INTERNSHIP REPORT:

AN INTERNSHIP WITH THE
NEW JERSEY DIVISION OF COASTAL RESOURCES

TOM B. NORRIS
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Internship Report:
The New Jersey Division of Coastal Resources

I) INTRODUCTION

One of the most important and valuable components of Oregon State University's Marine Resource Management Program is the period of time spent working as an intern within the field of marine/coastal resource management. Through the internship experience, MRM students have the opportunity to gain excellent practical experience, establish professional contacts, and possibly gain permanent employment.

At the same time, one of the most difficult tasks of the MRM program is locating and securing a suitable internship. During my search in the Winter of 1985/86, most of the agencies that I contacted indicated that they were operating under extremely limited budgets. Although in theory hiring an intern could relieve some of their operational burdens, a majority of the agencies held the position that the costs of hiring and supervising a typical intern far outweighed the projected benefits. The obvious objective was to convince the agencies that I would be more than a typical intern, a somewhat difficult task given the limited opportunities for face-to-face contacts due to the isolated location of Corvallis.

Ultimately, I was able to generate four internship options. One was with an Alaskan fisheries development organization; a second was with the Government of Guam; a third was with the General Services Administration; and the fourth was with the State of New Jersey. My interest in coastal zone issues led me to accept an internship with New Jersey's Division of Coastal Resources, the agency responsible for developing and implementing a coastal zone management program for the state pursuant to the Federal Coastal Zone Management Act of 1972 (P.L. 92-583, as amended).

My internship with NJDCR became the most valuable experience of my academic years. Beyond the satisfaction of directly applying my formal education to solving "real world" problems, I had the pleasure of working with a group of people who are sincerely motivated by their desire to make their state a better place to live, work and grow.

The purpose of this report is to present an overview of my internship experience. A brief description of the New Jersey Coastal Management program will be followed by a discussion of some of the projects that were assigned to me. Lastly, the report includes a brief analysis of some of the problems that I identified regarding the operation of the Division of Coastal Resources.

II) MANAGEMENT OF NEW JERSEY'S COASTAL ZONE

A) The New Jersey Coastal Zone

New Jersey's coastal zone encompasses approximately one-fifth of the state's area, and includes both heavily industrialized and pristine regions.
The jurisdictional area includes the original CAFRA boundary (see part II), the western half of the Hudson River, and parts of the Hackensack River, Passaic River, Raritan Bay and Delaware River waterfronts. The width of the Coastal Zone varies from as little as 100 feet to as much as twelve miles from tidal waters.

The "Jersey Shore" has and continues to be a tremendously popular region for the densely populated Northeast. Easily accessible from New York, Delaware, and Pennsylvania, New Jersey's coastal zone is important to both residents and non-residents for activities. New Jersey is the most densely populated state in the United States among residents, "going down the shore" is an extremely popular and frequent event. All of these factors have combined to place tremendous pressure on both the natural and social systems of the area, and the task of balancing these competing interests is often emotional and generally difficult.

B) History of Coastal Management in New Jersey

Prior to the American Revolution, the coastal area of what was to become New Jersey was governed under English common law. Under this system, tidal waterways and the lands thereunder were considered Sovereign property for the use of all subjects of the realm.

"Modern" coastal management in New Jersey began in 1914 with the passage of the Waterfront Development Act (N.J.S.A. 12:5-3). This act asserted the State's authority to regulate the construction or alteration of docks, wharves, piers, bulkheads, bridges, pipelines, cables and any other development projects adjacent to any navigable waterway.

The area presently regulated under the Waterfront Development Law includes:

1) A "water area," including any navigable waterway or stream (and all lands lying thereunder up to the mean high water line), and

2) An "upland area," including all areas extending landward from the mean high water line to the first surveyable property line, public road, railroad right-of-way, or other cultural feature generally parallel to the waterway. The landward boundary of the upland area is at least 100 feet and no greater than 500 feet from the waterway, except where lands formerly flowed by the tide extend more than 500 feet from the mean high water line.

The Waterfront Development Law was originally designed to address economic concerns. The State Legislature wanted to be sure that non-water-related development wasn't displacing maritime and other such uses, mainly along the Hudson River and Hudson River estuary. This law was New Jersey's attempt to remain commercially competitive with the New York side of the River.
In 1970, the State passed the Wetlands Act (N.J.S.A. 13:9A-1 et seq.). This was the second major coastal law, and its purpose was to preserve and protect tidal wetlands.

Under the Wetlands Act, permits are required prior to the dredging, filling or otherwise altering or polluting coastal wetlands. The area regulated under the Wetlands Act includes all wetlands which have been designated and mapped by the State (approximately 275,000 acres). The Act was passed in response to the environmental movement of the late 1960's, when the ecological value of coastal wetlands was finally recognized. As a result of the Act, the area of wetlands filled for development has been reduced to about one acre each year down from the 1,500 acre annual average of the 1960's.

The third and most recent coastal law passed by New Jersey was the Coastal Area Facility Review Act of 1973 (N.J.S.A. 13:19-1 et seq). Under this law (called "CAFRA"), the State defined a coastal zone and declared that a permit would be required for the construction of a variety of facilities within that zone. As defined by the Act, the term "Facility" includes any development designed or utilized for the following purposes:

1) Electric power generation;
2) Food and food byproduct production and processing;
3) Incineration of wastes;
4) Paper production;
5) Public facilities and housing;
   a) sanitary landfills
   b) waste treatment plants
   c) road, airport, or highway construction, and
   d) new housing developments of 25 or more units
6) Agri-chemical production;
7) Inorganic acids and salts manufacture;
8) Mineral product production and processing;
9) Chemical processing;
10) Bulk storage of petroleum and petroleum products; and
11) Metallurgical processing and a variety of other manufacturing activities.

The CAFRA law was passed in an attempt to adopt a rational approach to coastal development, something clearly lacking prior to that time.

In response to the Federal Coastal Zone Management Act of 1972, New Jersey began the task of developing a coastal management program pursuant to Section 305. With CAFRA in place in 1973, it seemed logical to build the Program around the existing CAFRA, Wetlands, and Waterfront Development laws. The first phase of the Program - the Bay and Ocean Shore Segment - was approved in 1978. In September 1980, after six years effort and planning, the New Jersey Coastal Management Program received final Federal approval.
Management of New Jersey's Coastal Zone is administered via the State Division of Coastal Resources. Although local governments are required by law to develop and revise land use plans, such plans need not conform with the New Jersey Coastal Management Program. This is in direct contrast with Oregon's Coastal Management Program, which is structured around local land use plans which comply with statewide coastal planning goals.

C) The Division of Coastal Resources

Development and administration of the New Jersey Coastal Management Program is the responsibility of the Division of Coastal Resources, an agency within the New Jersey Department of Environmental Protection. Two other State agencies—the Hackensack Meadowlands Development Commission (established in 1969) and the Pinelands Commission (established in 1979)—share overlapping jurisdiction with the Division in certain parts of the State.

The principal daily activities of the Division include permit reviews, policy planning, monitoring and enforcing coastal permits, managing riparian concerns, undertaking and overseeing coastal engineering projects, and providing financial and technical support for local governments.

The Division is comprised of a Director's Office and four bureaus: Coastal Planning and Project Review, Coastal Engineering, Tidelands, and Coastal Enforcement and Field Services. The functions of each of these groups are as follows:

Office of the Director

The purpose of the Office of the Director is to guide and manage the various duties performed by each of the bureaus in the Division. Such activities include:

1) Planning, organizing and directing all activities conducted by division personnel;
2) Issuing final decisions on all CAFRA, Wetlands and Waterfront Development Permits;
3) Providing Division-wide budget and accounting services;
4) Providing correspondence control and reproduction facilities;
5) Issuing final decisions on personnel actions requested by the Bureaus in the Division;
6) Providing coordination with the Attorney General's Office concerning litigation of riparian ownership claims in the Hackensack Meadowlands and elsewhere; and
7) Administering the Abandoned Vessel Disposition Act.

The Office of Administration serves as staff to the Director and is responsible for managing all of the Division's transactions regarding the exchange of funds and the monitoring of federal planning and implementation grants. The Office of Administration is also responsible for processing personnel requests, administering the Abandoned Vessel Disposition Act, and coordinating the Division budget preparation, administrative appeals of
coastal permit decisions, and special assignments designated by the Director.

**Bureau of Coastal Enforcement and Field Services**

The primary responsibility of the Bureau of Coastal Enforcement and Field Services is to insure compliance with the various statutes, rules and regulations administered by the Division. Located in Toms River, the Bureau was also designed to serve as a link between the general public and the main operational office in Trenton. General duties of this Bureau include:

1) Investigating and reporting any alleged violations of statutory law within the jurisdiction of the Division;
2) Providing inspections and reports on the physical status of property involved in all applications pending before the Division;
3) Monitoring the progress of projects approved by the Division;
4) Providing inspections and reports on projects that have been completed to determine condition compliance with the permit conditions;
5) Providing a field liaison with local building officials and the general public concerning the programs and policies of the Division;
6) Using the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.), providing preliminary advice to potential applicants concerning the manner in which a proposed project conforms with the Rules and whether or not a coastal permit is required;
7) Initiating administrative action to correct violations;
8) Coordinating with the Attorney General's Office concerning required litigation for violations; and
9) Representing any Bureau of the Division, at their request, at meetings conducted in the Coastal Zone and reporting the results to the requesting Bureau.

**Bureau of Coastal Planning and Project Review**

Prior to 1984, the Bureau of Coastal Project Review and the Bureau of Coastal Planning and Development were separate entities. It was decided in 1984 that because many of the planning and development functions of the Division had been accomplished it made sense to consolidate the Bureau of Planning and Development with the Bureau of Project Review. Although the two now unofficially operate under one roof their duties have not changed as a result of the merger.

The primary objective of the project review element is to provide reviews of CAFRA, Wetlands, and Waterfront Development applications to insure conformance with the New Jersey Coastal Management Program. Project review tasks include:

1) Conducting pre-application conferences with potential applicants for the purpose of advising them of specific permit review procedures and policies;
2) Reviewing coastal permit applications utilizing the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.) and recommending a permit decision to the Director;
3) Using the Rules, providing the Bureau of Tidelands with environmental reviews of Waterfront Development Permits for presentation to the Tidelands Resource Council during their consideration of riparian grant, lease, or license applications; and
4) Conducting reviews of State and Federal activities to determine their consistency with the New Jersey Coastal Management Program.

The planning element of the Bureau of Planning and Project Review develops and refines guidelines for decision making in the coastal zone. Planning element duties include:

1) Conducting specific studies of coastal problems in order to improve decision making;
2) Assisting in the review of Outer Continental Shelf activities;
3) Coordinating the Coastal Energy Impact Program with the New Jersey Department of Energy;
4) Developing, reviewing and revising the New Jersey Coastal Management Program;
5) Providing guidance to governmental agencies and conducting community relations and technical assistance programs for the general public concerning the implications of the New Jersey Coastal Management Program;
6) Serving as the day-to-day liaison with the National Oceanic and Atmospheric Administration;
7) Conducting special research projects assigned by the Director; and
8) Surveying and monitoring coastal accretion and erosion.

Bureau of Coastal Engineering

The main objectives of this Bureau are to protect the State's coastal zone from erosion and storm damage, and to maintain the depths and channel markings of the navigable waterways of the State. The Bureau is expected to carry out the following duties:

1) Plan, design, research, hydrologically survey and inspect coastal protection projects and structures;
2) Inspect coastal protection projects before, during, and after construction;
3) Provide engineering contract plans for coastal construction and dredging projects;
4) Coordinate municipal/state matching grant acquisitions;
5) Provide public information regarding coastal protection projects and structures, and
6) Install, maintain and when necessary remove channel markings along state-maintained inland waterways.
Bureau of Tidelands

The main function of this Bureau is to help manage state-owned tidelands by acting as staff to the Tidelands Resource Council, a twelve member body of appointed citizens that rules on applications for riparian grants, leases and licenses. The revenue generated through such conveyances (approximately $2.1 million annually) are deposited in the Fund for Support of Free Public Schools.

Responsibilities of the Bureau of Tidelands include:

1) Conducting pre-application conferences with potential applicants for riparian grants, leases and licenses, advising them of specific review procedures and policies;
2) Reviewing applications for grants, leases, and licenses to determine their completeness and accuracy;
3) Conducting research to determine the fair market value of riparian conveyances;
4) Conducting historical reviews of aerial photography to determine the need for a riparian grant, lease, or license;
5) Reviewing coastal permit applications to determine the need for a riparian grant, lease, or license;
6) Drafting of the survey limits of approved tidelands instruments;
7) Maintaining the Division's aerial photography files;
8) Processing photographs for sale to the general public; and
9) Providing a liaison between the Tidelands Resource Council and the Offices of the Governor and Attorney General concerning riparian grants, leases and licenses.

Division of Coastal Resources Activities

The Division of Coastal Resources is an extremely active agency. With a staff of 141 (December, 1985), including secretaries and administrative personnel, the Division completed the following activities from:

April 1, 1985 to December 31, 1985:

Waterfront Development Permit Reviews............. 513
CAFRA Permit Reviews........................................ 57
Wetlands Permit Reviews..................................... 39
Federal Consistency Reviews.............................. 17
Pre-decision inspections..................................... 987
Post-decision inspections................................. 953
Violations of approved permits........................... 56
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III) INTERNSHIP

From May 19, 1986 to September 30, 1986, I worked as an intern within the Division's Bureau of Planning and Project Review. My supervisor, Mr. Robert Tudor, has a master's degree in environmental science, and he began his career with the Division as a project review officer. He is currently
the Division's Planning Coordinator. My internship activities included working on a wide variety of assignments; this section will present a brief narrative of the more significant among them.

I) UPDATED "RULES CHANGES FOR FEDERAL APPROVAL"

Permit decisions under the Coastal Area Facility Review Act (CAFRA), the Wetlands Act, and the Waterfront Development Act are guided by a document called the "Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.)." The Rules also serve as guidelines for recommendations to the Tidelands Resource Council and for decisions involving Federal Consistency.

The Rules were periodically amended during the years since the 1980 approval of the New Jersey Coastal Management Program. In February 1986, the Division published a revised version which reflected those modifications; this was in spite of the fact that the National Oceanic and Atmospheric Administration had yet to approve of the modifications as an official part of the Coastal Management Program. Section 306 (g) of the Federal Coastal Zone Management Act prohibits a state from implementing proposed amendments as part of its approved program until the amendments have been reviewed and approved by the Secretary of Commerce. The Division, nonetheless has used the revised edition of the Rules since they were published.

To avoid conflict with NOAA, the Division sent copies of the old and revised rules for their review. NOAA responded with a request for a single document outlining specifically and clearly all of the modifications and the rationale for each of them. My first assignment as an intern was to develop this document. Using various editing notations, I reworked an old version of the Rules to indicate specifically where and how the amendments and deletions had occurred. It was then left for Mr. Tudor to describe the rationale for each of the changes.

The document was ultimately forwarded to NOAA and is being reviewed for Secretarial approval. Meanwhile, the Division continues to use the revised version of the Rules for all but Federal Consistency decisions.

II) UPDATED COASTAL DEVELOPMENT HANDBOOK

In an effort to familiarize potential applicants with the requirements for New Jersey's Coastal permits, the Division produced a document entitled the "New Jersey Coastal Development Handbook." The Handbook covers several topics, including:

1) The types of development proposals requiring coastal permits;
2) Items which must be included in permit applications, including the information expected in an Environmental Impact Statement (EIS);
3) The permit review process;
4) Construction and building techniques which enhance the prospects for permit approval;
5) Options for developers when a permit application is denied; and
6) Listings of where to turn for information and assistance.

The Handbook was originally published in June 1982. Because of the Program revisions which had occurred since then, and because of minor grammatical problems, I was asked to produce a draft revision of the document. My draft is currently (2 September 86) being reviewed, and the original Handbook (see Appendix I) is still in use.

III) WET SOILS/HIGH PERMEABILITY MOIST SOILS

Prior to 1986, the presence or absence of three soil categories was used by the division to determine the environmental sensitivity of a site and the potential ill effects that development of the site would have on the surrounding environment. The 1982 version of the Rules defined moist soils as:

"... soils with a depth to seasonal high water table less than or equal to three feet ...(7:7E-8.21)" and defines High Permeability Moist Soils as:

"... soils ... with a depth to seasonal high water table less than five feet ... with loamy sand or coarser (7:7E-8.20)."

The 1982 Rules also defined a category of High Permeability Wet Soils as:

"... 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 (7:7E-5.4 (f))."

As previously mentioned, the presence of these soil categories influenced determinations regarding the environmental sensitivity of a site (High Permeability Wet Soils), and the projected effects of a project on various resources, mainly groundwater (Wet Soils, High Permeability Moist Soils). Division Staff felt that somehow the three soils categories should be tied together in the interest of consistent decision making. The staff felt that the criteria used to determine the environmental sensitivity of a site should be the same as those used to determine performance standards for the development of the site. The resulting revision reads as follows:

"Wet or High Permeability Moist Soils are soils with a depth to seasonal high water table less than or equal to three feet, unless the soils are loamy sand or coarser in which case they are soils with a depth to seasonal high water table less than, or equal to, four feet" (N.J.A.C. 7:7E-5.4 (e)) and 7:7E-8.17 (a)).

Although this revision simplified the Division's soil policies, the New Jersey Builders Association took exception on the grounds that the redefinition would significantly reduce the area of developable land in New Jersey's coastal zone. Under the new definition, soils would be classified as "sensitive" with a DSHWT of four feet or less; the previous definition...
limited this classification to soils with a DSHWT of three feet or less. Development of sensitive soils is more restrictive.

The New Jersey Builders Association filed suit to prevent the adoption of the new soils definition. My assignment was to assess the projected impacts of the new definition with regard to increased limitations on development. To do this, I reviewed forty five (45) CAFRA permit files which had been decided using the old soils definitions to determine what changes, if any, would have occurred the new definition been in effect at the time. In only one case was a development proposal altered because of the revised definition. As a result of this analysis, the Builders Association has withdrawn it's suit regarding the soils redefinition. (Items related to this assignment are included as Appendix II).

IV) Revised Federal Consistency Handbook

My third major assignment involved a revision of the Division's "Federal Consistency Handbook." The revised Handbook was designed to assist Federal agencies, Federal license, permit, and assistance applicants, and other interested persons in understanding the application of the "consistency" provisions of the Federal Coastal Zone Management Act in New Jersey.

The Federal Consistency 307 Regulations (15 CFR 930) direct states with approved coastal management programs to provide lists of the following:

1) Federal activities which, in the opinion of the Division of Coastal Resources, are likely to directly affect the coastal zone and require a Federal agency consistency determination (15 CFR 930.35),
2) Federal license and permit activities which are likely to affect the coastal zone and which the Division wishes to review for consistency (15 CFR 930.53), and
3) Specific types of Federal assistance programs subject to a consistency review (15 CFR 930.94).

