



# Committee Meeting

of

## SENATE COASTAL RESOURCES AND TOURISM COMMITTEE

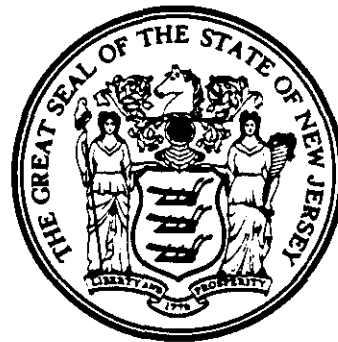
"Testimony on the implementation of the new  
CAFRA law (P.L. 1993, c.190)"

**LOCATION:** Committee Room 7  
Legislative Office Bldg.  
Trenton, New Jersey

**DATE:** October 7, 1993  
10:00 a.m.

### MEMBERS OF COMMITTEE PRESENT:

Senator Joseph M. Kyrillos, Jr., Chairman  
Senator Walter Rand



### ALSO PRESENT:

George J. LeBlanc  
Office of Legislative Services  
Aide, Senate Coastal Resources  
and Tourism Committee

**Hearing Recorded and Transcribed by**  
The Office of Legislative Services, Public Information Office,  
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625

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**C O M M I T T E E   N O T I C E**

**TO: MEMBERS OF THE SENATE COASTAL RESOURCES AND  
TOURISM COMMITTEE**

**FROM: SENATOR JOSEPH M. KYRILLOS, CHAIRMAN**

**SUBJECT: COMMITTEE MEETING - October 7, 1993**

*The public may address comments and questions to George J. LeBlanc or  
Raymond E. Cantor, Committee Aides, or make bill status and scheduling  
inquiries to Carol Hendryx, secretary, at (609) 292-7676.*

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**The Senate Coastal Resources and Tourism Committee will meet on  
Thursday, October 7, 1993 at 10:00 AM in Committee Room 7, Legislative  
Office Building, Trenton, New Jersey.**

**Mr. John Weingart, Assistant Commissioner of Environmental Regulation,  
Department of Environmental Protection and Energy (DEPE), will provide  
testimony on the implementation of the new CAFRA law (P.L. 1993, c.190).**

**Issued 09/30/93**

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1475

STATE OF NEW JERSEY

ADOPTED MAY 27, 1993

Sponsored by Senators KYRILLOS, BENNETT and Palaia

1 AN ACT concerning the protection of the coastal area, providing  
2 for the review of certain developments therein, amending and  
3 supplementing P.L.1973, c.185, amending R.S.12:5-3, P.L.1975,  
4 c.232, P.L.1985, c.398 and P.L.1986, c.145, amending the title  
5 of P.L.1973, c.185, and repealing parts of the statutory law.

6  
7 BE IT ENACTED by the Senate and General Assembly of the  
8 State of New Jersey:

9 1. The title of P.L.1973, c.185 (C.13:19-1 et seq.) is amended  
10 to read as follows:

11 AN ACT [to provide for the review of certain facilities]  
12 concerning the review of certain developments located in the  
13 coastal area [and making an appropriation therefor].  
14 (cf: P.L.1973, c.185, title)

15 2. Section 2 of P.L.1973, c.185 (C.13:19-2) is amended to read  
16 as follows:

17 2. The Legislature finds and declares that New Jersey's bays,  
18 harbors, sounds, wetlands, inlets, the tidal portions of fresh,  
19 saline or partially saline streams and tributaries and their  
20 adjoining upland fastland drainage area nets, channels, estuaries,  
21 barrier beaches, near shore waters and intertidal areas together  
22 constitute an exceptional, unique, irreplaceable and delicately  
23 balanced physical, chemical and biologically acting and  
24 interacting natural environmental resource called the coastal  
25 area, that certain portions of the coastal area are now suffering  
26 serious adverse environmental effects resulting from existing  
27 [facility] development activity impacts that would preclude or  
28 tend to preclude those multiple uses which support diversity and  
29 are in the best long-term, social, economic, aesthetic and  
30 recreational interests of all people of the State; and that,  
31 therefore, it is in the interest of the people of the State that all  
32 of the coastal area should be dedicated to those kinds of land uses  
33 which promote the public health, safety and welfare, protect  
34 public and private property, and are reasonably consistent and  
35 compatible with the natural laws governing the physical,  
36 chemical and biological environment of the coastal area.

