

APPENDIX

Governor Chris Christie • Lt. Governor Kim Guadagno

[NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)

Search



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION



[DEP Home](#) | [About DEP](#) | [Index by Topic](#) | [Programs/Units](#) | [DEP Online](#)

news releases

FOR IMMEDIATE RELEASE

June 10, 2014

Contact: Lawrence Ragonese (609) 292-2994
Lawrence Hajna (609) 984-1795
Bob Considine (609) 984-1795

CHRISTIE ADMINISTRATION PROPOSES STREAMLINED COASTAL PERMITTING PROCESS

*CONSOLIDATION OF RULES WILL MAINTAIN HIGH STANDARDS OF ENVIRONMENTAL PROTECTION WHILE
CUTTING RED TAPE*

(14/P61) TRENTON – As part of its commitment to common-sense government, the Christie Administration this week proposed technical revisions to land use rules for coastal areas that will maintain New Jersey’s high standards for protection of natural resources while providing more clarity to people who live and work in these areas, Department of Environmental Protection Commissioner Bob Martin announced.

The proposal consolidates the Coastal Zone Management rules and Coastal Permit Program rules to streamline and align them more seamlessly with other DEP land use permitting processes, specifically flood hazard area and freshwater wetlands programs.

The changes were borne of DEP’s knowledge and experience concerning coastal development issues accumulated over decades, as well as specific lessons learned in rebuilding from Superstorm Sandy and other severe weather events.

“These revisions will add clarity to our regulatory processes and provide better predictability in the regulatory process to our constituents by eliminating unnecessary red tape,” Commissioner Martin said. “But they will not in any way affect our primary mission of protecting the natural resources that make our coastal areas such a wonderful place for living, working and enjoying.”

In 2011, Gov. Christie launched the bi-partisan Red Tape Review Commission which worked in conjunction with the Legislature to streamline regulatory processes across state government by eliminating burdensome red tape, thus promoting a more vibrant New Jersey. Commissioner Martin also served on the commission. DEP also conducted extensive stakeholder outreach in developing this rulemaking.

Highlights of the proposal include:

- Allowing much greater use of electronic permitting, eliminating paperwork for many individuals.
- Simplifying the permitting process for minor dredging projects undertaken by homeowners and marinas.
- Providing greater flexibility to construct new or expand existing marinas in certain circumstances and allowing the construction of restaurants at existing marinas.
- Modifying the coastal wetland mitigation requirements to achieve consistency between the DEP’s freshwater wetland and coastal wetland mitigation requirements and terminology.
- Providing consistency in relation to emergency permits, pre-application conferences, application

contents, public notice of applications, application review, permit conditions and changes to issued permits, and requests for hearings.

- Modifying several existing general permits to expand their scope and/or add flexibility. For example, the proposal expands the scope of the general permit process for the construction of one single family home or duplex to two single family homes or duplexes.

The complete rule proposal is available at:

www.nj.gov/dep/rules/proposals/20140602a.pdf

A 60-day public comment period will run through August 1, 2014. You may submit comments by August 1, 2014, electronically at www.nj.gov/dep/rules/comments.

The DEP has scheduled three public hearings:

Wednesday, June 25, 2014, 5:30 p.m.

City of Long Branch Municipal Building
Council Chambers
344 Broadway, 2nd Floor
Long Branch, NJ 07740

Thursday, June 26, 2014, 1 p.m.

NJ Department of Environment Protection
Public Hearing Room
401 East State Street
Trenton, NJ 08060

Wednesday, July 9, 2014, 11 a.m.

Jacques Cousteau National Estuarine Research Reserve
Jacques Cousteau Coastal Education Center
130 Great Bay Blvd
Tuckerton, NJ 08087

Comments may be submitted on paper to:

Gary J. Brower, Esq.
Attn.: DEP Docket No. 03-14-04
Office of Legal Affairs
NJ Department of Environmental Protection
401 East State Street, 7th Floor
Mail Code 401-04L; P.O. Box 402
Trenton, NJ 08625-0402

###

[Contact DEP](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) 

News Releases: [DEP News Home](#) | [Archives](#)
Department: [NJDEP Home](#) | [About DEP](#) | [Index by Topic](#) | [Programs/Units](#) | [DEP Online](#)
Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)