In addition to revising the Consistency Handbook, I reviewed New Jersey's listings pursuant to the 307 regulations and made suggestions for items which should be amended.

Copies of the draft Handbook are being sent to Federal agencies for their review and comment. A meeting is being arranged for mid-October to bring together representatives of the Division and affected Federal agencies to discuss the potential for improving the consistency process in New Jersey (The draft Handbook, including an appendix with recommended additions to the applicability listings, is included as Appendix III).

V) FEDERAL CONSISTENCY REVIEWS

Section 307 of the Federal Coastal Zone Management Act requires that various Federal activities be conducted in a manner consistent to the maximum extent practicable with approved state coastal management programs.
As mentioned earlier, the New Jersey Coastal Management Program was approved by the U.S. Department of Commerce in 1980. All persons or agencies engaging in one of four categories of Federal activity identified in Section 307 must therefore conduct their activities in a manner consistent with New Jersey's Program. These four categories are:

1) Any Federal agency conducting or supporting activities directly affecting the coastal zone, including development projects within the coastal zone;
2) Any person or organization proposing to conduct an activity which requires a Federal permit or license and which affects land and water uses in the coastal zone;
3) Any applicant for a required Federal license or permit to conduct activities which are described in detail in plans for the exploration or development of, or production from, any area leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and which affect any land or water uses in the coastal zone;
4) Any state or local government submitting applications for Federal assistance under other Federal programs affecting the coastal zone.

Because of my work the revision of the Federal Consistency Handbook, I was asked to participate in several consistency reviews. The following is a brief description of one of these reviews:

Naval Weapons Station, Earle

In June 1986, the Northern Division Naval Facilities Engineering Command sent the Division a Draft Supplemental Environmental Impact Statement for the modernization and expansion of logistic support systems at the Naval Weapons Station (Earle) in Colts Neck, New Jersey. Our task was to review the Draft SEIS for consistency with the New Jersey Coastal Management Program.

The principal action involved the relocation of two Auxiliary Oil and Explosive Ships (AOE's) from Norfolk, Virginia to Earle. Concurrent actions included the following:

1) Construction of a new pier and trestle to improve berthing and ammunition outloading facilities for AOE's;
2) Constructing a ship fuel replenishment system to support the AOE's;
3) Dredging and disposal of approximately 8.2 million cubic yards from Sandy Hook Bay and adjacent approach channels;
4) Constructing additional magazines on land for explosive storage to support AOE requirements; and
5) Providing other shore facilities for AOE support.

After visiting the site and reviewing the Draft SEIS, our major concern involved the siting of the ship fuel replenishment system. A majority of the other segments of the project were consistent with the New Jersey Coastal Management Program.
The ship fuel replenishment system involved the construction of six 50,000 barrel holding tanks for JP-5 jet fuel and DFM (deisel marine fuel) along with an oil separator facility for ship ballast. Our concern was that the holding tanks were to be constructed near residential neighborhoods in Middletown Township. In addition, heavy ammunition carried by rail cars would also move near the tanks. We felt that the Navy had failed to address the question of the health and safety of the nearby residents in the event of an accident.

Because of this concern, we informed the Navy that we would be unable to reach a positive determination regarding the consistency of the project until the issue was resolved. As it turned out, our voice was but one among many; the public outcry was so great that the Navy decided to reconsider the siting of the ship fuel replenishment system (Appendix IV).

We are currently awaiting receipt of a Final Supplemental Environmental Impact Statement and consistency determination for the project. If our concern regarding the siting of the holding tanks has been adequately addressed, the Division should be able to agree with the Navy's determination that the project would be conducted in a manner consistent to the maximum extent practicable with the approved New Jersey Coastal Management Program.

VI) COASTAL WATER QUALITY MANAGEMENT PROGRAM

Perhaps the most significant project of my internship with the Division of Coastal Resources involved my participation in the development of a coastal water quality management program. The driving force for the project was the desire to adopt common coastal water quality standards for all Department of Environmental Protection agencies.

It is the policy of the State of New Jersey to restore maintain and enhance the chemical, physical and biological integrity of its waters. The Department of Environmental Protection also has an objective to restore saline water quality to levels which permit unrestricted shellfish harvesting. Within the NJDEP, the Division of Water Resources plays the leading role in support of these policies.

The DWR effort has led to water quality improvements in many areas of the State, but the identification and control of both point and non-point sources of pollution is a continuing problem which is aggravated by a lack of coordination with the other DEP agencies (notably, the Division of Coastal Resources). Each DEP agency has its own priorities, operating procedures and regulatory framework, and the lack of common coastal water quality standards has often led to conflicts and confusion within and between agencies - much to the detriment of improved coastal water quality.

In the Spring of 1986, a task force (including myself) began an effort to develop a water quality management program for New Jersey's coastal waters; by June 18th, the framework for the program had been established. The underlying foundation for the framework involved a method for rating the value and sensitivity of coastal waters. Based upon these ratings, varying
standards would be applied to development projects likely to affect the coastal zone.

If our rating method ("technical methodology") is approved by the Commissioner, all Department of Environmental Protection agencies will be expected to incorporate the technical methodology into their pertinent regulatory policies. The revised policies would make up the bulk of the New Jersey Coastal Water Quality Management Program.

To provide an example of how the methodology could be incorporated into a regulatory policy, I revised the Division's regulations on marina development. This was a major project, and I have included my draft results as Appendix V.

VII) Based upon my participation in the development of the Coastal Water Quality Management Program, I was asked to write a "marinas -vs-shellfish" discussion paper for the 1986 NOAA OCRM Managers Meeting, which was held during the week of September 22 in Philadelphia. The paper is included as Appendix VI.

XIII) Throughout my internship, I was asked to generate numerous letters and other miscellaneous items. I have included several of these as Appendix VII.

IV) PROBLEMS

Throughout my internship, I kept a notebook for a variety of inputs. Included in the notebook was a section entitled "problems," in which I noted items that I felt inhibited the efficient, effective operation of the Division. This section will briefly describe some of these items.

1) Periodically, the position of Director of the Division has changed hands. Discussion with other staff members indicated that these changes often create problems due to the varied management philosophies of the individuals serving as Director. For example, in one case a Director will state that ". . . if it's bad, they can't do it. Period." In another case, a different director will state that " . . . that is bad, but the good outweighs the bad so let them do it." These changes in philosophy at the top have led to frustrations among many staff members who find it difficult to function with a lack of clear direction.

2) Although the Rules on Coastal Resources and Development are quite specific, there is still room for varied interpretation on the part of project review officers. In theory, a permit decision should be the same regardless of who decides it. In reality, the varied backgrounds and biases of the individuals who review permit applications have a clear impact on the number and variety of conditions amended to permit decisions.

3) Information gathering in government systems is often like finding your way out of a coal mine without a light. I call it the "phone call treasure hunt" because of the unbelievable endurance contests I all too often experienced when asking for a simple piece of information on the
"Can you hold? He/she's not at his/her desk. Can I take a message? Why don't you try calling . . ." These are the clues of the hunt, and if you ever get a clear answer to your original question you are truly blessed with good fortune.

4) A major problem involved the coordination of Division activities with other State and Federal agencies. During a permit or Federal consistency review, Division personnel often need input from outside "experts" on a variety of topics (e.g., toxic waste handling, stormwater quality, etc). To get this input, a review officer sends a file to these experts for their review and comment. These experts often already have as much as they can comfortably handle, so the files frequently sit for extended periods in their in-baskets. This is a major problem, for the review officer faces specific deadlines for permit decisions and can only base these decisions on available information. If the "experts" are unable to provide needed information, the unfortunate result is a potentially unsound permit or consistency determination.

5) Prior to June 1986, the Division commonly issued Federal Consistency decisions on draft documents. The problem with this is that the final and draft documents are often significantly different. The Division used conditions to protect against any such changes, but the Federal Consistency Regulations do not allow for conditional consistency decisions. As a result of this (and a major ocean incineration lawsuit, which the Division lost due to the use of conditional decision making), the Division now only issues non-conditional consistency decisions on final documents. As a result, it is far more critical to maintain close cooperation with the Federal agency or applicant during the draft phase of their planning effort in order to avoid delay due to negative determinations.

6) A major problem within the Division is a philosophical one. The staff call it the "constructionist verses expansionist" conflict, and it involves the way in which individuals view their role and the mission of the Division.

The "constructionist" perspective advocates a focus on items specifically related to coastal resources. The "expansionist" philosophy advocates a broadening of the Division's focus to include areas unrelated to coastal resource issues (e.g., low-income housing).

This conflict has led to an unclear strategy, which in turn has resulted in inconsistent policy interpretations, indecision at all levels within the Division, and low morale and frustration among the staff.

7) The State has yet to adequately address the reality of sea-level rise and the projected impacts on barrier island systems and groundwater resources.

8) Generally, the four Bureaus are far too isolated from one another both spatially and functionally. This results in coordination problems and lack of camaraderie.
By coincidence, during the period of my internship the Division underwent a review by the Department of Environmental Protection's Office of Management and Budget. The purpose of the review was to identify duplication, bottlenecks, and permit processing problems and delays. Many of the problems which I identified were included in the results of the OMB review (The OMB document is included as Appendix VIII).

Summary

At the time of this writing, I am still working full time for the Division. It appears that my final significant project will involve generating a request for proposal (RFP) for a coastal design reference manual. The purpose of the manual will be to provide a reference guide of illustrations, plans and photographs of the best known techniques that have been used to meet the requirements of the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.). The budget for the project is $35,496, and the final product will be due on October 1, 1987.

My internship experience with the Division was an excellent introduction to the realities of coastal zone management. This, in combination with my academic background, has put me in a position to make a substantial positive contribution should I end up working in the field. From what I have seen, the daily frustrations of the work are far outweighed by the satisfaction of promoting a rational use of one of our country's most valuable resources - the coastal zone.
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Appendix - Revised Listings of Items Subject to Consistency Review
INTRODUCTION

This handbook is designed to assist Federal agencies, Federal license, permit, and assistance applicants, and other interested persons in understanding the application of the "Consistency" provision of the Federal Coastal Zone Management Act in New Jersey. This Handbook, which is presented in two parts, amplifies the information appearing in the New Jersey Coastal Management Program (August 1980), at pages 242-250.

Part I explains the "what", "who" and "where" of federal consistency. Part II describes the "how" procedures that will be followed by the New Jersey Department of Environmental Protection - Division of Coastal Resources in conducting its consistency reviews. These guidelines incorporate the mandatory requirements of the federal consistency regulations (15 CFR Part 930, 44 Federal Register p.37142, June 25, 1979 as amended) into a review process modeled after existing state permit review processes. Relevant federal regulations are cited (in parentheses) throughout the handbook.

These guidelines, which provide consistency review procedures for each of the four categories of Federal activities, incorporate four basic principles:

1) Arrange Early Consultation Between State and Federal Officials and Applicants.

Federal agencies and applicants proposing to conduct an activity for which a consistency review is or may be required should consult with the New Jersey Division of Coastal Resources as early as possible during the planning process. The agency or applicant will be advised of the relevant policies and provisions of the New Jersey Coastal Management Program in order to eliminate potential conflicts before extensive work on a particular proposal takes place. The Division is certain that this will establish greater consistency and coordination between state and Federal activities.

2) Avoid Unneeded Duplication of Information.

Whenever possible, the Division will base its consistency decision on the document or documents required for compliance with Federal regulations or for Federal approval. These include environmental impact statements, environmental impact assessments, applications for federal permits and licenses, and federal grant applications and supporting information.

3) Keep Information Requirements at a Manageable Level.

Whenever additional information is needed in order to make a consistency determination, the Division will promptly notify the agency or applicant and will specify in as much detail as possible the nature and purpose of the needed information.
4) **Avoid Redundancy When State Coastal Permits are Required.**

Whenever an activity subject to a consistency review requires one or more of the three coastal permits (CAFRA, Wetlands, or Waterfront Development), the granting of the State permit(s) will serve as a finding that the activity is consistent with the New Jersey Coastal Management Program. In such situations, the state coastal permit review procedure will substitute for the consistency review.

The Federal Consistency requirements of the Federal Coastal Zone Management Act are a unique set of provisions in that the States are given a level of control over various Federal actions and activities. These guidelines are intended to establish a framework for their use in New Jersey, as part of an efficient, cooperative state-Federal decision making process; they will be administered in that spirit. The Division of Coastal Resources recognizes that application of the Federal Consistency provisions may require modifications to these guidelines from time to time, and will therefore revise this handbook as necessary.
PART I - FEDERAL CONSISTENCY: AN OVERVIEW

What is it?

The Federal Coastal Zone Management Act of 1972 as amended (CZMA) encourages coastal states to develop and administer a comprehensive program for the prudent management of their coastal areas. The Act authorizes financial assistance to and Federal cooperation with those states who choose to participate in this voluntary program.

Section 307 of the Act requires that various Federal activities be conducted in a manner consistent or consistent to the maximum extent practicable with approved state coastal management programs. The New Jersey Coastal Management Program received approval from the U.S. Department of Commerce on September 29, 1980. The Program includes a set of Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.) which regulate the location, design, and use of major facilities in the coastal zone; it is these policies which form the basis for New Jersey's review of Federal activities for consistency. They may be found in Chapter Four of the Coastal Management Program, copies of which are available by contacting:

New Jersey Department of Environmental Protection
Division of Coastal Resources
CN 401
Trenton, New Jersey 08625

Who Does it Affect?

All persons or agencies engaging in one of four categories of Federal activity identified in Section 307 of the FCZMA must conduct their activities in a manner consistent with the approved New Jersey Coastal Management Program. These four categories are:

1) Any Federal agency conducting or supporting activities directly affecting the coastal zone, including development projects within the coastal zone.

2) Any person or organization proposing to conduct an activity which requires a Federal permit or license and which affects land and water uses in the coastal zone.

3) Any applicant for a required Federal license or permit to conduct activities which are described in detail in plans for the exploration or development of, or production from, any area leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and which affects any land or water use in the coastal zone.

4) Any state or local government submitting applications for Federal assistance under other Federal programs affecting the coastal zone.
These categories of activity are defined and identified more precisely in Part II under the headings "Activities and Agencies Covered by this Section" and "Licenses and Permits Covered by this Section" (see also Appendix).

Is Consistency Required for Every Federal Activity?

No. Consistency is required only for Federal activities in or "directly affecting" the coastal zone. This requirement applies regardless of whether or not the activity is regulated by one of the three state coastal permit programs (CAFRA, Wetlands, or Waterfront Development).

The Federal regulatory format requires that the initial determination that an activity does or does not directly affect the coastal zone be made by the person or agency seeking to conduct that activity, unless the state has already done so. The New Jersey Division of Coastal Resources regards the specific activities listed under each of the four categories of activity in Part II as activities likely to directly affect the coastal zone, and therefore as activities requiring a consistency review (see also Appendix). Unlisted activities may also directly affect the coastal zone, and New Jersey reserves the right to notify persons or agencies that a consistency review is required for such activities.

Where Does It Apply?

The geographic scope of New Jersey's coastal zone is outlined in Figure One. The seaward boundary is the three mile outer limit of the United States territorial sea. The landward boundary is the area described in the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-4), the area regulated under the Waterfront Development Act (N.J.S.A. 12:5-3 et seq) or the upper boundary of coastal wetlands located landward of the CAFRA boundary along tidal water courses flowing through the CAFRA area, whichever is more landward. Federal lands are expressly excluded from the State coastal zone by the FCZMA.

The consistency review requirement will, in some cases, extend beyond those activities taking place in the coastal zone. Activities on excluded Federal lands and on other lands outside the zone are subject to consistency review if it is found that the may directly affect the coastal zone (15 CFR 930.33c). Whether these "spillover effects" have such an impact will depend generally on the type of activity to be conducted, its magnitude, and its proximity to the coastal zone. Persons proposing to conduct an activity with potential spillover impacts should consult with the Division early in the planning process in order to determine the need for a consistency review.
Figure 1.
There are certain geographic areas in which activities are likely to have direct impacts on the coastal zone. Any activity in a riverine area upstream of the coastal zone which reduces or otherwise alters flow is likely to directly affect downstream areas; this is particularly true where the water body is directly affected by the activity, as with damming, dredging, filling, or construction within the natural high water mark. If the downstream area encompasses any of the special areas listed in the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.), then it may be assumed that such activities will directly affect the coastal zone.

Who Is Responsible for Federal Consistency in New Jersey?

The Division of Coastal Resources in the New Jersey Department of Environmental Protection is the lead agency for the State's coastal management program under Sections 305, 306, and 307 of the Federal Coastal Zone Management Act (FCZMA). Division staff will coordinate and conduct all Federal consistency reviews, and the Director of the Division will make the final consistency determinations. When energy issues are involved, siting decisions will be made jointly by the Departments of Energy and Environmental Protection, according to procedures outlined in a memorandum of understanding entered into in August 1978. This process is spelled out in detail beginning on pages 22.

The Division's role is to review consistency determinations and certifications. In the case of direct Federal activities, the Federal Agency must submit a consistency determination to the State. In the case of an application for a Federal permit or license, the applicant submits a certification to the licensing or permitting agency, while providing a copy to the Division. In the case of Federal grants to state and local government, the applicant must make the certification but is not responsible for notifying the Division; that is done through the New Jersey State Review Process, which is administered by the Intergovernmental Review and Assistance Unit of the Department of Community Affairs. In the case of OCS plans, the plan and consistency certification are submitted to the Secretary of the Interior or designee, who in turn furnishes a copy to the State.

Public Notice

The Division shall afford public notice of the receipt of Federal consistency determinations, certifications, and notifications, and the subsequent status of each consistency review in the DEP Weekly Bulletin in accordance with the 90 Day Construction Permit Rules, N.J.A.C. 7:1C-1.6. A free subscription to the DEP Weekly Bulletin may be obtained by writing to:

New Jersey Department of Environmental Protection
Documents Distribution Center
CN 402
Trenton, New Jersey 08625.
Preliminary Conferences

The Federal consistency regulations encourage early consultation and coordination between state and Federal agencies or applicants. An agency or applicant may request a preliminary conference in writing, advising the Division that the agency has identified an activity as one requiring, or possibly requiring, a consistency review; this request should come at the earliest possible time.

The Division will contact a requesting agency within 5 days of receiving a request for a preliminary conference, and will arrange for a conference to be held at the earliest feasible date.

Within 10 days after the preliminary conference, Division staff will advise the agency of those provisions of the New Jersey Coastal Management Program relevant to the activity. Such recommendations do not prevent the Division from identifying additional relevant provisions at a later time, nor do they obligate Divisional concurrence with the Agency or applicant's later determination that a proposed activity is consistent with the Program.

