps the most active of any agency in New Jersey. Nevertheless, DEP agrees there is room for improvement. DEP's use of the mailing list it has compiled is a central, but not exclusive, part of its program. The early distribution of the preliminary analysis is a DEP goal often made difficult by the scheduling requirements of the 90-Day Law. The hiring of additional staff may also facilitate such distribution.

720.
Regarding financial assistance to intervenors, the DEP appears to be placing its efforts on indefinite "hold" until the Public Advocate comes forth with a specific proposal. There should be no question that public funding will enrich the decision-making process by providing the means for largely volunteer citizens groups to present more expert advice on proposed facilities.

William Potter
Public Advocate

DEP staff is skeptical about the idea, but open to being convinced. DEP will explore the mechanism for such a program, and the Public Advocate's and others' suggestions will be welcome.

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PARTICIPATION - Cont.

721.
What is the status of the proposal to fund intervenors?

Stephen Gabriel
Ocean City
Mayor's Office

Same response as above.

722.
Also along the line of public participation, we would recommend a different method than you have been using heretofore. We think you should have regular open meetings inviting environmentalists, county planners, industry, and legislators in order to share ideas without the constraints of a public hearing or the necessity of responding to a draft final plan. Workshops could be arranged as the plan is being developed.

West Jersey
Chapter of the
Sierra Club

This is exactly the approach DEP has followed. In the past four years, the state has held three formal public hearings, but has also held more than 100 informal meetings and workshops. In addition, DEP-OCZM meets monthly with the "Environmental Advisory Group", an informal group of environmental organizations.

723.
We wish to compliment N.J. OCZM not only on its well thought out document, but also on its intense efforts to encourage citizen participation.

Winifred D. Meyers
American Association
of University
Women

Thank you.

724.
You should be searching for a method which allows citizen participation but does not require the citizen to read, understand, and balance such a large amount of material. We're going to have to live with these regulations for a long time and it would be a shame to overlook some important features simply because there was too much to deal with.

West Jersey
Chapter of the
Sierra Club

This is a recognized problem. An effort has been made to keep coastal documents as short as possible and to write them clearly. Future DEP publications will include shorter, more educationally oriented documents. It is, however, demeaning to the public to pretend that coastal decision-making is a simple process which can be adequately addressed in a few pages.

725.
Efforts of DEP to solicit public input into the coastal management process are to be commended.

Charles E. Romick
Gloucester County

No response necessary

| Comment | Commentor | Response |
|---|--|--|
| PARTICIPATION - Cont. | | |
| 730. The League of Women Voters of New Jersey is pleased that you allowed an extended time period for comment on the Coastal Management Program for the Bay and Ocean Shore Segment. | Kathleen H. Ripperer League of Women Voters | No response necessary. |
| 731. It was disappointing, procedurally, that earlier source documents for the "Strategy" were not circulated for comments until after the document was formulated and published. | James A. Schissias Public Service Electric & Gas Co. | Disagree. The Strategy was a source for the DEIS document and was widely circulated. <u>Alternatives for the Coast</u> and many <u>Issue papers</u> were among the source documents for the Strategy which were circulated; drafts of the Strategy and the DEIS document were shared with PSE&G and others. See Appendix B. |
| 732. We recommend separate public hearing concerning the proposed rules and regulations outlined as Chapter 3 of the draft EIS before adoption. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | The proposed rules and regulations were announced in <u>New Jersey Register</u> May 4, 1978 and public hearings were held. Separate hearings were unnecessary since the proposed state and federal policies were identical. |
| 733. The DEIS indicates that the intent of the Coastal Zone Management Office is not to have full participation of the Delaware River Port Authority as the Federal Coastal Zone Management Act so specified. The words "may lead" show that our full participation is optional to New Jersey's Coastal Zone Management. In addition, if the heart of the program, Chapter 3, is adopted as Administrative regulations as recommended by the State Coastal Zone Management | James R. Kelly Delaware River Port Authority | Disagree. The comments submitted by the Port Authority and others are the basis for changes made between the DEIS and the FEIS. DEP-OCZM has met with Port Authority officials in the past and will continue to do so, particularly in the planning of the Delaware River region of the coastal zone. As to public hearing requirements, three such hearings were held in June 1978. |

| Comment | Commentor | Response |
|---|--|---|
| PARTICIPATION - Cont. | | |
| Office, then the requirements of National Environmental Protection Act of 1970 for full public hearings on the adoption of management regulations, will be ignored. | | |
| 734. Public participation is to be enhanced through the County Planning Boards. How is this expected to take place? | Stephen Gabriel Ocean City Mayor's Office | See explanation of DEP-County Coastal Planning project in Chapter Five. The state-county coordination project, now in its second year, includes county sponsorship of newsletters and public meetings. |
| 735. There is a need/potential for more public education/information work concerning the need for coastal zone management, to publicize social issues addressed, such as barrier free design and unique communities, and a layman's guide to the Location, Use, and Resource Policies and CLAM | Stephen Gabriel Ocean City Mayor's Office | Agreed. These are ideas DEP will continue to work to implement. |
| 736. The Marine Trades Association would like to see greater participation by the Department of Labor and Industry and the Public Advocate. | Marine Trades Association of N.J. | DEP-OCZM works with and consults with both agencies. Both Departments submitted comments on the DEIS. |
| 737. The Lower Raritan/Middlesex County 208 and Water Resources Association should be involved in the design of a sensible and implementable coastal zone management program for the non-CAFRA areas. | Middlesex County Planning Board | As the focus for coastal planning is now shifting to include the Lower Raritan/Middlesex area, DEP will work more closely with the 208 agency. The agency's comments on the Coastal Management Strategy and DEIS have already been helpful. |

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

PARTICIPATION - Cont.

| | | |
|---|---------------------------|---|
| 738. It is unfortunate that the response in some instances is the first indication of DEP's position on some of the criticisms. Wouldn't it be better to engage in dialogue on these comments? | N.J. Builders Association | The dialogue has occurred in many meetings and letters with the N.J. Builders Association and others for more than four years, and it will continue. The type of written response in this section of the EIS is a formal response for the benefit of the person who made the comment and for others who were not part of the initial dialogue. Such written responses also provide time for research and reflection by DEP staff. |
|---|---------------------------|---|

| | | |
|---|-----------------------------------|--|
| 739. Greater participation by people with direct working-knowledge in regulated uses must be included in drafting and applying policy regulations. This can be accomplished through membership on the Coastal Area Review Board or through the use of consultants from regulated industries in all decisions affecting those industries. | Marine Trades Association of N.J. | DEP's continuing program of meeting with groups like the Marine Trades Association is designed, in part, to take advantage of their expertise. |
|---|-----------------------------------|--|

| | | |
|--|--|---------|
| 740. The Task Force would like to make the recommendation that the 208-WRA be involved in the design of a sensible and implementable coastal zone management program for the non-CAPRA areas of Middlesex County. | John Runyon Lower Raritan/ Middlesex County 208 Water Quality Management Planning Program | Agreed. |
|--|--|---------|

NEXT STEPS

| | | |
|--|--|---------|
| 741. It is our opinion that New Jersey Coastal Zone principles should be required of all new industry rather than the blanket prohibition of certain uses under the Delaware Act. Therefore, the State should pursue interstate cooperation | Christopher Warren Salem County Planning Board | Agreed. |
|--|--|---------|

| Comment | Commentor | Response |
|---------|-----------|----------|
|---------|-----------|----------|

NEXT STEPS - Cont.

| | | |
|--|--|--|
| through a bistate compact or other arrangements as referred to in Section 303(d) of the Federal Coastal Zone Act. OCMZ should more vigorously pursue this issue during the later segment of this management program. | | |
|--|--|--|

| | | |
|---|---|--|
| 742. We assume that in the Delaware River coastal zone the same goal--to restrict development from areas with a high potential to degrade water quality--will be sought. Attainment of this goal will require different policies from those proposed for the CAFRA area due to the more urbanized nature of the Delaware River coastal zone. | William C. Hengst Camden County Environmental Agency | Agreed. The specific policies for the Delaware River area are being developed by DEP with the contractual assistance of Camden and other counties, and the input of other interested groups. |
|---|---|--|

| | | |
|---|--|---|
| 743. The Littoral Society urges consistency of local and state regulations for building in the coastal zone. Coordination with the Department of Labor and Industry to devise a taxation system which encourages open space, in conjunction with Green Acres purchases could further protect coastal ecosystems. Transfer of Development Rights would concentrate building. The DEP could also encourage consistent application of the Management plan through its contracts with regional government agencies, requiring municipalities to undertake a natural resource inventory and land capability analysis within a specified time limit. | Anne Penna & Dana Rowan American Littoral Society | These are worthwhile ideas DEP would like to explore in the future. They are not required for federal approval. |
|---|--|---|

| Comment | Commentor | Response |
|---|---|--|
| <u>NEXT STEPS</u> - Cont. | | |
| 744. Many of the facilities and services of the Port of New Jersey and New York relate to the "national interest" and "federal consistency" features of the Coastal Zone Management Act of 1972 (as amended). Thus, how these matters will be carried out in the Northern Waterfront and Meadowlands Segment Program, as well as in Raritan Bay, become quite important. We also hope that there will be some harmonizing of policies between these two areas. | Clayton D. Peavey The Port Authority of N.Y. and N.J. | Agreed. DEP will continue to work with the Port Authority in developing a coastal program for the Northern Waterfront. |
| 745. We believe that the State must maintain control over land use decisions in the coastal zone and not delegate its authority to counties or municipalities. Beyond that, the State needs to approach communities to see that their zoning ordinances conform to coastal policies. | D. W. Bennett American Littoral Society | The State is working with County Planning Boards, as well as individual municipalities, to assess the consistency of local plans. This work will continue. |
| 746. We approve the use of counties in the review and recommendation process and as a liaison to the public. | Kathleen H. Rippere League of Women Voters | Agreed. See above response. |
| 747. The State Office of Riparian Land Management has enacted an elaborate scheme for the control of waterfront areas. I have a growing concern with the lack of coherence and integration of the environmental quality of the law and the regulations. In addition to causing confusion and unnecessary red tape the procedures operate at great disadvantage to those who seek to conform to the law. | Alvin Griffith Lawrence Township Planning Board | One of the uses of funds available to implement New Jersey's coastal will be to review the riparian permit program and make any possible administrative changes or recommendations for legislative reform. |

| Comment | Commentor | Response |
|---|--|---|
| <u>NEXT STEPS</u> - Cont. | | |
| 748. The program should develop a trade-off, or balancing mechanisms, to resolve resource-use conflicts. | Patricia Q. Sheehan N.J. Department of Community Affairs | Agreed. See Chapter Four, Section 2.2 on "Principles". DEP staff will continue to work with DCA staff to reconcile the occasionally conflicting planning philosophies with which the two departments seek to accomplish virtually identical objectives. |
| 749. The permit application process should be simplified for projects having a relatively insignificant impact on natural resources, perhaps through the institution of locally managed permit procedures for minor projects, like repair of storm damaged docks. | John Holland Cumberland County Planning Board | This idea, too, will be explored with the first Program Administration grant during 1978-1979. |
| 750. DEP should not require a permit application to be stamped by an engineer or an architect, especially for relatively minor projects. | Daniel O'Connor Save Our River Environment | This is a good idea which will be explored in the next years. |
| 751. Several passages clearly indicate the intent of DEP to extend the currently existing or proposed policies designated for the CAFRA zone to other areas. This procedure could be construed as implementing regulations and policies before comment is solicited. | Thomas V. O'Neill N.J. Independent Liquid Terminals Association | DEP intends to consider the applicability of the policies in other areas, with full public review and comment. |
| 752. If the statement about supporting and promoting access to beaches and waterfront areas means using funds to build facilities and support programs like | Marine Trades Association of N.J. | Disagree. First, the federal funds used by NJDEP for the Beach Shuttle in 1977 would not have been available to the State for another purpose. Second, one of the strengths of the coastal program is the |

Comment Commentor Response

NEXT STEPS - Cont.

the Island Beach shuttle, we are adamantly opposed. The need for research into all aspects of the coastal zone is so great, that spending coastal zone funds for projects rather than research is unconscionable.

ability to not only plan and do research, but to actually implement the plans. Third, DEP will also continue to undertake research projects to further strengthen the coastal program.

753.
The implementation of the riparian law to a private individual with no desire to make any kind of profit or to engage in any form of business is ridiculous. Therefore we feel you are concerned only with large developers and commercial enterprises.

H/M Dowdy
Members Bay Point
Rod & Gun Club
Association

This is a problem recognized by DEP. Under an approved coastal program, DEP will work to improve the administration of coastal permit programs and particularly to address the impacts of these programs on owners of small amounts of land.

754.
If NOAA approved the document as written, the faults contained within will never be corrected.

Wilcox, Gravatt
and Hacunda
for N.J. Builders
Association

The regulations will be in place, but can be amended as necessary in the future. Also, the program is subject to an annual NOAA review. See response below.

755.
How can changes be made in the rules once the document is adopted?

N.J. Builders
Association

The formal procedure for rule change or amendment is pursuant to the N.J. Administrative Procedures Act. This procedure, applicable to all New Jersey state agencies, is not particularly cumbersome. In addition, these rules are subject to NOAA/OCZM approval. Concerning substantive changes, such as redefining the national interest in response to new federal legislation, or assessing cumulative impacts of a policy, the FCZMA requires an annual grant application review to insure that the state's program complies with the Act goals.

Comment Commentor Response

NEXT STEPS - Cont.

756.
The changing mechanism is extremely difficult to realize; "The Coastal Program can be amended through administrative action of the Governor. Major revisions would require the approval of NOAA-OCZM".

Wilcox, Gavatt
and Hacunda for
N.J. Builders
Association

Same response as above.

757.
Department of Environmental Protection permit procedures must be simplified. A further simplified, easier to obtain permit process must be considered for small, new projects or maintenance of approved existing projects.

Marine Trades
Association
of N.J.

This will be a priority of the Division of Marine Services in the coming year. Preparation of the coastal program with spelled-out policies for the three coastal permit programs, is a major response to this observation. Federal approval of the program will provide funds and opportunities to further simplify the process. It should be noted that small businesses outside of the riparian lands and wetlands are not directly affected by the coastal program.

758.
We are frustrated over time and cost involved in obtaining various permits and with the added problems created by discrepancies between the state's policies and a municipality's ordinance.

Marine Trades
Association
of N.J.

Noted. Now that the state coastal policies are explicitly stated, DEP as well as private developers and interested citizens, will be better able to seek consistent municipal policies.

759.
The CAFRA, Wetlands and Riparian permits must be consolidated. Once consolidated, they must be streamlined, without weakening their effectiveness.

Marine Trades
Association
of N.J.

Kathleen H. Rippere
League of Women
Voters

This is a good idea which the Department is working toward.