Copyright © State of New Jersey, 1996-2014

Last Updated: June 10, 2014

Exhibit 1 - Brick Township, Ocean County



0 60 120 240 360 480 Feet

1:1,715 $3 \times$

August 2014

Exhibit 2 - Brick Township, Ocean County

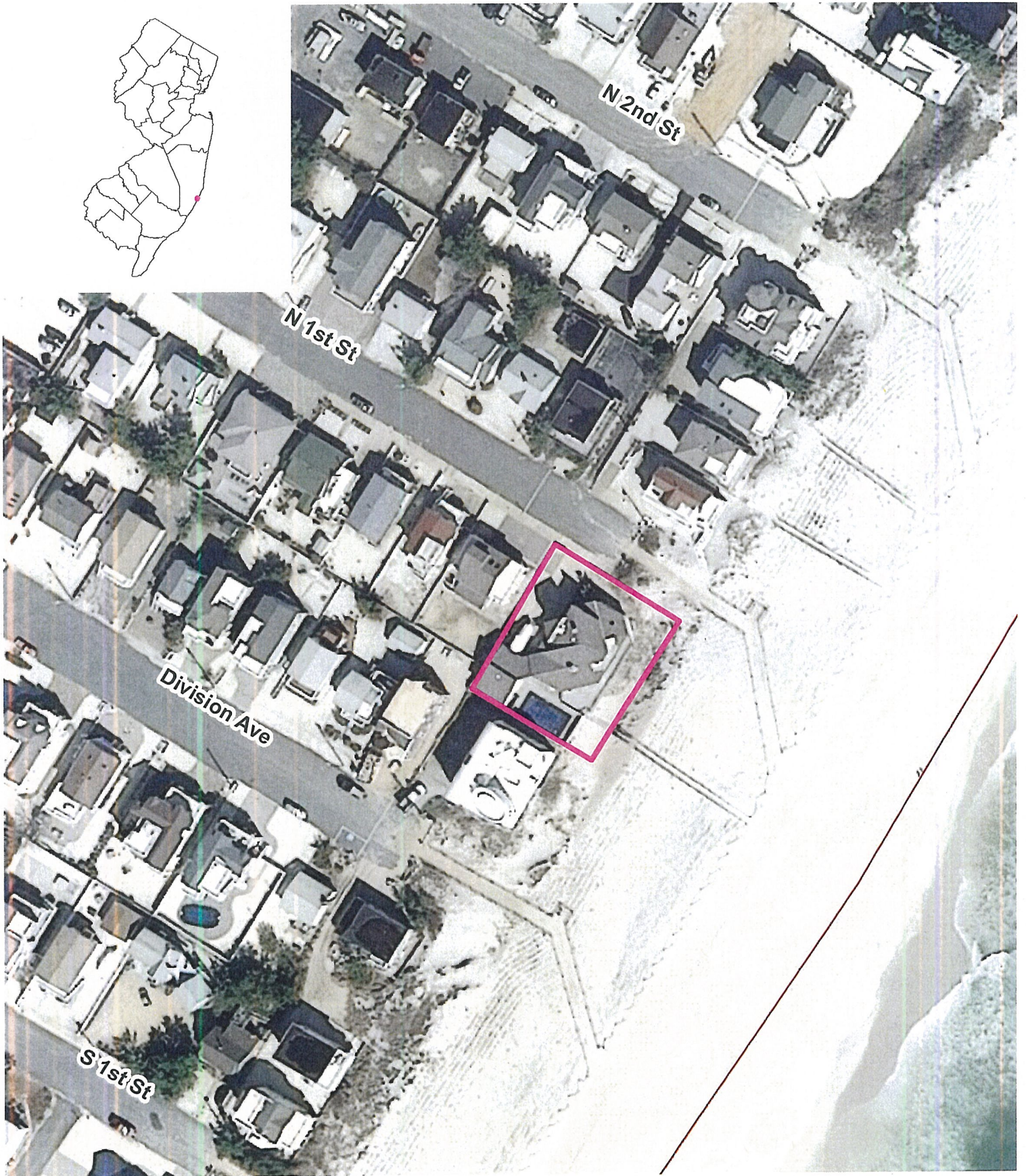


0 50 100 200 300 400 Feet

1:1,440 4x

August 2014

Exhibit 3 - Surf City Borough, Ocean County

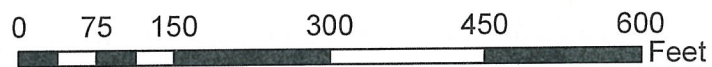
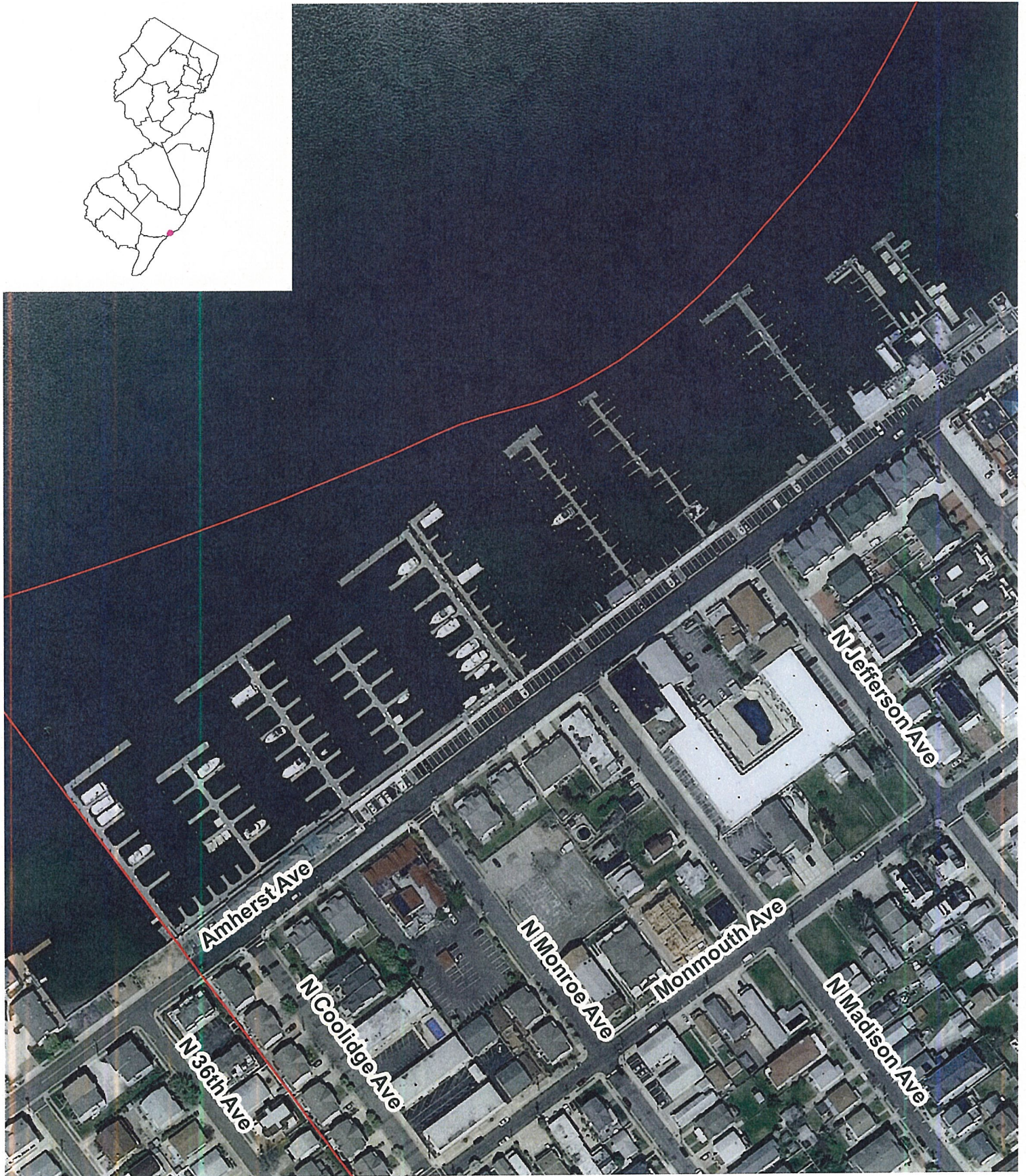


0 40 80 160 240 320 Feet

1:1,133.5x

August 2014

Exhibit 4 - Margate City, Atlantic County



1:2,200

August 2014



AMERICAN LITTORAL SOCIETY

18 HARTSHORNE DR, SUITE 1, HIGHLANDS, NJ 07732
Phone: 732-291-0055 · www.littoralsociety.org · Fax: 732-291-3551

August 18, 2014

Department of Environmental Protection's proposal revising the Coastal Zone Management
and Coastal Permit Program Rules – Senate Environment and Solid Waste Committee
public hearing

Tim Dillingham
Executive Director

Good morning Senator Smith and members of the Senate Environment Committee.

My name is Tim Dillingham, and I am the Executive Director of the American Littoral Society, a membership based coastal conservation organization based in Highlands.

I want to thank you for holding this hearing, and providing the public with a further opportunity to comment on Department of Environmental Protection's proposed amendments to the Coastal Permit Program and Coastal Zone Management rules.

On June 2, 2014 NJDEP released the Coastal Zone Management and Coastal Permit Rules for public comment. These rules govern the state management of all of our coastal resources including permitting for development, natural resource management, waterfront development, management of marine habitat, access to the waterfront and other regulated activities in the coastal zone. It is, of course, important to acknowledge that many of the fundamental coastal land use decisions lie with municipalities.

This is the first major rule revision affecting coastal management since Hurricane Sandy, outside of emergency rule making last summer. As such, it is THE opportunity to address what we have learned from the impacts of the storm. New Jersey's coastal development policies contributed to the vulnerability of our communities and the impacts we witnessed.

Over the past year and a half the Littoral Society has been outspoken about missed opportunities to build a resilient coastline and include address the immediate and future impacts of climate change and sea level rise as part of New Jersey's new coastal policies.

The Society has repeatedly asked this administration to do forward looking planning and prepare NJ for the next storm. We have participated in public hearings about how to spend the federal dollars coming into the state through the US Agency on Housing and Urban Development and the Federal Emergency Management Agency. We have submitted comments on the Hazard Mitigation Plan for NJ - which wasn't even formally open for public comment. We have submitted our written comments to the NJDEP on these new regulations for coastal management, as well as presented testimony in public hearings. You have all received a copy of those comments via email.

In June, the Star Ledger editorialized regarding these rules under the headline, "No Sense After Sandy." The Press of Atlantic City stated "Coastal permit changes / Rules are too lax." The proposed rule allows for not only the existing pattern of coastal development to continue but increases development and streamlining of the permitting process so that it is easier to build in high-risk places. We see continued mismanagement of natural resources and increased development in highly sensitive places. These are the same policy mistakes that we should have learned from after seeing the destruction caused by Sandy: billions of dollars of property destruction and devastated communities.

Although we support the Department's efforts to make DEP's programs more efficient, they must also be more responsive to their statutory responsibilities and obligations and reflective of the management needs of environmental resources. The Department needs to more aggressively respond to the following issues:

- how to rebuild and build resilient communities, and the role CZM program/rules play in advancing that outcome
- reducing risk from future storms; including the need to adapt to climate change and sea level rise
- integrating restoration of declining habitats and protection of remaining natural resources
- improving and integrating water quality protection measures into both future development and redevelopment, as well as aggressively working to address and reduce current pollution inputs to coastal waters

This proposal falls far short of those goals, even as it expresses that those were some of the objectives of the rule proposal.