Procedure Where a State Permit is Required

It should be noted at the outset that a large number of the activities subject to the requirements of Section 307 of the Federal CZMA will also require a State coastal permit. **CONSISTENCY FOR THESE ACTIVITIES MAY BE DEMONSTRATED BY RECEIPT OF AN APPROVED STATE COASTAL PERMIT (either a CAFRA, Wetlands or Waterfront Development permit).**

Prior to or concurrent with the Federal review process, the appropriate state permit application should be submitted to the Division. Should the Division receive a consistency certification for an activity which requires a state permit, but for which no application has been submitted, the agency or person proposing to conduct the activity shall be advised that such a permit is required.

Such activities will thereafter be reviewed under the state's regulatory authority, and not under Section 307. The Division shall issue, within the time limit relevant to the category of Federal activity, a determination stating that the decision to grant or deny the State coastal permit shall constitute a consistency determination. Applications for state coastal permits will follow relevant state procedures.

A Note on "Conditional Concurrences"

As of June, 1986, the Division of Coastal Resources discontinued the use of "conditional concurrences." Rather, in the event of a negative finding the Division now issues an objection which includes a description of alternative measures (if any exist) which, if adopted by the applicant, would permit the proposed activity to be conducted in a manner consistent with the New Jersey Coastal Management Program.
During the consistency review process, the Division will make every effort to reach agreement with the applicant and/or Federal agency(s) involved regarding conditions which would permit the Division to make a positive finding; failure to reach such an agreement will result in a negative consistency determination.

In the event of a negative finding, applicants and agencies are encouraged to consult with the Division of Coastal Resources should they feel that such a finding is not justified. In lieu of this, applicants and agencies may turn to the Secretary of Commerce for mediation or appeals.
PART II - ACTIVITIES SUBJECT TO FEDERAL CONSISTENCY AND PROCEDURES FOR THEIR REVIEW

A. DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS (15 CFR 930.30 - 930.44)

Federal activities and development projects which directly affect the New Jersey Coastal Zone must be consistent to the maximum extent practicable with the New Jersey Coastal Management Program. New Jersey will consider an activity consistent to the maximum extent practicable if it does not conflict with the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.) unless the Federal agency asserts that compliance with the Rules is prohibited by existing law. In such cases, the agency must provide information pursuant to 15 CFR 930.32.

Agencies and Activities Covered By This Section

Direct activities and development projects include the planning, construction, modification, or removal of Federally owned public works, facilities, or structures, including military facilities; the acquisition, utilization or disposal of land and water resources; Federal agency activities requiring a Federal permit; and Federal assistance to entities other than state and local governments.

The following Federal activities and development projects, when conducted in or in proximity to the New Jersey coastal zone, are likely to directly affect the coastal zone and shall be reviewed for consistency (see also Appendix):

GENERAL SERVICES ADMINISTRATION

- Location and design of proposed government property acquisition and building construction.
- Disposal and transfer of surplus Federal lands.

DEPARTMENT OF DEFENSE

Army Corps of Engineers

- Proposed projects 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 non-Federal coastal lands and waters.
DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission - Management of Coal Conversion Program
- Approval of construction and operation of an interstate natural gas transmission pipeline.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service - Management of national wildlife refuges and proposed acquisition.

National Park Service - National Park and seashore management and proposed acquisition.

Bureau of Land Management - OCS leases and pre-leasing activities.

DEPARTMENT OF TRANSPORTATION

Coast Guard - Location, acquisition and design of new or enlarged installations.

Federal Highway Administration - Highway construction.

Materials Transportation Bureau - Formation and enforcement of minimal Federal safety standards for transportation of oil, gas and pipeline facilities.

The Review Process

1) Initiating the Review Process: Agency Responsibility

a. Federal agencies must provide the Division with notification at the earliest practicable time in the planning or reassessment of the action. At a minimum, notification must be provided at least 90 days before final approval of the Federal action, unless both the Federal agency and the Division agree to an alternative notification schedule.

b. The recommended listing and monitoring procedures described in 15 CFR 930.35 (a) and (b) are neither a substitute for nor eliminate Federal agency responsibility under 15 CFR 930.33 (b) and 930.34 to provide state agencies with consistency determinations for all development projects or activities in or which the agency finds directly affect the New Jersey Coastal Zone.
c. Federal agencies are encouraged to provide notification to the Division through the use of existing procedures (e.g., the New Jersey State Review Process, NEPA environmental impact statements, memoranda of understanding, etc.) in order to avoid waste, duplication of effort, and to reduce Federal agency and Divisional administrative burdens.

2) Notice Concerning Unlisted or Unreported Activity (15 CFR 930.35b)

a. In the event that the Division identifies an activity or proposed activity which it considers subject to a consistency review, but for which it has not received notice from the relevant agency, it shall notify that agency within 45 days of receipt of notice that the activity is subject to a consistency review. The Division shall advise the agency of the date of and the manner in which the activity was identified.

b. If a Federal agency decides that a consistency determination is not required, it shall inform the State of the negative determination at least ninety (90) days before final approval of the activity.

c. In cases where Federal agencies will be performing a repeated activity other than development projects, the agency may develop a general consistency determination in situations where the incremental actions are repetitive or periodic, substantially similar in nature and the do not directly affect the coastal zone when performed separately (15 CFR 930.37(b)).

d. In cases where major Federal decisions related to a proposed development project will be made in phases based upon developing information, a consistency determination will be required for each major decision (15 CFR 930.37 (c)).

3) Necessary Data and Information (15 CFR 930.39)

a. A determination concerning the consistency of a proposed Federal activity with the New Jersey Coastal Management Program shall be accompanied by data and information sufficient to support the certification of the Federal Agency. The data should address the Rules on Coastal Resources and Development as specifically as possible to ensure a timely and efficient consistency review. The data and information shall include:

1) A detailed description of the site, nature, and extent of the proposed activity and its associated facilities, their coastal zone effects, and the comprehensive data and information sufficient to support the agency's certification including maps, diagrams, technical data and other relevant material.

2) The nature and discharge points of potential air, water, or waste emissions.
3) A brief assessment relating the probable effects of the activity and its associated facilities on the New Jersey coastal zone to the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.).

4) Based upon the above assessment, a brief analysis indicating that the proposed activity, associated facilities and their effects are consistent to the maximum extent practicable with the New Jersey Coastal Management Program.

Federal agencies are strongly encouraged to obtain the views and assistance of the Division regarding the information necessary to determine whether the proposed activity will be conducted in a manner consistent to the maximum extent practicable with the New Jersey Coastal Management Program.

b. If an Environmental Impact Statement, Assessment, or similar document has been issued in conjunction with a proposed activity, the Agency may submit it in satisfaction of subsection (a) above.

c. Whenever a proposed Federal activity requires one or more state coastal permits, the informational requirements for Federal consistency shall be the same as, and will be satisfied by, the requirements for the relevant permit(s). (These requirements may be found at N.J.A.C. 7:7-2.4 for CAFRA Permits, and N.J.A.C. 7:7A-1.4 and 1.6 for Wetlands Permits.)

4) Determination by the Agency

a. Any document submitted by an agency with a determination that the activity to be conducted is consistent to the maximum extent practicable with the New Jersey Coastal Management Program shall carry a legend to that effect on the cover page.

5) Division Review, Requests for Additional Information and Response

Preliminary Review

a. Upon receipt of a Federal agency determination of consistency, the Division shall advise the submitting agency of the receipt of the determination and the date of receipt. The review period commences on the receipt date.

Request for Additional Information

b. The Division shall review the determination for adequacy and shall request from the agency in writing any needed additional information within ten (10) days of the receipt date.
State Response

c. The Division shall, at the earliest practicable time and no later than forty-five (45) days after receipt of a determination, advise the agency that the activity is or is not consistent, or that a fifteen (15) day extension for a longer period of time is requested for the purposes of completing its review. Federal agencies must approve one request for an extension period of fifteen (15) days or less. The Federal agency may presume agreement with its consistency determination if the Division fails to respond or to request an extension within forty-five (45) days of the receipt date. Final Federal agency action may not be taken sooner than ninety (90) days from the issuance of the consistency determination to the State (15 CFR 930.41).

d. If the Division disagrees with the agency and finds that the activity is inconsistent with the New Jersey Coastal Management Program, it shall state:

1. Specific information explaining how the activity is inconsistent with the Rules on Coastal Resources and Development; and

2. What alternative measures are available that would render the activity consistent to the maximum extent practicable (15 CFR 930.42a).

e. If the disagreement is based upon a finding that the agency has failed to provide sufficient information, the Division shall describe the nature of and the need for such information. The Division will forward a copy of all responses describing disagreements to the Assistant Administrator, NOAA (15 CFR 930.42a & b).

6) Conflict Resolution (15 CFR 930.43)

a. In the event of a Divisional objection to a Federal agency consistency determination, the Division shall first work with the agency to resolve the conflict through informal negotiations (15 CFR 930.111). If the conflict persists, the Federal agency or the Division may notify the Secretary of Commerce in writing that a serious disagreement exists, and request his or her mediation. Mediation shall be conducted in accordance with the following provisions of the Federal Consistency Regulations, 15 CFR 930 Subpart G:

1) A copy of the written mediation request must be sent to the agency with which the requesting agency disagrees, and to the Assistant Administrator, NOAA (15 CFR 930.112).
2) **Within fifteen (15) days following receipt of a copy of the request for mediation**, the disagreeing agency will inform both the Secretary and the requesting agency in writing whether it wishes to participate in the mediation process. If the disagreeing agency declines to participate, it must indicate the basis for refusal in its response. If the disagreeing agency cannot be persuaded to participate, the Secretary will cease efforts to provide mediation assistance (15 CFR 930.112).

3) If the agencies agree to participate, the Secretary shall appoint a hearing officer who will schedule a hearing in the local area concerned. The agencies shall receive at least thirty (30) days notice of the time and place set for the hearing (15 CFR 930.113).

4) The hearing officer will provide timely public notice, and the Federal and State agencies will provide the public access to any data or information related to the disagreement (15 CFR 930.113).

5) Hearings will be informal, with the objective being to gather in a timely fashion information related to the disagreement. Hearings will be recorded, and transcripts and copies of written information will be provided to the disagreeing agencies (15 CFR 930.113).

6) Upon receipt of the hearing record, the Secretary will schedule a mediation conference. The agencies will receive at least ten (10) days notice of the time and place set for the mediation conference (15 CFR 930.114).

7) **Mediation will terminate:**
   a) if agreement is reached
   b) if one of the agencies withdraws
   c) if agencies fail to agree or agree to an extension within fifteen (15) days, after a Secretarial mediation effort
   d) for other "good cause" (15 CFR 930.115).

In the event that both informal negotiation and Secretarial mediation fail to resolve the disagreement, the Division may turn to judicial action as a last resort (15 CFR 930.116).
7) **Monitoring of Activities for Continuing Consistency (15 CFR 930.44)**

   a. In the event that the Division determines that an activity previously determined to be consistent with the New Jersey Coastal Management Program is not being conducted in such a manner or is having such effects on the coastal zone so as to be inconsistent with the Program, it shall request the agency to take appropriate remedial action. The request shall include necessary supporting information and a proposal for the recommended remedial action.

   b. The Division shall request mediation by the U.S. Secretary of Commerce if the disagreement is not resolved within sixty (60) days of the date of its request, in accordance with 15 CFR 930, Subpart G.
B. FEDERALLY LICENSED AND PERMITTED ACTIVITIES
(15 CFR 930.50 - 930.66)

Applicants for Federal licenses or permits for activities affecting land or water uses in the coastal zone (or for renewals or amendments to such licenses or permits) shall provide the New Jersey Division of Coastal Resources with a certification that the proposed activity is consistent with the New Jersey Coastal Management Program; Federal agencies may not issue a license or permit if the State fails to concur with the certification (unless the State fails to respond within six months or unless the U.S. Secretary of Commerce finds that a proposal is consistent with the objectives of the Federal CZMA or is necessary in the interest of national security).

New Jersey will generally consider an activity consistent if it does not conflict with the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.).

License and Permits Covered by this Section

Licenses and permits include any authorization, certification, approval, or other form of permission which a Federal agency is empowered to issue to an applicant, including:

1) Renewals and major amendments not previously reviewed by the Division

2) Renewals and major amendments previously reviewed by the Division which are filed after and are subject to management program amendments not in existence at the time of the original review; and

3) Renewals and major amendments previously reviewed by the Division which will cause coastal zone effects substantially different than those originally reviewed (15 CFR 930.51).

Federal agency "activities" requiring Federal licenses or permits are subject to the consistency requirements of 15 CFR Part 930, Subpart C.

Activities under the following Federal permits and licenses (which are also listed at page 247 of the New Jersey Coastal Management Program), when conducted by an applicant in or in proximity to the New Jersey coastal zone, are likely to affect land or water uses in the coastal zone and will be subject to a consistency review (see also Appendix):

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 Harbors Act of 1899.
Permits 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 United States 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 primary transmission lines under Sections 3(11), 4(e), and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(e), and 808).

Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (16 U.S.C. 824a(b)).

Certificates of public convenience and necessity for the construction and operation of natural gas pipeline facilities including both interstate pipelines and LNG terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).

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)).

**U.S. Coast Guard**


Permits for construction of bridges under 33 USC 401, 491, 525.

**Federal Aviation Administration**

Permits and licenses for the construction, operation, or alteration of airports.

**Environmental Protection Agency**

National Pollutant Discharge Elimination System (NPDES) permits under the Federal Water Pollution Control Act of 1972, unless such permitting authority is delegated to the State.

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.

Economic Regulatory Administration

Opinions and orders for permission for delivery of imported LNG.

The Review Process

The consistency review for Federally licensed and permitted activities shall be initiated and conducted according to the following procedures (IMPORTANT: For procedure where a state coastal permit is required, see p. 7).

1) Initiating the Review Process: Applicant Responsibility

An applicant for a Federal license or permit shall submit to the Division a copy of the application along with any supporting information. The application shall bear a consistency certification which shall read: "The proposed activity complies with New Jersey's approved Coastal Management Program and will be conducted in a manner consistent with such Program." The Division shall advise the applicant of the receipt of certification and the date of receipt of the complete information package; the review period commences on the receipt date.

2) Division Notice Concerning Unlisted or Unreported Activities (15 CFR 930.54)

a. With the assistance of Federal agencies, the Division will monitor unlisted Federal license and permit activities and will promptly notify the licensing or permitting agency, the applicant, and the Assistant Administrator, NOAA within thirty (30) days of receipt of notifications of an activity which requires a consistency review (15 CFR 930.54 a & b).

b. The Federal Agency and the applicant may, within 15 days of receiving the Division notice, provide the Assistant Administrator, NOAA with comments concerning the Division's decision to review the unlisted activity. The Assistant Administrator shall issue a decision (based upon whether or not an activity will affect land or water uses in the coastal zone) within thirty (30) days from receipt of the State agency notice (15 CFR 930.54c).

c. If the Assistant Administrator, within 30 days of receiving the Division's notice, disapproves of the Division's decision, no consistency review shall be required. If the Assistant Administrator approves of the Division's decision, the applicant shall submit an amended application to the Federal agency and to the Division containing a consistency certification and necessary supporting information. Division concurrence may be presumed in
the absence of Divisional objection within six months from the
identification of the need for a consistency review (see para-
graph 9 of this section) or within three months from the receipt
of the applicant's consistency certification and information,
whichever period terminates last (15 CFR 930.54e).

3) Necessary Data and Information (15 CFR 930.58)

a. A certification of the consistency of a proposed Federal activity
with the New Jersey Coastal Management Program shall be accom-
panied by data and information sufficient to support the certi-
fication of the submitting party, and to enable the Division to
make an independent assessment of consistency and probable
coastal zone effects. The data should address the Rules on
Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.) as
specifically as possible to ensure a timely and efficient con-
sistency review. The data and information shall include:

1) A detailed description of the site nature, and extent of the
proposed activity and its associated facilities, including
maps, diagrams, technical data and other relevant
material (a copy of the Federal application and all supporting
material provided to the Federal agency should be submitted
to the Division).

2) The nature and discharge points of potential air, water, or
waste emissions.

3) A brief assessment relating the probable effects of the
activity and its related facilities on the coastal zone to
the Rules on Coastal Resources and Development (N.J.A.C.
7:7E-1.1 et seq.).

4) Based upon the above assessment, an analysis indicating that
the proposed activity, associated facilities, and their
effects are consistent with the New Jersey Coastal Manage-
ment Program.

Applicants are encouraged to consult with the Division when
preparing the information and data package to ensure consis-
tency and avoid unnecessary delay (15 CFR 930.56).

b. An applicant may submit a copy of the application for the Federal
license or permit, together with any accompanying data, in
satisfaction of section (a) above. The Division shall, within 15
days of receipt, notify the applicant if such materials satisfy
the information requirements.

c. Whenever a proposed Federal activity requires one or more state
coastal permits, the informational requirements for Federal
consistency shall be the same as, and will be satisfied by, the
requirements for the relevant permit(s). (These requirements may
be found at N.J.A.C. 7:7-2.4 for CAFRA Permits, and N.J.A.C.
7:7A-1.4 and 1.6 for Wetlands Permits.)
4) Division Review, Requests for Additional Information, and Response

Preliminary Review

a. Upon receipt of a consistency certification, the Division shall advise the submitting applicant of the receipt of the certification and the date of receipt of the complete certification package. The review period commences on the receipt date, unless additional information required by Section 3(a) is requested, in which case the review period begins on the day the required information is received. A Division request for information or data in addition to that required by 15 CFR 930.58 (Section 3 above) shall not extend the date of commencement of Division review (15 CFR 930.60b).

Request for Additional Information

b. The Division shall review the applicant's consistency certification for adequacy and shall request from the agency in writing any required additional information within 15 days of the receipt date.

Public Hearing

c. The Division may, within fifteen (15) days of the receipt date, schedule a non-adversarial public hearing to be held within sixty (60) days of the receipt date. Notice of the hearing shall be made in accordance with the CAFRA rules and regulations, N.J.A.C. 7:7D-2.3 (15 CFR 930.60 and .62).