Alvin Griffith
Lawrence Township
Planning Board

-432-

| Comment | Commentor | Response |
|---|---|---|
| <u>NEXT STEPS - Cont.</u> | | |
| 760. In order to gain a fresh perspective on permit consolidation an outside consultant should be brought in to guide the consolidation and streamlining. | Marine Trades Association of N.J. | DEP will consider this suggestion in the coming year. |
| 761. We recommend that the substantive sections (9 and 10) of the currently adopted CAFRA Rules and Regulations be examined and combined to avoid conflict, duplication or overlap with the proposed rules. | Richard A. Ginman N.J. Department of Community Affairs | DEP has referred to the CAFRA Rules in the FEIS and will further explore this suggestion. There is, however, no conflict between the CAFRA Rules which are procedural and the Coastal Resource and Development Policies which are substantive. |
| 762. Lack of a protective mechanism forces Sayreville, South Amboy and the remaining non-CAFRA coastal areas of Middlesex County to rely upon existing legal authority to control and manage coastal zone development on their waterfront. Wetlands and riparian permits are not sufficient to manage coastal activities outside the CAFRA area since they cover only that area up to the mean high water line. The Middlesex County Planning Board wishes to continue, once again, to strongly recommend that the CAFRA boundary be extended to include the coastal areas of Raritan Bay and the Raritan River estuary to the Victory Bridge and to ask DEP-OCZM to specifically include this recommended boundary change in the final Coastal Management Program document. | Middlesex County Planning Board | This situation is being evaluated by DEP and the Middlesex County Planning Board as part of the the planning for the second segment of the coastal zone. It must be noted that any extension of CAFRA or other DEP authority would require action by the Legislature. |

-43-

| Comment | Commentor | Response |
|---|--|--|
| <u>NEXT STEPS - Cont.</u> | | |
| 763. We are especially concerned over what has been announced as the "next stage" of the Coastal Management program development, namely, extension of CAFRA's provisions to cover the Delaware River and Hudson River-northern waters areas of our state under the aegis of the Federal Coastal Zone Management Act. | Donald H. Scott N.J. Chamber of Commerce | The program for this area will be fully discussed and debated before it is proposed or adopted. NJOCZM is not proposing the extension of CAFRA, which is a statutorily defined area. See General Question B. |
| 764. The Lower Raritan/Middlesex County Task Force wishes to continue once again, to strongly recommend that the CAFRA boundary be extended to include the Raritan Bay coastal areas and Raritan River estuary to the Victory Bridge and to ask DEP-OCZM to specifically include this recommended boundary change in this Coastal Management Program document. | John Runyon Lower Raritan/ Middlesex County 208 Water Quality Management Planning Program | This recommendation will be evaluated by DEP as it prepares the Coastal Program for the rest of the State. It would, however, require Legislative action. |
| 765. Home Rule has always been a thorn in the side of conservationists (and reformers in general) who look to the state to see things more clearly, in a larger context. | West Jersey Chapter of the Sierra Club | No response necessary. |
| 766. Because residential construction of less than 25 units does not require a permit, there can be an accumulation of small impacts through small developments. There are cases where many more units than 25 can be permitted with little environmental impact and other cases where a single unit | D. W. Bennett American Littoral Society | This would require a change in the CAFRA by the Legislature. To the extent possible, DEP includes these considerations in its decision making. See also General Question D. |

| Comment | Commentor | Response |
|--|---|--|
| <u>NEXT STEPS - Cont.</u> | | |
| can cause serious environmental damage. Environmental sensitivity, not number of units, should guide land use. | | |
| 767. We urge the Legislature to reduce the threshold number for housing units in order to gain control over sequential development. | Diane Graves Sierra Club | No response necessary. |
| 768. The courts have ruled that Wetlands Act regulations do not represent a taking of property by the state. That may be true, but wetlands are essentially useless for development and to tax them on the basis of being fully developable according to the tax rate for the area is totally unfair. | Marine Trades Association of N.J. | DEP has no power to alter tax rates. This is primarily a function of the Legislature, where relevant legislation (Wetlands Assessment Act) has been introduced. The Assessment Bill is currently in the appropriations committee and is not scheduled for hearing. |
| <u>DETAIL CHANGES</u> | | |
| 769. The Resorts/Recreation section fails to note that the growth of tourism is not exclusively dependent on Atlantic City; demand for recreational opportunities will also spur growth and development. | Elwood R. Jarmer Cape May County Planning Board | Agreed. The text has been changed. |
| 770. P. 173. The Delaware River Port Authority, which has decision making responsibilities in the Delaware Valley, is not listed as such in the above classification. | James R. Kelly Delaware River Port Authority | This was an inadvertent omission. It is included in the FEIS. |

| Comment | Commentor | Response |
|---|---|--|
| <u>DETAIL CHANGES - Cont.</u> | | |
| 771. P. 173. The word "State's" should be "its" in the sentence "... responsibility for assessing consistency between state plans financed by ...". | Tri-State Regional Planning Commission | Disagree. The plans referred to are state plans. |
| 772. P. 260. The following corrections should be made to the list of municipalities on page 260 of the document. | William G. Hengst Camden County Environmental Agency | Noted. These changes have been made. |
| Deleted: Audubon Park Borough Oaklyn Borough | | |
| Added: Audubon Borough Camden City Magnolia Borough | | |
| 773. P. 260. Logan Township is omitted from the list of municipalities within the preliminary boundary of the Coastal Zone. | Charles E. Romick Gloucester County | This correction has been made. |
| 774. Some of the map numbers given on the list on p. 255 are incorrect. | Cumberland County Planning Board | Agreed. Corrections have been made. See Appendix E. |
| 775. Pp. 203-204. Impacts on New Development and Land Values: We specifically recommend inclusion of "Exhibit 2" of "Business Prospects under CAFRA Zone Management" prepared by Real Estate Research Corporation for NOAA (March, 1976) in the FEIS as it neatly summarizes the generally positive economic effects of coastal zone management. | Elwood R. Jarmer Cape May County Planning Board | This table is intended to be a generalized overview of the impacts of government action on property value. This table has no direct applicability to New Jersey, and thus may be misleading in the review of this program through the EIS process. |

| Comment | Commentor | Response |
|--|--|---|
| <u>DETAIL CHANGES - Cont.</u> | | |
| 776. The LNG facility mentioned on pages 146 and 181 has been proposed for <u>West Deptford Township</u> , not Deptford Township. | Charles E. Romick Gloucester County | The correction has been made. See rationale to policy 4.4.14. |
| 777. The figures regarding the geographic area of the Bay and Ocean Shore Segment on pages 1 and 13 are inconsistent. | Cumberland County Planning Board | The figure on page one is for the entire Segment. That on page 13 is for the CAFRA area only. |

Comments

Response

NEW JERSEY PETROLEUM COUNCIL

778.
New Jersey Petroleum Council believes the plan is not ready for approval at this time.

See responses to specific questions below.

779.
The program doesn't outline those tasks which must be completed in order to develop a comprehensive plan for the entire coastal zone.

See revised Chapter 8 which outlines the tasks to complete the remainder of the State program.

780.
The program should discuss the legislative and regulatory steps which must be taken to authorize New Jersey/OCZM to define the coastal zone, manage and regulate development in the remainder of the coastal zone. The State doesn't possess the requisite legal authority to exercise effective management and control of the remaining segments prior to integration into a unified plan.

Revised Chapter Eight outlines the next steps New Jersey will take in preparing a management program for the remainder of the State coastal zone. The State need not exercise complete management control over the other portions of the state's coastal zone at this time. Section 306(h) of the CZMA allows a state to finish one segment of the state program first and then submit the remainder of the state program at a later date. DEP is looking at a variety of options for controlling activities that have a direct and significant impact on coastal waters outside the Segment. These options could include a combination of riparian, wetlands, air and water permits, or seeking new legislation. See General Questions A and B.

a) CAFRA doesn't authorize New Jersey OCZM to regulate or conduct any planning efforts outside of the defined "coastal area".

Agreed. CAFRA applies only within the legislatively mandated boundaries. NJ/OCZM's authority to plan outside CAFRA is conducted through the DEP enabling legislation.

b) The Wetlands law is limited geographically to an area south of Raritan Bay.

The Wetlands Act has jurisdictional control extending from the Raritan Bay along the Jersey Shore and up the Delaware River.

436

Comments

Response

NEW JERSEY PETROLEUM COUNCIL - Cont.

c) Only the legislature can expand the boundaries of the coastal zone and exercise or delegate the authority to regulate the conservation and use of coastal resources in the other segments.

The legislature specifically established a regulatory boundary for activities requiring a CAFRA permit. It is within DEP discretion to establish a coastal zone boundary requiring other statutory permits.

781.
The discussion of future steps to be taken in other segments is vague.

See revised Chapter 8 which expands this discussion.

782.
Questions are raised concerning full compliance with requirement to consider the national interest in planning for and siting of certain enumerated facilities because the state's authority to plan for and regulate such facilities is non-existent in the remaining segments.

See general question B.

783.
The program doesn't include a delineation of the entire coastal zone.

The management boundary for the entire state has been proposed in Appendix E which is subject to change during the public review period. This is not contrary to the requirements of the CZMA.

784.
The Legislature in passing CAFRA didn't mandate the development of a "management plan" only to prepare an environmental inventory of coastal resources and assess their capability to absorb and "react to man-made stress."

Disagree. The legislature specifically directed DEP to establish a management program for the area established in the 1973 Act.

785.
CAFRA doesn't allow the state to guide facility development to the most preferred site.

The aim of the program is to manage coastal resources, not necessarily to select preferred sites.

786.
The Riparian statutes do not possess a mechanism to pass title to or lease lands beyond the bulkhead and pierhead lines out to the three mile limit.

This program does not make such a claim.

| Comments | Response | Comments | Response |
|---|---|---|---|
| <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | | <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | |
| 787. The Wetlands Law is special purpose legislation which cannot be integrated in the program established pursuant to CAFRA. | CAFRA is only one of the laws utilized to meet the authorities requirement of the CZMA. The Wetlands Act will operate independently of CAFRA but consistent with the coastal policies. | 794. The Board of Public Utilities is limited in its review powers to override local zoning is misleading and the DEIS doesn't provide a method to ensure that the Board will exercise its authority as to implement the policies and objectives of the Program. | See General Question H. |
| 788. The DEIS does not analyze the extent to which special purpose legislation and regulations need to be altered. | Chapter Four has been adopted as DEP administrative rules. These policies have been analyzed in the DEIS. Special purpose legislation is not necessary to meet the requirements of the CZMA, provided the entire program is adequate and enforceable. | 795. No legally enforceable documents in the DEIS which bind the other state agencies to exercise their powers to assure that use of regional benefit will not be restricted or excluded. | The applicable laws that comprise the program are all within DEP. The MOU between DOE/DEP tied DOE to act consistent with the program. All other state agencies with activities in the BOSS region which require a permit from one of the Acts comprising the program must act consistent with the coastal program. |
| 789. No evidence that the MOU is binding or enforceable under N.J. law. | See general question D. | 796. DEIS doesn't describe an organizational structure to insure that the agencies will exercise their authority to implement the plan. Nor an indication that local and regional agencies have been integrated into the program. | The Commissioner's letter directs all DEP agencies to act consistent with the program. The CZMA does not require integration of local and regional agencies under a direct state control program, only coordination. |
| 790. How is N.J. Program a direct state control program under the CZM? It cannot be approved as a direct state control program. | The program meets the requirements of the CZMA for a technique B, direct state control program. See 923. 42. | 797. The program doesn't provide for a definition of permissible uses. | All of chapter 4 defines permissible uses. |
| 791. Are all facilities listed as being in the national interest considered uses of regional benefit? Especially for energy facilities. | No. See uses of regional benefit section, revised Chapter 6. | 798. The program is lacking any energy facility siting criteria. | Section 4.4 constitutes Use Policies and siting criteria for energy facilities. |
| 792. National interest list should be more specific: Do energy facilities using oil include pumping station, surge tankage or is it restricted to oil-fired generating stations. | See revised chapter 6, oil and gas facilities include pumping stations in the national interest as part of OCS pipelines. | 799. Dredging is not listed in CAFRA as subject to regulation by OCZM. | NJ/OCZM does not claim that a CAFRA permit is required for dredging, but wetlands and Riparian permits may be required. |
| 793. Why were casinos, hospitals, port facilities and light or heavy industrial development excluded from uses or regional benefit. | The state has not deemed these facilities to be uses of regional benefit. They are not required to be included as part of this program. | 800. Each application for dredging should be reviewed independently. | Each project will be reviewed on a case by case basis and must be consistent with the dredging policies or the program. |

| Comments | Response |
|--|---|
| <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | |
| 801. Prohibition of pipeline development in certain water areas does not appear to be valid or practical. | See revised policy 4.4.8 which make pipelines conditionally acceptable subject to review conditions. |
| 802. Prohibition of effluent discharges in certain water areas is overly restrictive. | All effluent discharges must meet applicable state and Federal water quality standards. |
| 803. Policy on onshore support bases is too restrictive. | Disagree. This policy directs onshore support bases to built up areas and discourages them in less developed areas. |
| 804. Oil refinery policy should define the terms expansion and modification. | Expansion has been defined as in capacity. Modernization has been deleted. See revised policy 4.4.9. |
| 805. Policy concerning storage facilities is unenforceable. | Storage facilities come under CAFRA review. |
| 806. Surge tankage policy should be reconsidered. | This has been revised. See policy 4.4.11. |
| 807. Does the Use policy concerning tanker terminals pertain to deep water ports? | Revised policy 4.4.12 addresses this concern. Deep water ports are discouraged pending a thorough evaluation on a case by case basis. |
| 808. Ocean dumping, dredging and dredge spoil disposal is not addressed. | Ocean dumping is controlled by Federal law. Dredge spoil disposal and dredging are addressed in the water acceptability tables. |
| 809. The requirements of the Clean Air Act have not been adequately considered. | The Clean Air Act has been incorporated by reference. See 5.10. |

| Comments | Response |
|--|---|
| <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | |
| 810. The plan has not been adopted by the state. | The Governor's letter in this FEIS is sufficient to meet the requirements of the CZMA. |
| 811. The proposed process for considering the national interest is inadequate. a) CAFRA permit process not in the plan. b) Permit process doesn't consider the full range of factors which must be analyzed. c) Statements of national interest are not included as legally adopted, enforceable elements of the plan. | The process for considering the national interest is adequate to meet the requirements of the CZMA. The state has promulgated chapter 4 as DEP Administrative Rules and incorporated in Section 1.1 of chapter 4 the process for considering the national interest. |
| 812. The "public welfare" clause of CAFRA is very weak. | Section 1.1 of revised Chapter Four has incorporated the Commissioner's interpretation of the "Public Welfare" clause of CAFRA. For energy facilities, the interpretation by DOE in Section of the MOU addresses how DEP will adequately consider the national interest. See signed MOU in Appendix 6. |
| 813. The plan must be revised to include an adopted, legally enforceable and comprehensive process to consider the national interest which is clearly detailed and specific. | See revised Chapter Six. |
| 814. The DEIS does not indicate if the CAFRA, Riparian and Wetlands appellate bodies are authorized by law to resolve "disputes which involve national interest use and resource protection conflicts". | The appellate bodies for CAFRA, Wetlands and riparian statutes are bound to review decisions based on the record which must include an adequate consideration of the national interest as outlined in Section 1.1 of Chapter Four. In addition, with respect to energy facilities, DOE can appeal these decisions to the Energy Facility Review Board as outlined in the MOU. |

Comments

Response

NEW JERSEY PETROLEUM COUNCIL - Cont.

815.
The DEIS does not adequately describe the status of current OCZM-sponsored energy facility planning programs as required.

Section 305(b)(8) requirements of the CZMA will be submitted with the remainder of the state program.

816.
The Plan should clearly indicate when or if modifications and renewals of federal permits or OCZ plans will require a consistency certification.

Revised Chapter 6, Federal consistency section has been clarified to address these concerns.

817.
OCZM should reconsider the boundary of the area in which activities will require a consistency certification. This area should be decreased in size or delimit the number and types of federal permit which must be reviewed for consistency.

The boundary for consistency determinations is the same as that for the Segment jurisdictional area or activities that may effect the coastal zone. This is not inconsistent with the CZMA.

818.
It is submitted that duly adopted regulations should be included in the Plan to reveal to interested parties:

- . What information will be required for consistency reviews?
- . Who will conduct consistency reviews?
- . How will these reviews be conducted?
- . How and when mediation will be utilized?
- . What specific criteria will be examined to certify to the consistency of a federal activity?

Section 1.3.4 of chapter 4 incorporates the consistency requirements of section 307 of the CZMA as the process for determinations will be conducted. Chapter 6, federal consistency section addresses each of the questions. It is not required that a state promulgate new consistency regulations. See 15 CFR 930.

819.
The DEIS does not indicate what specific criteria will be used to conduct a consistency review. The policies would severely restrict and even preclude essential activities in the specified "consistency" area. These policies should be revised so that the Plan include separate, specific criteria for consistency reviews.

The criteria the State will use for conducting consistency reviews will be the policies and standards promulgated as DEP Administrative Rules in Chapter 4 of the program.

Comment

Response

NEW JERSEY PETROLEUM COUNCIL - Cont.

820.
Consideration should be given to the establishment of a multiple permit review procedure and/or a mandatory schedule to expedite the consistency review process.

This will be considered during the first year of program approval.

821.
The DEIS does not identify any conflicts with local, regional or interstate plans. This is an extremely crucial oversight in light of current autonomous zoning authority of local governments.

This has been outlined in revised Appendix D.

822.
The CZMA requires that lawful agreements must be entered into to bind local agencies to act in a manner which is consistent with the plan.

This is incorrect. This is not required of a direct state control program See 15 CFR 923.42(d).

823.
No action to approve Plan can be taken until the necessary documentation is provided by the Governor.

The Governor's letter is included in this FEIS, adopting the program as state policy.

824.
The Plan should provide a more thorough discussion of the status of the development plan with the State Energy Master Plan and how it will be integrated into the program.