Further, the proposed rule goes far beyond a recodification and administrative streamlining. It proposes to:

- Expand development in high hazard areas by removing current limitations, and reduces the level of oversight and regulatory control for such development; it continues without reexamination the current growth center designations which promote high intensity development
- Significantly alters the jurisdictional coordination role over other programs in the coastal zone that the current rules on CZM establish
- Alters development subject to review or application of standards through new definitions, including "habitable structures", "parcel" and "reconstruction"
- Proposes a significant expansion of the use of general permits, unsupported by analysis of the cumulative impact, and with questionable ability of the DEP to monitor, evaluate outcomes (insuring minimal impacts) and enforce due to unclear standards and requirements
- Proposes significant reduction in opportunities for, and the robustness of, public engagement in decisions through changes to requirements for hearings, public input, and shifting of regulated activities to general permits/PBR and the new Permit by Certification
- Despite the ongoing declining trends of natural resources along the coast, the rule expands development into Special Areas for activities which the rule itself acknowledges will negatively impact shellfish resources, shallow water habitats and submerged aquatic vegetation

- The rule perpetuates bad policies adopted on an emergency basis in 2013 which establish dune/beach engineering standards and practices that will undermine the value of those “structures” for risk reduction related to coastal storm hazards
- And finally and perhaps most significantly, the rule misses opportunities as the first rule after Sandy to incorporate policies, standards and approaches which would reduce risk, and enhance the resiliency of both the natural and built communities along New Jersey’s coast.

The DEP seems to have lost track of their charge received from the Legislature in 1973 in the Coastal Facilities Review Act (CAFRA):

The Legislature further recognizes the legitimate economic aspirations of the inhabitants of the coastal area and wishes to encourage the development of compatible land uses in order to improve the overall economic position of the inhabitants of that area within the framework of a comprehensive environmental design strategy which preserves the most ecologically sensitive and fragile area from inappropriate development and provides adequate environmental safeguards for the construction of any developments in the coastal area.

In closing we ask:

The Department withdraw these rules and begin an open and inclusive process aimed at developing a rule which is not only efficient, but rebuilds and creates resilient communities and a healthy coastal environment. This process must include legitimate stakeholder meetings with environmental groups and other community organizations. If the Department refuses, we ask that the Legislature use its authority to provide oversight to insure the consistency of the rules with the intent of CAFRA statute, and other controlling statutes.

We also urge the Senate to work with Assemblywoman Spencer and introduce a companion bill to A 1588 that would direct the Department to update the Shore Protection Master Plan.

It would benefit the Department to update that plan and use it in conjunction with and as a mechanism to inform for their regulatory work. It is unclear how the Department can update regulations piece meal without a true vision for our coast – especially as we begin to plan for our new way of life that includes adaption measures from climate change and sea level rise and more storms like Sandy. The Shore Protection Master Plan itself should be amended and updated to take into account changed conditions since its adoption in the mid-1980s, and to incorporate responses to climate change and sea level rise.

Lastly, we ask that as the Department respond to the requests made by the environmental community for an inclusive, transparent process when proposing rules and use these suggestions and lessons learned as they revise the Flood Hazard Mitigation Rules for public comment.

Editorial Positions

Star Ledger, June 29, 2014

Critics question why the administration is all but silent on issues of sea level rise and climate change... This is worse than just a missed opportunity, they argued: The new rules actually ease the requirements for risky developments along our coastline.

http://www.nj.com/opinion/index.ssf/2014/06/christie_administration_ignores_climate_change_in_rebuilding_rules_editorial.html

Press of Atlantic City, July 14, 2014

Coastal Permit Changes/Rules are Too Lax.

http://www.pressofatlanticcity.com/opinion/editorials/coastal-permit-changes-rules-are-too-lax/article_fb8d0b47-d368-5936-8ebc-7f5a091bce7f.html



August 18, 2014

**MTA/NJ Testimony Comments on the Coastal Zone Management Rules
Senate Environment & Energy Committee**

Good morning gentlemen. Thank you for the opportunity to testify here on the Coastal Zone Management Rule Proposal. My name is Melissa Danko, the Executive Director of the Marine Trades Association of New Jersey.

The MTA/NJ is a non-profit trade organization dedicated to promoting, protecting and advancing the recreational marine industry and waterways in the State of New Jersey. We represent hundreds of marine businesses, both small and large, working hard to sustain their businesses and prosper in the State of New Jersey.

As many of you know, Hurricane Sandy devastated marinas, boat yards, recreational fishing and boating businesses, and destroyed countless boats. It is estimated that uninsured losses from the storm are in excess of \$100 million.

In addition to the significant destruction to New Jersey's marine coastal infrastructure, the storm greatly reduced the recreational boating fleet. These losses have had direct negative impact on the industry's small businesses and the employees who rely on the boating industry for their livelihood and subsistence. There are currently 151,787 registered vessels in New Jersey. In 2000, there were 240,281 registered vessels. Therefore, in a little over a decade, the industry has lost 88,000 registered vessels. These losses combined with a slow economic recovery have severely strained recreational marine businesses located all over the state. The industry has been working very hard to recover from the storm and much progress has been made. However, it will take many years to fully recover all that was lost.

Additionally, the conversion of marinas to waterfront condominiums and development is a trend that is growing both on a national and state level. A number of states have already taken a proactive approach to ensure that marinas remain a viable component of a working waterfront. Prior to Hurricane Sandy, tracking of these losses in New Jersey indicated that over 500 slips that were available to the public are gone as well as boating services and jobs. These services included boat storage, repair and maintenance facilities, fuel sales, pump out facilities and retail sales of boating and related supplies.

Recreational boating is an important pastime that allows people access to the waterways where they can spend time with their friends and family enjoying nature, fishing, dining, hunting, cruising, swimming or water sports. Spending summers on the water and enjoying all that New Jersey has to offer is a way of life for so many residents and visitors alike. Recreational boating is a great way for families to spend time together and, more importantly, can be a very valuable experience for children that provides plenty of learning opportunities

In addition to providing enjoyment, the recreational boating industry and the small businesses which comprise much of the maritime community, contributes substantially to local and state economies. The economic impact of New Jersey boating supports approximately 18,000 jobs and 2 billion dollars in spending.

The MTA/NJ strongly supports the adoption of these rules and the efforts of the Department to streamline and amend the Coastal Zone Management rules for existing marinas to perform needed maintenance, conduct infrastructure improvements, add restaurants as well as allow for the development of new marinas. The MTA/NJ also supports the proposed amendments for maintenance dredging, new dredging, dredged material and dredged material management areas. The failure to maintain navigational depths of our waterways has far reaching impacts on our coastal communities. These changes are greatly needed to facilitate the extremely difficult permitting process and regulations that prevent needed maintenance and dredging projects from moving forward.

In closing, the Coastal Zone Management Rules, as written, have for years prevented many projects from moving forward. Projects that were sensible, offered environmental improvements or upgrades that were needed to maintain an aging and unsupported marine infrastructure. These proposed changes finally represent a reasonable and balanced approach in protecting our natural resources that address decades of permitting issues, red tape, restrictive and unnecessary rules and regulations.

Thank you for your time.