State Response

d. The Division shall, if it has not reached a decision within three (3) months of the receipt date, notify the applicant of the status of its consistency review and the basis for further delay (15 CFR 930.63b).

e. The Division shall, within six (6) months of the receipt date, advise the applicant and the Federal agency whether it concurs with or objects to the applicant's consistency certification. Concurrence may be conclusively presumed in the absence of a Divisional objection within six (6) months following commencement of the Division's review (15 CFR 930.63).

f. A determination that the proposed activity is inconsistent with the New Jersey Coastal Management Program shall state the basis for that determination and shall state which, if any, alternate measures are available that would render the activity consistent (15 CFR 930.64b). The objection will also include a statement informing the applicant of a right of appeal to the Secretary of Commerce (15 CFR 930.64e).

g. The Division shall forward a copy of all responses describing findings of inconsistency to the Assistant Administrator, NOAA.
5) **Conflict Resolution**

a. In the event of a Division objection, the submitting party may, within thirty (30) days of the receipt of such objection, file a notice of appeal with the U.S. Secretary of Commerce. The appellant must send a copy of the appeal notice and accompanying documents to the Division and Federal agencies involved. Appeals shall be taken in accordance with the following provisions:

1) Upon receipt of the notice of appeal and supporting information, the Division shall have thirty (30) days to submit detailed comments to the Secretary of Commerce. Copies of such comments must be sent to the appellant and Federal agency within the same thirty (30) day period (15 CFR 930.125).

2) The Secretary will provide public notice of the appeal within fifteen (15) days of receipt of the notice. The Division will provide the public with convenient access to all information related to the appeal. Interested persons may submit comments to the Secretary within thirty (30) days from the date of public notice, with copies provided to the appellant, Federal agency, and the Division within the same thirty (30) days (15 CFR 930.127).

3) The Secretary may dismiss an appeal for "good cause" (15 CFR 930.128).

4) The Secretary may order a hearing independently or in response to a request. If a hearing is ordered, it will be guided by the procedures described in 15 CFR 930.113 (see page 14).

5) The Secretary will make all reasonable efforts to complete consideration of an appeal within ninety (90) days from the date of public notice. The Secretary will issue a decision in writing to the appellant, Federal agency and the Division indicating whether the proposed activity is consistent with the objectives or purposes of the FCZMA, or is necessary in the interest of national security (15 CFR 930.130).

6) If the Secretary finds that the proposed activity is consistent with the objectives or purposes of the FCZMA, or is necessary in the interest of national security, the Federal agency may approve the activity. If the Secretary does not make either of these findings, the Federal agency may not approve the activity (15 CFR 930.131).

b. The Division encourages informal mechanisms for conflict resolution and shall agree to any request of the submitting party for informal meetings during the thirty (30) day period in order to avoid Secretarial appeal (15 CFR 930.124).
6) Monitoring Activities for Continuing Consistency
   a. If the Division determines that an activity previously determined to be consistent with the New Jersey Coastal Management Program is being conducted in such a manner or is having such effects on the coastal zone so as to be inconsistent with the program, it shall request the Federal agency permitting or licensing the activity to take appropriate remedial action. The request shall include necessary supporting information and a proposal for the recommended remedial action. A copy of the request will be sent to the applicant (15 CFR 930.66).
   b. The Division may request secretarial mediation in accordance with 15 CFR 930, subpart G (see p. 13, "Conflict Resolution") if the disagreement is not resolved within sixty (60) days of the date of its request (15 CFR 930.66).

7) Review Procedure for Energy Facility License and Permit Applications

   The Division of Coastal Resources and the New Jersey Department of Energy (DOE) shall conduct a joint review of any application for a Federal license or permit to construct or operate any facility which produces, converts, distributes or stores energy; the term "energy facility" does not include an operation conducted by a retail dealer. This procedure requires nothing different from the applicant. The joint review shall be conducted in the following manner:
   a. The Division shall, upon receipt of a consistency certification, forward a copy to DOE, together with all accompanying data, and shall advise DOE of all applicable time limits.
   b. The Division shall conduct its consistency review subject to the procedures set out in part (4) of this section.
   c. The Division and DOE shall make preliminary independent determinations as to the consistency of and the need for the proposed facility within two months of the receipt date and shall meet to reconcile and disagreements which may exist.
   d. The Division and DOE shall, within three (3) months of the receipt date, make their independent determinations as to the consistency of and the need for the proposed facility. DEP shall within the same three months notify the applicant and the Federal agency whether DEP concurs with or objects to the applicant's consistency certification, or whether a disagreement between DEP and DOE has required the convening of the Energy Facility Review Board.
   e. In the event of a disagreement between the Division and DOE concerning the consistency of the proposed facility with the Coastal Management Program, the Energy Facility Review Board shall be convened. The Review Board shall conduct its review as provided by N.J.A.C. 14A:8-1.1 et seq.
f. The Energy Facility Review Board shall meet and make a recommendation to the Governor within five months of the day on which the consistency certification was received by the Division.

g. The Governor shall issue a decision binding upon the Division and DOE within six months of the receipt date, leaving sufficient time for the Division to issue its consistency determination within the six month limit.
C. LICENSED AND PERMITTED ACTIVITIES DESCRIBED IN DETAIL IN OCS PLANS
   (15 CFR 930.70 - 930.86)

Federal license and permit applicants seeking to undertake activities which are described in detail in OCS exploration or development plans - and which affect land or water uses in the coastal zone of New Jersey - must submit to the Secretary of the Interior or designee a certification that such activities comply and will be conducted in a manner consistent with the New Jersey Coastal Management Program.

Federal Agencies may not issue a license or permit if the state objects to the certification, unless the U.S. Secretary of Commerce finds the proposal meets the objectives of the Federal CZMA or is necessary in the interest of the national security or if the State fails to respond within six (6) months.

New Jersey will consider an activity consistent if it does not conflict with the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.).

Permits and Licenses Covered by this Section

Any federal license or permit covering any activity which the Secretary of the Interior determines must be described in detail within an OCS plan.

The Review Process

The Division of Coastal Resources and the New Jersey Department of Energy (DOE) shall conduct a joint review of any application for a Federal license and permit for activities described in detail in OCS plans for the exploration or development of, or production from any area which has been leased under the OCS Lands Act (43 U.S.C. 1331 et seq.).

The consistency review for Federally licensed and permitted activities described in detail in OCS exploration, development and production plans shall be initiated and conducted according to the following procedures (Important: Onshore activities may require a State permit - see p. 7).

1) Initiating the Review Process: Applicant Responsibility
   (15 CFR 930.76)

   a. The applicant shall provide the Secretary of the Interior or designee with a copy of the OCS plan. The plan shall bear a consistency certification which reads: "The proposed activities described in detail in this plan comply with New Jersey's Approved Coastal Management Program and will be conducted in a manner consistent with such program".

   The Secretary of the Interior or designee shall furnish the Division a copy of the OCS plan (excluding proprietary information) and consistency certification (15 CFR 930.76b).
2) **Necessary Data and Information (15 CFR 930.77)**

A certification concerning consistency with the New Jersey Coastal Management Program shall be accompanied by data and information sufficient to support the determination of the submitting party, and to enable the Division to make an independent assessment of consistency and probable coastal zone effects. The data should address the Rules on Coastal Resources and Development as specifically as possible to insure a timely and efficient consistency review. The data and information shall include:

- a) A brief assessment relating the probable coastal zone effects of proposed activities and their associated facilities to the relevant elements of the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.).
- b) A brief set of findings derived from the assessment indicating that each of the proposed activities and their associated onshore and offshore facilities and their primary effects (air, water, waste discharge, erosion, wetlands and beach access) are consistent with the relevant provisions of the Rules. These findings shall include, when applicable, information concerning the location of temporary or permanent service bases and onshore support structures, offshore pipelines and landfalls and petroleum storage or processing facilities (15 CFR 930.77b).

3) **Division Review, Request for Additional Information and Response**

- a) Upon receipt of a copy of the OCS plan, consistency certification, and required data information, the Division shall advise the submitting party of receipt of the complete consistency package. The review period commences on the receipt date, unless additional information required by Section 2 (above) is requested, in which case the review period begins on the day such required information is received. Division request for information and data in addition to that required by 15 CFR 930.77 (Section 2 above) will **not** extend the date of commencement of Division review (15 CFR 930.78a).
- b) The Division shall forward a copy of the consistency certification and all accompanying data to the New Jersey Department of Energy (DOE), and shall advise DOE of all applicable time limits. In addition, the Division will provide public notice (15 CFR 930.84) of the receipt of the consistency certification in the DEP Weekly Bulletin, in accordance with the 90 Day Construction Permit Rules (N.J.A.C. 7:1C-1.6).
- c) The Division shall review the certification for adequacy and shall request from the applicant any additional needed information **within 30 days** of the receipt date.
d) The Division and DOE shall make preliminary independent determinations as to the consistency of and the need for the proposed activities within two months of the receipt date and shall meet to reconcile any disagreements which may exist.

State Response e) The Division and DOE shall, within three (3) months of the receipt date, make their independent determinations as to the consistency of and the need for the proposed activities. The Division shall, within the same three months, notify the applicant and the Federal agency whether or not it concurs with or objects to the applicant's consistency certification, or whether a disagreement with the DOE has required the convening of the Energy Facility Review Board. The submitting party may presume concurrence with its consistency certification if the Division fails to provide this notice within three months of the receipt date (15 CFR 930.79a).

f) In the event of a disagreement between the Division and DOE concerning the consistency of the proposed activities with the Coastal Management Program, the Energy Facility Review Board shall be convened. The Review Board shall conduct its review as provided by N.J.A.C. 14A:8-1.1 et seq.

g) The Energy Facility Review Board shall meet and make a recommendation to the Governor within five months of the day on which the consistency certification and supporting information was received by the Division.

h) The Governor shall issue a decision binding upon the Division and DOE within six months of the receipt date, leaving sufficient time for the Division to issue its consistency determination within the six month limit.

i) The Division shall, within six (6) months of the receipt date, advise the submitting party and the Federal agency whether it concurs with or objects to the submitting party's consistency certification (15 CFR 930.79). When the Division concurs with the submitting party's finding, it shall advise the Secretaries of Commerce and the Interior of such concurrence. When the Division objects to the submitting party's finding it will notify the applicant, DOE and NOAA and will provide a separate discussion for each objection of how the activity is inconsistent and what alternatives are available that would render it consistent. The objection will also inform the applicant of the right of appeal to the Secretary of Commerce (15 CFR 930.79c).

j) The submitting party may presume concurrence with its consistency certification if the Division fails to respond within six (6) months of the receipt date.
State k) If the plan under review has been amended and resubmitted following a Division objection and subsequent review by the Secretary of Commerce pursuant to the procedures for conflict resolution, the period of Division review or a presumption of concurrence shall be three (3) rather than six (6) months (15 CFR 930.84c).

Effect 1) If the Division issues a concurrence or is conclusively presumed to concur with the resubmitting party's consistency certification, the party will not be required to submit any additional certification or information for Division review at the time applications are actually filed for the applicable Federal licenses and permits. The party shall, however, send the Division a copy of all Federal license and permit applications at the time they are filed (15 CFR 930.84e).

4) Conflict Resolution

a) In the event of a Division objection to the consistency certification for an amended or new OCS plan, the submitting party may, within thirty (30) days of the receipt of such objection, file a notice of appeal with the Secretary of Commerce. Appeals shall proceed in accordance with the provisions of 15 CFR 930 subpart H (see page 19, "Conflict Resolution").

b) The Division encourages informal mechanisms for conflict resolution and shall agree to any request of the submitting party for informal meetings during the thirty (30) day period in order to resolve the disagreement and avoid secretarial appeal.

5) Monitoring Activities for Continuing Consistency (15 CFR 930.86)

a) In the event that the Division determines that a party is failing substantially to comply with an approved OCS plan, and such failure involves the conduct of activities affecting the coastal zone in a manner inconsistent with the New Jersey Coastal Management Program, it shall file a claim alleging such failure with the Minerals Management Service Supervisor for the area involved.

b) The claim shall include a description of the specific activity involved and the alleged lack of compliance with the OCS plan, and a request for appropriate remedial action. A copy of the claim shall be sent to the Assistant Administrator, NOAA (15 CFR 930.86b).

c) If the disagreement is not resolved within sixty (60) days, the Division will file a written objection with the Secretary of Commerce (15 CFR 930.86c). A person will be found to have failed to comply with an OCS plan if the Secretary finds that one or more of the activities described in detail
in the OCS plan are being conducted or are having a coastal zone effect substantially different than originally described in the plan or accompanying information and, as a result, are no longer being conducted in a manner consistent with the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.). Following such a finding, the person must comply with the originally approved OCS plan, or with interim orders issued jointly by the Secretary and the Mineral Management Service, pending approval of the amended or new OCS plan (15 CFR 930.86d).
D. FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS
(15 CFR 930.90 - 930.100)

Federal assistance to state and local governments for projects affecting the coastal zone may not be granted until the New Jersey Division of Coastal Resources certifies that the activity will be consistent with the New Jersey Coastal Management Program (unless the Secretary of Commerce finds that the proposal meets the objectives of the Federal CZMA or is necessary in the interest of national security). The Division will use the New Jersey State Review Process to monitor proposed Federal assistance projects in the coastal zone. The Division also reserves the right to comment on other Federal assistance projects brought to its attention through the media and other avenues.

The Division will consider an activity consistent if it does not conflict with the Rules on Coastal Resources and Development (N.J.A.C. 7:7E-1.1 et seq.).

Activities and Agencies Covered by this Section

The term Federal assistance includes grants, contractual arrangements, loans, subsidies, guarantees, insurance, or other forms of financial aid. The term "state or local government" includes public entities such as special purpose districts. The following is a list of specific Federal assistance programs subject to consistency review (see also Appendix):

1) Department of Agriculture

10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans

10.414 Resource Conservation and Development Loans
   (Exception: small projects costing under $7500 for erosion and sediment control and land stabilization for rehabilitation and coordination of existing irrigation systems.)

10.418 Water and Waste Disposal Systems for Rural Communities

10.419 Watershed Protection and Flood Prevention Loans

10.423 Community Facilities Loans

2) Department of Commerce

11.300 Economic Development: Grants and Loans for Public Works and Development Facilities

11.304 Economic Development: Public Works Impact Projects

11.308 Grants to States for Supplemental and Basic Funding of Title I, II, and IV Activities (basic grants only)

11.417 National Oceanic and Atmospheric Administration - Sea Grants
3) Department of Energy
   81.041 State Energy Conservation Program

4) Department of the Interior
Heritage Conservation and Recreation Service
   15.400 Outdoor Recreation - Acquisition, Development, and Planning Grants

U.S. Fish and Wildlife Services
   15.612 Rare and Endangered Species Conservation

5) Department of Transportation
Federal Aviation Administration
   20.102 Airport Development Aid Program

Federal Highway Administration
   20.205 Highway Research, Planning, and Construction

Urban Mass Transportation Administration
   20.500 Urban Mass Transportation Capital Improvement Grants
   (planning and construction only)
   20.501 Urban Mass Transportation Capital Improvement Loans
   (planning and construction only)
   20.506 Urban Mass Transportation Demonstration Grants
   20.507 Urban Mass Transportation Capital and Operating Assistance
   Formula Grants

6) Environmental Protection Agency
   66.418 Construction Grants for Wastewater Treatment Works (Note:
   Public water treatment facilities are subject to CAFRA.)

A Preliminary Note on the New Jersey State Review Process:

The State Review Process is the system used for the intergovernmental
review of applications for Federal financial assistance and Direct Federal
Development in New Jersey; it is the successor to the Federal Aid Project
Notification and Review System, formerly known as A-95 Review.
Specific procedures are described in a handbook entitled "State Review Process Guidelines," copies of which may be obtained by contacting:

State Review Process
Intergovernmental Review and Assistance Unit
Division of Local Government Services
CN 803
Trenton, New Jersey 08625-0803
(609) 292-9025

Correspondence, questions, and review comments may also be directed to this address.

The Review Process

The Division will review applications for Federal assistance in accordance with the following procedures (IMPORTANT: for procedures where a state coastal permit is required, see page 7):

1) Initiating the Review Process: Applicant Responsibility

   a. The Division shall be notified of the Federal assistance application through the New Jersey State Review Process.

   b. The applicant shall utilize the State Review Process for every major funding phase of the Federal assistance activity which entails the consideration of new information not previously reviewed, or which results in substantial modifications to previously reviewed phases.

   c. Notices under (a) and (b) above shall bear a consistency certification which reads:

      "The proposed activities described in this application comply with New Jersey's approved Coastal Management Program, and will be conducted in a manner consistent with such program".

2) Division Notice Concerning Activities Outside the Coastal Zone

   a. If, pursuant to the State Review process, the Division identifies an application for Federal assistance to conduct an activity which affects the coastal zone but which is outside that zone, the Division shall provide notice to the Federal agency to that effect (15 CFR 930.98).

3) Necessary Data and Information

   If the program being applied for is subject to a Division consistency review, the State Review Process requires the following actions:

   a) Preparation of an Application Review Package (ARP).
b) Distribution of the ARP to the Intergovernmental Review and Assistance Unit AND to the Division via:

Department of Environmental Protection
Planning Group
Office of the Commissioner
CN 402
Trenton, New Jersey 08625-0402

The ARP contains the information that an applicant is required to prepare and submit to the Intergovernmental Review and Assistance Unit AND the Division. The ARP is not a duplicate of the complete application being submitted to the Federal funding agency. However, the Division may ask for a copy of the complete application and/or other information as necessary for a proper consistency determination.

4) Division Review, Requests for Additional Information and Response

Request a. Within fifteen (15) days of receiving notice of an application for Federal assistance the Division shall review the application for adequacy and shall, within the same period, request additional information or advise the applicant in writing if it intends to object to the applicant's consistency determination due to a lack of information.

State b. The Division shall, within thirty (30) days of the date of the State Review notice, advise the Intergovernmental Review and Assistance Unit, the applicant, Federal Agency, and the Assistant Administrator, NOAA, that it concurs with or objects to the consistency of the proposed activity.

c. An objection shall carry a notice that the applicant may, within thirty (30) days of receiving notice of the objection, file an appeal with the U.S. Secretary of Commerce (15 CFR 930.96e).

d. If the Division objection is based on an applicant's failure to supply requested information, the objection shall state the nature of the information, the reasons why it is needed, and the date such information was originally requested from the applicant (15 CFR 930.96d).

e. If the Division receives information requested from the applicant pursuant to paragraphs (a) and (b) after the close of the review period, and thereafter determines on the basis of such information that the proposed activity is consistent with the Coastal Management Program, it shall advise the applicant, the Federal agency, the Intergovernmental Review and Assistance Unit, and the Assistant Administrator, NOAA of such determination.
5) **Conflict Resolution**

a. In the event of a Division objection the applicant may, within thirty (30) days of receiving notice of the objection, file a notice of appeal with the U.S. Secretary of Commerce. Appeals shall proceed in accordance with 15 CFR 930.125 (see p. 21, "Conflict Resolution").

b. The Division shall agree to any request of the applicant for informal meetings during the thirty (30) day period in order to resolve the disagreement and avoid Secretarial appeal.

c. In the event a Federal agency disagrees with a Division finding that a consistency determination is necessary, it may request that the Secretary of Commerce mediate the disagreement by notifying the Secretary in writing that a serious disagreement exists. Mediation shall be conducted in accordance with the relevant provisions of 15 CFR 930 subpart G (see p. 13, "Conflict Resolution").