See general question D and revised Chapter Five, DOE section as well as the MOU in Appendix G.

825.
Approval of this program should be deferred until appropriate amendments to the Plan can be developed and implemented for energy planning.

The requirements of section 305(b)(8) or the CZMA need not be submitted until the remainder of the state program is submitted for approval next year.

826.
This proposed federal action is too tentative to enable one to assess its impacts.

- . The boundary is not defined; and,
- . the Plan fails to indicate how or where federal consistency procedures will be applied and what criteria will be used to evaluate these other activities; and,
- . the plan does not include the DOE Master Plan

The boundary has been defined. See Chapter Two. The procedures for reviewing federal consistency determination are outlined in Chapter Six. The entire Master Plan need not be incorporated so long as relevant portions are consistent see 4.4.2

| Comment | Response |
|---|--|
| <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | |
| 827. The DEIS stipulates to the fact that the Plan does not define the entire coastal zone as required. (DEIS p. 263) This deficiency makes it impossible for the DEIS to provide an adequate "description of the environment affected." | •The boundary outlined in this section is a proposed boundary subject to change after the public comment period. This is consistent with the requirements of the CZMA. |
| 828. The DEIS does not adequately discuss the "relationship of the proposed action to land and water use plans, policies and controls." | This section is adequate to meet the requirements of NEPA. |
| 829. Similarly, the analysis of the socio-economic and environmental impact(s) of this proposed action is superficial. | See general question C. |
| 830. The assessment of environmental impact is also lacking. The DEIS fails to discuss or analyze the environmental implications of the basic coastal policy which encourages concentrated rather than dispersed development. | The EIS does address the implications of the coastal policies on concentration rather than dispersal. See revised part III, section 1 and 2. |
| 831. The DEIS does not address the secondary or indirect consequences of the Plan's many far-reaching policies. | The discussion provided is believed to meet the NEPA requirements, given the nature of the proposed action and the CEQ guidelines on this issue. |
| 832. The discussion regarding the environmental and socio-economic impact of the proposed action requires the presentation of more factual and analytical material. | See general question C. |
| 833. The DEIS fails to consider preliminary approval alternative, nor alternatives to the policies. | Preliminary approval is not available for a segment See 923.74(f). Part IV has been revised to reflect this. Many of the policies address alternatives. |
| 834. The DEIS does not adequately analyze and discuss the: • relationship between local, short-term uses of the environment and the maintenance and enhancement of long term productivity, or • irrevocable or irretrievable commitments of resources. | These sections have been adequately addressed to meet the requirements of NEPA. |

440

| Comment | Response |
|--|--|
| <u>NEW JERSEY PETROLEUM COUNCIL - Cont.</u> | |
| 835. The DEIS must discuss the OCZM's efforts to consult with and coordinate with other agencies of federal, state and local governments. The DEIS fails to • include a discussion of existing inter-agency conflicts, as required by the CZMA; and, • indicate to what extent, if at all, the plan has been coordinated with local and regional agencies; and, • identify certain important state agencies which exercise regulatory and planning powers over development in or affecting the coastal zone. | This has been added in revised Chapter 6, County and Local Government Section. This has been added in revised chapter 6, county and local governments section. All state agencies which have regulatory control over actions affecting resources in the coastal zone have been identified in revised Chapter Five. |
| <u>NATURAL RESOURCES DEFENSE COUNCIL</u> | |
| 836. NRDC does not believe that New Jersey qualifies for segmented approval at this time because of the extremely cursory work done so far on the Delaware and Hudson portion of the state. Approval of the Bay and Ocean Shore Segment must be delayed until both segments are complete or until the state has met the applicable statutory and regulatory requirements to assure development of a single, unified plane. | See responses to specific comments below. |
| 837. A complete boundary for the entire coastal zone must be delineated prior to Federal approval of the first segment or that approval will be illegal and subject to challenge. | A management boundary for the entire state has been proposed although this is subject to change during the public review period. This is consistent with the requirements of the CZMA. |
| 838. Enforceable regulations and policies should be adopted prior to program approval. | All of Chapter 4 of the program document has been adopted as Rules and Regulations by the Commissioner of DEP. |

Comment _____ Response _____

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

839.

There is a large gap in New Jersey's program because of its lack of authority over cumulative destructive projects or over protection of fragile resources such as floodplains, specimen trees, steep slopes, prime forest areas, bogs and white cedar stands.

See general question E.

840.

The EIS should clearly explain the Shore Protection and Waterway Maintenance Program.

The description of the Shore Protection and Waterway Program has been revised. See Chapter Five, shore protection program.

841.

The Shore Protection and Water Maintenance Program must be bound by the policies affecting the resources and activities it controls.

The shore protection and water maintenance program is bound by the coastal policies. This has been clarified in chapter 6, shore protection programs. Also the Commissioner's letter directs all DEP agencies to act consistently with the program.

842.

Division of Water Resources and all programs administered by this division should be bound by the policies in Chapter III.

The Division of Water Resources is bound to the policies promulgated as DEP regulations. The Commissioner's letter directs all agencies to be consistent with the coastal policies.

843.

There is no mechanism for critical coastal projects to be ranked with other programs or DEP/OCZM to propose projects in the Green Acres Program.

DEP/OCZM reviews all expenditures of Green Acres Program funds, which must be spent consistent with the coastal program.

844.

The MOU between DOE and DEP is unacceptable to ensure forceability of the coastal policies in the energy facility siting area.

The MOU has been revised. See General Question D. Also see regulations 4.4.2 which incorporates relevant portions of DOE procedures.

Comment _____ Response _____

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

845.

The program doesn't adequately protect critical coastal resources, barrier islands and dunes. This omission violates the intent of Section 301 of the CZMA and the President's Environmental Message of May 1, 1977.

Disagree. Barrier Islands and dunes, are listed on Special Areas 3.2.10 and 3.2.13.

846.

Barrier beaches should be declared generic GAPC's.

Selected barrier beaches and islands have been designated GAPC's see Revised chapter 7, GAPC Section.

847.

A cumulative impact review program for small scale projects and critical coastal resources should be incorporated as a part of CLAM. The review should be limited to activities undertaken in the Special Water's Edge and Land Areas.

See general question E.

848.

CAFRA review of parking facilities associated with commercial facilities should be lowered from 300 spaces to 50 spaces for special land areas with emphasis on barrier islands.

The CAFRA procedural rules and regulations adopted April 4, 1977 outlined that DEP determined that 300 spaces for parking facilities was a reasonable threshold for review of commercial facilities under CAFRA. This threshold is presently under litigation by the N.J. Home Builders Association.

849

The state has never completed an inventory of APC's and never evaluated the 200 proposals from the public.

Disagree. The DEP has completed an inventory of APC's and shared the evaluation of nominations with public agencies and citizens.

850.

The program has not adequately designated APC's.

This section has been revised. See chapter seven. ALSO see general question G.

Comment _____ Response _____

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

851.
A special management technique or plans for Higbee Beach are not outlined in the program.
852.
The program doesn't adequately identify the procedures for designating an APR.
853.
The Division of Marine Resources must develop criteria to determine if an area qualifies as an APR.
854.
A process and a responsible office must be officially designated by the Commissioner for fulfilling the responsibilities under this section.
855.
The relationship of the APR program with existing mandates of the Green Acres Program must be identified and accepted in an agreement between the Division of Marine Services and the Green Acres Program
856.
A formal process should be adopted to process public recommendations for APR designations. This process should contain an appeal process for citizens proposing APRs that are not acted upon.
857.
There is no indication whether Board of Public Utilities has overrule authority over CAFRA decisions, or how energy facility siting decisions made under CAFRA could be affected by this Board.
- The description of the Higbee Beach GAPC has been revised and is sufficient to meet the GAPC requirement of the CZMA.
- The procedures for designating APR's are outlined in the Natural Areas System Act, Wild and Scenic River Act and State Historic Preservation Officer's designation of historic sites.
- This is a function of the Green Acres Program which is described in Chapter Five.
- This is not a requirement of the CZMA. The NJ/OCZM as lead agency will coordinate this program with Green Acres.
- This is not necessary. The Commissioner's letter directs all DEP agencies, including the Green Acres program to act consistently with the coastal program.
- The formal recommendation process is the rule making process for Natural Areas and Scenic Rivers. An appeal process is not required by the CZMA.
- The Board of Public Utilities does not have override authority over DEP decisions under CAFRA.

442

Comment _____ Response _____

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

858.
We are concerned that list on page 180 contains no environmental concerns except for the disposal of spent fuels. Of particular concern is the impact of a plant's cooling system on adjacent waters. This should be added to the list of criteria.
859.
On page 187, it states the Department of Energy "will participate in the decision of state of New Jersey to issue a determination of consistency." DOE is not the appropriate agency because its actions are not bound by this program and it has no ability to review projects unless they have energy implications. Federal consistency review extends far beyond review for energy projects and for that reason DEP should be the authoritative review agency.
860.
The Bureau of Land Management must be added to the agencies under the Department of Interior whose activities and development projects must be reviewed for consistency. This agency makes decisions under the OCS leasing program which relate directly to the state's coastal program. Prelease sale decisions can have a determining effect on activities which would fall in New Jersey's three mile boundary both off and onshore.
861.
We recommend that New Jersey reserve the right to exercise consistency review over the licenses and permits issued by the Nuclear Regulatory Commission.
862.
On page 174, the document indicates the procedure the DEP will follow to notify the public of pending permit applications in the CAFRA, riparian and wetlands programs. There is no discussion of how the DEP expects to address public concerns raised through this process.
863.
We support the Public Advocate's suggestion for public funding of public participation.
- The resource policies in Chapter 4 apply to all power plants. These standards must be met before a plant could be built.
- The DEP as lead state agency for the 306 grant will transmit the final consistency determination. The N.J. DOE will be consulted only on energy facilities. See revised chapter 6, federal consistency section for clarification.
- Revised Chapter 6, Federally Licensed Activities in OCS Plans, includes a clarification on this point. The state will review OCS plan in conformance with subpart E of the federal consistency regulations. Amendments to the OCS Lands Act recently passed will provide further clarity and specificity to these procedures.
- New Jersey has added permits and licenses for construction and operation of nuclear facilities as subject to federal consistency review.
- The public's concern is addressed in the DEP permit decision issued at the end of the decision making process.
- No response necessary.

| Comment | Response |
|---|---|
| NATURAL RESOURCES DEFENSE COUNCIL - Cont. | |
| 864. We recommend additional policy requiring that the ecological carrying capacity of critical resources be evaluated as part of the four major coastal policies. | Such evaluation is the purpose and intent of many of the policies, and will be a work product during the first year of program implementation. See Chapter Eight. |
| 865. We believe it is irresponsible to propose development in already urbanized areas without a detailed analysis of the capability of these areas to accept additional development. | Each site for a proposed action and surrounding region including alternatives is evaluated in the course of specific coastal permit decisions. An analysis of each urban area would be speculative and unnecessary. |
| 866. We suggest eliminating qualifying language such as "to the maximum extent practicable" throughout the regulations. Strong, definitive language should be used throughout. | Disagree. A measure of administrative discretion and flexibility is appropriate. |
| 867. <u>2.0 & 3.0 Authority and Jurisdiction</u> These two sections make clear that the only actions to which this rule applies are those which require permits under CAFRA, wetlands and riparian statutes. We find this too limiting a other actions undertaken by the DEP within the BOSS boundary should also be required to adhere to these policies, particularly those affecting critical coastal resources. | The Commissioner's letter directs all line agencies within DEP to act consistently with the coastal program. The MOU with DOE ties the energy agency to act consistently with the coastal policies. Thus the key agencies are tied directly to the program. |
| 868. <u>5.0 Coastal Management Decision-Making Process</u> There is no reference to other state actions of the DEP which might affect New Jersey's coast and ocean shore segment. The Department of Energy and Energy Facility Review Board should be discussed in this section. | The MOU between the DEP and DOE is referenced in revised section 4.42 of chapter 4. |
| 869. <u>6.2.4 Shellfish Beds.</u> This policy makes conditionally acceptable water dependent development which requires dredging adjacent to shellfish beds. Dredging activity next to productive shellfish beds should be discouraged, not conditionally acceptable. | This change has been made in regional policy 3.2.2.2. |

| Comment | Response |
|---|---|
| NATURAL RESOURCES DEFENSE COUNCIL - Cont. | |
| 870. <u>6.2.2 Surf Clam Areas.</u> Developments which would result in closing productive surf clam areas should be prohibited and directed to other areas where surf clams would not be affected. | Revised policy 3.2.3.2 has clarified that development is only acceptable if it effects less productive surf clam areas and is of significant national interest. |
| 871. "Within a specific area" should be defined more precisely." | The term within a specific area has been deleted. |
| 872. <u>6.2.3 Prime Fishing Areas.</u> Disposal of domestic or industrial wastes must be prohibited from these areas. There is no reason why New Jersey can't adopt a stronger policy than federal standards to protect its fishing or disposal of dredge spoil would also be prohibited. | Revised policy 3.2.4.2 clarifies that domestic or industrial wastes must meet applicable state and federal laws. Dredging disposal is addressed in the dredging policies. |
| 873. <u>6.2.4 Finfish Migratory Pathways, Submerged Vegetation, Navigation Channels.</u> "Mitigation measures" should be defined more precisely and specific types of mitigation measures should be outlined. | Revised policy 3.2.5.2 outlines mitigation measures. The term mitigation is sufficiently specific and self-explanatory to define its intent. |
| 874. <u>6.2.4 Fish Migratory Pathways.</u> The list of activities which would require mitigation measures must include changes in salinity. | Revised policy 3.2.5.2 references chemical water quality barriers which include salinity. |
| 875. <u>6.2.5 Submerged Vegetation.</u> The developer must be responsible for seeing that the replanted vegetation lives and that reclamation is successful. This may require putting up a performance bond for the duration of the reclamation project. | This will be considered during the first year of program implementation. |
| 876. <u>6.2.6 Navigation Channels.</u> This policy discusses existing but not new navigational channels. Does this mean that new channels are prohibited? | See new dredging policy 3.5.5.6. |
| 877. <u>6.3.5 Definition of Water Body Types.</u> This section give a clear indication of why mapping is essential for New Jersey's coastal zone program to operate successfully. The definitions of semi-enclosed and back bays, for example, are brief with few examples and no comprehensive list of each type. | See revised classification system which includes a map of water areas. See Section 3.3. |

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

878.

6.3.7 Water Acceptability Table. It is unclear in the definition of "prohibited" whether the exception is limited to existing riparian grants or whether new riparian permits could be granted and then be also subject to an exception. The confusing element is the extent of the state's jurisdiction over subsequent riparian grants. Because it is unclear how Special Water Areas are to be addressed in this Table we recommend extending the Table to include Special Water Areas. The Table should be modified to reflect the conditions in the text.

879.

6.3.8 Aquaculture. The qualifiers attached to the aquaculture policy make it in face a "conditionally acceptable" policy, not an "encourage" one. The adverse environmental impacts which may result from aquaculture make the sconditionally acceptable designation more appropriate. The last sentence should read "do not cause adverse off-site environmental impacts."

880.

6.3.8.3 Retaining Structures. Shoreline retention structures should be considered only if nonstructural stabilization cannot be used. This policy should be modified as necessary as the shoreline erosion component of New Jersey's coastal program is developed. The Table should be changed to reflect the text which is "discouraged"

881.

6.3.8.4 Delete "to the maximum extent feasible".

882.

6.3.8.5 Dredging Maintenance. This section has given no consideration about whether existing maintenance dredging operations are necessary or desirable. The DEP should undertake an evaluation of all dredging going on in its coastal zone to determine what is absolutely necessary.

The exception applies only to existing conveyances of riparian grants conveyed before program approval. By definition, special water areas take precedence over the water acceptability tables. See management system chapter 4 for discussion of Riparian Statutes.

These changes have been made in revised policy 3.3.7.1.

See revised water acceptability table (3.3.4) and coastal engineering use policies (4.8). The criteria will be modified as the N.J. Shore Protection Master Plan.

Disagree. A measure of administrative discretion and flexibility is appropriate.

Agreed. See revised policy 3.3.7.5.

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

883.

6.3.8.7 Dredged Spoil Disposal. This policy is inconsistent with 3.3.7.7, the policy on navigation permits, and the definition of "prohibited". If disposal of spoil is "prohibited" (p. 36), it cannot be deposited under certain conditions. These policies must be uniform throughout.

884.

6.3.8.9 Filling. Same comments as above. If filling is prohibited, it cannot be permitted with conditions.

885.