Participating Organizations

Alliance for a Living Ocean
 American Littoral Society
 Arthur Kill Coalition
 Ashbury Park Fishing Club
 Bayberry Garden Club
 Bayshore Regional Watershed Council
 Bayshore Saltwater Flyfishers
 Bedford Seafood Co-opp
 Belmar Fishing Club
 Beneath The Sea
 Bergen Save the Watershed Action Network
 Berkeley Shores Homeowners Civic Association
 Cape May Environmental Commission
 Central Jersey Anglers
 Citizens Conservation Council of Ocean County
 Clean Air Campaign, NY
 Coalition Against Toxics
 Coalition for Peace & Justice/Upland Salem
 Coast Alliance
 Coastal Jersey Parrot Head Club
 Communication Workers of America, Local 1034
 Concerned Businesses of COA
 Concerned Citizens of Bensenville
 Concerned Citizens of COA
 Concerned Citizens of Montauk
 Concerned Students and Educators of COA
 Eastern Monmouth Chamber of Commerce
 Fishers Island Conservancy
 Fishermen's Conservation Association, NJ Chapter
 Fishermen's Conservation Association, NY Chapter
 Fishermen's Dock Cooperative, Pt. Pleasant
 Friends of Island Beach State Park
 Friends of Liberty State Park, NJ
 Friends of the Boardwalk, NY
 Garden Club of Englewood
 Garden Club of Fair Haven
 Garden Club of Long Beach Island
 Garden Club of RFD Middletown
 Garden Club of Marlinton
 Garden Club of Navesink
 Garden Club of New Jersey
 Garden Club of New Vernon
 Garden Club of Oceanport
 Garden Club of Princeton
 Garden Club of Rumson
 Garden Club of Short Hills
 Garden Club of Shrewsbury
 Garden Club of Spring Lake
 Garden Club of Washington Valley
 Great Egg Harbor Watershed Association
 Green Party of Monmouth County
 Green Party of New Jersey
 Highlands Business Partnership
 Holly Club of Sea Girt
 Hudson River Fishermen's Association
 Jersey Shore Captains Association
 Jersey Shore Parrot Head Club
 Jersey Shore Running Club
 Junior League of Monmouth County
 Keppon Environmental Commission
 Kiwanis Club of Monmouth
 Kiwanis Club of Shadow Lake Village
 Leonardo Party & Pleasure Boat Association
 Leonardo Tax Payers Association
 Main Street Wildwood
 Mantoloking Environmental Commission
 Marine Trades Association of NJ
 Monmouth Conservation Foundation
 Monmouth County Association of Realtors
 Monmouth County Audubon Society
 Monmouth County Fish & Game Commission
 National Coalition for Marine Conservation
 Natural Resources Protective Association, NY
 NJ Beach Buggy Association
 NJ Commercial Fishermen's Association
 NJ Environmental Federation
 NJ Environmental Lobby
 NJ Main Ship Owners Group
 NJ Marine Education Association
 NJ PIRG Citizen Lobby
 Nottingham Hunting & Fishing Club, NJ
 NYC Sea Gyroists
 NY State Marine Education Association
 NY/NJ Baykeeper
 Ocean Wreck Divers, NJ
 PaddleOut.org
 Picatinny Saltwater Sportsmen Club
 Raritan Riverkeeper
 Religious on Water
 Riverside Drive Association
 Rotary Club of Long Branch
 Rotary District #730-Interact
 Saltwater Anglers of Bergen County
 Sandy Hook Bay Anglers
 Save Barnegat Bay
 Save the Bay, NJ
 SEAS Monmouth
 Seaweeders Garden Club
 Shark Research Institute
 Shark River Cleanup Coalition
 Shark River Surf Anglers
 Shore Adventure Club
 Sierra Club, NJ Shore Chapter
 Sisters of Charity, Mont. Stella
 Sons of Ireland of Monmouth County
 Scepticist Club of Cape May County
 South Jersey Dive Club
 South Monmouth Board of Realtors
 Staten Island Tuna Club
 Strathmere Fishing & Environmental Club
 Suckers' Environmental Alliance
 Surfside Foundation, Jersey Shore Chapter
 TACKLE, MA
 Terra Nova Garden Club
 Three Harbors Garden Club
 Unitarian Universalist Congregation/Monm. Co., NY
 United Boatmen of NY/NJ
 Village Garden Club
 Volunteer Friends of Boaters, NJ
 WATERSPIRIT
 Women's Club of Brick Township
 Women's Club of Keppon
 Women's Club of Long Branch
 Women's Club of Merchantville
 Women's Club of Spring Lake
 Women Gardeners of Ridgewood
 Zen Society



Ocean Advocacy
Since 1984

Clean Ocean Action

18 Hartshorne Drive
Highlands, NJ 07732-0505

www.CleanOceanAction.org

Telephone: 732-872-0111
Fax: 732-872-8041
Info@CleanOceanAction.org

Gary J. Brower, Esq.
ATTN: DEP Docket No. 03-14-04
NJ Department of Environmental Protection
Office of Legal Affairs
Mail Code 401-04L; PO Box 402
401 East State Street, 7th Floor
Trenton, NJ 08625-0402

Submitted online via: <http://www.nj.gov/dep/rules/comments>

August 1, 2014

Dear Mr. Brower:

Clean Ocean Action (COA), a broad-based coalition of 125 conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups, submits the following comments on the New Jersey Department of Environmental Protection's (DEP's) proposed consolidation, with amendments, of the Coastal Zone Management and Coastal Permit Program Rules.

The proposed revision of the Coastal Zone Management Rules (currently N.J.A.C. 7:7E) has been described as an administrative measure to consolidate Coastal Permit Program Rules (N.J.A.C. 7:7) in order to reduce paperwork, ease understanding, and reduce the cost of rule compliance. In addition, the aim is to standardize the permit process across the Coastal Zone Management Rules, The Freshwater Wetland Protection Act Rules (N.J.A.C. 7:7A), and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13) However, it is clear that some of the proposed rule amendments will go well beyond administrative consolidation, and significant substantive changes to the rules will actually weaken coastal protection, permit increased coastal development in sensitive areas, and impair water quality. We are most concerned about changes in dredged material management, land use, pesticide application, resiliency, and due process. Furthermore, the amended rules fail to capitalize on the lessons learned from Superstorm Sandy by taking into account the well documented New Jersey specific predictors and imminent impacts of sea level rise and increased extreme weather events.

Dredged Material Management

Regarding the proposed changes to how dredged material is managed, we are encouraged that the DEP is promoting increased beneficial use. We have noted, however, that there is no definition of "beneficial use" in the document, which makes the proposed rules incomplete, and we request that a definition be proposed and released for public comment. Dredged material for beneficial use must be properly characterized and meet strictly controlled chemical and physical criteria that protects or improves water quality or habitats. We hope that these changes will encourage the use of dredged

14x

material in projects that increase coastal resiliency, such as in the construction of living shorelines and other beach protection measures. We also support the addition of living shoreline projects, with beneficial use of dredged materials, as permitted development in wetland areas, acknowledging their positive impact on shoreline stabilization, buffering capacity, and water quality (proposed N.J.A.C. 7:7-9.27(c)). However, we have a few concerns with changes to the dredging and dredged material management sections of the rule.

First, changing the requirements for what constitutes maintenance dredging to include channeled areas that have been historically dredged more than 10 years ago and that were historically used for navigation or mooring will significantly increase the number of projects that are considered maintenance dredging (proposed N.J.A.C. 7:7-12.6). This loosening of the definition means that fewer projects will be subject to more stringent "new dredging" requirements. In addition, under the new rules, "maintenance dredging" would be permitted up to a historically dredged depth, which may be much deeper than the depth to which a channel has been maintenance dredged in recent years. As such, this change allows areas that have changed substantially over time to be made deeper to accommodate larger boats, and may potentially increase shoreline development farther into areas where it is not currently present (proposed N.J.A.C. 7:7-12.6(a)). This change is also likely to increase the amount of dredged material that needs to be planned for disposal. Additionally, currently non-navigable channels containing submerged aquatic vegetation or shellfish habitat should be protected from dredging and development through provisions included in the maintenance dredging language. These areas provide various important ecosystem services including pollutant filtration, storm buffering, and habitat.

We object to the removal of the requirement that a dredged material management area (DMMA) must have been used as such within the last 10 years (proposed N.J.A.C. 7:7-9.27). While we understand the practical economic and logistical necessity of maintaining DMMA's near dredging areas, and the potential land use conflicts that ensue, this provision is troubling. Allowing any historical dredged storage area to be used as a DMMA could easily lead to the conversion of natural areas that may serve important habitat and ecological functions. The continued protection of threatened and endangered species and protection of wetlands, especially the buffer and water quality filtration functions, must be evaluated before converting an ecologically and culturally valuable area into a DMMA.