37 It is further declared that the coastal area and the State will  
38 suffer continuing and ever-accelerating serious adverse  
39 economic, social and aesthetic effects unless the State assists, in  
40 accordance with the provisions of this act, in the assessment of  
41 impacts, stemming from the future location and kinds of  
42 [facilities] developments within the coastal area, on the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 delicately balanced environment of that area.

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

11 (cf: P.L.1973, c.185, s.2)

12 3. Section 3 of P.L.1973, c.185 (C.13:19-3) is amended to read  
13 as follows:

14 3. [For the purposes of this act, unless the context clearly  
15 requires a different meaning, the following words shall have the  
16 following meanings] As used in this act:

17 "Beach" means a gently sloping unvegetated area of sand or  
18 other unconsolidated material found on tidal shorelines, including  
19 ocean, inlet, bay and river shorelines, and that extends landward  
20 from the mean high water line to either: the vegetation line; a  
21 man-made feature generally parallel to the ocean, inlet, bay or  
22 river waters such as a retaining structure, seawall, bulkhead, road  
23 or boardwalk, except that sandy areas that extend fully under and  
24 landward of an elevated boardwalk are considered to be beach  
25 areas; or the seaward or bayward foot of dunes, whichever is  
26 closest to the ocean, inlet, bay or river waters;

27 "Commercial development" means a development designed,  
28 constructed or intended to accommodate commercial or office  
29 uses. "Commercial development" shall include, but need not be  
30 limited to, any establishment used for the wholesale or retail sale  
31 of food or other merchandise, or any establishment used for  
32 providing professional, financial, or other commercial services;

33 [a.] "Commissioner" means the [State] Commissioner of  
34 Environmental Protection[.];

35 [b.] "Department" means the [State] Department of  
36 Environmental Protection[.];

37 [c. "Facility" includes any of the facilities designed or utilized  
38 for the following purposes:

39 (1) Electric power generation--

40 Oil, gas, or coal fired or any combination thereof.

41 Nuclear facilities.

42 (2) Food and food byproducts--

43 Beer, whiskey and wine production.

44 Fish processing, including the production of fish meal and fish  
45 oil.

46 Slaughtering, blanching, cooking, curing, and pickling of meats  
47 and poultry.

48 Trimming, culling, juicing, and blanching of fruits and  
49 vegetables.

50 Animal matter rendering plants.

51 Operations directly related to the production of leather or furs  
52 such as, but not limited to, unhairing, soaking, deliming, baiting,  
53 and tanning.

54 Curing and pickling of fruits and vegetables.

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- 1     Pasteurization, homogenization, condensation, and evaporation
- 2     of milk and cream to produce cheeses, sour milk, and related
- 3     products.
- 4     Coffee bean and cocoa bean roasting.
- 5     (3) Incineration wastes--
- 6     Municipal wastes (larger than or equal to 50 tons per day).
- 7     Automobile body (20 automobiles per hour or larger).
- 8     (4) Paper production--
- 9     Pulp mills.
- 10    Paper mills.
- 11    Paperboard mills.
- 12    Building paper mills.
- 13    Building board mills.
- 14    (5) Public facilities and housing--
- 15    Sanitary landfills.
- 16    Waste treatment plants (sanitary sewage).
- 17    Road, airport, or highway construction.
- 18    New housing developments of 25 or more dwelling units or
- 19    equivalent.
- 20    Expansion of existing developments by the addition of 25 or
- 21    more dwelling units or equivalent.
- 22    (6) Agri-chemical production--
- 23    Pesticides manufacture and formulation operations or either
- 24    thereof.
- 25    Superphosphate animal feed supplement manufacture.
- 26    Production of normal superphosphate.
- 27    Production of triple superphosphate.
- 28    Production of diammonium phosphate.
- 29    (7) Inorganic acids and salts manufacture--
- 30    Hydrofluoric acid and common salts.
- 31    Hydrochloric acid and common salts.
- 32    Nitric acid and common salts.
- 33    Sulfuric acid and common salts.
- 34    Phosphoric acid and common salts.
- 35    Chromic acid, including chromate and dichromate salts.
- 36    (8) Mineral products--
- 37    Asphalt batching and roofing operations including the
- 38    preparation of bituminous concrete and concrete.
- 39    Cement production, including Portland, natural, masonry, and
- 40    pozzolan cements.
- 41    Coal cleaning.
- 42    Clay, clay mining, and fly-ash sintering.
- 43    Calcium carbide production.
- 44    Stone, rock, gravel, and sand quarrying and processing.
- 45    Frit and glass production.
- 46    Fiberglass production.
- 47    Slag, rock and glass wool production (mineral wool).
- 48    Lime production, including quarrying.
- 49    Gypsum production, including quarrying.
- 50    Perlite manufacturing, including quarrying.
- 51    Asbestos fiber production.
- 52    (9) Chemical processes--
- 53    Ammonia manufacture.
- 54    Chlorine manufacture.