6.3.8.10 We recommend deleting this if piling is always associated with another, already controlled activity.

886.

6.3.8.12(b) Offshore Sand and Gravel Mining. There must be performance standards to control physical and chemical impacts from mining.

887.

6.3.8.13 Bridges. "Acceptable" secondary impacts must be defined.

888.

6.4.1.2 High Risk Erosion Areas. We strongly support the prohibition of development in "high risk erosion areas". Also, "in principle" development in areas that will be eroded in less than 50 years should be prohibited, not discouraged.

889.

The causes of erosion should be included in the list of factors affecting policy on development restriction.

890.

Structural solutions should be acceptable only if non-structural controls would be ineffective.

891.

The above rules apply only to facilities which require a CAFRA, riparian, or wetlands permit. Many structures in high risk erosion areas would not require any of these permits. Local governments are not bound to act consistent with these rules so significant development in high risk areas can continue.

This has been clarified in revised policy 3.3.7.7.

This has been clarified to reflect this concern in revised policy 3.3.7.9.

The water uses are broken into component uses, and will remain as such.

The standards are those established by existing water quality standards.

These impacts are defined in the resource policies.

These changes have been incorporated in revised policy 3.2.12.1.

The causes are outlined in the rationale 3.2.12.3.

The program does favor non-structural over structural controls.

This is correct. The state has established a threshold for permit review of activities that have a direct and significant impact on coastal waters. Local governments are not bound to act consis-

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

892.

6.4.2 Dunes. The stabilization of existing dunes and the creation of new dunes should not be encouraged. Artificial stabilization of dunes which naturally shift in response to a number of factors, particularly winter storms, will result in increased erosion. New dunes created in areas where no dunes previously existed are not likely to last very long and could also result in erosion through disruption of overwash. Dunes should be protected and repaired, but not created or stabilized.

893.

6.4.3 Central Barrier Island Corridor. This section encourages development on barrier islands whereas all future development on barrier islands should be prohibited or discouraged. The state does not have control of non-riparian, non-wetlands smaller than CAFRA projects which cumulatively and individually adversely impact barrier islands and amplify the need for federal and state subsidies for inappropriate development. Furthermore, this policy in no way reflects the potential hazard to barrier island development from flooding, nor the ability of the islands' resources to withstand increased development.

894.

6.4.4 Flood Hazard Areas. By what authority does the state regulate "most uses" in the flood fringe? Will these rules be applicable to that authority? These questions are not satisfactorily answered in this section.

895.

Furthermore, this section must meet the requirements of the Executive Order on Floodplains (E.O. 11988). To do this the policy should reduce the risk of flood loss, minimize the impacts of floods on human safety, health and welfare, and restore and preserve the natural and beneficial values served by the floodplains.

tent with program. The state has chosen technique B [306 e (1)(B)], which does not require local conformance with the program. (C923.11 and 923.12).

Disagree. Properly created new dunes are a reasonably effective barrier to storm surges and overwash.

See revised policy 3.2.14.2 New or expanded development must be reviewed on a case by case basis. Density on central barrier islands will be controlled through height limitations and the development potential policies. Some small scale development will not be reviewed under the program on barrier islands. See general question 8. The hazard's policies and flooding policies will all apply on barrier islands.

Revised policy 5.23.2 addresses the authorities for DEP control of flood hazard areas which are part of the BOSS program.

This policy does address the issues raised in Executive Order 11988, which is binding only on federal agencies.

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

896.

6.4.6.4 Specimen Trees. Only specimen trees to be impinged on by CAFRA, riparian or wetlands projects will be protected under the program. What authority is there to protect other specimen trees?

There is no additional authority to protect specimen trees that are not covered by CAFRA.

897.

6.4.7 Prime Forest Areas. This policy applies by definition only to white cedar stands. What about other prime forest stands within the coastal area? We recommend including the Pine Barrens vegetation under this definition.

The Pine Barrens vegetation is special vegetation which is appropriately covered by the vegetation resource policy.

898.

6.4.8.2 Prime Wildlife Habitats. Development causing minimal feasible interference with habitats is listed as "conditionally acceptable", but no conditions are established. Development that is destructive to endangered or threatened species must be prohibited. To adequately enforce this policy, prime wildlife habitats must be inventoried and mapped, and a management program developed. We recommend such areas as GAPC's.

Revised policy 3.2.19 addresses critical wildlife habitats and development is discouraged that would adversely affect these areas. Many of these areas are already known by DEP, and continued mapping will occur. The state feels these areas are not candidates for GAPC designation.

899.

6.4.9 Public Open Space. The overall policy of encouraging the concentration of development will curb sprawl, but could also reduce the open space in urban areas. A major impact on public open space as defined here would result from activities on the fringe. This policy should more specifically address fringe activities by listing the types of activities acceptable adjacent to public open space.

Revised policy 3.2.20.2 addresses part of this concern by discouraging development wherever it adversely affects existing open space.

900.

6.4.10 Steep Slopes. Development on steep slopes should be discouraged, not conditionally acceptable.

Revised policy 3.2.21.2 discourages development on slopes 10-15%.

901.

6.5 Beaches Policy. Any development on the beach must be in the public interest. A developer's proposal to build on the beach or dunes, even if there is no feasible non-beach location, is not

Revised policy 3.2.10.2 has added that development must be in the public interest, but has retained no prudent

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

sufficient to permit development. "No prudent or feasible alternative" should be deleted from this section. This policy makes no reference to the wet sand beach GAPC designation. This should be clearly detailed in this section.

or feasible alternative. The reference to wet sand being a GAPC has been added.

902.

6.5.3.2 and 6.5.4.2 Retained Water's Edge, Filled Water's Edge. Development is conditionally acceptable provided that "the development provides a net benefit to the environment." How will "net benefit" be determined? The policy does not reflect the continued effects of erosion on stabilized shorelines. The policy is too confident that stabilization techniques work permanently.

Policy 3.4.3.2 has been revised to clarify when development is conditionally acceptable. The policy has been revised to delete net benefit.

903.

6.5.3.3 Retained Water's Edge Rationale. Restaurants are not water dependent.

Policy has been changed to make them acceptable.

904.

6.6.3 Depth to Seasonal High Water Table Factor. Why would the creation of surface ponds in areas with a shallow water table render the area unsuitable for open space use? It seems logical that such areas would be suitable only for open space.

See revised policy 3.5.2 which has been resturctured.

905.

6.6.4 Soil Permeability Factor. The most conservative policy must be adopted to ensure minimum runoff on the surface and minimum affect on subsurface flow which reaches coastal waters either directly or via streams.

This whole section has been revised. See policy 3.5.4.6.

906.

6.6.7 and 6.6.7.2(b) Development Potential Factor, Residential Development Potential Criteria. For the infill criteria, "existing residential development" should be defined quantitatively. For example, what is compatible for infill adjacent to a commercial or condominium area would be substantially different from an area which was predominantly cottages.

Disagree. This is adequately specific for the purposes outlined in the policy. See revised policy 3.5.5.2.2.

907.

6.6.7.3 Commercial and Industrial Development Criteria. The final document must delineate more clearly how commercial facilities are to be controlled under the public facilities requirement.

See chapter 5 for definition of facility under CAFRA. This policy is very specific.

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

908.

6.6.7.3.3. There should be low potential for development of any facility incompatible with existing land use.

This is a misunderstanding of the CLAM policies. See revised density policies.

909.

6.6.7.4 Campground Development Criteria Secondary impacts should be a criterion in determining both high and low potential sites.

Campground development criteria have been deleted.

910.

6.6.8 Regional Growth Potential Factor. The document does not clearly establish how growth areas were chosen and whether carrying capacity of air and water resources were utilized as a basis for the determination.

Regional Growth potential factors have been combined in the revised land acceptability tables. The carrying capacity of the land type has been incorporated into the table, including air and water factors. See also Chapter Three and section 3.5.3 of Chapter Four.

911.

7.2 Housing Use Policies - Definition - The program identifies no authority to control cumulative impacts from housing projects of less than 25 units which may have a direct and significant impact on coastal waters.

See general question E.

912.

7.2.7 By what standards can an applicant's claim that restoration is impractical and infeasible be judged?

Revised policy 4.2.8. clarifies that it must not be contrary to the public interest.

913.

7.3.1 Placing resort/recreational uses as the highest priority is inconsistent with the program's primary goal to protect coastal ecosystems. Coastal protection should be the highest priority with resort/recreational uses second.

Disagree. Coastal protection is not a land use ~~per se~~. This policy must be read in connection with the resource protection policy.

914.

7.3.3 Does New Jersey have authority to require access to the shorefront for resort development? If so, the document should indicate what it is.

The state has interpreted authority from CAFRA, Wetlands and riparian Statutes to require access to the shorefront. This authority has been formalized by the adoption of Chapter Four as Administrative Rules of DEP.

| Comment | Response |
|---|---|
| NATURAL RESOURCES DEFENSE COUNCIL - Cont. | |
| 915. <u>7.3.6 Marinas.</u> The conflict between preservation of wetlands and other special water's edge areas with development of new or expanded marinas should be addressed. | Marinas must also meet the wetlands policies and the remainder of the location policies. |
| 916. Dredging of dry land should be "discouraged," not "encouraged." | This policy has been deleted. |
| 917. <u>7.4 Energy Use Policies.</u> We recommend that this relationship be more firmly established through an enforceable mechanism prior to approval under the CZMA. | The signed MOU between DOE and DEP provide an enforceable mechanism. See general question D. |
| 918. <u>7.4.3 Onshore Support Bases.</u> It should be clearly stated that onshore support bases will not be permitted in fragile areas as defined by the location policies. | Revised policy 4.4.4 discourages development in less developed areas. All support |
| 919. <u>7.4.5 Repair and Maintenance.</u> Repair and maintenance facilities can be allowed only at existing shipyards where no additional dredging is necessary. | See revised policy 4.4.6 rationale which addresses new dredging. |
| 920. <u>7.4.4 Platform Construction Yards.</u> This policy must recognize the potential impact of dredging which would be necessary to accommodate such facility. | All platform construction piers would need to follow the dredging policies. See revised policy 4.7.5. |
| 921. <u>7.4.7 Pipelines.</u> There should be a prohibition to crossing barrier islands or any part of the Pine Barrens to minimize the adverse impacts of such crossing on the geological and biological properties which makes them unique. | Pipelines for natural gas are discouraged through the Pine Barrens. Criteria for restoring wetlands and dunes has been added. |
| 922. <u>7.4.8 Refineries.</u> NRDC strongly supports this policy as we believe that available information indicates that the Mid-Atlantic already has adequate refinery capacity to meet foreseeable demand. | No response necessary. |
| 923. <u>7.4.9 Gas Processing Plants.</u> This policy is over qualified with "to the maximum extent feasible." | Disagree. A measure of administrative discretion and flexibility is prudent. |

| Comment | Response |
|---|--|
| NATURAL RESOURCES DEFENSE COUNCIL - Cont. | |
| 924. <u>7.4.11 Tanker Terminals.</u> New or expanded tanker terminals should be discouraged for siting which would result in increased dredging. | Revised policy 4.4.12 has been changed to reflect this concern. |
| 925. <u>7.4.12 Base Load Electric Generating Stations.</u> The issues of coastal dependency and demand should be addressed in this policy. This policy is extremely vague in comparison with the specificity of many policies for activities of smaller impact. | See revised policy 4.4.13 which has combined old policy 7.4.12 and 7.4.13. |
| 926. <u>7.4.13 Nuclear Facilities.</u> We commend New Jersey for establishing a strong policy relating to nuclear energy. | See revised policy 4.4.13. |
| 927. <u>7.4.14 LNG.</u> We support this policy which recognizes the risks associated with siting LNG facilities. | See revised policy 4.4.14 |
| 928. <u>7.5.1.</u> There must be a policy regarding the capacity, location, and conditions for hook-up for sewage collection systems. | N.J. pioneered the 201 planning process for determining the pattern and pace of development. EPA has since adopted the N.J. approach as national policy. 201 facility planning addresses this issue. |
| 929. <u>7.6 Industry-Commerce Use Policies.</u> New or expanded coastal dependent development should be conditionally acceptable, not encouraged, at or near existing sites. "Sites" should be qualified as developed sites. | See revised policy 4.6.2 which clarifies this point. |
| 930. <u>7.6.2 Mining.</u> What is the justification for excluding mining from the Location Policies? We cannot accept this policy as it is very brief and gives inadequate explanation of why mining should be allowed. What constitutes an "acceptable" reclamation plan? | See revised policy 4.6.3 which has been totally revised and expanded. |
| 931. <u>7.8.2.</u> The source of sand for beach and dune nourishment projects should be addressed. | This will be addressed in the Shore Protection Master Plan to be initiated next year. |

Comment

Response

NATURAL RESOURCES DEFENSE COUNCIL - Cont.

932.

7.8.3. The type and efficacy of shore protection structures are linked to the causes of erosion. Structures should only be allowed if they will really work, and a project by project analysis must be done to ensure the project would accomplish its goals.

All projects are reviewed on a case by case basis and must meet all water's edge policies.

933.

8.4.1. "Surface water disturbances" should be defined.

Disturbances have been changed to drawdown.

934.

8.4.2. The policy refers to water quantity, not quality.

This change has been made. See policy 5.4.2.

935.

8.6.2 Runoff. We support the runoff policy for Intensive Development because of the direct affect that runoff has on coastal waters.

See revised policy 5.6.

936

8.16.1 Solid Waste. This policy is unclear and should be rewritten in the final document.

This policy is adequately specific.

937.

8.17.1 Energy Conservation. It is legally possible to require energy conservation; "encourage" is too weak.

See revised policy 5.17 which has been changed to reflect this concern.

U.S. Department of Agriculture

938.

On page 50, Section 6.4.11, we suggest rewording of the second line to read "...bay and ocean shores that are eroding or that have a history of erosion..." Processes that shape the shoreline are extremely complex. Many shorelines that have aggraded recently were degrading earlier and are vulnerable in the future.

This language has been incorporated into revised policy 3.2.12.1.

939.

On pg. 51, experience of the Soil Conservation Service (SCS) indicates that the Sea Isle City area should be included in the high risk erosion area list.

This has been included in revised policy 3.2.12.3.

940.

Section 6.4.1.2. Policy. We recommend that the last sentence in the first paragraph should be changed to read, "Development that contributes to further erosion of high risk areas is prohibited."

This change has been incorporated in revised policy 3.2.12.2.

Comment

Response

941.

On pg. 58, 5th paragraph, the last two lines should be changed to read, "...1:24,000), supplemented by flood prone areas as determined by soil maps contained in appropriate National Cooperative Soil Survey Reports."

This change has been incorporated in revised policy 5.23.

942.

On pg. 61, Section 6.4.7, the title of this section "Prime Forest Areas" may cause confusion because "Prime Forest Land Timber" as defined by USDA is based on growing capacity and is oriented to commercial timber production.

This change has been incorporated in revised prime forest policy.

943.

Pages 63, 64, Section 6.4.9, Public Open Space. This section and the description of the Division of Parks and Forestry on page 169 discuss the State parks' and State forests' role in contributing recreation, aesthetics, historic preservation, and wildlife protection. No mention is made of commercial forest products from State forests. To maintain optimum forest environments for open space, recreation and other uses compatible with coastal zone objectives will require forest management. We do not find any discussion in the report for such need.

Logging operations in New Jersey do not appear to have direct and significant impact on coastal waters, and since commercial forests do not fall under the jurisdiction of CAFRA, they need not be incorporated directly in this document.

944.

Page 64, Section 6.4.10.1, Definition. Add the following: K values may be found in most National Cooperative Soil Survey Reports available from soil conservation districts or in local Soil Conservation Service Technical Guides.

See revised policy 3.2.21.2.

945.

On pg. 65, Section 6.4.10.2, Policy, the reference to U.S. Soil Conservation Service should be changed to State Soil Conservation Committee. In addition, it should be recognized that under some conditions practical control measures may not produce a desirable level of control. In such cases, as determined by the State Soil Conservation Committee, development should be prohibited.

This has been dropped as a reference source in revised policy 3.2.21.2.

946.

Section 6.4.11. "Prime Agricultural Areas" should be changed to read "Prime and Unique Farmlands."

This has been changed to Farmland Conservation Areas in revised policy 3.2.22.

Comment

Response

U.S. DEPARTMENT OF AGRICULTURE - Cont.

947.