Proposed N.J.A.C. 7:7-9.49 further recognizes the need for DMMA's and discourages changes in land use for a state or federally owned DMMA. First, this only seems to apply to government-owned property, although development of DMMA's on any land should be minimized and regionalized to the maximum extent practicable. Second, discouragement does not prohibit changes in land use, and the language does not specify to what extent applicants will be "discouraged" from building over former DMMA's. Further, development that would include a change in land use is deemed "conditionally acceptable" if former dredged material placement was for one-time use. What proof will be required to document "one-time" dredged material storage on a property? How does this provision actually prevent DMMA's from being developed? To reduce future land use battles over DMMA placement, we recommend encouraging both publicly and privately owned water-dependent businesses that conduct maintenance dredging to manage (and beneficially reuse, where possible) their dredged material on-site.

Finally, although the codification of the Technical Manual into Appendix G brings the rest of the dredging requirements directly into the coastal zone management rules, the source document is over 15 years old. These standards should be updated to reflect the latest technologies, and

promote regional planning. We believe that dredged material management is best handled by the development of regional dredged material management plans, with public and stakeholder input, in order to best coordinate timing, storage options, and beneficial use possibilities within a watershed area.

Land Use

The rule changes will allow the expansion, or new construction of a marina in shellfish habitat, which would thereby undermine the health of this shellfish habitat (proposed N.J.A.C. 7:7-9.2(c)). There do not appear to be any provisions in the proposal to limit the cumulative area of shellfish habitat that will be impacted or condemned across the state through this process. We ask that the DEP provide both the research and the rationale that demonstrate the economic and environmental benefits that will result from this change, over and above the loss of ecological habitat, water quality benefits, sensitive shellfish resources, and income to those harvesting shellfish. The change states that the marina expansion must be designed and constructed in a manner that limits the area of shellfish habitat condemned and reduced to prohibited status and reduces adverse impacts to the marine ecosystem to the maximum extent, but no definition or quantification of these terms is given. It allows marina expansion into areas as shallow as two feet mean low water, which will cause disturbance of the sediments and increase turbidity, thereby adversely affecting water quality. Additionally, this increased turbidity and the mechanical impact of prop dredging will undoubtedly affect shellfish in the area. This provision conflicts directly with the statement in proposed N.J.A.C. 7:7-12.5(g) regarding docks and piers constructed in "waters of insufficient depth" adversely impacting water quality and special areas. This rule also indicates that the pilings for an expansion or new construction are not required to be made from non-polluting materials. This allowance compromises water quality and the health of shellfish resources. Furthermore, we request that information on the amount of funds contributed to the "dedicated account for shellfish habitat mitigation" (proposed N.J.A.C. 7:7-17.9) and how these monies are spent be released to the public at least annually.

Several changes to the rules encourage more commercial development in coastal areas, which Superstorm Sandy illustrated are extremely vulnerable to storm surge and flooding. Increased development in these areas will compromise the land's natural filtration and buffering services, and negatively impact water quality. First, the allowance of construction of restaurants at marinas (proposed N.J.A.C. 7:7-9.23(l)) creates a loophole that may be used to reduce the actual water-dependent use of the adjacent waterways. The standards require "maintenance of marina services to the maximum extent practicable" (proposed N.J.A.C. 7:7-15.3(d)8). Without a hard limit for the reduction of marina services associated with the building of non-water dependent uses, many marinas may emphasize the building of restaurant facilities and expansion of parking lots, which will in turn lead to higher quantities of storm runoff and trash entering waterways. Second, the rules do not appear to take resiliency, lessons from Superstorm Sandy, or predicted sea level rise into account in allowing new commercial development only 15 feet from the mean high water line of a bulkheaded shoreline. These structures will be at risk of damage from flooding or storm surge during storm events, and the resulting increase in trash generation and decrease in pervious surfaces will lead to greater non-point source pollution in our coastal areas. Marina sites that convert landscaped areas that serve stormwater management functions into restaurant facilities and expanded parking lots should be required to demonstrate no net increase in stormwater runoff or pollutant loading from their property.

Pesticide Application

Regarding pesticide application in wetlands areas, it appears that the proposed consolidated rules create exemptions from DEP review for projects covering an area below a predetermined threshold. How much DEP oversight will such projects have, to ensure that these "small scale" pesticide application projects do not actually impact resources such as threatened and endangered species or their habitat? With respect to the applicability of the requirement for an aquatic pesticide permit for application of pesticides in a wetland area, will this permit be required for all applications of pesticides in wetlands areas? If not, in which situations would an aquatic pesticide permit not be required?

Resiliency

Although reference to the need to rebuild resilient coastal communities is provided in the introduction to the proposed rule changes, the rules themselves fall short of these goals. Of particular concern, the proposed streamlined rules do not take sea level rise or resiliency into account in setting a roadmap for future coastal development. In fact, in over 1,000 pages of coastal rules, it is never explained how resiliency and the anticipated effects of sea level rise are accounted for in the updated rules. Finally, the policies that are promoted serve to increase urbanization and sprawl in sensitive coastal areas, which will negatively affect water quality, coastal flooding, and community safety.

The change to allow two houses or duplexes to be built on a single bulkheaded lot will increase nonporous cover and coastal development, and these lots are exempted from the impervious cover requirements of the rules (proposed N.J.A.C. 7:7-13.1). This will exacerbate polluted storm runoff, impair water quality, and further reduce the natural buffering capacity of coastal areas (proposed N.J.A.C. 7:7-6.4). What analysis has been done to forecast the increased pollutant load that this change will incur for coastal water bodies? For example, increasing shoreline and streamside impervious cover contradicts the focus on coastal water quality in the Barnegat Bay region and the Governor's 10 Point plan.

In particular, the proposed change that allows construction of one or two single family homes or duplexes in the undeveloped portion of a flood hazard area within 100 feet of a navigable waterway puts coastal residents directly in harm's way (proposed N.J.A.C. 7:7-9.25). In addition to subjecting more homes and residents to the detrimental effects of flooding, sea level rise, and storm events, the resultant increase in polluted runoff that enters these waterways will further degrade coastal water quality. Many of these changes allow increased levels of development closer to waterways, which in light of the lessons learned from Superstorm Sandy, is shortsighted and irresponsible.

The rules also do not sufficiently promote or incentivize the use of natural systems or green infrastructure to buffer sensitive coastal areas against future storms. While living shorelines are specified as allowable and beneficial developments in a wetland area, bulkhead replacement is proposed through a new permit-by-certification process. As a permit-by-certification can be obtained simply by filling in an online checklist (with little regulatory oversight), status quo rebuilding is encouraged over an opportunity to replace hard structures with naturally resilient systems or improved technologies (proposed N.J.A.C. 7:7-5.1). Rule should be redrafted to address these issues and made available again to the public for review.

Due Process

Public participation in the regulatory process is crucial to protecting our communities and environment. We oppose the proposed replacement of the requirement for a public hearing associated with changes to general permits, permits-by-rule, and permits-by-certification, with only a requirement for a public comment period, as this limits the ability of the public to meaningfully participate in the regulatory process (proposed N.J.A.C. 7:7-3.2(b)3). Also, proposed N.J.A.C. 7:7-21 does not require public notice publication of emergency permit authorizations until submission of a follow-up application, which may be submitted more than 90 days after the action is taken. This delay significantly restricts the public's access to information and their ability to comment on proposed actions. Requests for emergency permit authorizations should be made available in an online database as they occur, and granted authorizations should be additionally published in the New Jersey Register. Regarding the newly established permits-by-certification, the public should have access to all granted permits via an online database, and these should also be noticed in the New Jersey Register.