- 1 Caustic soda production.
- 2 Carbon black and charcoal production, including channel,
- 3 furnace, and thermal processes.
- 4 Varnish, paint, lacquer, enamel, organic solvent, and inorganic
- 5 or organic pigment manufacturing or formulating.
- 6 Synthetic resins or plastics manufacture including, but not
- 7 limited to, alkyd resins, polyethylene, fluorocarbons,
- 8 polypropylene, and polyvinylchloride.
- 9 Sodium carbonate manufacture.
- 10 Synthetic fibers production including, but not limited to,
- 11 semisynthetics such as viscose, rayon, and acetate, and true
- 12 synthetics such as, but not limited to, nylon, orlon, and dacron,
- 13 and the dyeing of these semi and true synthetics.
- 14 Synthetic rubber manufacture, including but not limited to,
- 15 butadiene and styrene copolymers, and the reclamation of
- 16 synthetic or natural rubbers.
- 17 The production of high and low explosives such as, but not
- 18 limited to, TNT and nitrocellulose.
- 19 Soap and detergent manufacturing, including but not limited to,
- 20 those synthetic detergents prepared from fatty alcohols or linear
- 21 alkylate.
- 22 Elemental sulfur recovery plants not on the premises where
- 23 petroleum refining occurs.
- 24 Used motor or other oil or related petroleum product
- 25 reclamation operations.
- 26 Petroleum refining, including but not limited to, distillation,
- 27 cracking, reforming, treating, blending, polymerization,
- 28 isomerization, alkylation, and elemental sulfur recovery
- 29 operations.
- 30 Organic dye and dye intermediate manufacturing.
- 31 Hydrogen cyanide or cyanide salts manufacture or use.
- 32 Glue manufacturing operations.
- 33 Manufacturing, fabricating, or processing medicinal and
- 34 pharmaceutical products including the grading, grinding, or
- 35 milling of botanicals.
- 36 (10) Storage--
- 37 Bulk storage, handling, and transfer facilities for crude oil, gas
- 38 and finished petroleum products not on the premises where
- 39 petroleum refining occurs.
- 40 Bulk storage, handling, transfer and manufacturing facilities of
- 41 gas manufactured from inorganic and organic materials including
- 42 coal gas, coke oven gas, water gas, producer, and oil gases.
- 43 (11) Metallurgical processes--
- 44 Production of aluminum oxide and aluminum metal and all
- 45 common alloys, such as those with copper, magnesium, and silicon.
- 46 Production of titanium metal, salts, and oxides.
- 47 Metallurgical coke, petroleum coke, and byproduct coke
- 48 manufacturing.
- 49 Copper, lead, zinc, and magnesium smelting and processing.
- 50 Ferroalloys manufacture such as, but not limited to, those
- 51 combined with silicon, calcium, manganese and chrome.
- 52 Integrated steel and iron mill operations including, but not
- 53 limited to, open hearth, basic oxygen, electric furnace, sinter
- 54 plant, and rolling, drawing, and extruding operations.