6) **Monitoring Activities for Continuing Consistency**

a. If the Division determines that an activity previously determined to be consistent with the New Jersey Coastal Management Program is now being conducted in such a manner or is having such effects on the coastal zone so as to be inconsistent with such program, it shall request that the Federal granting agency take appropriate remedial action. The request shall include necessary supporting information and a proposal for recommended remedial action (15 CFR 930.100).

b. The Division shall request secretarial mediation if the disagreement is not resolved within sixty (60) days.
For More Information

The Division of Coastal Resources welcomes questions or comments on these guidelines. Contact:

Federal Coordinator
Department of Environmental Protection
Division of Coastal Resources
CN 401
Trenton, New Jersey 08625.
(609) 292-9762

More detailed information may be obtained by consulting the Federal Consistency Regulations, 15 CFR Part 930 (43 FR 10510, March 13, 1978, revised at 44 FR 3705, January 18, 1979). An outline of these regulations entitled "Federal Consistency in a Nutshell" may be obtained by contacting:

Sallie Cauchon
NOAA Coastal Zone Information Center
1825 Connecticut Avenue, N.W.
Washington, D.C. 20235
(202) 673-5115
This handbook (as revised in June, 1986) is part of an ongoing effort to review and amend the New Jersey Coastal Management Program to ensure that current and projected coastal issues are adequately addressed.

The Federal Consistency 307 Regulations (15 CFR 930) direct the State to provide lists of the following:

1) Federal activities which, in the opinion of the Division of Coastal Resources, are likely to directly affect the coastal zone and require a Federal agency consistency determination (15 CFR 930.35).

2) Federal license and permit activities which are likely to affect the coastal zone and which the Division wishes to review for consistency (15 CFR 930.53).

3) Specific types of Federal assistance programs subject to a consistency review (15 CFR 930.94).

Although the Regulations permit consistency reviews of unlisted activities (15 CFR 930.35b, 930.54, 930.98), the Division of Coastal Resources seeks to provide as much guidance as possible to Federal agencies and potential project applicants. To accomplish this, the Division will continue to review and amend the lists which were included in the originally approved New Jersey Coastal Management Program.

Although all items are not yet Federally recognized as Program listings, users of this handbook should consult with the Division regarding the consistency status of any of the following items:

A) **Federal Activities**

1) Plans, procedures, and facilities for handling, storage and/or disposal of hazardous materials - DON, DOA, USAF, EPA

2) Fishery Management Plans under the MFCMA - NMFS

3) Navigational and/or anchorage designation activities, including placement or removal of air or sea navigation devices - USCG

4) Location and design of Federal construction, repair and maintenance projects, including military operations, highways and railroads, dredging, channel and harbor improvements, beach replenishment, erosion control, - NFS, GSA, NPS, FAA, FRA, USCG, DOA, HUD, DON, USAF, EPA, COE, NPS, FHA, USPS
dams, utility lines, flood control and other projects in or with the potential to impact coastal lands and waters (including actions conducted on Federal lands)

5) Land acquisition, transfer and disposal
- BLM, USCG, GSA
- DON, DOA, USAF, COE, NPS, FWS

6) Site selection - ocean disposal of dredged materials
- EPA

B) Federal Licenses and Permits

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<th>Authority</th>
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<td>USCG</td>
<td>- Licenses for the construction and operation of deepwater ports</td>
<td>- Deepwater Port Act (33 USC 150)</td>
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<td>- Approval of plans for the construction and modification of bridges, causeways and pipelines over navigable waters</td>
<td>- 33 U.S.C. 401, 491, 525</td>
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<td>- Approvals of private aids to navigation</td>
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<td>- Permits and authorization for the handling of dangerous cargo by vessels in United States ports</td>
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<td>- Permits for the handling of flammable or combustible liquids in U.S. ports</td>
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<td>COE</td>
<td>- Approval of plans for the construction of any dam or dike across any navigable waterway</td>
<td>- Rivers and Harbors Appropriation Act of 1899: Section 9 (33 U.S.C. 401)</td>
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<td>- Authorization of plans for the obstruction or alteration of navigable waters</td>
<td>- Id. Section 10 (33 U.S.C. 403)</td>
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<td>- Establishment of Harbor Lines; conditions for extension of piers, etc.</td>
<td>- Id. Section 11 (33 U.S.C. 404)</td>
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-Permission for the temporary occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier or other work built by the United States

-Permits for the discharge of dredged or fill materials into navigable waters and wetlands

-Transportation of dredged material for the purpose of dumping it into ocean waters

-Authorization of construction and maintenance of artificial islands and fixed structures located on the OCS

-Approval of plans for improvements made at private expense under COE supervision

-EPA

-Permits and authorization for underground injections

-Various permits, including handling and disposal of hazardous substances

-Various permits

-Permits authorizing any discharge, including sewage sludge, into navigable waters

-NPDES permits for discharges into the contiguous zone and ocean waters

-Aquaculture

-Id. Section 14 (33 U.S.C. 408)

-Federal Water Pollution Control Act of 1972: Section 404 (33 U.S.C. 1344)


-OCS Lands Act, Section 4(f), as extended by 43 U.S.C. 1333(f)

-Rivers and Harbors Appropriations Act of 1902 (33 U.S.C. 565)

-Safe Drinking Water Act: Section 1421 (42 U.S.C. 300h)

-(42 U.S.C., Chapter 82)

-Clean Air Act of 1976 (42 U.S.C. 7401)

-Federal Water Pollution Control Act of 1972: Sections 401, 405 (33 U.S.C. 1341, 1345)

-Id. Sections 402 (33 U.S.C. 1342)

-Id. Section 318 (33 U.S.C. 1328)
-Permits for transportation of other than dredged material for the purpose of dumping it into the ocean waters. Permits to conduct research including ocean incineration

BLM -Granting of OCS pipeline corridor rights-of-way

-43 U.S.C. 1334
43 U.S.C. 931(c)

MMS -Licenses and permits for any activity described in detail in OCS mineral development and production plans. Permits for drilling activities associated with OCS exploration plans. Pipeline operation and maintenance approvals

-Endangered species permits

-Endangered Species Act (16 U.S.C. 1539)

FWS -Construction of electric and communication lines across NPS lands

-16 U.S.C. 3
16 U.S.C. 494 f-11

NPS -Construction of visitor centers on N.P.S. lands

-16 U.S.C. 5

DOE -Regulation of gas pipelines Licensing of import or export of natural gas

-Natural Gas Act (15 U.S.C. 717, 717b)

NMFS -Taking of marine mammals


FAA -Approvals of plans for the construction, operation or alteration of airports

-49 U.S.C. 1108

NRC -Construction and operation of nuclear facilities

-(42 U.S.C. 2133, 5841)

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7) **Department of Transportation:**

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   b) FHA

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   c) FRA

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INTRODUCTION

Purpose

Since New Jersey is the most densely populated state in the nation, there are enormous pressures on its coastal zone to accommodate development while preserving the natural beauty of its shore and the productivity of its estuary systems. In light of these competing interests, the Division of Coastal Resources in the New Jersey Department of Environmental Protection (DEP) developed the New Jersey Coastal Management Program with detailed policies designed to bring about the wise use of New Jersey's limited coastal resources. The Appendix contains a history of the Coastal Management Program.

DEP's Division of Coastal Resources issues three coastal permits as well as tidelands (formerly called riparian) grants, leases or licenses. The purpose of this Coastal Development Handbook is to provide potential permit applicants with information and requirements for all State coastal permits.

How to Use The Handbook

This Handbook is intended to aid potential applicants at each step of the coastal permitting process. It also aims to help other members of the public interested in the coastal permit process understand how they can participate in these public decisions.

Chapter One describes the types of development proposals which require coastal permits and provides the criteria to determine if you are exempt from obtaining a coastal permit. It also lists other State and Federal permits for which you might need to apply.

Chapter Two lists the items that you must include in an application for each of the permits and for a tidelands conveyance. It also contains a list of the items that must be included in an Environmental Impact Statement (EIS), which is required for all CAFRA and some Wetlands permit applications.

Chapter Three describes how your permit decision will be made. It discusses the Coastal Resource and Development Policies and presents a hypothetical application.

Chapter Four contains construction and siting techniques which will increase the prospects of having your application approved. These techniques are all compatible with the Policies of the Coastal Management Program.

Chapter Five describes the steps you can take to appeal a denial of your application.

The final chapter contains a list of the Division of Coastal Resources offices you can contact to obtain more information and assistance. It also contains a list of the Division's publications which may aid you in preparing an application.
Do I Need a Permit?

The Three Coastal Permits

The New Jersey Coastal Management Program is based on the regulatory activity of DEP's Division of Coastal Resources under the Waterfront Development Law, the Wetlands Act, the Coastal Area Facility Review Act (CAFRA), and its stewardship activity under the Tidelands statutes.

To determine if you will need to obtain one or more of these coastal permits or a Tidelands conveyance from the Division of Coastal Resources before commencing a development project, ask yourself the following questions:

1. Is any portion of the proposed project situated within tidally influenced wetlands in one (or more) of the following counties: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Middlesex, Monmouth, Ocean or Salem?

   If you answered yes, then you will need a Wetlands Permit, unless the site has not been delineated as a wetlands by DEP. Wetlands delineation maps are available from the Division's Bureau of Coastal Planning and Development in Trenton (See Chapter Six for address) and from the clerk of each coastal county.

2. Is your project within, or bordering upon, a tidal waterway?

3. Is your project situated within one of the following counties: Bergen, Burlington, Camden, Essex, Gloucester, Hudson, Mercer, Middlesex, Passaic, Salem, Somerset or Union,

   AND

   within 100 feet of the existing mean high water line of a tidal water body, within 500 feet of a tidal water body with no paved public road, railroad or property line between the project site and the water body, or between 100 and 500 feet from a tidal water body but waterward of the first paved road, railroad or property line?

   If you answered yes to 2 or 3 then you probably need to obtain a Waterfront Development Permit, unless your project is limited to the repair, replacement or renovation of a legal waterfront structure associated with a residence or with recreational boating.

4. Is your project located in the Coastal Area as defined by the Coastal Area Facility Review Act (Figure 1)? The Coastal Area consists of all or portions of the following municipalities:
Figure 1

NEW JERSEY COASTAL ZONE BOUNDARY

- HACKENSACK MEADOWLANDS DISTRICT
- BAY AND OCEAN SHORE AREA
- DELAWARE RIVER AND NORTHERN WATERFRONT AREA

SCALE
0 4 8 12 16 mi

HACKENSACK MEADOWLANDS DISTRICT
NORTHERN WATERFRONT AREA
DEL AWARE RIVER AND NORTHERN WATERFRONT AREA
BAY AND OCEAN SHORE AREA
Atlantic County
 Absecon City
 Atlantic City
 Brigantine City
 Corbin City
 Egg Harbor City
 Egg Harbor Township
 Estell Manor Township
 Galloway Township
 Hamilton Township
 Linwood City
 Longport Borough
 Margate City
 Mullica Township
 Northfield City
 Pleasantville City
 Port Republic City
 Somers Point City
 Ventnor City
 Weymouth Township

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 Township
 Ocean City
 Sea Isle City
 Stone Harbor Borough
 Upper Township
 West Cape May Borough
 West Wildwood Borough
 Wildwood City
 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

Middlesex County
 Old Bridge Township

Monmouth County
 Aberdeen Township (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
 Matawan 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 Cape May 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
Ocean County (continued)
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
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
Elsinboro Township
Lower Alloways Creek Township
Mannington Township
Pennsville Township
Quinton Township
Salem City
Upper Penns Neck

5. Does your project involve the construction of 25 or more dwelling units?

6. Does your project involve the construction of 1200 or more linear feet of roadway or pipeline designed for transport of petroleum, natural gas, or sewage in a single municipality during one year?

7. Does your project involve the construction of 300 or more parking spaces for motor vehicles?

8. Does your project involve any of the following activities:

- Marine terminal and cargo handling
- Sanitary landfilling
- Sewage treatment
- Inorganic acids and salts manufacture
- Bulk storage of petroleum or other gases
- Electric power generation
- Metallurgical construction

- Food or food byproduct manufacture
- Paper production
- Agri-chemical production
- Mineral product mining or processing
- Chemical or petroleum processing or manufacture
- Airport construction
If you answered yes to 4, and to either 5, 6, 7, or 8, you may need to obtain a Coastal Area Facility Review Act (CAFRA) Permit.

9. Is your project situated on lands that are now or have formerly been flowed by the mean high tide?

If your answer is yes, you may need to obtain a grant, lease or license from the Tidelands Resource Council before a coastal permit can be issued.

The Bureau of Coastal Enforcement and Field Services has the authority to determine if you will need to obtain a coastal permit or a Tidelands conveyance from DEP. You should write or call this Bureau if you are not sure whether you need to obtain a permit (See Chapter Six for address).

Exemptions

You may request an exemption from the requirement to obtain a Waterfront Development Permit if the proposed facility is in an upland area and on-site construction or site preparation began on or before September 26, 1980.

Activities requiring a Wetlands Type A Permit that were in progress at the time that the wetlands area was designated may be exempt from the requirement to obtain a Wetlands Permit. Activities requiring a Type B Permit, however, must obtain a Wetlands Permit.

The Division, by administrative rule, is no longer accepting requests for exemptions from the CAFRA permit requirement.

Any interruption in the process of constructing and completing the facility may be a cause for denying an exemption request, unless the factors causing the delay were beyond your control and you made good faith efforts to overcome the interruption. Interruptions caused by financial, labor or legal factors must be properly documented in the exemption request.

If you believe that a proposed facility is exempt from a coastal permit due to prior on-site construction, you should request in writing a determination of exemption from the Division's Bureau of Coastal Enforcement and Field Services (See Chapter Six for address).

Other State and Federal Permits

Many proposed development activities will require the issuance of a permit from Divisions in DEP other than Coastal Resources, or from State agencies other than DEP, or from a Federal agency.

The Planning Group in DEP Room 803, Labor & Industry Building, Trenton (609-292-2662) coordinates the review of major development proposals likely to require more than one DEP-administered permit, of
applications circulated through the State Review Process (formerly A-95), and of State agency projects costing more than one million dollars. This coordinated review helps speed the permit review process and insures the use of consistent policies.

The Office of Business Advocacy, in the Department of Commerce, CN 380, Trenton, NJ 08625 ((609) 292-0701) helps developers determine which State permits they need. A list of State and Federal permits commonly needed for coastal development follows:

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<td>Trenton, NJ 08625</td>
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<tr>
<td>(609) 984-3032 (Air Pollution Permit)</td>
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<td>(609) 292-0417 (Solid Waste Registration)</td>
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<td>Office of Planning and Standards</td>
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<td>1474 Prospect Street</td>
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<td>CN 029</td>
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<td>(609) 633-7026</td>
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<tr>
<td>Bureau of Floodplain Management</td>
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<td>Trenton, N.J. 08625</td>
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<tr>
<td>(609) 292-2402</td>
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<tr>
<td>Municipal Waste Management</td>
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<tr>
<td>1474 Prospect Street</td>
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<td>CN 029</td>
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<tr>
<td>Trenton, N.J.</td>
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<tr>
<td>(609) 984-4429</td>
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<tr>
<td>Permits Administration</td>
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<td>1474 Prospect Street</td>
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<tr>
<td>(609) 292-5262</td>
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<tr>
<td>Water Allocation Office</td>
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<td>1474 Prospect Street</td>
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<td>Trenton, N.J. 08625</td>
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<tr>
<td>(609) 984-6831 (well drilling)</td>
<td></td>
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<tr>
<td>(609) 292-2957 (water diversion)</td>
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</tbody>
</table>
FEDERAL AGENCY

DEPARTMENT OF DEFENSE

Army Corps of Engineers
For activities north of the Manasquan River:

New York District Engineer
26 Federal Plaza
New York, New York 10007
(212) 264-0182

Permit Coordination

For activities in the Delaware River Basin, or along the Atlantic Coast from the Manasquan River southward:

Philadelphia District Engineer
Customs House
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
(215) 597-4723

Permits for the dredging or filling of any wetlands or water body under Section 404 of the Clean Water Act.

Permits for dredging, stream channelization, excavation, filling or any other work affecting a navigable water body under Section 9 or 10 of the Rivers and Harbor Act of 1899.

Federal Consistency

If your development project requires a federal permit or is federally funded, and is in or affects, New Jersey's Coastal Zone, you will also need to obtain a Federal Consistency Certification from the Division of Coastal Resources. This is a requirement of the Federal Coastal Zone Management Act, and can be satisfied by receipt of a coastal permit from the Division.
If you apply for funding or mortgage insurance under a Federal program, you must comply with the State Review Process. The Division of Local Government Services in the Department of Community Affairs is responsible for ensuring that all applications are reviewed by the relevant agencies of New Jersey State, local and regional government.

The address of the Division of Local Government Services is:

Division of Local Government Services
Department of Community Affairs
363 West State Street
CN 803
Trenton, New Jersey 08625
CHAPTER TWO
HOW DO I APPLY?

Coastal Area Facility Review Act (CAFRA) (N.J.S.A. 13:19-1 et seq.)

If you are planning a development project which requires a CAFRA Permit, you are encouraged to request a pre-application conference with the Division of Coastal Resources before seeking municipal approval of your project. The purpose of the optional pre-application conference is to inform you of the Division's application procedures, policies and guidelines. The Division will also discuss your proposal's apparent strengths and weaknesses relative to the Coastal Policies, but cannot commit itself to approving or rejecting it until the complete application is reviewed.

The pre-application conference can save you time and money by advising you at an early stage whether the proposal is likely to be approved and what modifications may be necessary to obtain permit approval.

You should present a conceptual proposal for the facility at the pre-application conference, including the following:

1. A short written description of the site and proposed facility;
2. The number and uses of proposed structures; and
3. Maps indicating the site's location and rough internal plan of development.

If you decide to file an application after attending the pre-application conference, you must notify the County Planning Board that you intend to apply to the Division for a permit. Your application must include the following:

1. A completed application form (a sample form DEP Form CP-1 is enclosed in the pocket of the back cover);
2. An application fee, determined according to the 90-Day Construction Permit Regulations ($1,000 plus $10 per dwelling unit for residential facilities, $1,500 plus $10 per acre to be developed for non-residential and mixed use facilities, maximum fee $10,000); and
3. Twenty copies of an Environmental Impact Statement.

The contents of an Environmental Impact Statement will be discussed later in this Chapter.

Within 30 days of receiving your application, DEP will notify you in writing if the application is complete for filing. If it is incomplete, the specific deficiencies will be noted. Within 15 days following the receipt of additional information to correct deficiencies, you will be notified if the application is complete or if further additional information is needed. An application will not be considered to be filed until it has been declared complete.