The establishment of permits-by-rule and permits-by-certification, while streamlining departmental review, also decrease regulatory oversight on development in coastal areas. Some measure should be implemented to audit a portion of the permits issued, or provide some other method of ensuring that the conditions of the permits are actually being followed as described. The consolidated rules must make clear that enforcement of these permit conditions is still under the DEP's purview, even if the permits can be obtained without any regulatory review.

In addition, it has been noted by several speakers at the hearings that proposing 1,000 pages of changes mid-summer, with little guidance for the public, has made public review and comment within 60 days very challenging. Added to this is the codification of the dredging activities and dredged material technical manual into Appendix G of the rules. We understand that a revised Appendix G will be made available for public comment in the fall of this year; as such, it seems premature to codify the dredging technical manual at this time.

Although the proposed changes in the coastal zone management rules are being billed as largely administrative, we have found that there are substantive changes that would negatively impact water quality and the health and safety of coastal communities. Changing the rules to encourage more dredging in natural areas, increased development in flood-prone regions, and sacrificing due process in the name of administrative streamlining are all steps that contradict the purported purpose of the coastal zone management rules. In the wake of Superstorm Sandy, we have an opportunity to capitalize on lessons learned and encourage practices that promote resiliency, preservation of natural coastal buffers, technologies and policies that improve water quality, and increase public participation. Since these rules do not accomplish these goals, we believe they should not be adopted until the DEP has undertaken meaningful dialogue with stakeholders to craft changes that better protect coastal inhabitants, sensitive natural resources, and water quality.

Sincerely,

Cindy Zipf
Executive Director
Clean Ocean Action

Clean Ocean Action Testimony
on the NJDEP Consolidation of Coastal Zone Management Rules
NJ Senate Environment Committee Hearing, Trenton, NJ
Monday, 08/18/14, 10 AM

Good morning. My name is Cassandra Ornell and I am the staff scientist of Clean Ocean Action, which has worked to improve coastal water quality in New Jersey for 30 years.

The proposed revision of the Coastal Zone Management Rules (currently N.J.A.C. 7:7E) has been described as an administrative measure to consolidate Coastal Permit Program Rules (N.J.A.C. 7:7) in order to reduce paperwork, ease understanding, and reduce the cost of rule compliance. In addition, the aim is to standardize the permit process across the Coastal Zone Management Rules, The Freshwater Wetland Protection Act Rules (N.J.A.C. 7:7A), and the Flood Hazard Area Control Act Rules (N.J.A.C. 7:13). However, it is clear that some of the proposed rule amendments will go well beyond administrative consolidation, and significant substantive changes to the rules will actually weaken coastal protection, permit increased coastal development in sensitive areas, and impair water quality. We are most concerned about changes in dredged material management, land use, pesticide application, resiliency, and due process. Furthermore, the amended rules fail to capitalize on the lessons learned from Superstorm Sandy by taking into account the well documented New Jersey specific predictors and imminent impacts of sea level rise and increased extreme weather events.

Moreover, COA is concerned that the consolidated Coastal Rules may not reflect the legislative intent of the underlying statute, the Coastal Area Facility Review Act or CAFRA. The rules as written do not capitalize on lessons learned from Superstorm Sandy and will weaken coastal protection, encourage irresponsible development, and impair water quality. As such, we urge the NJ Senate to evaluate the rules to ensure they are in compliance with the purpose, intent, and statutes of the law, as well as consistency with any related federal rules.

For example, the proposed rules enable splitting a buildable lot with one residence into two and would allow construction of one or two dwellings in a flood hazard area within 100 feet of a navigable waterway, putting coastal residents and their homes directly in harm's way.¹ How are these changes reflective of the legislative intent of CAFRA, which stipulates that "all of the coastal area should be dedicated to those kinds of land uses which promote the public health, safety and welfare, [and] protect public and private property"?² The resultant increase in polluted runoff that enters these waterways will further degrade coastal water quality and threaten "the continued viability of the shoreline."³

¹ Proposed N.J.A.C. 7:7-9.25.

² CAFRA at § 13:19-2.

³ CAFRA at § 13:19-31.

Indeed, it is the overdevelopment of the coast that has helped create a significant challenge for navigation in NJ waters, an important maritime heritage. Decades of soil erosion loss from improperly managed construction sites, agriculture activities, and other land use practices has caused increased sedimentation of NJ's waterways. Channels are filling in and dredged material management is a more pressing and complex issue facing our waterfront communities. While we support maritime business, recreation, and tourism, and the need for dredging and management areas, these decisions cannot be made in isolation from the larger picture of coastal management. In order to effectively balance economic, cultural, and environmental needs, planning must be at a regional level by a representative group of community stakeholders including local marine businesses, agencies, and citizens. At the core of these efforts has to be reduction of land based soil erosion. COA has extensive experience with dredge material management plans for regions such as the northern Bayshore area and the New York/New Jersey Harbor. With true public involvement from the bottom up, plans can be developed to meet the responsible dredging needs of the region with beneficial use of dredge material that can help improve the region's ecosystem. However, we are concerned that proposed changes will allow dredging and dredge material management almost without restraint creating significant negative water quality impacts.

For example, the requirements for what constitutes "maintenance dredging" have changed, so that it would be permitted in areas that may not have been dredged for decades and up to historically dredged depths and with lax proof, all with less oversight than what's given to so-called "new dredging" projects.⁴ These changes have several repercussions. First, it is easier to dredge in areas abandoned decades ago and have since converted to ecologically valuable natural areas and/or have been covered filled in and buried contaminated silts. Second, people will be able to deepen channels to accommodate larger boats, which will lead to increased turbidity and higher demand for dredged material management areas. These ramifications conflict with CAFRA's requirement to provide "adequate environmental safeguards for the construction of any developments in the coastal area."⁵ The rules must be changed to hold maintenance dredging in check and prevent irresponsible development along our shorelines.

The proposed rules also remove the requirement that an area must have been used as a dredged material management area within the last 10 years to be considered as such in the future. Allowing any historical dredged storage area—even one not previously used for decades-- to be used as a DMMA could easily lead to the conversion of natural areas that may serve important habitat and ecological functions, which does not reflect CAFRA's declaration to "preserve the most ecologically sensitive and fragile area from inappropriate development" nor its statement that "every effort should be made to ensure the continued viability of the shoreline."⁶ The rules must be revised to require that protected species, their habitat, and areas providing essential ecosystem services such as natural buffering and water quality improvement are protected from conversion into DMMA's.

⁴ Proposed N.J.A.C. 7:7-12.6 and proposed N.J.A.C. 7:7-12.6(a).

⁵ CAFRA at § 13:19-2.

⁶ CAFRA at § 13:19-31.

Moreover, the proposed rules would allow expansion or new construction of a marina in shellfish habitat, undermining the health of the habitat and condemning the shellfish for harvest.⁷ Marinas could be expanded into areas as shallow as two feet mean low water, causing sediment disturbance, increased turbidity, and the mechanical impact from resulting prop dredging will harm shellfish. Further, sensitive species will be placed at risk by allowing boat traffic in such shallow areas (a 2013 peer-reviewed article by Lester et al. found that conservatively, 11% of terrapins in Barnegat Bay have scars consistent with injuries from boats). These changes clearly exemplify CAFRA language against “inappropriate development” in “ecologically sensitive and fragile area[s].” There are no provisions in the rules to limit the cumulative area of shellfish habitat that could be impacted and condemned across the state, nor did the DEP provide information on the economic and environmental benefits that will result, over and above the loss of ecological habitat, water quality benefits, sensitive shellfish resources, and income to those harvesting shellfish. Furthermore, given the important role that natural systems and green infrastructure play in promoting coastal resiliency, the rules do not sufficiently promote or incentivize such changes “to ensure the continued viability of the shoreline.”⁸

These are just some of the concerns we highlighted in written comments submitted to the DEP and will leave with you today. Given that the legislative intent of CAFRA is ignored numerous times, it is clear that these rules should not be adopted as written. As such, we are asking that the Senate withdraw the rules and initiate an open, public process to re-draft them in such a way that reflects the spirit and letter of CAFRA, and ensures that future coastal development accounts for lessons learned from Sandy and protects coastal resources.