Section 6.4.11.1. This definition should be in keeping with SCS definitions of Prime and Unique Farmland:

The definition of prime is incorporated and definition of unique are restricted to uses applicable to New Jersey.

948.

On pg. 75, Section (d), Erosion and Sediment Control, the first sentence should be changed to read: "Surface water runoff is a well-documented, possible source of water quality degradation."

The rationale has been amended to be general to the natural waters edge

949.

Page 82, Section 6.6.3.1, Definition. (Seasonal High water Table.) This definition should be in keeping with the SCS definition.

Those definitions that are applicable to New Jersey have been incorporated in wet soils policies, and in the land tables.

950.

Section 6.6.3.2, Rationale. This section should reflect the existence of perched water tables. The second sentence might be changed to read: "Shallow depths to water table (wet terraces) occur either close to surface water bodies or as perched water tables above relatively impervious soil layers."

This consideration has been included in the definition for high environmental sensitivity and resource policy on wet soils, policy 5.20.

951.

On pg. 84, Section 6.6.3.3, Information Requirements, change the first sentence to read: "Data on the distribution of these areas may be obtained from the National Cooperative Soil Survey available from the local soil conservation district, etc... similar changes should be made throughout the text of the report."

This has been changed throughout the document.

952.

On pg. 85, Section 6.6.4.1, Definition, the first sentence should be changed to read: "Soil permeability is the rate of vertical movement of water through the soil or a soil layer expressed in inches per hour."

The new document does not deal with permeability but relates soil percolation rates to soil textures. See revised sections 3.5.4 and 5.20 5.21 and 5.22 of Chapter Four.

953.

Section 6.6.4.2 should reflect the difference between soil infiltration and permeability. Infiltration is the rate of water intake into the soil, and permeability is the rate of vertical water movement through the soil.

See comment above.

Comment

Response

U.S. DEPARTMENT OF AGRICULTURE - Cont.

954.

Section 6.6.4.3 should indicate that infiltration rates can also be found in the National Cooperative Soil Survey Reports as well as permeability. Permeability cannot be accurately determined by percolation tests. Therefore, the sentence beginning, "Site survey data..." should be deleted.

See comment above.

955.

On Page 86, Section 6.6.5, Soil Fertility Factor should be changed to Soil Productivity Factor and Section 6.6.5.1 should reflect this change. Capability classes are not based on fertility, but rather on hazards to productivity.

This has been included in the definition of high and low environmental sensitivity. See revised policy 3.5.4.5.

956.

On pg. 154, 3rd paragraph, 5th line, there is a typographical error. The word should be "gabions."

This has been corrected.

957.

On pg. 171, the paragraph entitled "Department of Agriculture" should be changed to read: "This Department through the State Soil Conservation Committee administers the Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-39 et seq.)." The Act provides for the control of erosion during the construction phase of development.

This has been changed to incorporate this language and clarify that DEP jointly administers this program.

958.

On pg. 186, change "Prime Agricultural Lands" to "Prime and Unique Farmlands." Also, in the last sentence of this paragraph, change "soil fertility" to "soil productivity."

These changes have been made whenever the phrases now here. See Section 3.2.22, now called Farmland Conservation Areas.

959.

On pg. 186, Forests, the first sentence should be changed to read: "...through consultation with the U.S. Forest Service."

This is what the document states in the DEIS.

960.

Page 191. Under Department of Agriculture, Soil Conservation Service - change it to read: Watershed Protection and Flood Prevention. Also add: Resource Conservation and Development Program.

This has been incorporated in revised chapter 5, federal consistency.

961.

On pp. 328-329, for each map, change the source of data sentence to read: "The source of data is the National Cooperative Soil Survey for Ocean County."

This has been revised in the new case studies in the Appendix.

U.S. Department of Commerce - NOAA

962.

Many of the policy statements in Chapter 3 include the words "prudent and feasible alternative." These words are somewhat vague. We recommend that such wording be eliminated from the document and replaced with clear, understandable instructions.

Some such language is necessary to allow administrative judgement. See section 2.2 and 2.3 of Chapter Four.

963.

P. 24, 6.2.4.2 This policy statement should consider juvenile anadromous fish which migrate in the autumn.

Anadromous fish are covered by this Program.

964.

8.0 Resource Policies. We wish to recommend that more emphasis be given to policies which encourage wise management and utilization of commercial and recreational fisheries stocks and associated living resources.

This objective is addressed not only by resource policies, but also by location policies 3.2.2 through 3.2.5.

U.S. DEPARTMENT OF DEFENSE (Assistant Secretary)

965.

The Department of Defense approves NJCHP subject to incorporation of their comments in the FEIS.

No response necessary.

966.

Chapter Two - Specific exclusion of federal lands from the boundaries of the coastal zone should be clearly stated. A reference to Appendix G is also recommended.

Reference to excluded federal lands has been added to revised chapter 3.

967.

Chapter Three, Section 3.0 - Federal exclusions should be briefly discussed before listing the proposed uses of coastal resources that would come under state jurisdiction.

See revised chapter 4, section 1.3.4 for consistency determination.

968.

Chapter Five, pg. 177, second full paragraph - "non-federally owned land" should be changed to "non-federally controlled land."

This change has been incorporated in revised chapter 6, National Interest Section.

969.

Chapter Five, pg. 187, Federal Activities and Development Projects - It would be advantageous for federal agencies to deal with matters involving projects which significantly affect the coastal zone through the state's A-95 clearing house rather than dealing with another state agency (DEP). This would prevent duplication and reduce administrative time.

The DEP will coordinate with the State's A-95 clearing house however, as designated state agency, DEP will make the final consistency determination as required by NOAA regulations 15 CFR 930.18.

CommentResponse

970.

Chapter Five, pg. 187, Federal consistency - Consistency determinations are to be made by the Federal Agencies themselves and not the state, pursuant to NOAA's consistency regulations. Also, Federal agencies are not subject to state permitting procedures in the absence of specific congressional mandate.

This has been clarified in revised chapter 6, federal consistency section.

U.S. DEPARTMENT OF DEFENSE (Air Force)

971.

P. 13. The coastal zone boundary should be amended to indicate that federally owned or controlled lands are excluded.

Agreed. See Chapter two, Appendix E, and Section 3.2.26 of Chapter four.

972.

P. 186. The program should specifically state that federal agencies make consistency determinations. As written, this is an implied action for federal agencies.

Agreed. See revised language in Chapter Six.

973.

P. 187. In the first sentence of the section Federal Activities and Development Project add "through the A-95 clearinghouse review process" after "Department of Environmental Protection". Federal OCZM regulations permit a federal agency to provide information in any manner it chooses and the Air Force contends that the A-95 process be used for consistency notification.

New Jersey will follow the federal Regulations on consistency and issue procedural handbooks as necessary. The A-95 procedure will be used as much as possible.

U.S. ARMY CORPS OF ENGINEERS

974.

The policies relating to port development (717) are quite restrictive. The criteria used to determine inadequacy should be specified. This policy should be reconsidered both for this segment and in the context of the overall state program.

The policy is adequate for the segmentation requirement of the CZMA. Variations of this policy will be considered in developing the remainder of the state's program.

975.

Industrial development is also discouraged (Policy 7.6) and will be considered only to extent that high ratio of jobs created to acres used is achieved and no conflict with resort recreation uses occurs. While jobs criteria is useful and valid, it is a very broad guideline and may not be sufficiently defined in this document to act as a performance standard.

The ratio will be compared to the number of jobs that could be created by other activities utilizing the same acreage.

| Comment | Response | Comment | Response |
|---|---|--|--|
| <u>U.S. ARMY CORPS OF ENGINEERS - Cont.</u> | | <u>U.S. ARMY CORPS OF ENGINEERS - Cont.</u> | |
| 976. Pg. 55, 1st paragraph - statement on dune policy should be further addressed to emphasize the need for dune protection in the coastal zone area. | Revised policy 3.2.13.2 has addressed this issue by prohibiting development covering the program on dunes. | 982. Pg. 189 - provides that DEP reserves the right to review other unlisted Federal permit and license applications which may significantly affect the coastal zone. It indicates that up to 45 days from notice of Federal application is needed to determine if DEP will exercise this reserved option on first request information on such a proposal. The need for information to review for Federal consistency on unlisted activities should be determined and sought early in the review process. | The state has inserted clarification on the time frame for Federal consistency review in Chapter 6. The DEP will seek information to review consistency on unlisted activities early in the review process.. |
| 977. Policies 6.2.3.2 (pg. 33) and 6.2.7.2 (pg. 37) - the appropriateness of the last statement in each of these policies is questionable. There is no apparent justification for establishing policies for areas outside the coastal zone. | These sections have been deleted in revised policies 3.2.4 and 3.2.8. | 983. The application of CZMP on state-wide basis relative to Federal consistency requirements for Federal assistance grants for chemical processing, mineral extraction, sewage treatment and solid waste disposal facilities is seriously questioned. | The reference to assistance projects for chemical processing, mineral extraction, sewage treatment and solid waste disposal facilities has been deleted in revised Chapter 6, Federal Assistance Projects. |
| 978. Pg. 176 - the national interest in port and industrial development is sufficient to warrant a more extensive discussion than that which is provided. This should be done in a manner consistent with expanded use policies discussed in 1 and 2. | This is adequate to meet the national interest requirement of the CZMA. See revised Chapter Six, National Interest Section. | 984. Pg. 189 - Listing of Corps of Engineers regulatory authorities should be revised as follows: | All of these changes have been incorporated into revised Chapter 6, Federal Licensed and Permitted Activities. |
| 979. Pg. 182 - the last of the major objectives of national interest in recreation, should be revised to read as follows: "To accelerate the no-cost transfer of property identified as surplus and underutilized by the Federal agency." | See revised chapter 6, National Interest section. This comment has been incorporated. | a. Permits to regulate construction of any dam or dike across any navigable waters of U.S. under Section 9 of the River and Harbor Act of 1899. b. Permits to regulate the obstruction or alteration of, construction of any structure in or over, and the excavation from or depositing of material in any navigable water of the U.S. under Section 10 of the River and Harbor Act of 1899. c. Permits to regulate the transportation of dredged material for purposes of dumping in ocean water under Section 103... d. Permits for the discharge of dredged or fill material into the waters and adjacent wetlands of the U.S. at specified disposal sites under Section 404... | |
| 980. Pg. 187, 1st paragraph - is in conflict with official Federal position that consistency determinations for direct Federal activities will be made by the Federal agency. The following should be added, before the last sentence, "Consistency determinations will be made by the Federal Agency." The last sentence should be revised as follows: "DEP will review the proposal and consistency determination by the Federal agency for consistency with the Coastal Program, and will issue a statement of agreement if it finds that the Federal project or activity is consistent to the maximum extent practicable." | This has been clarified in Chapter Six, federal consistency section. | 985. Pg. 197-199 - we strongly recommend that the Development Potential Study include consideration of port development and water dependent industry. Moreover, we would expect to see the results of this incorporated into the program policy. | Port development and water dependent industry are integral components of the Development Potential Study. Upon completion this will be submitted as an amendment to the program. |
| 981. Pg. 188 - the following should be added after the first sentence: "The Federal agency will make the consistency determination regarding direct Federal activities." | Clarification has been added to the Federal consistency section of chapter 6. | | |

Comment

Response

DEPARTMENT OF ENERGY

986.

No objections to approval of the proposed program segment, provided that proposed energy policies are revised in general conformance with DOE review comments.

No response necessary.

987.

The remaining segments of the N.J. program and the energy planning process elements should be submitted concurrently for future review and approval action as program amendments. We will not be able to evaluate compliance with requirements of CZMA Sections 305(b)(8) and 306(c)(8) in the absence of specific statewide geographic information for all State program segments.

This will be done, however, specific sites for energy facilities need not be outlined in the 305(b)(8) element.

988.

Policies and findings of Policy 7.4.2, pg. 134; Policy 7.4.8, pg. 144; and the discussion of uses of regional benefit, pg. 192 are based on findings that new Mid-Atlantic OCZ oil production is not expected to require new refinery capacity. Program should reflect greater awareness, that the actual level of OCS oil and gas resources is matter of great uncertainty and that production of oil and gas may be either much less or much greater than current expectations.

See revised policy 4.4.9. A new rationale has been added, which reflects this concern.

989.

More specific geographic information is needed concerning Policy 7.4.7. beginning at pg. 141, for pipelines and associated facilities in order to select alignments which would be considered consistent with the CZM program.

Disagree. This policy is adequately specific. Each pipeline will need to be evaluated based on the policies of the program.

990.

The State should further define its policies and legal authorities with respect to recognition of energy facilities siting as uses of national interest and regional benefit. Consideration of national interests should include documentation that policies may not be limited by authorities restricting State's concerns to limits of social, cultural, economic, or environmental well-being exclusively of the citizens of the State of New Jersey. We believe the statements should be deleted or carefully revised so that the policy statements do not seem to contradict intent to consider national interests.

See General Question A and General Question D.

991.

Uses of regional benefit should apply as part of the management program to all energy facilities capable of meeting a test as providing benefits to more than one unit of local government (Sec. CFR Part 923.13) and within the scope of the definition of energy facilities contained in CZMA Section 304(5). DOE would recommend against approval for elements and segments of the NJ Program which limited consideration of energy facilities as uses of regional benefit to a scope less than that defined in Section 304(5).

CZMA regulations 923.13 do not require uses of regional benefit to include all energy facilities nor all facilities identified as in the national interest. See clarified definition of uses of regional benefit in Chapter 6.

yy2.

Regulations pertaining to implementation of the energy planning and facility siting process element should be made available for Federal review and comment when the program amendment is submitted for approval. A timetable should be established for promulgation of final regulations prior to final action approving the amendment.

A timetable has been added in Chapter 8. The energy planning process requirement 306(b)(8) will be submitted with the remainder of the state program in 1979.

993.

Policy 7.4.13, pg. 145, fails to provide criteria in sufficient detail to allow evaluation for consistency with the licensing standards of the NRC. We recommend that the program be revised in order that the State's policies are not in conflict with the authorities of the NRC.

After a thorough review, OCZM has determined that revised policy 4.4.13 is consistent with the CZMA and not in conflict with Nuclear Regulatory Commission Laws in Regulations. See also response to NRC comments.

994.

a. Policy 7.4.13 should be redrafted to insure that land use regulation implementing the CAFRA authorities do not result in implied regulation of matters of nuclear safety, which are the responsibility, of the NRC.

Revised policy 4.4.13(d) clearly ensures that CAFRA land use decisions do not result in matters of nuclear safety which is the responsibility of the NRC.

995.

b. the State should identify its authorities concerning assessments of need for power and related utility regulatory authorities and seek to avoid policies which would appear arbitrary and unreasonable unless applied in context of the administrative record related to the siting of a particular facility.

The State's Energy Master Plan will establish criteria for determining need for energy facilities. The Plan is scheduled for adoption in October 1978.

996.

We believe that N.J. should modify the LNG policy stated in Policy 7.4.14, pg. 146. Reference to a petition for issuance of siting criteria should be modified in the following respects:

a. Federal consistency should not be tied to a petition for rulemaking action for siting criteria to be issued by FERC. FERC fully evaluates each project reviewed for licensing action and develops an administrative record specific to the project which would provide adequate basis for consistency evaluation.

Agreed. The revised policy 4.4.14 removes this tie.

Comment

Response

DEPARTMENT OF ENERGY - Cont.

- b. Recognition should be afforded to relevant authorities of various concerned Federal agencies, especially DOT and DOE. Actions by FERC are not the only Federal actions which may require consistency certification.
- c. State concerns regarding consideration of safety in federal regulatory proceedings and ongoing rulemaking actions related to LNG facilities should be stated in the appropriate participation forums provided in all regulatory and rulemaking actions.

DOE shares the basic concern of Policy 7.4.14, pg. 146, that risks of LNG operations should be minimized. The energy planning process element should make a specific appraisal of the extensive consideration already given to safety and environmental concerns. If the State still has specific concerns, they should be stated in the energy element for Federal review. In the interim, Policy 7.4.14 should be restated to indicate intent to make a further analysis of LNG issues.

Fig. 178 - the Federal Energy Administration has been listed twice among the list of agencies consulted on national interests in energy production and transmission.

There are several errors concerning the license and permit responsibilities of DOE on pg. 189. Regulation of nuclear power plants is a responsibility of the NRC which is not part of DOE. The Economic Regulatory Administration has authority to issue orders concerning use of coal in power plants. There is no agency within DOE that directly licenses construction of fossil fuel power plants. We suggest the following amendment:

- Dept. of Energy
 Economic Regulatory Administration
 - Orders granting permission for importation of liquified natural gas.
 Federal Energy Regulatory Commission
 - Licenses required for construction and operation of non-Federal hydroelectric facilities and associated transmission lines.