After the application has been declared complete, DEP will prepare a staff preliminary analysis of the proposed facility. You will receive a copy of the preliminary analysis before the required public hearing.

A public hearing will be held within 60 days of declaring the application complete for filing. The purpose of the public hearing is to give the applicant and interested parties the opportunity to present orally and in writing their positions concerning the proposed facility, as well as any data developed in relation to the proposed facility. The public hearing will be held within the coastal area and, if possible, within the municipality where the facility is proposed.
At the public hearing, or within 15 days after the public hearing, the review officer may request that you submit additional information necessary for the complete review of the application.

The final decision on the application will be made within 60 days of the public hearing or, if additional information has been requested, within 90 days of receipt of the additional information. If DEP fails to act within this time, the 90 day Construction Permit Law (N.J.S.A. 13:1D-1 et seq.) requires that the application will be deemed to be approved, provided that the application does not violate other statutes or regulations in effect.

Figure 2 is a flow chart of the CAFRA permit application process.

**Waterfront Development Law (N.J.S.A. 12:5-3)**

The procedure for applying for a Waterfront Development Permit is similar to that for applying for a CAFRA permit, although there are fewer informational, and no EIS, requirements. For a major project, you are encouraged to request a pre-application conference prior to applying for a Waterfront Development permit. To apply, you must submit the following items:

1. A completed application form (DEP Form CP-1);
2. An application fee, determined by the 90-Day Construction Permit Regulations;
3. Sixteen copies of a development plan (including one reproducible transparency); and
4. At least two recent color photographs of the site.

The development plan must show the following:

1. The lot;
2. All existing waterfront structures on the lot and immediately adjacent lots;
3. Distances and dimensions of areas, structures and lots, including wetlands delineation and mean high water line, upland property, roads and utility lines;
4. The proposed work outlined in red;
5. The general site location of the development (photoreduced U.S.G.S. quadrangle);
6. The scale of the survey or map, and a north point;
7. The name of the person who prepared the plan (State law requires that the plans be prepared by professional engineers);
8. The name of the applicant;
9. The lot and block number; and
10. Evidence that the applicant has obtained the right to use or occupy the tidelands.

To simplify the permit process, the Division of Coastal Resources has issued a General Permit under the Waterfront Development Law for minor new construction in man-made tidal lagoons. The General Permit does not apply to activities which involve dredging or filling. If you are applying for a project covered by the General Permit you only need to submit six copies of the development plan and no reproducible copy.

The fee for a Waterfront Development Permit for new construction is one percent of the construction cost or a minimum of $100. The fee for a Waterfront Development Permit for minor maintenance and/or repair is one percent of the construction cost or a minimum of $25. The maximum fee is $10,000.
Figure 2
CAFRA PERMIT APPLICATION PROCESS

Pre-Application Conference (Optional) → DEP Receives Application

- Application Deficient;
  Additional Information Requested

- Application Still Deficient → 15 DAYS MAX.

DEP Receives Application → Application Complete for Filing

- Application Complete for Filing

- Public Hearing Scheduled

- DEP Staff Preliminary Analysis Released

- Public Hearing

- Decision

- Application Complete For Review

- Application Complete For Review

- Application Still Deficient

- Still Deficient

- Additional Information Received

- Additional Information Requested

- Automatic Complete For Review

- 60 DAYS MAX.

- 15 DAYS MAX.

- 90 DAYS MAX.
Under a 1981 amendment to the Waterfront Development Law, a permit is no longer required for the valid repair, replacement or renovation of waterfront structures associated with a residence or with recreational boating. Substantially new construction or reconstruction will, in most cases, still require a permit. All final determinations on whether a permit is required are made by the Division's Bureau of Coastal Enforcement and Field Services.

After receiving the application, the Division of Coastal Resources has 20 working days to review it for completeness. At this time, the Division may request additional information to complete the application. You will receive notice within 15 days of receipt of additional information if the application is complete for filing. Once the application is accepted as complete for filing, the Division must make a permit decision within 90 days. General Permits are processed in far less time than the mandatory 90 days. If a decision is not made within 90 days, your application is automatically approved.

A public hearing is not required for Waterfront Development Permit applications, but may be scheduled if the Division feels there is sufficient public interest to justify a hearing.


Before you apply for a permit to conduct a regulated activity on coastal wetlands, you are encouraged to request a pre-application conference. If you need a Wetlands Permit, you must next determine whether you need a Type A or a Type B permit. Type A permits are required for minor projects including excavation of small boat mooring slips, maintenance or repair of bridges, roads or highways, and construction of piers, catwalks, docks, landings, and observation decks. The permit requirement does not pertain to emergency repairs necessitated by a natural disaster or sudden and unexpected mechanical, electrical or structural failure. Type B permits are required for the installation of utilities, excavation for boat channels and mooring basins, construction of impoundments and sea walls, water diversion, and the use of pesticides.

For both Type A and Type B permits, you must submit the following:

1. A completed application form (DEP Form CP-1);

2. A plan of the proposed project;

3. A map showing the proposed structures and boundaries of the project area;

4. A list of the names and addresses of adjacent property owners; and

5. Evidence that the applicant has obtained the right to use or occupy tidelands; and

6. An application fee, determined by the 90-Day Construction Permit Regulations. The fee for a Type A Permit is 1/2 of one percent of the construction cost or a minimum of $100. The fee for a Type B Permit is 1/2 of one percent of the construction cost or a minimum of $300.

If you are applying for a Type B permit, you must also submit an Environmental Impact Statement and notify the U.S. Army Corps of Engineers and the local County Planning Board of your intent to file an application by sending them a copy of the CP-1 Form.
After receiving the application, the Division has 20 days to review it for completeness. During this time, the Division may request additional information. If additional information is submitted, you will receive notice within 15 days of receipt whether the application is now complete for filing. Once the application is accepted as complete for filing, the Division has 90 days in which to make a permit decision. If a decision is not made within 90 days, your application is automatically approved.

A public hearing is not required for Wetlands Permit applications, but may be scheduled if the Division feels that public interest justifies a hearing.

Figure 3 is a flow chart of the Waterfront Development and Wetlands Permits application process.

Tidelands Statutes

There are three kinds of tidelands instruments: grants, leases and licenses. A grant conveys full ownership to the applicant. A lease conveys use of the property for a fixed number of years, and is usually issued for projects involving solid fill (such as a bulkhead). A license also allows use of the property for a fixed number of years (usually 10 or less), and is the type of instrument most commonly used for residential docks and piers.

If you need to obtain a Tidelands grant, lease or license, you must apply to the Tidelands Resource Council. Prior to submitting an application, you are encouraged to request a pre-application conference with the Division of Coastal Resources, Bureau of Tidelands, which serves as staff to the Council. The Bureau of Tidelands uses two different application forms which vary only slightly, one for licenses and one for grants and leases.

You must submit the following items with your application:

1. A current survey, prepared by a licensed surveyor, showing the applicant's upland property and the boundaries of the tidelands area applied for, the location of the mean high water line, the depth of the waterway at mean low water, the names of adjoining property owners, and a diagram of proposed or existing structures within the applied for area; and
2. A certificate of title signed by an attorney at law or representative of a title company demonstrating evidence that you own the upland property, or have the permission of the upland owner to apply for the conveyance (State law gives the upland owner first right to apply).

A Twenty-five dollar fee is required for an application for a Tidelands grant only. There is no fee for a Tidelands lease or license application.

At the time you submit a Tidelands application, you must also submit an application for a Waterfront Development permit to the Division's Bureau of Coastal Project Review. Your Tidelands application will not be considered complete until this is done. When the application has been determined complete for review, it will be scheduled for discussion by the Tidelands Resource Council. The Council's real estate appraiser will evaluate the property, and this evaluation will be considered by the Council in making its decision. This value represents the annual rental in the case of a lease or license, or the full value of the property in the case of a grant. If your application involves legalizing an existing structure, the value may include back rental for past use. If the Council votes to approve the application, it will certify the decision at the next meeting when it approves the minutes of the previous meeting. The Commissioner of DEP then receives the minutes for approval or disapproval.

Figure 4 is a flow chart of the Tidelands conveyance process.
WETLANDS AND WATERFRONT (RIPARIAN) DEVELOPMENT PERMIT APPLICATION PROCESSES

1. Pre - Application Conference

2. SEP Receives Application

3. Request Additional Information

4. Additional Information Received

5. Application Still Deficient

6. Application Complete for Review

7. Optional Public Hearing

8. Decision

NOTE:

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

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

PUBLIC COMMENTS WITHIN FIVE DAYS OF NOTICE
Multiple Permit Projects

If your project requires several coastal permits, you must submit a separate CP-1 application for each one, with the information requirements for each. If you need to apply for both a CAFRA and a Type B Wetlands Permit, you may prepare only one EIS to submit with both applications. If both CAFRA and Wetlands Type A or Waterfront Development Permits are required, the second application will not be considered complete for review until the CAFRA application is complete for review. In this way, the Division will make a single decision on multiple permit projects.

Environmental Impact Statement Requirements

When you submit your application for a CAFRA or a Type B Wetlands Permit, you must also submit an Environmental Impact Statement (EIS). An EIS is not required for applications for Type A Wetlands Permits, Waterfront Development Permits, and Tidelands conveyances.

A pre-application conference is a good way to begin preparation of an EIS. Often attending a pre-application conference can reduce the amount of information you need to supply since you receive guidance from a project review officer. The Division already has some site specific information which you need not repeat in an EIS.

All EIS's should use the Coastal Resource and Development Policies as an outline. Within the EIS, you should locate and map the various location types as identified in the Location Policies, and describe in a detailed and factual manner how the proposal complies with the Location Policies. If you are applying for a Type B Wetlands Permit, the Local Policies with which you will be principally concerned are those dealing with Wetlands (N.J.S.A. 7:7E-3.26 and 3.27). You should compare the various uses proposed with the Use Policies, and describe in a detailed and factual manner how the use complies with these Policies. Finally, you should identify the coastal resources which will be affected by the proposed project, and describe in a detailed and factual manner the resulting effect and the means of compliance with the Resource Policies.

1. An EIS for a CAFRA permit must contain information needed to evaluate the effects of a proposed project on the environment of the coastal area.

The statement should 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 archaeology.

(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 impacts 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 unacceptability; and

(h) A reference list of pertinent published information relating to the project, the project site, and surrounding region (N.J.A.C. 7:7D-2.4).

2. An EIS for a Type B Wetlands Permit should describe and analyze all possible direct and indirect effects of the proposed activity on the site itself as well as on adjacent and noncontiguous areas. The EIS shall refer particularly to the effect of the project on public safety, health and welfare, the protection of public and private property, the public trust in submerged lands and wildlife and marine fisheries, the protection, preservation and enhancement of the natural environment and the preservation of the ecological balance of the wetlands. It shall relate ecological and physical characteristics of the proposed activity site to local vegetation, birds, mammals, tidal circulation, hydrology, meteorology, geology, soils, land use, recreation and history and, in addition, it shall describe and analyze:

(a) The reasons that structures cannot be located on lands other than wetlands;

(b) Temporary and permanent physical changes which would be caused by the proposed activity and the impact of these changes on the activity area and immediate environs;

(c) Alternatives to the proposed action which would reduce or avoid environmental damage;

(d) All measures to be taken during and after the completion of the proposed activity to reduce detrimental on-site and off-site effects; and

(e) Adverse environmental impacts which cannot be avoided.
Chapter Three
How Will the Permit Decision Be Made?

The Rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E-1.1 et seq.) of the Coastal Management Program guide the Division of Coastal Resources in reviewing permit applications under all three coastal permit laws. The Bureau of Coastal Project Review in the Division analyzes applications for CAFRA, Wetlands, and Waterfront Development permits based upon these rules, and makes recommendations to the Division Director to approve, conditionally approve, or deny an application.

Overview of Coastal Resource and Development Policies

The Coastal Resource and Development Policies are grouped into three categories: Location Policies, Use Policies, and Resource Policies. Eight basic coastal policies, however, guide the direction of the specific policies:

1. Protect and enhance 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.

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.

5. Promote public access to the waterfront through linear walkways and at least one waterfront park in each waterfront municipality.

6. Maintain active port and industrial facilities, and provide for necessary expansion in adjacent sites.

7. Maintain and upgrade existing energy facilities, and site additional energy facilities determined to be needed by the N.J. Department of Energy (DOE) in a manner consistent with the policies of this Coastal Management Program.

8. Encourage residential, commercial, and recreational mixed-use redevelopment of the developed waterfront.

In addition, Section 10 of the Coastal Area Facility Review Act requires that seven findings be made before a permit may be issued:

1. The project must conform with all applicable air, water and radiation emission and effluent standards and all applicable water quality criteria and air quality standards.

2. It must prevent 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.

3. It must provide 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.
4. It must result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies.

5. It must cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

6. It must be located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare.

7. It must 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.

The comments of the review agencies together with the Division's Coastal Location Acceptability Method, "CLAM Analysis" (see below), based upon the Coastal Resource and Development Policies allow the Division of Coastal Resources to determine whether these eight conditions are met. A discussion of the role of review agencies is found later in this chapter.

Coastal Location Acceptability Method (CLAM)

The Coastal Location Acceptability Method (CLAM) is a three-step process which the Division uses to produce predictable and consistent coastal permit decisions. The initial analysis examines the project with reference to Location Policies which address the area in which the site is located. Next the application is analyzed with reference to the Use Policies to determine whether the proposed use is suitable to the location. Last, the project is examined with reference to the Resource Policies to assess the acceptability of the development's impact on coastal resources. Figure 5 portrays the CLAM procedure in schematic form.

Location Policies

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 economic, social and energy use implications. Different policies are therefore required for different locations.

The Location Policies classify all land and water locations into General Areas and/or into one or more Special Areas. Special Areas are those 44 types of coastal areas which merit focused attention and special management policies. They are classified into Special Water Areas, Special Water's Edge Areas, Special Land Areas, and Coastwide Special Areas. Special Water Areas extend landward no farther than the mean high water line. Special Water's Edge Areas extend from the mean high water line (or the level of normal flow in non-tidal streams) to one of the following: the inland limit of alluvial soils with a seasonal high water table equal to or less than one foot; the one hundred year flood hazard line, whether tidal or fluvial; the inland limit of water's edge fill; or the inland limit of coastal bluffs, whichever extends furthest inland. Special Land Areas are landward of the Water's Edge. Coastwide Special Areas may include Water, Water's Edge or Land Areas.
COASTAL LOCATION ACCEPTABILITY METHOD

SPECIAL AREA POLICIES

IF WATER AREA

GENERAL WATER AREA POLICY

WATER

BODY

TYPES

ACCEPTABILITY

CONDITIONS

PROPOSED

USE

GENERAL LOCATION POLICIES

USE POLICIES

RESOURCE POLICIES

ACCEPTABILITY DETERMINATION

IF LAND AREA

GENERAL LAND AREA POLICY

COASTAL REGION

ENVIRONMENTAL SENSITIVITY

ACCEPTABLE INTENSITY OF DEVELOPMENT

DEVELOPMENT POTENTIAL
The following are Special Areas:

- Shellfish Beds
- Surf Clam Areas
- Prime Fishing Areas
- Finfish Migratory Pathways
- Submerged Vegetation
- Navigation Channels
- Canals
- Inlets
- Marina Moorings
- Ports
- Submerged Infrastructure Routes
- Shipwrecks and Artificial Reefs
- Estuarine or Marine Sanctuary
- Wet Borrow Pits
- Intertidal Flats
- Filled Water's Edges
- Existing Lagoon Edges
- Natural Water's Edge - Floodplains
- Alluvial Flood Margins
- Beaches
- Dunes
- Overwash Fans
- Erosion Hazard Areas
- Central Barrier Island Corridor
- Wetlands
- Wetlands Buffers
- Cranberry Bogs
- Wet Borrow Pit Margins
- Coastal Bluffs
- Intermittent Stream Corridors
- Farmland Conservation Areas
- Steep Slopes
- Dry Borrow Pits
- Historic and Archaeological Resources
- Specimen Trees
- Endangered or Threatened Wildlife or Vegetation Species Habitats
- Critical Wildlife Habitats
- Public Open Space
- Special Urban Areas
- Pinelands National Reserve and Pinelands Protection Area
- Hackensack Meadowlands District
- Wild and Scenic River Corridors

Special Area Policies are found in Subchapter 3 of DEP's Rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E-3.1 et seq.).

All coastal areas except the Special Water's Edge are also subject to General Land Area or General Water Area Policies.

**General Water Areas** include all areas which lie below either the Mean High Water Line or the normal water level of non-tidal waters. Except at times of drought or extreme low tide, these areas are inundated.

Using volume and flushing rate as criteria, General Water Areas are divided by volume and flushing rate into oceans, open bays, semi-enclosed and back bays, tidal guts, large rivers, medium rivers, creeks and streams, and lakes, ponds and reservoirs. Some of these types are further divided for policy purposes into different depths.

A Policy Summary Table, which indicates the Location Policy for the introduction of various uses in each of the General Water Areas, is included for quick reference (See Figure 6). Policies for General Water Areas are fully explained in Subchapter 4 of the Coastal Resource and Development Policies (N.J.A.C. 7:7E-4.1 et seq.).

**General Land Areas** include all mainland land features located upland of Special Water's Edge 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:
**WATER AREA POLICY SUMMARY TABLE**

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<th>Water Area Type</th>
<th>Ocean 18' +0-18'</th>
<th>Open Bay 18'.6-18',0-6'</th>
<th>Semi Enclosed and Back Bay 6',0-6'</th>
<th>Tidal Guts C</th>
<th>Large Rivers C</th>
<th>Medium Rivers, Creeks and Streams C</th>
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*Conditionally acceptable in the Arthur Kill and Kill Van Kull

**Notes:**
- **P** = Prohibited
- **C** = Conditionally Acceptable
1. Coastal Growth Rating - The coastal zone is classified into 13 regions on the basis of existing coastal development and natural and cultural resources. Three growth strategies affect coastal policies in each of these regions:

a. Development Regions - Already largely developed, these regions are preferred for additional development over other regions, all other factors being equal.
b. Extension Regions - These regions are close to development regions. Development should be channelled here when appropriate sites are not available in the Development Regions.
c. Limited Growth Regions - Largely undeveloped and containing environmentally sensitive areas, these regions should generally contain only infill development. Planned Unit Developments are, however, conditionally acceptable in these regions.

2. Environmental Sensitivity - The level of a site's environmental sensitivity — High, Moderate, or Low — depends on the presence of three factors:

a. Vegetation
b. Fertile soils
c. High permeability wet soils

The presence of these factors indicates high environmental sensitivity; their absence indicates low environmental sensitivity.