⁷ Proposed N.J.A.C. 7:7-9.2(c).

⁸ CAFRA at § 13:19-31.

TO: MEMBERS OF THE SENATE ENVIRONMENT & ENERGY COMMITTEE

**FROM: DAVID B. FISHER
PRESIDENT, NEW JERSEY BUILDERS ASSOCIATION**

DATE: AUGUST 18, 2014

**RE: PUBLIC HEARING ON NJDEP PROPOSED COASTAL ZONE
MANAGEMENT AND COASTAL PERMIT PROGRAM RULES**

STATEMENT

The New Jersey Builders Association (NJBA) appreciates the opportunity to testify on the recently proposed amendments to the Coastal Zone Management and Coastal Permit Program rules issued by the New Jersey Department of Environmental Protection (DEP). The NJBA submitted extensive comments on the proposal in **strong support** of the pragmatic, procedural changes to the coastal regulatory program. Our members have first hand knowledge and experience of the permitting requirements within the Division of Land Use and believe that the proposed amendments are necessary.

First, it is important to note upfront that these proposed rule amendments were not drafted by DEP in a vacuum. Since 2011 and especially in light of Superstorm Sandy, the DEP held numerous stakeholders meetings where a broad spectrum of constituencies, including governmental, business and environmental groups, had the opportunity to provide input to DEP prior to the drafting and issuing of the proposal. Such an approach is entirely consistent with Commissioner Bob Martin's 2010 "DEP Transformation Plan", which states: "We also must vet our proposals for change with external stakeholders in order to better understand the impacts that changes will have on our constituents." (<http://www.nj.gov/dep/commissioner/2010transformationplan.pdf>) The NJBA has viewed these forums to be of mutual benefit overall, as they facilitate a better understanding of agency rulemaking purposes in light of statutory and regulatory obligations. In our comments on the Coastal rule proposal, NJBA has encouraged the DEP to continue utilizing stakeholders processes prior to modifying any of its regulatory programs.

Over the years, NJBA has expressed how difficult the land use permitting programs are to navigate, particularly due to inconsistent and overlapping requirements between land

continued...

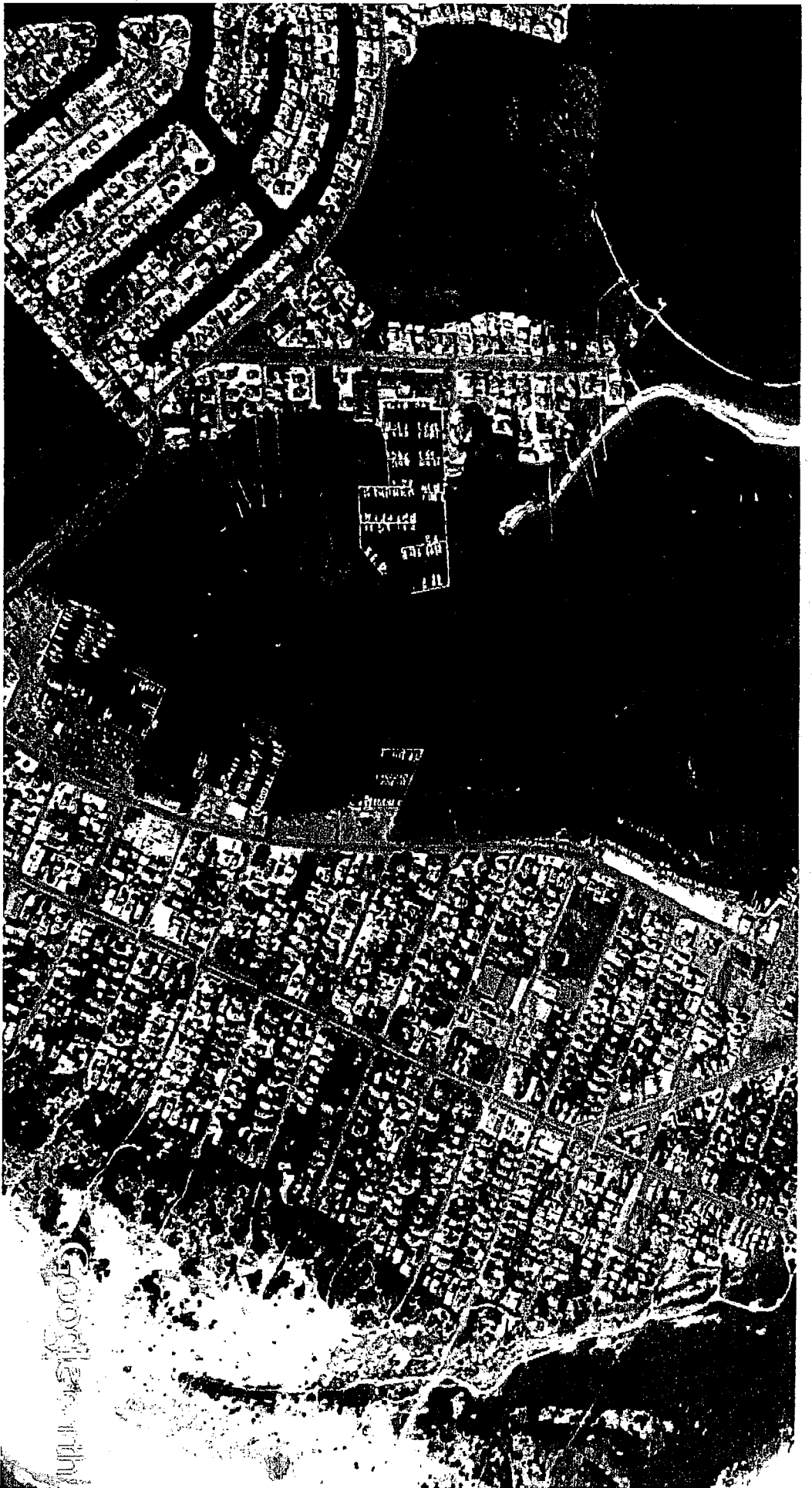
New Jersey Builders Association Officers

DAVID B. FISHER *President* • CAROL ANN SHORT, ESQ. *Chief Executive Officer*
GEORGE T. VALLONE *Vice President* • DWIGHT W. PITTENGER, ESQ. *Treasurer* • JOHN H. KIRKENIR *Secretary* • THOMAS F. TROY *Builder Vice President*
JEANNE TOMLINSON *Associate Vice President* • JOHN J. HEALEY 2nd *Associate Vice President*
MICHAEL J. GROSS, ESQ. *Environmental Counsel* • ROBERT M. WASHBURN, ESQ. *General Counsel* • THOMAS F. CARROLL III, ESQ. *Land Use Counsel*

use regulations for Coastal areas, Freshwater Wetlands, and Flood Hazard Areas. As the affected practitioners who submit coastal permits, we strongly support the DEP's efforts in this first proposal to organize, align, and standardize the underlying permitting rules for these three significant land use programs. Here, DEP proposes to consolidate its Coastal Permit Program and Coastal Zone Management rules and streamline the permitting process to achieve better efficiencies for both the constrained agency staff and the regulated public. While DEP previously took emergency action to amend the Flood Hazard and Coastal Zone Management rules to support safe and resilient rebuilding efforts after Superstorm Sandy, the proposed amendments are primarily procedural in nature, i.e. inclusion of electronic permitting for two narrowly define new general permits-by-certifications, additional permits-by-rules, clarification of permit application requirements, public notice requirements, pre-application conferences, application reviews and adjudicatory hearings.