Agreed. The revised policy 4.4.14 corrects this mistaken impression

See the detailed discussion of the state role provided in response to FERC comments on this issue.

Agreed. Appropriate changes have been made to revised policy 4.4.14. See also response to FERC comments.

The FEA was consulted prior to the establishment of DOE.

These changes have been incorporated in Chapter Six, Federal Consistency Section.

Comment

Response

DEPARTMENT OF ENERGY - Cont.

- Certificates required for construction and operation of interstate natural gas pipelines and associated facilities, including facilities needed for importation of LNG.
- Permission and approval required for abandonment of natural gas pipelines and associated facilities.

1000. Reference Figure 23, pg. 241 should be revised. DOE received staff issue papers and Coastal Management Strategy, attended the November 21, 1977 meeting on this document, and met individually with N.J. DEP-OCZM staff during program development.

1001. DOT responsibilities are divided between the Coast Guard and the Office of Pipeline Safety Operations pursuant to a Memorandum of Understanding. The Coast Guard has responsibility for LNG facilities with regard to management of vessel traffic and other matters pertaining to the facility between the LNG vessel and the last manifold immediately before the LNG receiving tanks. The Office of Pipeline Safety Operations has responsibility for matters pertaining to an LNG facility beyond (and including) the last manifold valve immediately before the receiving tanks.

1002. DOE responsibilities related to LNG facilities encompass the ERA and FERC. ERA has authority to issue opinions and orders granting permission to import LNG from foreign sources. FERC has jurisdiction over certificates for construction and operation of interstate natural gas pipelines and associated facilities, included facilities needed to import LNG.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

1003. We find no objection to approval by the Secretary of Commerce of the State's program segment and application for 306 administrative funds subject to the following clarifications and conditions.

1004. The plan should provide for assessing the cumulative impacts and efforts emanating from permit s and developments drawing on the same or contiguous resources.

These changes have been made on revised figure 23.

Revised policy 4.4.14, rationale has indicated these changes.

These changes have been made in revised policy 4.4.14 and revised chapter 6, federal consistency section.

No response necessary.

See general question E.

Comment

Response

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT - Cont.

1005.

We recommend that the preparation of the Delaware River and Hudson River/wetland segment of the New Jersey Coastal Management Program be fully coordinated with the State of Delaware, Pennsylvania and New York.

There has been continuous coordination between the four states during program preparation for the program. This will continue during the preparation of the entire state program.

1006.

The State coastal management plan states that as their policy "construction is acceptable in flood hazard areas if such construction conforms with applicable flood hazard reduction standards as adopted by the FIA in HUD." This raises the question of whether the state plans to review a permit from a municipality to ensure that its flood plain management measure are met before approving the proposal?

No. The state will only become involved if the action requires a permit under any one of the Acts which comprise the program. Actions requiring a state permit will need to conform to the requirements of policy 3.2.12.

a. Does the State plan a municipality to ensure that the municipality's flood plain management measures are met before approving the proposal?

This has been referenced in revised policy 5.23.2.

1007.

Section 6.4.4.1 - "Flood Hazard Areas Definition" should reference the FIA mapping effort for the CAFRA area.

This has been incorporated in policy 5.23.2.

1008.

The reference of the FIA regulations in D should include the phrase "as amended" after the citation to ensure that communities are not misled as to which are the latest FIA regulations in effect. In addition, the work "adopted" should be changed to "promulgated."

U.S. DEPARTMENT OF THE INTERIOR

1009.

We believe that this segment of the New Jersey Coastal Management Program is a potentially excellent program

No response necessary.

1010.

We are concerned that the proliferation of small development projects along the New Jersey coast which are not subject to State permitting authority will result in cumulative adverse environmental impacts.

See general question E.

U.S. DEPARTMENT OF THE INTERIOR - Cont.

1011.

State should develop and describe in the final program the procedure it will use to provide runoff and siltation protection to regulated wetlands.

This state's soil and sediment control law requires adequate measures to prevent runoff and soil erosion from construction throughout the state. Policies dealing with soil runoff and siltation (Policies 6.6) have been revised to clarify this concern.

1012.

While New Jersey has completed a number of resource inventories, additional work should be initiated to build a more comprehensive data base related to subaquatic vegetation, artificial reefs, fisheries, surfclam and shellfish areas, and fish, wildlife and endangered or threatened species habitat.

New Jersey has an adequate data base for coastal decision-making. A majority of the policies reference the data base from which they were established. During the first year of program approval, the state plans to expand its existing data inventory.

1013.

Policy 7.4.2 encourages OCS-related facilities to locate in developed areas where infrastructure and labor markets exist. Some clarification should be provided here to more explicitly detail which facilities are recommended for the Bay and Shore Segment and which should be directed to the other New Jersey segment.

The general planning process - see policy 4.3.3 - combined with specific policies on the various facilities provide considerable detail. Other policies specifically exclude facilities from the segment - e.g. refineries (4.4.9).

1014.

Mineral deposits may or may not be located adjacent to existing operations. A policy designed to restrict new mining to sites adjacent to existing operations may be unreasonable where mineral deposits do not exist on adjacent sites or where mineral deposits do not exist on adjacent sites or where other environmental or land use considerations have limited the expansion of existing mining activity.

Comment

Response

U.S. DEPARTMENT OF THE INTERIOR - Cont.

1015.
Policy 6.4.4.2 discussed on page 59 must be clarified to indicate that it is directed toward fluvial flood hazard areas and toward the coastal floodplain.

1016.
Policy 7.4.7 should be revised to reflect that pipeline corridors shall also avoid wetlands of value to fish and wildlife.

1017.
We recommend that the State develop a regulatory mechanism to insure that saltmarsh mosquito control activities will comply with the approved coastal resource policies during the first year of program implementation.

1018.
The State should examine policy 7.4.11 to assure its coordination with the State Master Energy Plan.

1019.
The State should use the public health, safety and welfare language in the final interagency agreement which should be in effect prior to Federal approval. There exists no mechanism which the State can use to insure that local governments take the national interest into consideration when making siting decisions concerning certain energy facilities.

1020.
That portion of the document which discusses areas for preservation or restoration (APR's) describes various State agencies and their respective authorities to purchase or protect certain areas. What is needed in the final NJCMP is a more complete description of the process and the criteria that the State will use to designate APR's.

Revised policy 3.2.12 has been clarified that it applies to all shorelines in the area that are eroding or have had a history of eroding. These areas extend inland to the first cultural feature, established dune field or areas that are likely to be eroded in the next 50 years. Flood plains are addressed in revised policy 3.4.2.

This has been added in revised policy 4.4.8.

The state will investigate the possibility of establishing a regulatory mechanism for mosquito control in the first year of program approval.

Revised policy 4.4.12 is consistent with the Energy Master Plan.

Section 4(b) of the revised MOU has incorporated the national interest as part of the consideration process. NOAA regulations provide that under a direct state control technique, only the state must establish a mechanism for consideration of the national interest. The MOU is in effect and the public welfare clause of CAFRA has been defined in Chapter 4, Section 1.1 as including consideration of the national interest. Chapter 4 has been promulgated as DEP Administrative Rules.

APR's in New Jersey include land under the Natural Area System and the Wild and Scenic Rivers Act. The process for their designation is established in State law. Detailed discussion in this document would add unnecessarily to the length of the document.

Comment

Response

U.S. DEPARTMENT OF THE INTERIOR - Cont.

1021.
The Department endorses the designation of wetlands, wet sand beaches and the Higbee Beach - Pond Creek Meadow Area as geographic areas of particular concern. However, the final document should more clearly explain how this designation will prevent the piecemeal development of the Higbee Beach - Pond Creek Meadow Area.

1022.
We recommend that buffer zones be developed around GACP's.

1023.
On page 189, we note that the State proposes to review permits and licenses for geological and geophysical exploration on the OCS. We do not believe that any of the geological or geophysical exploration activities, most of which are conducted many miles offshore, potentially effect the coastal zone. The large volume of permits for such activities may present an administrative burden to the State, and they may wish to reconsider this listing.

1024.
On pg. 49, the reasons for allowing cable routes in high risk erosion areas and not pipelines should be clarified. Trenching which is applicable to pipelines may also be required for underwater cable routes.

1025.
On pag. 43, 6.3.6.14 and 6.3.6.16, cable routes and pipeline routes may be similar enough to cover in one category. The different treatment in Figure 5, pg. 45 between cable and pipeline routes may not be justified in terms of water acceptability.

1026.
On pg. 181, we commend New Jersey for identifying Sandy Hook as a national recreational resource. We also believe that the program should recognize the role of littoral drift and groin placement and should develop techniques to maintain the integrity of Sandy Hook.

The state is in the process of acquiring the lands which comprise the Higbee Beach - Pond Creek Meadow Area utilizing Land and Water Conservation Funds. When completed, the piecemeal development of Higbee beach will greatly be reduced.

Buffers zones around GACP's are not a requirement of the CZMA, but are encouraged by policy 5.15.

The state has chosen to review these permits and licenses for OCS geological and geophysical exploration. The state will reevaluate this position after the first year of program approval after they are able to determine the volume of permit necessary for review.

See revised policy 3.2.12 and revised water acceptability tables for clarification on cable routes.

The water acceptability tables list different conditions for cable routes and pipelines in guts and canals. It is appropriate that these remain separate.

Sandy Hook is excluded federal lands thus N.J. policies on littoral drift do not directly apply to this area of the state. The program does recognize the role of littoral drift. See policies dealing with water areas policy 3.3.

| Comment | Response |
|---|--|
| <u>U.S. DEPARTMENT OF THE INTERIOR - Cont.</u> | |
| 1027. On pg. 185, the responsibility for administering the National Historic Preservation Act of 1966 as amended has been changed from the National Park Service to the Heritage Conservation and Recreation Service. This should be changed under the section "Historic Sites and Districts and Areas of Unique Cultural Significance." | This has been changed in Chapter 6, National Interest Section. |
| 1028. On pg. 188, the document states that management of national wildlife refuges and proposed acquisitions will be subject to Federal consistency determinations. Significant changes in wildlife refuge management practices will be subject to consistency only if they have a "spillover" impact. The document should be changed to reflect this. | This is correct. This concern has been addressed in the Federal consistency section of Chapter 6. |
| 1029. The Heritage Conservation and Recreation Service feels that the New Jersey Coastal Management Program Bay and Ocean Shore Segment (NJCMP/BOSS) is basically a sound and comprehensive document in consideration of the magnitude of social, natural, and cultural resource complexities which had to be addressed and resolved. | No response necessary. |
| 1030. We were pleased with referenced program coordination with New Jersey's Statewide Comprehensive Outdoor Recreation Plan and the Nationwide Plan effort. However, the Statewide Comprehensive Historic Plan and Survey should be consulted for program coordination and preparation, and referenced in the appropriate sections if utilized. | Coordination with the statewide comprehensive historic plan and survey is an ongoing process that will continue during the first year of program implementation. This coordination process has been outlined in Chapter 6. |
| 1031. We believe the State's decision to carry out the coastal management program by "direct state controls" is a wise approach. | No response necessary. |
| 1032. It is recommended the Shipwrecks and Artificial Reefs Section (6.2.7.1 Definition, page 37) be expanded to include the specific listings of known shipwrecks and artificial reefs. In addition, the "National Register" should be noted as a source of information for shipwreck identification besides the referenced publications. | The Program has added a reference in Chapter Six to the <u>National Register</u> as a source of information on shipwrecks. |

| Comment | Response |
|---|---|
| <u>U.S. DEPARTMENT OF THE INTERIOR - Cont.</u> | |
| 1033. 6.2.7.2 Policies (pg. 37), the last sentence of second paragraph should be expanded to read as follows: "Federal management of shipwrecks outside of the coastal boundary should be consistent with state policies (and federal historic preservation legislation) developed for shipwrecks within the boundary." | This is not a requirement of the CZMA since this area is outside the state's coastal zone. |
| 1034. 6.2.8.2 Policy (page 38), the second sentence should be expanded to read "...habitat areas, species areas, research areas, recreational, "esthetic, (by adding) and cultural/historic areas." | The criteria set out under policy 3.2.9 is the criteria for designation of a marine sanctuary set out by NOAA. To add cultural/historic areas would be inconsistent with NOAA's criteria. |
| 1035. "Water Acceptability Table" (pg. 45), under item "4, Docks and Piers" the water categories have been assigned a "C" (Conditionally Acceptable) or "D" (Discouraged classification). We believe many of the "C" categories should be donated as "E" (Encouraged) with individual project selection and approval made within sensible and reasonable environmental discretion. | These additions add greatly to the predictability of the permitting program. These designations are reasonable and based on sound planning practices. |
| 1036. 6.4.5.1 definition (pg. 60), this section makes reference to the "National Register of Historic Places" and its administration by National Park Service (NPS). This reference and all others in the coastal program should be changed in accord with the transfer of duties and responsibilities between HCRS and the NPS. | This has been clarified in policy 3.2.15. |
| 1037. 6.4.5.2 Policy, it is recommended this policy statement be expanded to require consultation with the Advisory Council on Historic Preservation and the State Historic Preservation Officer should proposed development be adverse to cultural resources. | The state presently coordinates with the State Historic Preservation Officer on any development that may effect historic areas. Consultation with the Advisory Council would be too burdensome. |
| 1038. 6.4.5.3 Rationale, the first sentence makes reference to "representative and unique historical and archeological (cultural) resource. ..." It is unclear as to what constitutes "representative" or "unique." We recommend these references be more clearly defined. | The terms representative and unique are sufficiently clear when read in light of the policy. |

Comment

Response

U.S. DEPARTMENT OF THE INTERIOR - Cont.

1039.
"Beaches Policy". The elimination of paving automatically restricts those individuals confined to wheelchairs from using the sandy beaches. In addition, recreational support facility development such as comfort stations are necessary structures where public use is encouraged. We also note these policies are in direct conflict with the policies stated on page 135, "7.3 Resort/Recreational Use Policies, 7.3.1 and 7.3.2." These sections encourage facilities for the "physically handicapped" and recreation in the development design. It is therefore recommended the "Beaches Policy" section on pg. 71 be changed to coincide with the "Rationale" under "Resort/Recreational Use Policies" on pp. 135 and 136.

1040.

"6.11 General Location Policy" (Pg. 131) - Item "(c)" should be expanded to read "...preserve, protect and enhance the natural environment" (by adding) "and cultural resources."

1041.
We recommend the inclusion of requirements under 7.5.5.

1041.
"Division of Parks and Forestry" (pg. 169), this section should be expanded to describe in more detail the responsibilities of the Office of Historic Preservation and include appropriate reference to the Statewide Comprehensive Historic Preservation Plan and Survey.

1042.
"Recreation" (1st paragraph, pg. 181) - this section has two incorrect statements. Reference was made to "the Historic Preservation Act of 1966, as amended." In the last sentence it is stated "...Bureau of Outdoor Recreation and its successor National Heritage Program." Reference to "its successor" should be changed to "Heritage Conservation and Recreation Service."

1043.
On pg. 185 in the first paragraph, there are three changes required:

a. In referring to "The national interest in historic sites and districts..." this should be changed to read "The national, state, and local interests in archaeological and historic sites and districts."

Revised policy 3.2.10 deals with beaches, however, the state feels that there should not be paving on beaches. Also the state feels that comfort stations should not be built back from the beach. This policy is not in conflict with the resort/recreational policies.

This language is drawn from the CAFRA statute and can only be modified by the state legislature.

No response necessary. See revised policy 4.5.5.

This is adequate to meet the requirements of the CZMA.

These changes have been made in Chapter 6, National Interest Section.

This change has been made in Chapter 6, national interest Section.

Comment

Response

U.S. DEPARTMENT OF THE INTERIOR - Cont.

b. Reference to the Natural Historic Preservation Act of 1974 should be changed from "(P.L. 93-29)" to "(P.L. 93-291)".
c. Reference to the "National Historic Preservation Act of 1966 (Executive Order 11593)" should be changed to "National Historic Preservation Act of 1966, as amended." Executive Order 11593 is an incorrect reference.

1044.