3. Development Potential - The level of development potential — High, Medium or Low — depends on the presence of three factors:

a. Roads
b. Sewerage
c. Surrounding development

The presence of these factors indicates high development potential; their absence indicates low development potential.

The synthesis of these three factors indicates the appropriate pattern of development from a broad, regional perspective and provides a method for determining the acceptable intensity of development of specific sites, as well as entire regions. The method of assessment is found in Subchapter 5 of the Coastal Resource and Development Policies. Figure 6 contains the Land Acceptability Tables.

Subchapter 6 of the Coastal Resource and Development Policies (N.J.A.C. 7:7E-6.1 et seq.) contains the General Location Policies. Linear development is subject to specific location policies. In addition, coastal development that induces further development must demonstrate that these secondary impacts satisfy the Coastal Resource and Development Policies.

Use Policies

The second stage in the screening process of the Coastal Resource and Development Policies is a set of policies for particular uses of coastal resources. These policies are found in Subchapter 7 of the Coastal Resource and Development Policies. They do not preempt Location Policies which restrict development, unless specifically stated. In general, Use Policies impose conditions which must be satisfied by specific uses, in addition to meeting the Location Policies and Resource Policies.
Figure 7

Land Acceptability Table: Development Region
(Urban Areas, Northern Waterfront, Northern Central, Absecon-Guam Point Regions, and Delaware River)

<table>
<thead>
<tr>
<th>Area Type Number</th>
<th>Development Potential</th>
<th>Environmental Sensitivity</th>
<th>Acceptable Development Intensity</th>
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<tr>
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<td>High Medium Low</td>
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Land Acceptability Table: Extension Region
(Southern, Western Ocean, and Longest Corridor Regions)

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<th>Area Type Number</th>
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Land Acceptability Table: Limited Growth Region
(Northern-Southern Ocean, Great Egg Harbor River Basin, and Delaware Estuary Regions)

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<thead>
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<th>Area Type Number</th>
<th>Development Potential</th>
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Coastal uses are classified in the following categories:

- Housing
- Resort and recreational
- Energy
- Transportation
- Public facility
- Industry
- Mining
- Ports
- Commercial facility
- Coastal engineering
- Dredge spoil disposal on land
- National defense facilities

Resource Policies

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 performance standards to which proposed development must adhere. The Resource Policies are found in Subchapter 8 of the Coastal Resource and Development Policies.

The Resource Policies concern the following resources:

- Marine Fish and Fisheries
- Shellfisheries
- Water Quality
- Surface Water Use
- Groundwater Use
- Public Services
- Public Access to the Shorefront
- Scenic Resources and Design
- Buffers and Compatibility of Uses
- Solid Waste
- Energy Conservation
- Neighborhoods and Special Communities
- Runoff
- Soil Erosion and Sedimentation
- Vegetation
- Important Wildlife Habitat
- Air Quality
- High Permeability Moist Soils
- Wet Soils
- Flood Hazard Areas
- Decommissioning of Projects
- Noise Abatement
- Barrier Free Design
- Traffic
Hypothetical Case Study: Winslow Village  
-CAFRA Permit Application-

DEP receives an application to construct 132 townhouses on a 13.97 acre site in Monmouth County. The project requires a CAFRA permit because it is located within the CAFRA area and involves the construction of 25 or more housing units. The following is a step-by-step description of how the CLAM process determines the application's acceptability.

**Step 1. Identify and Map Site and Surrounding Region**

*Source:* USGS 7.5' Topographic Quadrangle Map, U.S. Department of the Interior, 1:24,000 scale

**Step 2. Identify and Map Special Areas**

On the site's western boundary are slopes with gradients between 15 and 25 percent. The Steep Slopes Policy (N.J.A.C. 7:7E-33) applies.

*Source:* USGS Slope Map and Site Survey.

*Policy:* The Steep Slopes Policy is as follows:

Development on steep slopes is discouraged unless their use is essential to a reasonable use of the site. If some development of steep slopes meets that standard, then the development must:

1. Produce minimum feasible site disturbance,

2. Provide for maximum feasible vegetation of the steep slope, especially with native woody vegetation,
3. Be consistent with the natural contour of the site to the maximum extent feasible.

4. Include limited stabilization measures, if necessary, such as terracing and paving, that are consistent with the natural or pre-development character of the entire site, to the maximum extent practicable, and


Analysis: Development of the Steep Slopes is not essential to a reasonable use of the site, since Steep Slopes cover less than 25 percent of the site and are located along one border. A cluster housing arrangement can avoid the need for construction on Steep Slopes, without limiting the number of units. The applicant must submit a site plan which avoids construction on Steep Slopes.

Step 3: Identify and Map General Water Areas

There are no Water areas on this site. General Water Area Policies do not apply.

Source: USGS 7.5' Topographic Quadrangle Map
Step 4: Identify and Map General Land Areas

Source: USGS 7.5' Topographic Quadrangle Map and Soil Survey of Monmouth County

Analysis: The site is located in the North Shore Region, which is designated a Development Region.

To determine the acceptable intensity of development, the site's development potential and environmental sensitivity are considered. The site has access to sewerage and to paved public roads. More than 50 percent of the site's boundaries are adjacent to existing residential development. The development potential, therefore, is high.

The entire site has moderate environmental sensitivity since it is an early successional meadow with soils of Agricultural Capability Class III and depth to seasonal high water table greater than three feet.

High Development Potential combined with Moderate Environmental Sensitivity in a Development Region allows High Intensity of Development.

Step 5: Use Policies

The project must meet the Housing Use Policies (N.J.S.A. 7:7E-7.2). The Cluster Development Policy (N.J.A.C.7:7E-7.2(c)) is relevant:
Housing developments are encouraged to cluster dwelling units on the areas of sites most suitable for development.

Analysis: The applicant must submit a site plan with cluster housing to meet this Policy.

Step 6: Resource Policies

The proposed project will not have a significant impact on any coastal resource protected by the Resource Policies. Since development will not occur on Steep Slopes, the Runoff (N.J.A.C. 7:7E-8.7) and Soil Erosion and Sedimentation (N.J.A.C.7:7E-8.8) Policies can be met. The project meets the requirements of the Water Quality Policy (N.J.A.C. 7:7E-8.4) since it will not prevent attainment of surface water and groundwater standards.

Step 7: Acceptability Determination

The hypothetical project is conditionally acceptable. The applicant must submit a site plan showing clustered housing on the part of the site where there are no Steep Slopes to meet the Steep Slopes and Cluster Housing Policies. The project, if sensitively designed, could meet the relevant Resource Policies.
Role of Review Agencies

Although all CAFRA, Wetlands and Waterfront Development Permit applications are reviewed for consistency with the Rules on Coastal Resource and Development Policies, CAFRA applications and selected Wetlands and Waterfront Development Permit applications are also reviewed by other State agencies to ensure that the proposed project will not have unacceptable impacts upon resources which those agencies are responsible for protecting. The following agencies review coastal permits based on their expertise is administering their respective responsibilities.

**Department of Environmental Protection**

Division of Water Resources - Responsible for water quality under Section 208 of the Federal Clean Water Act and under the New Jersey Water Pollution Control Act. It also regulates building within stream areas and in designated floodways.

Division of Environmental Quality - Responsible for air quality under the Federal Clean Air Act and for solid waste disposal.

Division of Fish, Game and Wildlife - Administers Federal Endangered Species Act.

The Planning Group - Responsible for archaeological and cultural resources.

Green Acres Program - Responsible for the New Jersey State Comprehensive Outdoor Recreation Plan (SCORP).

**Department of Community Affairs**

Division of State and Regional Planning - Responsible for the State Development Guide Plan and the Municipal Land use Law.

**Department of Labor**

Division of Planning and Research - Responsible for siting and financing business and industry.

The Division of Coastal Resources considers the comments of the review agencies, the local municipality and county, and others who submit written or oral testimony in determining whether a proposed project is consistent with DEP's Rules on Coastal Resource and Development Policies, before the Division makes the final determination. Counties have land use authority over subdivision and site plans for traffic impacts on county roads. Municipalities have the power to enact and enforce zoning ordinances. The State and local governments act to check each other for in most cases a project must receive the appropriate approvals from both before construction may begin.
Tidelands Decisions

The Tidelands Resource Council, a twelve member body appointed by the Governor, may grant, lease or license the use of State-owned tidelands, so long as such action is in the public interest. The Division of Coastal Resources serves as staff to the Tidelands Resource Council, and provides an analysis of the consistency of each proposed use of tidelands with the Coastal Resource and Development Policies. This ensures that the Council will not convey tidelands for uses for which the required Waterfront Development Permit would be denied. The Commissioner of DEP may refrain from signing the Council minutes if an action of the Council is believed to be inconsistent with State policy including the Coastal Resource and Development Policies. If the minutes are not signed, an application is returned to the Council for reconsideration.

Decisions in the Hackensack Meadowlands District

The Hackensack Meadowlands Development Commission, (HMDC) a State-level regional agency, is the lead planning and management agency in a 31 square mile area encompassing part of the Hackensack River Estuary and associated wetlands and uplands. The HMDC's Master Plan and associated ordinances guide both the HMDC and DEP in their decision-making within the Meadowlands District. The HMDC has full planning and zoning powers within the District.

For development at and below mean high water in the Hackensack Meadowlands District, a Waterfront Development Permit is required from the Division. Permit decisions, however, are based solely upon the Special Area Policy for the Hackensack Meadowlands District (N.J.A.C. 7:7E-3.44), which states that the HMDC is the lead coastal planning and management agency within the District. The HMDC Master Plan Zoning Rules are adopted as part of the Coastal Management Program.

Energy Facilities

The New Jersey Department of Energy (DOE) and DEP have coextensive jurisdiction over energy facility siting in the coastal zone based on the Department of Energy Act (N.J.S.A.52:27-1 et seq.). To exercise this jurisdiction effectively, the two departments entered into a Memorandum of Understanding (MOU) in 1978. The MOU includes:

1. A procedure for DOE to review coastal permit applications;
2. A commitment for DEP and DOE to base their decisions on the State's Coastal Resource and Development Policies and the State Energy Master Plan. Generally, the Energy Master Plan addresses the need for new energy facilities and the Coastal Policies address their environmental impacts.
3. A procedure to resolve differences between the two agencies through an Energy Facility Review Board.

To date, there have been no conflicts between the two Departments and the Energy Facility Review Board has never had to meet.

Public Participation in the Review Process

Public participation is an essential element in the development and implementation of the Coastal Management Program. DEP offers opportunities for public participation in regulatory decision-making and continued coastal planning such as policy revision.
A public hearing is required under CAFRA and is held where public interest justifies one under the Wetlands Act and Waterfront Development Act. Under CAFRA the applicant must give notice of the public hearing pursuant to the provisions of the Municipal Land Use Law. Decisions to lease or sell publicly-owned tidelands are made by the Tidelands Resource Council at meetings which are open to the public. In addition, any interested person can review the Division's file on a pending application and submit written comments.

The Division holds a public hearing near the site of a proposal for every CAFRA permit application, and, at its discretion, for major Wetlands and Waterfront Development permit applications. Decisions to lease or sell publicly-owned tidelands are made by the Tidelands Resource Council at meetings which are open to the public. In addition, any interested person can review the Division's file on a pending application and submit written comments.
This chapter describes the workings of the natural system of the coast, and provides building techniques to use to comply with the Coastal Management Program's Location, Resource and Use Policies. These techniques are suitable for building in environmentally sensitive areas, and harmonize construction with the landscape. A reference to the appropriate coastal Policy follows each technique. The Policies were adopted as administrative rules (N.J.A.C.7:7E-1.1 et. seq. and were most recently revised in March, 1982.

If you use some or any of the building techniques described in this chapter, you will not be guaranteed approval of your permit application. You will, however, have increased your prospects for approval since you will be building in harmony with the coastal ecosystem.

The Coastal Natural System

Beaches and Dunes protect marshes and adjacent upland from storms and erosion, provide wildlife habitat, and are of obvious scenic and recreational value. Waves and wind are constantly altering beaches and dunes. This is especially true during and after storms. The action of tidal currents and of waves striking a shoreline at an angle slowly moves sand and other materials along the shore. The littoral drift, as it is called, resupplies eroding beach with sand transported from offshore or other points along the coast. Erosion and movement of dunes is reduced by dune grasses and other vegetation, which trap and anchor the sand against natural forces. Activities which adversely affect the natural functioning of the Beach and Dune System are discouraged with some activities conditionally permitted (N.J.A.C. 7:7E-3.21).

Dunes are easily damaged by most any human use. Walking through dune grasses kills them and increases erosion. On beaches and dunes, foundations for structures are usually unstable, danger of flooding and storm damage is extremely high, and water supply and waste disposal problems are frequent and expensive to solve. Development of dune areas is not recommended.

Estuaries are river mouths and bays where fresh and salt water meet. Because salt water is slightly heavier than fresh water, it usually moves up the estuary beneath outflowing fresh water. Fine-grained material tends to move upstream by this process, frequently causing dredged channels to silt in quickly. The mixing of water in estuaries creates a nutrient-rich habitat favorable to many forms of life, and helps to naturally cleanse polluted water.

* This chapter is based on Chapter Two of the State of Connecticut's Developer's Handbook, written by Allen Carrol. The New Jersey Coastal Management Program is grateful to the Connecticut Coastal Area Management Program for permission to borrow from the Developer's Handbook and reproduce its sketches.
Nearly all of the fish of the Jersey shore are in one way or another dependent upon estuaries. Salmon and shad migrate through them to fresh water spawning areas; other species, such as striped bass, use estuaries as nursery areas. Development which creates a physical barrier to Finfish Migratory Pathways is prohibited unless mitigation measures are used (N.J.A.C. 7:7E-3.5). For many other marine animals, estuaries are important in feeding and reproduction. Estuaries also provide habitat for blue crabs, oysters, and other commercially valuable shellfish. Any development which results in the destruction, contamination or condemnation of presently productive Shellfish Beds is prohibited (N.J.A.C. 7:7E-3.2). Also, destruction of submerged vegetation beds is generally prohibited, and conditionally acceptable only for trenching energy pipelines and Submarine Cables of national significance (N.J.A.C. 7:7E-3.6).

The food web begins with dead plant and animal matter and other sediments flowing into estuaries from upland areas. These materials are converted into food by marsh vegetation, marine algae, bacteria, and minute floating plants. The plants are eaten either by small fish, shellfish and other invertebrates, or by microscopic floating animals, which in turn are preyed upon by larger animals. Large fish, birds, and people are at the top of the food web having no natural predators. Other animals feed on dead plants and animals, reducing them into basic chemical constituents. These materials are used by plants, thus completing the cycle. Because all aspects of the biological system are interrelated, disruption of one part of the food web can affect many other parts.

Land Areas exert an important influence on the natural systems of the coastline. The amount and quality of fresh water draining from land areas into estuaries determines the salinity and water quality of all coastal waters. The salinity in turn helps determine the type of animal and plant species in the estuaries, and to a degree the type of wetlands vegetation bordering the estuaries. Many animals need the lowered salinity in estuaries for spawning, for use as nursery areas, and for protection from salt water predators.

Tidal Wetlands (or salt marshes) trap and store enormous amounts of energy in soil and plants. Tidal flushing, the daily movement of salt water into and out of the marshes, washes this energy, in the form of as dead plant matter and microscopic
organisms, out into the estuaries and the ocean, where it serves as the primary link in the food web for marine life. Tidal wetlands are pollution filters, removing contaminants from water flowing through them. By slowing the surge of flood waters, they can reduce not only shore erosion but also flood damage to upland structures. Many fish species spawn or spend part of their life cycles in tidal wetlands. Marshes are also important breeding areas for certain waterfowl. The value of wetlands as wildlife habitat, cleaners of pollutants, nutrient producers and aesthetic attractions make their preservation vital. In general, development of all kinds is prohibited in Wetlands (N.J.A.C. 7:7E-3.26).

Intertidal Flats are unvegetated sandy or muddy areas exposed at low tide. Despite their barren appearance, they support large animal populations. Worms, crabs, and clams feed at high tide, and retreat into burrows as the tide recedes. High tide also brings juvenile and even adult fish, which graze on the exposed food supply. Millions of microorganisms in the tideflats serve as natural filters for cleaning polluted water. Developing, filling and new dredging of intertidal flats is generally discouraged (N.J.A.C. 7:7E-3.16).

Flood Plains bordering estuaries and the coastline are prone to periodic flooding and storm damage. Development of these areas should be limited to water-dependent activities such as boating and recreation (N.J.A.C. 7:7E-3.19).

The design of any coastal development should allow and encourage Public Access to scenic views through the use of walkways open to the public and or by planning the size and location of roads and structures with their visual impact in mind (N.J.A.C. 7:7E-8.13). New Jersey’s coastal waters and adjacent shorelands are valuable public resources which are limited in area. Past developments have often blocked the waters from public view and/or made physical access to the waterfront difficult or impossible. Future development should provide open space at the water for walking, sitting, viewing, jogging or bicycling. DEP’s Hudson River Walkway Plan Design Guidelines can be applied to any proposed urban walkway, although the plan itself specifically applies to the Hudson River.
Dredging, Fill, and Structures

Dredging frequently changes water circulation and salinity and releases pollutants from bottom sediments. Fine silt disturbed through dredging clouds the waters and creates poor habitat for bottom organisms after settling. The silt is easily moved by tides and currents; clogged channels may require frequent redredging. Whenever possible, dredging should be avoided. If it is necessary, the spoil removal should be kept to a minimum, the dredging should take place during a time of the year when impacts would be minimized, and turbidity controls should be used (N.J.A.C. 7:7E-4.10(e) and (f)).

As a rule, waters should not be altered by Filling (N.J.A.C. 7:7E-4.10(i)). Filled tidal areas are often subject to flooding and may result in erosion problems. In addition, filling alters the flow of water and sediments and destroys wildlife habitat and productive shallow areas. If it is necessary to install a structure in tidal waters, pilings are better than fill. Water, sediments, and wildlife can live and move freely beneath the pilings where a solid structure would have created an obstruction (N.J.A.C. 7:7E-4.10(j)).

Jetties, groins, and other Shore Protection Structures perpendicular to the shoreline often cut off the transport of sand by wave action. Sand may build up on the side of the barrier while the beach on the other side is starved for sand and erodes away. Avoiding such structures allows natural processes to resupply eroding beaches with sand (N.J.A.C. 7:7E-7.11(e)).

Bulkheading can usually be avoided by locating development away from eroding shorelines. If not, it may be possible to retain or establish a buffer strip or vegetation between the bulkhead and the water. This will help prevent undermining of the bulkhead, and will provide for wildlife habitat (N.J.A.C. 7:7E-7.11(e)).
Developing the Coast Wisely

Natural drainage patterns of shorelands should be maintained. Channelization and diversion of coastal streams can increase pollution, change salinity levels, and decrease biological activity in estuaries by diverting flow from marshes, tidelands, and other shallow areas. Realignment of natural waterways is discouraged (N.J.A.C. 7:7E-4.10(r)).