The proposed changes streamline staff and division functions, improve internal processes, share permitting applications across divisions, and reduce unnecessary and redundant paperwork by utilizing technology. Such process improvements not only benefit the regulated community, but also enable the agency's staff to better focus upon DEP's mission of protecting the State's environmental well-being. Specifically, the DEP states in the background for the proposal how the proposed amendments are "to further the effort to prioritize and refocus its permitting efforts on the activities posing the most risk to the coastal environment" and "benefits the environment by allowing DEP resources and personnel to focus on activities that pose the most significant impacts to the environment." NJBA could not agree more that the proposed amendments further DEP's goals and mission.

We applaud DEP Commissioner Bob Martin and his senior staff for remaining committed to the stated goal of transforming DEP's operations and pursuing necessary regulatory reforms. The NJBA **strongly supports** the proposed amendments to the Coastal rules.



Google earth

feet
km



Marinas at Barnegat Light, New Jersey

24x



**SIERRA
CLUB**
FOUNDED 1892

NEW JERSEY CHAPTER
145 West Hanover St., Trenton, NJ 08618
TEL: [609] 656-7612 FAX: [609] 656-7618
www.SierraClub.org/NJ

Dear Chairman Smith and members of the committee:

The Sierra Club opposes the proposed changes to the CAFRA and Coastal Zone Management rules. These rules violate New Jersey's CAFRA legislation and we believe the legislature should oversight resolution. This rule proposal is the first major revision and rewriting of the rules since Hurricane Sandy and these rules do not strengthen coastal protections or encourage more regional planning. We believe these rules create more loopholes and waivers, which will weaken coastal protections. Especially after Hurricane Sandy we are especially troubled that the rule changes do mention climate change or sea level rise and there are no programs for adaptation or mitigation of sea level rise, resiliency planning, or restoring natural systems. Allowing for more development in high hazard areas and flood hazard areas violated FEMA rules and NFIP rules, putting more people and property in harm's way and jeopardizing flood insurance or causing significant increases in rates. This is not about helping people rebuild, this is about promoting more development.

This rule does not result in more predictability, transparency, or the elimination of red tape in our coastal permitting programs. Instead these changes will promote more sprawl along our coast which will put more people and property in harm's way. We believe the legislature needs to pass legislation to strengthen coastal protections through climate adaption planning, programs to enhance and restore natural systems, discouraging growth in high hazard areas, and policies to enhance water quality.

The Sierra Club has a number of concerns with proposed changes to the Coastal Zone Management Rules which include:

1. **Expansion of General Permits, Permits by Rule and Permits by Certification.** We are extremely troubled by the inclusion of a new permit by certification, which would allow an applicant to fill out a permit online and automatically receive the permit if criteria are met. This process does not allow for any governmental review and oversight or public input. We are further concerned about how this will impact review by the Tidelands Council for wetlands permits for piers, docks, and boat ramps for single family homes. This is going to allow for a lot more development in high hazard areas.
2. **New Waiver Provisions & Exemptions.** The rules include a new "public good" waiver that would allow permits to be issued to projects that do not meet standards or would impact coastal resources. We are concerned this provision will allow inappropriate projects to move forward in vulnerable locations along the coast.

Sierra Club: For Our Families, For Our Future

25x



**SIERRA
CLUB**
FOUNDED 1892

NEW JERSEY CHAPTER
145 West Hanover St., Trenton, NJ 08618
TEL: [609] 656-7612 FAX: [609] 656-7618
www.SierraClub.org/NJ

We ask to remove the proposal to exempt commercial developments on the landward side of a second dune, a sea wall, or a paved road. We also request that the allowance for resort recreational use on piers, making it easier to build piers and also build on them, be removed from the rule proposal.

We are also opposed to the exemption from buffers on agricultural land.

The rules make it easier to dredge and dump the dredge material. The rule also designates dredge material as clean fill, even if it is not.

We believe these exemptions promote inappropriate growth in vulnerable areas and should not be allowed. These exemptions will allow growth in environmentally sensitive areas and habitat and impact natural features such as wetlands. We are concerned that the mitigation proposed to address these impacts will not account for the loss of natural resources incurred by project construction.

This waiver and exemptions will allow for the destruction of shellfish beds and sea grasses and submerged aquatic vegetation. Also the rules allow for more grading and destruction of dunes. This will also allow for high density development in flood hazard areas and even within 150 feet of waterways.

The rule proposal also impacts CAFRA regulations. These changes raise the following concerns:

1. **“Nonporous Cover” and Impervious Cover Concerns.** The rule proposal would amend the definition of “nonporous cover” to include lawns, crushed stone, compacted seashells and others as porous. We know from the studies that have been done that those are actually compacted soils and are not porous, and these types of landscaping should be excluded.

Under this plan the Barnegat Bay watershed could be 40% non-porous cover. When watershed goes over 30% there are irreparably harmed and cannot be restored.

2. **Regulations Are Based on Outdated Mapping.** We are concerned with the accuracy of the data reflected in the 2001 State Plan which is old and outdated. It does not include threatened and endangered species, C1 streams and buffers, up to date flood mapping, or any information on sea level rise and storm surges. It allows for extremely high density development in some of the most vulnerable high hazard areas of New Jersey.

Sierra Club: For Our Families, For Our Future

alox



**SIERRA
CLUB**
FOUNDED 1892

NEW JERSEY CHAPTER
145 West Hanover St., Trenton, NJ 08618
TEL: [609] 656-7612 FAX: [609] 656-7618
www.SierraClub.org/NJ

The regulations should be based on the most recent mapping from FEMA, NOAA, and Rutgers to take into account storm surges and sea level rise.

- 3. Climate Change Impacts Ignored.** The proposed CAFRA changes do not address the impacts from Hurricane Sandy, sea level rise, or storm surges. Instead they move New Jersey in the wrong direction by allowing high density developments in some of the most high hazard areas of the state.

For example Mystic Island in Ocean County, Tuckerton, Eagleswood, and Mantoloking are all coastal growth centers. When you analyze vacant land and the non-porous cover densities allowed under CAFRA, just in the CAFRA zone in Ocean County you could add 400,000 people. In Cape May County you could double the year round population.

There is nothing in here to lessen development impacts in environmentally sensitive areas, areas vulnerable to sea level rise, or to limit impervious cover to improve water quality. Instead of fixing CAFRA, eliminating loopholes, limiting impervious cover, and restoring and rebuilding natural systems, these rules are further rolling back standards. There is nothing in the rules about resiliency or restoring natural systems like dunes and wetlands. There are no environmental standards for managing stormwater, to require green building codes or roofs, not to use tropical woods on boardwalks. There is nothing about restoration or limiting impervious cover. It is not about building better or smarter, it is about trying to rebuild the past and maybe elevate it. The concern is that this is not going to make us more resilient for the next storm.

- 4. Lack of Capacity-Based Planning.** There is no analysis for drinking water and sewer capacity, nor looking at the impact of non-point source pollution. There is no hazard planning.
- 5. Provisional Permit Concerns.** We are concerned the provisional permit that allows property owners to start building if they could lose funding before approvals are in place has remained in place. We objected to this permit under the emergency rule and urge the DEP to remove it now.

Hurricane Sandy was a disaster that hit our coast, and showed the need to implement better regulations to protect our coast from future storms. This rule proposal should be an opportunity to implement those needed changes now, but we are concerned this rule moves us in the wrong direction. We need regulations that address sea level rise, flooding, and storm surges and prepare our coast for the future impacts of climate change and this rule proposal does not move us in



**SIERRA
CLUB**
FOUNDED 1892

NEW JERSEY CHAPTER
145 West Hanover St., Trenton, NJ 08618
TEL: [609] 656-7612 FAX: [609] 656-7618
www.SierraClub.org/NJ

that direction. Instead this rule proposal is encouraging more growth in high hazard areas and opening up environmentally sensitive coastal areas to more

development. The New Jersey Sierra Club is asking the legislature to pull down this rule proposal and come forward with legislation that will protect our coast for future generations. Legislation such as closing the CAFRA loopholes, fixing coastal legislation to include climate change mitigation and adaption ,TMDL for Barnegat Bay and a Coastal Commission . Thank you