On pg. 196 in the last paragraph, it is stated in the second sentence "The Commissioner of DEP, the State Historic Preservation Officer, may approve nominations of publicly or privately owned areas and sites for inclusion on the Register." In the case of the National Register of the SHPO "submits nominations" for consideration to the "keeper of the Register" who determines if approval should be granted. This differentiation in responsibilities should be corrected.

1045.

We do not recommend expansion of the impact statement unless it eventually becomes an independent document.

This change has been made in Chapter 6, national interest section.
This change has been made in Chapter 6, national interest section.

This change has been made in Chapter 7, APR section.

No response necessary.

Comment

Response

U.S. DEPARTMENT OF TRANSPORTATION

1046.

The overall approach that New Jersey has taken in presenting their plan is excellent, and their staff should be commended for their perceptiveness.

1047.

We suggest that the FEIS discuss the effect of the noise on activities and compatible land uses in the coastal zone.

1048.

The plan should discuss provisions for controlling and cleaning up oil spills and other potentially hazardous materials, such as industrial chemicals, which could have a serious effect on the coastal environment.

1049.

One condition for the construction of docks and piers (pg. 47) should be that the structure not obstruct navigation. Similarly, overhead transmission lines that cross waterways (pg. 49) should not interfere with navigation.

1050.

The requirement (pg. 187) to "notify DEP of all proposed activities or projects on federal lands which may have an impact on the Segment..." is not mandated by the CZMA and will create a notification process for minor projects that do not require a consistency determination. It should be noted that Federal agencies provide a consistency determination, not a notification, and only for projects with a significant impact.

1051.

N.J. puts the burden on federal agencies to "alert all potential applicants for permits of the need to obtain a DEP consistency certification" (pg. 188). This will not be possible for all bridge permit actions since the number of potential applicants in the private sector is virtually unlimited.

1052.

The DOT coordinates with the State Historic Preservation Officer, as required by regulations under the National Historic Preservation Act, for proposed DOT projects that affect properties listed on or eligible for the National Register of Historic Places. We would like to know the legal basis for this requirement and would appreciate an explanation from New Jersey of the procedures involved.

No response necessary.

Suggestion has been noted by OCZM and the state, although this is not a requirement of the CZMA or NEPA.

Revised Chapter 5, Office of the Commissioner outlines the New Jersey Spill and Compensation Act and in addition, Appendix B references a DEP publication on oil spills: *Reactions and Responsibility*.

Revised policies 3.3.7 and 3.3.7.15 have included this concern.

Revised Chapter 6 clarifies that Federal agencies provide consistency determinations not a notification. The DOT will only need to issue a consistency determination on those activities listed in Chapter 6, Federal consistency section.

A Federal applicant is encouraged to consult with NJ/OCZM on all bridge permits, but DEP wants to review all bridge permits.

The legal basis is the National Historic Preservation Act. If DOT means something else, the State will be pleased to clarify this answer.

Comment

Response

U.S. DEPARTMENT OF TRANSPORTATION - Cont.

1053.

N.J. misinterpreted one of our comments on the Coastal Management Strategy to be a suggestion that they become involved in commercial vessel safety (pg. 244). We only asked that they discuss aspects of their program other than land use regulation. Finally, we would like to reiterate the question that is not answered on pg. 246 concerning the procedures that the State intends to follow to gain access to Federal oceanfront lands.

1054.

The overall approach that N.J. has taken in presenting their plan is excellent and their staff should be commended for their perceptiveness.

U.S. ENVIRONMENTAL PROTECTION AGENCY

1055.

The NJCMP-Bay and Ocean Shore Segment is a significant attempt to provide a systematic guide for developers and others interested in New Jersey's coastal zone.

1056.

We are concerned that the NJCMP-Bay and Ocean Shore Segment does not incorporate policies reflecting the need to integrate the air and water requirements established pursuant to the Clean Water Act (CWA) and Clean Air Act (CAA).

1057.

We urge the NJCMP to incorporate other elements of the CWA, including the environmental guidelines for dredged and fill materials being developed pursuant to section 404(b), the regulatory aspects of 208 plans, and section 403 ocean discharge criteria.

1058.

The NJCMP, and its coastal policies, must also be able to incorporate any subsequent changes to CWA (or CAA) or revisions to water quality standards, 208 plans, (and state implementation plans established pursuant to CAA).

1059.

The NJCMP must detail the efforts being made to coordinate its coastal planning with applicable water and air quality planning. Documentation of this coordination is notably lacking in the DEIS.

Thank you for pointing out our misinterpretation. Where appropriate, the state will work with Federal agencies to gain access to Federal oceanfront lands.

No response necessary.

No response necessary.

These two acts have been incorporated by reference in the program. See policies 5.3.1 and 5.10.1 which address these two acts.

The state will incorporate 208 plans when completed as amendments to the program. The state will consider incorporating sec. 404(b) guidelines when completed. The state also will consider incorporation of sect. 403 criteria during the first year of program approval.

Through the amendment process outlined in 15 CFR 923.81, changes to the program can be incorporated when necessary.

The Coastal Program and the Water Resources Division and Division of Environmental Quality have met continuously during the program's preparation.

| Comment | Response |
|---|---|
| <u>U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.</u> | |
| 1060. The potential of the air and water quality programs to assist the NJCMP in controlling development and protecting significant coastal resources has not been fully realized through close cooperation. | See above response. |
| 1061. The EPA is concerned that the coastal policies relating to air and water quality have been made without due consideration of the conditions in the other segments and without coordination with the other segments. | The Clean Air and Water Acts have been incorporated by reference into the program. The program will incorporate both Acts in the remainder of the state program. This segment has addressed coastal policies relating to air and water quality both in this segment and the remainder of the state. See revised section 3.4, Chapter 4. |
| 1062. We urge the NJCMP to include regional water treatment plant within the definition of facilities in the national interest. Because section 307(f) of the CZMA mandates the incorporation of the requirements of the CAA and CWA into the plan, the FEIS for the NJCMP must also provide that, in the siting of national interest facilities, the national interest is not used to evade the air and water quality requirements. | The national interest for regional water treatment is addressed by the water section, National Interest Section of Chapter 6. |
| 1063. The NJCMP's language preceding the list of licenses and permits (p. 188) appears to imply that only activities which must also obtain a state permit are subject to consistency. Echoing the internal activities of a state is not the sole intent of the consistency provision. | Disagree. The Federal consistency regulations require that Federal agencies do not have to evaluate coastal zone effects for which the management program does not contain mandatory or recommended policies because in the absence of such provisions there is no basis for making a consistency determination. See 930.39. |
| 1064. The FEIS should consider use of a mechanism to prevent cumulative impacts of housing developments with less than 25 units, and commercial facilities. | See general question E. |
| 1065. The EPA is not satisfied that the NJCMP-Bay and Ocean Shore Segment has adequate authority to insure that development will be in conformity with coastal policies. | See general question A that addresses the question of adequate legal authorities. |

| Comment | Response |
|---|---|
| <u>U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.</u> | |
| 1066. Since NJCMP's management system is designed around the Coastal Area Facilities Review Act -- from which commercial facilities and housing developments of less than 25 units are excluded-- significant cumulative impacts of small scale developments would be ignored. | See general question E that addresses cumulative impacts. |
| 1067. In addition, because it is primarily intended for CAFRA-type facilities, the NJCMP provides very little guidance to local governments regarding developments not covered by the NJCMP. | The program has been submitted as a technique B (Section 306e (IXB) state under the CZMA. This technique doesn't require a state to give guidance or direction to local governments in order to control activities that have a direct and significant impact on coastal waters. |
| 1068. The NJCMP's management system also appears to have no means of insuring that the actions of other state agencies will be consistent with coastal policies. | See general question D. |
| 1069. Discussion on pg. 7 of the importance of water quality to the coastal ecosystem should also include air quality and the interrelation of the two to the vitality of coastal ecosystem. | For this segment of New Jersey Coastal Program, air quality is not a major issue. This will be discussed when the remainder of the state program will be submitted early in 1979. |
| 1070. We fully support NJCMP's general policy to protect the coastal ecosystem, and to prohibit or discourage uses that would contribute to the violation of applicable surface and groundwater quality standards. | No response necessary. |
| 1071. Compliance with applicable effluent limitations and water quality standards does not fully satisfy CZMA section 307(f)'s mandate that the "requirements" established pursuant to the Clean Water Act (CWA) be incorporated into CZM programs. Such a narrow interpretation of "requirements" runs contrary to intent of Congress which envisioned "effluent controls, emission controls, and land use regulations to control air and water pollution" as "requirements." NJCMP's consideration of only limitations and standards does not meet the statutory intent. | NOAA feels that New Jersey has gone beyond the requirements of the Clean Water Act for establishing effluent controls, and land use regulations. For emission controls, New Jersey uses the definition of requirements as outlined in the Clean Air Act. |

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1072

EPA urges the NJCMP to detail those efforts that are being made to coordinate its coastal zone planning with the water quality planning being conducted by the Division of Water Resources pursuant to section 208 of the CWA.

1073

EPA recommends that the coastal plan explicitly state that coastal planning activities must be coordinated with 208 planning for both point and non-point sources.

1074

The NJCMP makes no mention of guidelines to govern the discharge of dredged or fill materials when it sets out those policies which will govern dredged spoil disposal in the coastal zone.

1075

Commercial and industrial development criteria should be revised to include a consideration of waste compatibility between the proposed industry and the receiving treatment facility.

1076

Policy should be revised to make the overall protection of groundwater quality a central program concern. The value of sole source aquifers should be specially noted.

1077

Policy 7.5.7. should be altered to reference the guidelines being developed pursuant to the Resource Conservation and Recovery Act (RCRA).

1078

The NJCMP should coordinate with the Solid Waste Administration's solid waste management plan.

1079

"Solid waste" should be entered in the NJCMP as a national interest alongside air and water.

1080

The policy on solid waste (8.16.1, pg. 161) should include examination of proposed coastal zone projects in terms of waste type and volume expected, disposal method employed, and effects on disposal sites.

This is sufficiently detailed in Chapter 5 under the Division of Water Resources. Details of past meetings are available from DEP.

This has been addressed in revised Chapter 5, under Division of Water Resources.

Revised policy 3.3.7.5 outlines new procedures for dredging, and combined with the water acceptability table provide adequate guidance on dredging in the segment.

This is addressed in the opportunity policies for land based activities. See revised policy 3.5.5.

No sole source aquifers have been designated in N.J. When they are designated this policy will be revised.

See policy 5.16. which references this Act.

The program does coordinate with the Solid Waste Master Plan. This has been referenced in chapter 5.

The state feels that solid waste is a local and state concern, not national.

This has been incorporated into revised policy 5.16.

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1081

Does the policy on steep slope development (6.4.10.2, pg. 65) apply to proposed sanitary landfill operations?

1082

The policy on air quality should more clearly recognize that both the location and type of facilities within the coastal zone can have various direct (through their emissions) and indirect (though emissions from induced secondary developments) effects on coastal air quality. More specific procedures for coordinating the NJCMP and the state implementation plan (SIP) should be developed.

1083

The NJCMP should clearly lay out the location of nonattainment areas in all segments of New Jersey's coastal zone. BOSS should not establish policies concerning the siting of industrial and energy facilities in a vacuum; they should carefully consider the air (and water) quality implications of these policies on the present air (and water) quality conditions within all segments of N.J.'s coastal zone.

1084

Policy 8.10.1 should be modified as follows: "Coastal development shall conform to all applicable state and federal emissions regulations, ambient air quality standards, prevention of significant deterioration criteria, nonattainment criteria, and other regulations or guidelines established pursuant to the federal Clean Air Act, as amended in 1977. Revisions to the SIP or amendments to the Clean Air Act will be reflected in the coastal policies, as necessary."

1085

The NJCMP should include in the rationale for its air quality policy a discussion of the possibility for emission tradeoffs to allow the siting of new facilities in nonattainment areas of N.J.'s coastal zone.

1086

EPA finds the lack of mention of specific coordination procedures between the NJCMP and the N.J. SIP, implemented by the Division of Environmental Quality, inadequate (pp. 157-158, 169). This should be corrected in the FEIS.

Yes, all landfill operations are covered by CAFRA; thus the steep slope policy applies.

The Bureau of Air Pollution Control within DEP reviews and comments on various direct and indirect sources of air pollution subject to the permit decision of the coastal program. The SIP has been incorporated by reference and coordination is mandated by the Commissioner's letter.

Alternative siting policies were considered in the formulation of the policies.

Reference to guidelines and regulations of the Clean Air Act has been added to revised policy 8.10.1.

This has been added to revised policy 8.10.1.

This has been clarified in revised policy 8.10.1.

| Comment | Response | Comment | Response |
|--|---|--|--|
| <u>U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.</u> | | <u>U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.</u> | |
| 1087 EPA encourages the NJCMP-Bay and Ocean Shore Segment to develop specific policies on noise and pesticides within the coastal zone and procedures for coordinating with the Division on Environmental Quality. | While not a requirement of the CZMA, the state will consider these concerns in the first year of program approval. | 1095 EPA commends the NJCMP policy concerning solid waste conservation and recycling (pg. 147). | No response necessary. |
| 1088 The three tiered screening process consisting of Coastal Location Acceptability Method (CLAM) policies, and resource policies is a convenient system for both program staff and coastal developers. The definitions, policy statements, and rationales are clear and should provide much guidance. | No response necessary. | 1096 EPA takes exception to the broad policy statement concerning recreation (7.3.1, pg. 135). It does not believe that highest priority should necessarily be reserved for "those uses that serve a greater, rather than lesser, number of people (pg. 135). This policy reflects the need for a diversity of recreational experiences, including high, middle and low density types. The importance of preserving certain low density recreational areas cannot be underestimated, especially because many such areas are rapidly disappearing. | Policy 7.3.1 doesn't advocate only intensive recreation. It advocates a balance or recreational needs in the coastal zone. |
| 1089 How will the NJCMP address the cumulative impacts of small projects not covered by CAFRA? | See general question E. | 1097 EPA requests clarification on why the NJCMP discourages boat ramps placement adjacent to medium depth back bays, yet conditionally accepts them for shallow semi-enclosed bays and shallow back bays. (pg. 46). | See revised water acceptability table, chapter 4. Boat ramps in back bays and semi enclosed bays are now additionally acceptable. |
| 1090 NJCMP should develop CLAM policies that specifically address development that would take place on lands immediately adjacent to wetlands and riparian lands. | These policies have been developed as part of the upper edge policies. See policies 3.4. | 1098 EPA is concerned about a NJCMP policy that appears to encourage development on the Central Barrier Island Corridor (6.4.3.2, pg. 55). These policies do not seem to reflect consideration of increased costs of providing public services to the increasing numbers of people on barrier islands. The carrying capacity of these areas, and the impacts and costs of exceeding it, must be recognized in the coastal policies. | Policy 5.2.8 limits the height of coastal development, thus limiting sharp increases in density on developed barrier beaches. The increases in infrastructure on barrier islands will be carefully monitored to ensure that the carrying capacity is not exceeded. |
| 1091 Clarification of how the NJCMP would prevent individual housing construction on coastal dune is needed. Although the dune policies are commendable (6.4.2.2, pg. 55), EPA finds that the Coastal Program has no way of stopping small developments on dunes. | This is correct. The program has established threshold permit limit for reviewing activities that have a direct and significant impact on coastal waters. This is consistent with the requirements of the CZMA. See general question E for further clarification. | 1099 The EPA commends the NJCMP's Public Facility Use Policy (7.5, pg. 147) which conditions new or expanded public facility development on need and the unavailability of alternative technologies for meeting the need. | No response necessary. |
| 1092 The cumulative air quality impacts of a series of small developments have not been addressed. The EPA strongly urges that the NJCMP be revised to include the legal authority to regulate and plan for such uses. | See general question E. | 1100 BOSS provides no assurance that other state agencies -- outside of DEP -- with the exception of N.J.'s Dept. of Energy (DOE), will be legally bound by coastal policies. | See general question D. |
| 1093 EPA commends the NJCMP for its stipulation that new marinas provide adequate marine sanitation pump out stations. | No response necessary. | 1101 The relationship between the NJCMP and the Energy Master Plan being prepared by DOE should be firmly established. | See general question D for clarification of the MOU. |
| 1094 EPA urges that the NJCMP espouse policies that avoid the creation of deep dead-end marina harbors with poor flushing characteristics. | New Jersey espouses such policies through location policy 3.3.7.6 which generally discourages new dredging and through resource policies relating to water quality. | | |

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1102

The NJCMP and the MOU fail to discuss the criteria which will guide the Energy Facility Review Board when it is called upon to resolve a DEP coastal energy facility permit application appealed by DOE.