If wells are going to be used for water supply, fresh groundwater may be in short supply in many coastal areas. Excessive reliance on Groundwater Use sometimes causes salt water to contaminate wells (N.J.A.C. 7:7E-8.6).

Poorly planned septic systems can be especially troublesome near the coastline. Since the water table is usually close to the surface, wastewater may enter the groundwater before it is properly cleansed. Highly permeable sandy soils and relatively impermeable marsh soils require special consideration in design and may limit development sites. Coastal development such as roads, parking lots, structures, subsurface sewage disposal areas, and discharge basins, should avoid High Permeability Moist Soils (N.J.A.C. 7:7E-8.20).

Development that will help restore the economic and social viability of depressed Urban Areas is encouraged especially if the development provides safe access to the waterfront (N.J.A.C. 7:7E-3.42). Urban development and redevelopment and Housing Rehabilitation will provide economic and social benefits to local residents and neighborhoods (N.J.A.C. 7:7E-7.2(g)).
Buildings and other types of development that do not require access to water should be located inland of the coastline. Locating such development inland will keep coastal areas available for more appropriate water-related uses.

**Boat Ramps, Docks and Piers, and Bridges** in tidal waters and wetlands should be built so that water circulation is not blocked or impeded. Bridges are more desirable than culverts; pile-supported causeways across marshes and tideflats preserve natural habitat and are less disruptive than solid fill (N.J.A.C. 7:7E-4.10 (b), (c) and (m)).

**Marinas** should be located in areas with steep banks and good water circulation that provide wave and storm protection in many cases. The natural shoreline can be largely preserved by placing boat slips farther out into the water and connecting them to the shore with wharves. This will reduce expensive dredging and bulkheading, and will preserve the shoreline for recreation and wildlife. (N.J.A.C. 7:7E-7.3 (d)). It also reduces wave action in the marina due to wave reflection off the bulkhead. The Marina Development Guide (available from the Division in July 1982) will provide further guidance to marina developers.

Support facilities for marinas, including buildings and storage areas, should be located inland. Locating these facilities on the shoreline preempts valuable open space, pollutes surrounding waters with storm runoff, and greatly increases the probability of serious storm damage.
Harmonizing with the Landscape

Buildings should be designed to blend with their natural surroundings rather than spoil them. Instead of ignoring or dominating the landscape, large structures should harmonize with the area's Scenic Resources. Use of appropriate building materials and skillful landscaping will make new buildings less obtrusive (N.J.A.C. 7:7E-8.14).

The use of a site should be compatible with other land uses in the area. A commercial development that could be an asset in the right location may be a nuisance and an eyesore if improperly sited. Buffers may mitigate the adverse impacts of development (N.J.A.C. 7:7E-8.15).

In addition to screening homes from undesirable views, subdivisions can be planned so that houses face away from unsightly buildings, roads, and parking lots, and take advantage of natural and open space areas. Trees and undergrowth can be thinned to open up distant vistas without stripping the site of vegetation and causing Soil Erosion (N.J.A.C. 7:7E-8.8).

Maintaining portions of a site as open space has many advantages: privacy is improved through separation of buildings or groups of dwellings; car and play areas are separated for greater safety; the value and aesthetic quality of the development are improved. In addition, biologically valuable areas such as wetlands can be preserved, and buildings can be concentrated in areas best suited for them to provide Compatibility of Uses (N.J.A.C. 7:7E-8.15).

The natural quality and attractiveness of the coastline can be destroyed by improper development. Heavy development of the immediate waterfront causes most vegetation to be stripped away and increases danger of pollution from septic systems. Cluster Development is encouraged because it reduces the impact of construction on soils, open space, vegetation, and aquifer recharge resources (N.J.A.C. 7:7E-7.2 (c)).
Subdivision Design

Roads should follow the contours of the site rather than run against them. Roads built straight up and down hill require more grading, are more expensive, need more maintenance, and may increase erosion problems. A carefully-planned circulation pattern is preferable to a monotonous grid system, since it may prevent Traffic congestion and preserve the natural assets of the site (N.J.A.C. 7:7E-8.19).

Residential areas should be separated from major highways, commercial areas, or factories by Buffers. Existing or planted vegetation (especially evergreens) and bulldozed earthen berms can effectively increase privacy and reduce noise reaching the development (N.J.A.C. 7:7E-8.15).

In developing a site, as much existing Vegetation as possible should be preserved. Stripping an area of trees decreases its value and reduces its visual quality. When planting new vegetation, it is best to use native species, since they are generally hardier and better suited to the site than ornamental and exotic plants (N.J.A.C. 7:7E-8.9).

Improper scale and architectural style of buildings can visually spoil an entire street or neighborhood. The height, building materials, setback from the street, and landscaping of new buildings should harmonize with neighboring structures. Buildings should not compete with nearby visual attractions such as churches and Historic and Archaeological Resources (N.J.A.C. 7:7E-3.35).

Buildings, signs, and parking areas should not block vistas from roads and other public areas. Pleasing views can be maintained by placing Overhead Transmission Lines underground, landscaping to prevent vegetation from obscuring the view, and locating buildings below or to one side of the line of sight (N.J.A.C. 7:7E4.10(o)).
Energy Conservation

Energy Conservation techniques such as increasing insulation in walls and ceilings can substantially reduce heating costs regardless of the type of heating system used. Increasing insulation in walls from 4 to 9 inches and in ceilings from 3 to 6 inches can lower heat loss on a cold day by roughly 30 percent. Reducing air leaks around doors and windows also reduces heat loss (N.J.A.C. 7:7E-8.17).

The location and exposure of buildings can have a major effect on energy consumption. Houses on exposed, windy sites will require more energy to heat than buildings in more sheltered areas. Large windows on northern walls will increase winter heat loss. Roof overhangs on south-facing walls with large windows can be designed so that sunlight enters the house in the winter and is largely blocked in the summer. DEP's Energy Conservation Guidelines (available in July, 1982) will contain techniques for complying with the Energy Conservation Policy.

Widely dispersed residential development causes energy to be wasted in frequent and lengthy automobile trips. Wisely planning Housing and Transportation by increasing density of development through clustering and locating subdivisions, schools, shopping areas and employment centers near each other reduces gasoline consumption and makes possible the use of alternative forms of transportation (N.J.A.C. 7:7E-7.2(f)).
CHAPTER FIVE
WHAT IF MY APPLICATION IS DENIED?

Conflict Resolution - Appeals

All permit decisions made under the New Jersey Coastal Management Program can be appealed administratively. By law, a CAFRA permit decision can be appealed by any interested person within 21 days of the final Division of Coastal Resources action to a Coastal Area Review Board composed of the Commissioners of Environmental Protection, Community Affairs, and Labor. By regulation, it may also be appealed to the Commissioner of DEP within 21 days of publication of the decision in the DEP Bulletin. The decision of the Commissioner or of the Review Board can be further appealed through the courts. Wetlands and Waterfront Development permit decisions can be appealed to the DEP Commissioner within 10 days, and then to the courts.

If a proposal requires approval under several laws with different sets of criteria, the applicant will have to meet them all. A project subject to a coastal permit, which is encouraged by the plans or actions of another agency, cannot be constructed unless it has received the required coastal permit. At the same time, a project which conforms with all the Coastal Resource and Development Policies cannot be constructed until the applicant receives all other required State, Federal, county and municipal approvals.

If your Tidelands conveyance is denied by the Tidelands Resource Council, you may request that the Council reconsider its decision. There is no automatic right of appeal.

If your permit application is denied "without prejudice" (as most are), you may submit a subsequent application for the same project on the same site within one year of the date of disapproval without paying additional fees. A denial with prejudice is a final disapproval of the application. If you re-apply, you must submit the appropriate fees.

Enforcement Procedures

DEP has established procedures for enforcing permit requirements and conditions. The Bureau of Coastal Enforcement and Field Services inspects a project site after a permit has been issued to ensure that development activity is in accordance with the permit's requirements and conditions. The Bureau also routinely inspects the coastal zone for illegal development.

State law provides severe penalties for violation of laws and regulations. You can be required to remove any structure for which a necessary permit or license was not obtained, and to restore illegally altered sites to their original condition at your own expense.
CHAPTER SIX
HOW DO I OBTAIN MORE INFORMATION AND ASSISTANCE?

DIVISION OF COASTAL RESOURCES OFFICES

In Monmouth and Ocean Counties, Old Bridge Township in Middlesex County, Washington Township in Burlington County or Bass River Township in Burlington County

a. To determine the need for a coastal permit, contact:

Bureau of Coastal Enforcement and Field Services
North Shore Region
1433 Hooper Avenue
Toms River, New Jersey 08753
(201) 341-3977

b. To arrange a pre-application conference or to apply for a coastal permit, contact:

Bureau of Coastal Project Review
North Shore Region
CN 401
Trenton, New Jersey 08625
(609) 292-0062

In Atlantic, Cape May, or Cumberland Counties and Salem County south of Pennsville,

a. To determine the need for a coastal permit, contact:

Bureau of Coastal Enforcement and Field Services
South Shore Region
P.O. Box 188
Pomona, New Jersey 08240
(609) 652-0004

b. To arrange a pre-application conference, or to apply for a coastal permit, contact:

Bureau of Coastal Project Review
South Shore Region
CN 401
Trenton, New Jersey 08625
(609) 292-0061
In all other coastal areas,

a. To determine the need of coastal permit, contact:

Bureau of Coastal Enforcement and Field Services
Waterfront Region
CN 401
Trenton, New Jersey 08625
(609) 292-8203

b. To arrange a pre-application conference, or to apply for a coastal permit, contact:

Bureau of Coastal Project Review
Waterfront Region
CN 401
Trenton, New Jersey 08625
(609) 292-2895

To determine Tidelands ownership or to apply for a Tidelands grant, lease, or license, contact:

Bureau of Tidelands
CN 401
Trenton, New Jersey 08625
(609) 292-2573

For information concerning the Coastal Management Program in general, the Local Coastal Grant Program, the Shore Protection Master Plan, or the Federal Coastal Zone Management Act, contact the

Bureau of Coastal Planning and Development
CN 401
Trenton, New Jersey 08625
(609) 292-9762

Division of Coastal Resources Publications

The following publications provide additional information:


All are available from the Coastal Information Center
Division of Coastal Resources
CN 401
Trenton, N.J. 08625
(609) 292-9760
APPENDIX

THE NEW JERSEY COASTAL MANAGEMENT PROGRAM

History of the Coastal Management Program

On September 29, 1980, the National Oceanic and Atmospheric Administration (NOAA) determined that New Jersey had coastal policies and management authority sufficient to justify Federal approval for its Coastal Management Program. NOAA had already approved New Jersey's Coastal Management Program for the Bay and Ocean Shore Segment of the Coastal Zone in September, 1978. The New Jersey Coastal Management Program is the final product in the State's history of managing the coast.

New Jersey's interest in its coast predates the American Revolution, for under English Common Law tidal waters and the lands thereunder belonged to the Sovereign for the common use of all the people. The public interest in the State's tidelands (also called riparian lands) is protected by the Tidelands Resource Council, a group of 12 citizens appointed by the Governor, which is assisted in its work by DEP's Bureau of Tidelands.

The current structure of regulatory laws by which the DEP manages the coastal zone was begun in 1914, when the State Legislature passed the Waterfront Development Law (N.J.S.A. 12:5-3). The law requires that prospective waterfront developers obtain State approval for all plans for development on any tidal waterfront.

The Hackensack Meadowlands Reclamation and Development Act (N.J.S.A. 13:17-1 et seq.) was enacted in 1969. This Act was intended to ensure the orderly development of the Meadowlands District by creating a Commission, providing it with the authority to regulate all forms of development within the District, and instructing it to develop a master plan for the 31 square mile District.

In 1970, the Wetlands Act (N.J.S.A. 13:9A-1 et seq.) took effect, administered by the newly created Department of Environmental Protection. This Act required DEP to inventory, map, and regulate development activities in all coastal wetlands from the Raritan River Basin southward.

The next major legislative advance in coastal zone management occurred in 1973 when the State passed the Coastal Area Facility Review Act (CAFRA, N.J.S.A. 13:19-1 et seq.), giving DEP authority to regulate major development in the Bay and Ocean Shore Segment of the coastal zone. The Act was intended to preserve environmentally sensitive sites and ensure a rational pattern of development.

In 1972, the U.S. Congress passed the Federal Coastal Zone Management Act, declaring a national interest in the effective management, beneficial use, protection and development of the coastal zone, and encouraging and assisting the states with funding to develop and implement management programs to achieve wise use of the land and water resources of the coastal zone. In response to this Federal initiative, the State worked from 1974 until 1980 to prepare, and obtain Federal approval for, a statewide Coastal Management Program.
One major part of the New Jersey Coastal Management Program is a comprehensive set of Coastal Resource and Development Policies now used by the Department to ensure consistent and predictable permit decision-making in the coastal zone. These policies include Location Policies to guide development toward the most appropriate, least environmentally sensitive sites; Use Policies to assure that a proposed use is appropriate for a site; and Resource Policies which establish performance standards to protect coastal resources.

In September, 1980, DEP, for the first time, promulgated rules defining the geographic scope of its jurisdiction under the Waterfront Development Law. DEP also designated the Hackensack Meadowlands Development Commission as the lead coastal management agency for the Hackensack Meadowlands District and adopted the Commission's Master Plan as part of the Coastal Management Program.

The State Pinelands Area, created by the Pinelands Protection Act in 1979, overlaps the coastal zone in the Mullica River Watershed. In this area, coastal permits and approval from the Pinelands Commission are required for new development. The Pinelands National Reserve, created by the Federal National Parks and Recreation Act of 1978, overlaps the coastal zone in parts of Atlantic, Burlington, Cape May, and Ocean Counties. In December 1980, DEP determined that the Coastal Management Program is basically consistent with the objectives of both the State and federal Pinelands Acts.

What is the Coastal Management Program?

The center of the New Jersey Coastal Management Program is the regulatory activity of DEP's Division of Coastal Resources under the Waterfront Development Law, the Wetlands Act, and the Coastal Area Facility Review Act. Decisions are guided by a comprehensive set of Rules on Coastal Resource and Development Policies (N.J.A.C. 7:7E-1.1 et seq.). The Rules also guide staff recommendations to the Tidelands Resource Council concerning grants, leases and licenses for State-owned tidelands.

Besides having a regulatory function to prevent inappropriate coastal development, DEP, under the Coastal Management Program, seeks to stimulate wise development of the coast through its Local Coastal Grant Program. Under this program, DEP has passed through up to 10 percent of its Federal grants to local governments for planning and feasibility studies. Studies have been completed or are underway for development of waterfront parks and walkways, waterfront business district revitalization, dune restoration, and location of fish processing facilities.

DEP also uses the Coastal Resource and Development Policies of the Coastal Management Program as guidelines for the following actions:

1. determination of whether Federal activities are consistent with New Jersey's Coastal Management Program,
2. review of DEP financial assistance to local governments,
3. review of DEP management actions affecting the coast, and
4. review of DEP planning actions affecting the coast.
DEP will continue to involve coastal residents, workers and visitors in planning for the future of the coastal zone. This involvement takes several forms including listing all pending applications in the DEP Bulletin and publishing The Jersey Coast several times each year to inform interested people of future public meetings, available reports, and coastal planning and regulatory activities. Substantive changes in the Coastal Management Program and its policies will be subject to the notice and hearing requirements of both the Federal and State rule-making process.

The Coastal Zone

New Jersey's coastal zone extends from the New York border south to Cape May Point and then north to Trenton. It encompasses the waters and waterfronts of the Hudson River, Hackensack River, Passaic River, Raritan River and related tidal water bodies south to the Raritan Bay, the Atlantic Ocean and related back bay systems, Delaware Bay and adjacent shorelands, and the waterfront of the Delaware River and related tributaries.

The coastal zone encompasses all areas in which the State, through DEP's Division of Coastal Resources or the Hackensack Meadowlands Development Commission, has regulatory authority under the Coastal Area Facility Review Act (CAFRA), the Wetlands Act, the Waterfront Development Law, or Tidelands statutes, or the Hackensack Meadowlands Reclamation and Development Act (see Figure 1).

What is the Division of Coastal Resources?

The Division of Coastal Resources is the branch of DEP with responsibility for implementing the Coastal Management Program. DEP's Division of Coastal Resources is made up of an Office of Administration and five bureaus: the Bureaus of Coastal Project Review, Coastal Planning and Development, Coastal Enforcement and Field Services, Tidelands, and Coastal Engineering.

Coastal Project Review

The Bureau of Coastal Project Review reviews all permit applications to assure compliance with the Waterfront Development Law, Coastal Area Facility Review Act, and Wetlands Act. Projects are reviewed for a wide variety of environmental, social, and economic impacts and must be consistent with the Coastal Resource and Development Policies of the New Jersey Coastal Management Program.

Coastal Planning and Development

The Bureau of Coastal Planning and Development serves as a planning and management agency which refines and updates the Coastal Management Program. The Bureau administers studies which will lead to improvements in coastal policies, determines whether federal activities affecting the coastal zone are consistent with the Coastal Management Program, administers the Local Coastal Grant Program, and provides planning support for the other four bureaus of the Division.
Coastal Enforcement and Field Services

The Bureau of Coastal Enforcement and Field Services provides an inspection team to support the functions of the Bureaus of Tidelands and Coastal Project Review. This Bureau inspects for illegal development, enforces permit decisions, and assists potential permit applicants. During 1981, the Bureau conducted over 700 inspections and reinspections of construction sites where a permit had not been obtained prior to development. 174 violations were detected. Also during 1981, the Bureau inspected 1,540 coastal sites for which permits were obtained. Thirty-nine violations of approved permits were detected for an annual total of 213 violations. During 1981, 218 violations, including backlogged cases, were resolved, 152 by application and 66 by removing the violation.

The Bureau is responsible for determining if a particular project will require a permit and aids applicants in revising those portions of a project that are inconsistent with coastal policies. Over 1500 such determinations and inspections were made in 1981.

Tidelands

The Bureau of Tidelands serves as staff to the Tidelands Resource Council and reviews all applications for grants, leases and licenses of State-owned tidelands. In the event that a site proposed for development includes State-owned tidelands for which no Tidelands conveyance has been issued, the applicant must apply to the Tidelands Resource Council for a grant, lease or license as well as applying for the required coastal permit.

Coastal Engineering

The Bureau of Coastal Engineering plans and designs shore protection projects and conducts waterway dredging and maintenance and oversees implementation of the State's Shore Protection Master Plan.