1103

Significantly absent is DOE's distribution of funds under the CZMA's Coast Energy Impact Program (CEIP). The MOU should be amended to clearly reflect the fact that allocations of CEIP funds should be consistent with the goals and policies of the NJCMP.

1104

The EPA strongly urges the NJCMP to change its beach policy from one that discourages development that unreasonably restricts access to beaches to one that prohibits such development. Unreasonable restriction of beach access should be grounds for denying such development.

1105

EPA would also like the NJCMP to add a clarification statement concerning its policy on the construction of hotels and restaurants along retained water's edges (6.5.3.3, pg. 78).

1106

EPA strongly supports the NJCMP policy discouraging development in flood hazard areas (6.4.4.2, pg. 59) and wetlands (6.5.1.2, pg. 69). The Coastal Program should reference President Carter's Executive Orders on Floodplain Management (Executive Order 11988) and on Wetlands (Executive Order 11990), as well as the guidelines for implementing these orders.

1107

The EPA supports the NJCMP policy encouraging development that creates open space. The EPA recommends, however, that the NJCMP state how it will implement this policy.

1108

It is suggested that the FEIS discuss the authorities that the other segments will rely on and the procedures for combining the segments, with a timetable.

The MOU has been revised to provide such data and criteria.

The CEIP regulations specify that all funds allocated under the CEIP program, must be consistent with the coastal program. See 931.25.

The program must review each development application on a case by case basis. Only certain types of development in specific areas can be prohibited under N.J. State law.

The language in revised policy 3.4.3.2 has been changed slightly to clarify the policy.

These references have been added to the respective policies and the national interest section, Chapter 5.

This is outlined in policy 3.2.20, 3.4 and policy 5.1.3.

See revised chapter 8 for timetable and discussion of authorities in the remainder of the coastal zone.

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1109

The EPA is concerned about Areas of Particular Concern (APC). APCs should be designated based on inventory of coastal resources to determine which areas need special management. That is, the management system should be tailored to meet the areas; areas should not be designated because of the existence of a management system

1110

The EPA also requests clarification of the disposition of public nominations for APCs.

1111

It is unclear whether a listing of state programs that relate to parks, species preservation and historic places constitutes the type of criteria specified in section 306(c)(9) of the CZMA for designating areas for preservation or restoration. It also appears that restoration of specific areas is not mentioned. The adequacy of this element in meeting the requirements of the CZMA must be addressed in the FEIS.

1112

The EPA believes that the NJCMP's definition of the national interest represents an admirable effort in bringing together a diverse, and occasionally conflicting, collection of interests.

1113

Two of the five categories of facilities described in the NJCMP are not required to obtain a CAFRA permit -- national defense and recreation. Nor is a CAFRA permit required when one of the defined resources will be significantly affected, unless the proposed facility is on the restricted list of CAFRA facilities. Thus, the NJCMP provides no opportunity to consider the defined national interests in regard to these facilities or to apply GLAM and the other coastal resource and development policies. This is a serious program deficiency and one which must be remedied before the FEIS is issued.

The designation of APC's by New Jersey is adequate to meet the requirements of the CZMA. The APC section has been revised adding selected barrier beaches. See revised chapter 7, APC section.

A copy of the publicly nominated APC's is available from NJ/OCZM. Many of these nominations have been incorporated directly into the program. Others will be used in the first year of program approval.

The state has established a process for designating APR's that is consistent with CFR 923:24.

No response necessary.

National defense facilities, if built on federal lands would not be subject to a CAFRA permit. However, the state can use the federal consistency section of CZMA to control any activity impact on the coastal zone. Recreation facilities do require a DEP review, through the coastal units input in the Green Acres Program.

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1114

EPA believes that the NJCMP should state that its list of federal activities and development projects subject to consistency is to exclusive and that other activities and projects may also be reviewed for consistency.

The list of activities and permits subject to consistency is that which the state wishes to hold subject to consistency. Changes to this list can be made through the amendment process.

1115

Two particular federal activities, the construction of Coast Guard stations and OCS lease sales, should be added to the list of federal activities and development projects because of their potential impact on the coastal zone.

Both of these activities have been added to the list of activities subject to consistency. See revised chapter 6, federal consistency.

1116

Finally, EPA requests an explanation for setting aside three facility types for which federal assistance is provided to state and local governments -- chemical or petrochemical processing, transfer or storage; mineral extraction; and sewage treatment and disposal factors -- and subjecting them to the consistency provisions wherever in the state they may be located. (pg. 191).

This section has been deleted from the revised Federal consistency section. See revised chapter 5. Federal Assistance to state and local government.

1117

EPA would like to note a significant omission in the NJCMP list of federal licenses issued by the Nuclear Regulatory Commission for the construction and operation of nuclear power plants.

This has been added to the list of consistency permits. See chapter 6, federal consistency section.

1118

The EPA seeks clarification of the intended geographic scope of the NJCMP's consistency provisions. Some discernible criteria must be provided so that federal agencies will be on notice as to whether a particular activity is subject to the federal consistency provisions. The NJCMP provides no such standard.

The list of permits and activities listed in the consistency section are those activities and permits subject to the program. See chapter 5, federal consistency section.

Comment

Response

U.S. ENVIRONMENTAL PROTECTION AGENCY - Cont.

1119

The DEIS fails to point out what difference approval of the NJCMP really means to DEP. The basic programs relied upon -- CAPRA and those for wetlands and riparian lands -- will not be altered by program approval.

The state will receive program implementation grants under section 306, apply section 307, and be eligible for section 308 funding.

1120

The DEIS does not adequately discuss the tradeoffs and impacts involved in the general policy of concentrating development.

This is adequately addressed in the EIS section I to meet the requirements of NEPA. See revised Part III

1121

The DEIS also does not analyze the impacts of segmentation, particularly what may happen if the other segments where growth is being encouraged do not have adequate authority to implement the program or, for other reasons, the segments fail to unify into a total program.

The action under consideration by the Assistant Administrator is approval of the BOSS program. The EIS analyzed this action only. The impacts of the rest of the state program will be analyzed when it is submitted early 1979. Segment approval will be withdrawn if the rest of the state program is not incorporated. This section has been revised in Part III - Environmental Impacts.

1122

The EPA also questions the DEIS's analysis of the impacts of the coastal policies on N.J.'s barrier islands. Their limited carrying capacity and their susceptibility to natural hazards are treated lightly.

1123

The EPA is concerned that the DEIS does not analyze the draft memorandum of understanding between the DEP and DOE, particularly how DOE (in its allocation of CEIP funds) will be consistent with the coastal program.

See general question H.

1124

The effects of 305-1/2 funding on the BOSS efforts to improve their program should be analyzed separately.

Program segments are not eligible for section 305 (d) funding. Part IV addresses this issue.

| Comment | Response | Comment | Response |
|--|---|--|--|
| <u>FEDERAL ENERGY REGULATORY COMMISSION</u> | | <u>FEDERAL ENERGY REGULATORY COMMISSION - Cont.</u> | |
| 1125 While N.J. has made a conscientious beginning in the development of the NJCMP-BOSS to produce a well-balanced and reasonable program we find the policy on LNG siting to be unacceptable. | See responses to specific questions below | 1131. Use Policy 7.4.9 for Gas Processing Plants on pg. 144 may increase coastal zone disruption rather than decrease it as intended. While it is true that these plants may be excluded from the coastal zone with little detrimental effect, the policy of locating them "the maximum feasible distance from the shoreline" may not be appropriate. Once the OCS gas has been processed, the transmission of the same volume of gas requires far less pipeline construction than would occur with a processing plant closer to the coast. In addition, location nearer the coast would minimize the costs of constructing chemical and salt water return lines. | The state feels that this policy will not increase coastal zone disruption, but add to the predictability of the coastal zone permit decisions. See revised policy 4.4.10 which clarifies that this policy also refers to partial processing plants. Evident to date has not shown that these processing plants could not be located the maximum feasible distance from the shoreline. Each plant will need to be reviewed on a case by case basis and distance from the shoreline will determine on a variety of local factors. |
| 1126 The Federal Power Commission (FPC) became the Federal Energy Regulatory Commission (FERC) when the U.S. Dept. of Energy (DOE) was activated on 10/1/77. FERC and DOE should be identified separately. | These changes have been made throughout the program document. | | |
| 1127 The Commission has been referred to in the report by the following names: FPC on pg. 178, former FPC on pg. 181, FERC (former FPC) within the DOE on pg. 241. We suggest use of the term FERC (formerly FPC) in all cases. | These changes have been made throughout the program document. | | |
| 1128 The report uses the names of the N.J. DOE, U.S. Department of Energy, and the Department of Energy. The Department of Energy refers to either New Jersey Department of Energy or U.S. Department of Energy. A clarification of the uses is needed. | The DOE refers always in the document to the U.S. Department of Energy. | | |
| 1129 It is impossible to determine the precise CAFRA boundary shown on the maps of N.J. Coastal Zone (see pp. 14 and 258). As soon as these boundaries are official, a set of the U.S.G.S. annotated topographic maps should be sent to the FERC so that applications to the Commission can be reviewed for determination of Federal consistency. | The cost would prohibit publication of these maps for distribution to all federal agencies. Working maps are available for inspection in the NJ/OCZ office in Trenton. | 1132. Policy on LNG facility siting is unacceptable. CMPs not intended to be vehicle to circumvent Federal agency rulemaking processes. May 1976 petition to FPC by State of N.J. for issuance of siting criteria (R 76013) is still under consideration by FERC. New decisions to be made on this petition will not be influenced by Use Policy 7.4.14(c) of NJCMP-BOSS. Therefore this policy statement should be reconsidered. | After a thorough review and discussion with FERC officials, OCZM finds that the revised policy 4.4.14 is consistent with the CZMA. To the extent the FERC objection is based upon alleged Federal preemption of LNG siting issues, we find the arguments neither official policy of FERC nor reasonable interpretation of law. The CZMA therefore requires OCZM to assure that states have adequate policies to deal with LNG siting issues. The New Jersey policy is essentially to encourage the adoption by the four Federal agencies currently involved, of consistent Federal siting criterion, which the State appears ready to abide. But such criterion are not forthcoming; the State's petition (RM 76-13) has had no action taken on it in over 2 years by FERC and its predecessor agency; nor is any action evidently contemplated. Given these circumstances, OCZM finds it necessary for the State to establish its own siting policies at this time, and finds those policies reasonable in scope and content, consistent with the program approval regulations. |
| 1130 Regarding the national interest: New Jersey's determination that "resort/recreation uses shall have priority in the Bay and Ocean Shore Segment over all other uses" is a justifiable choice however, if national interest considerations are to be balanced, the State must insure also that appropriate and necessary energy facility sites are not preempted. To support such determination, the State should supply to Federal agencies, or an appendix to the final NJC P-BOSS, the basic reports such as the Rutgers University study referenced on pg. 179 which reportedly concludes that suitable sites for oil and gas facilities are available along the Raritan Bay and River. | The areas that are referred to in the report by Rutgers University are outside the BOSS jurisdiction. Copies of the report are available from N.J./ OCZM and one has been sent to FERC. | | |

Comment

Response

FEDERAL ENERGY REGULATORY COMMISSION - Cont.

1133 Other requirements also established under Use Policy 7.4.14. State has not established who will determine when "(a) rigorous and consistent siting criteria are established," and "(b) the risks inherent in tankering...and transferring LNG onshore have been sufficiently analyzed and minimized." These requirements have been fulfilled by the Federal Energy Regulatory Commission, most recently by our siting and safety analyses of Point Conception, Calif., LNG terminal as proposed in FERC Docket No. CP75-83-2.

1134. State says that LNG terminals are acceptable only at sites remote from population centers, contravening its previous determination of the national interest in recreational uses for this segment. If FERC has fulfilled the requirements for LNG siting and safety suggested in NJCMP-BOSS, then any siting decisions should be made by them.

1135. Pg. 189, the information identified under DOE needs to be corrected. FERC is an independent regulatory commission; it does not speak for DOE, nor does FERC expect DOE to speak for it in these matters. The following should be identified:

- a. Licenses required for non-federal hydroelectric projects and associated transmission lines under Section 4(e) of the Federal Power Act (16 USC 797(e)).
- b. Certificates required for the construction and operation of natural gas pipeline facilities, defined to include both interstate pipeline and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- c. The permission and approval required for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

Revised policy 4.4.14 has deleted "(a) vigorous and consistent siting criteria are established" and clarified that these will include all applicable Federal siting criteria. OCZM has found the revised policy to be consistent with the requirements of the CZMA.

The policies are consistent in that recreational uses are among the most appropriate for areas near LNG terminal sites. The extent of Federal authority over LNG siting, as indicated above

is still very much unresolved and unlikely to be resolved in the near future.

These changes have been incorporated in revised chapter 6, Federal consistency section.

Comment

Response

U.S. NUCLEAR REGULATORY COMMISSION
1136.

Pg. 145 - Sections 7.4.12 and 7.4.13 are not given parallel treatment. The heading "Base Load Electric Generating Stations" is applied only to new or expanded non-nuclear fossil fueled plants. This is not accurate because fossil fueled plants may be base load facilities, but they could also be cycling load facilities. There should be one single heading: "Electric Generating Stations" with a separate discussion of non-nuclear plants and nuclear plants. The second section number should be dropped.

The use of the term "non-nuclear, fossil fueled plants" raises a question in our minds. Do they really mean the broad category of all "non-nuclear" plants or the narrower category of "Fossil Fueled" plants?

Regarding Policy 7.4.13, it is suggested that, OCZM carefully consider the question of whether they are consistent with the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 and/or the CZMA itself.

This suggested change has been incorporated into revised policy 4.4.13.

The phrase "non-nuclear fossil fueled plants" has been deleted. See revised policy 4.4.13.

OCZM has reviewed revised policy 4.4.13 and finds that it is consistent with both acts referenced and with the CZMA.

The State now clearly delineates its policies with respect to the siting impacts within its jurisdiction. With respect to radiological health and safety consideration, the State recognizes its limited role and takes cognizance of recent court decisions establishing the extent to which New Jersey can exercise the referenced state law in areas of safety and nuclear waste disposal. OCZM believes that this should fully resolve the issues to the satisfaction of all parties.

U.S. NUCLEAR REGULATORY COMMISSION - Cont.

1137.

Pg. 177, paragraph 3, states that, "The Commissioner has interpreted "public welfare" to include a full consideration of national interests..." We do not find assurance in either the N.J. law or the regulations that the "public" includes those beyond the State's border.

The interpretation has been included in Chapter 4, which has been adopted as regulation by New Jersey.

1138.

Pg. 186 Federal Consistency - We suggest changing the second sentence to read: "They issue permits and licenses for activities such as...the construction and operation of nuclear power plants..."

This suggestion has been incorporated in revised chapter 6, federal consistency section.

1139.

Pg. 187 (2) - This statement tends to equate national interest with national security. National interest is a broader concern. We suggest changing the wording to: "The activity is clearly in the national interest and is carried out in a manner which minimizes conflict with the Coastal Resource and Development Policies."

This has been clarified in revised chapter 6, federal consistency section.

1140.

Pg. 189 - The NRC mission has been lumped under DOE. NRC should be separately stated as we are an independent Federal agency. It should read: "NUCLEAR REGULATORY COMMISSION Permits and licenses the construction and operation of nuclear facilities."

This change has been incorporated in revised chapter 6, federal consistency section. Please excuse this error.

1141.

Pg. 203 section 2 state, "Under these policies, large scale energy production...must locate in the region outside the Segment's boundaries." Where is the justification that keeps this from being an arbitrary exclusion of activities in the national interest?

This section has been clarified in revised Part III, Section 2. Large scale energy production is not prohibited, but must comply with the full range of BOSS policies.

1142.

Pg. 212 (paragraph 1) - The timetable for DOE and DEP to investigate the feasibility of alternative energy production methods is not given.

This is outlined in the Energy Master Plan as being 1-2 years.

1143.

Pg. 212 (paragraph 2) - The last 2 sentences assume that there is adequate water to support the energy facility inland and that an inland location will not result in coastal air and water quality degradation. It appears that N.J. could very well approach inland alternatives to coastal sites through the memorandum of Understanding between DEP and DOE and the N.J. Energy Act.

It would not be appropriate to address alternative inland sites in the OU which only addressed conflicts between DOE and DEP over interpretation of the coastal policies or need requirements.