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- 1 Melting, smelting, refining, and alloying of scrap or other
- 2 substances to produce brass and bronze ingots.
- 3 Gray iron foundry operations.
- 4 Steel foundry operations.
- 5 Beryllium metal or alloy production, including rolling, drawing
- 6 and extruding operations.
- 7 Operations involving silver, arsenic, cadmium, copper,
- 8 mercury, lead, nickel, chromium, and zinc including, but not
- 9 limited to, production, recovery from scrap or salvage, alloy
- 10 production, salt formation, electroplating, anodizing, and
- 11 metallo-organics compound products preparation.
- 12 Stripping of oxides from and the cleaning of metals prior to
- 13 plating, anodizing, or painting.
- 14 (12) Miscellaneous--
- 15 Operations involving the scouring, desizing, cleaning,
- 16 bleaching, and dyeing of wool.
- 17 Wood preserving processes which use coal or petroleum based
- 18 products such as, but not limited to, coal tars and/or creosotes.
- 19 Manufacture, use, or distillation of phenols, cresols, or coal tar
- 20 materials.
- 21 Manufacture of lead acid storage batteries and/or storage
- 22 batteries produced from other heavy metals, such as nickel or
- 23 cadmium.
- 24 Installation of above or underground pipelines designed to
- 25 transport petroleum, natural gas, and sanitary sewage.
- 26 Operations involving the dyeing, bleaching, coating,
- 27 impregnating, or glazing of paper.
- 28 Dyeing, bleaching, and printing of textiles other than wool.
- 29 Chemical finishing for water repelling, fire resistance, and
- 30 mildew proofing, including preshrinking, coating and impregnating.
- 31 Sawmill and planing mill operations.
- 32 Marine terminal and cargo handling facilities.
- 33 d. "Person" means and shall include corporations, companies,
- 34 associations, societies, firms, partnerships and joint stock
- 35 companies as well as individuals and governmental agencies.
- 36 e.] "Development" means the construction, relocation, or
- 37 enlargement of any building or structure and all site preparation
- 38 therefor, the grading, excavation or filling on beaches or dunes,
- 39 and shall include residential development, commercial
- 40 development, industrial development, and public development;
- 41 "Dune" means a wind- or wave-deposited or man-made
- 42 formation of vegetated sand that lies generally parallel to and
- 43 landward of the beach, and between the upland limit of the beach
- 44 and the foot of the most inland slope of the dune. Dune includes
- 45 the foredune, secondary and tertiary dune ridges, as well as
- 46 man-made dunes, where they exist,
- 47 "Dwelling unit" means a house, townhouse, apartment,
- 48 cooperative, condominium, cabana, hotel or motel room, a room
- 49 in a hospital, nursing home or other residential institution, mobile
- 50 home, campsite for a tent or recreational vehicle or any other
- 51 habitable structure of similar size and potential environmental
- 52 impact, except that dwelling unit shall not mean a vessel as
- 53 defined in section 2 of P.L.1962, c.73 (C.12:7-34.37);
- 54 "Governmental [agencies] agency" means the Government of

1 the United States, the State of New Jersey, or any other [states,  
2 their] state, or a political [subdivisions] subdivision, authority,  
3 [agencies, or instrumentalities] agency or instrumentality  
4 thereof, and shall include any interstate [agencies.] agency or  
5 authority;

6 "Industrial development" means a development that involves a  
7 manufacturing or industrial process, and shall include, but need  
8 not be limited to, electric power production, food and food  
9 by-product processing, paper production, agri-chemical  
10 production, chemical processes, storage facilities, metallurgical  
11 processes, mining and excavation processes, and processes  
12 utilizing mineral products;

13 "Person" means any individual, corporation, company,  
14 association, society, firm, partnership, joint stock company, or  
15 governmental agency;

16 "Public development" means a solid waste facility, including an  
17 incinerator and landfill, wastewater treatment plant, public  
18 highway, airport, an above or underground pipeline designed to  
19 transport petroleum, natural gas, or sanitary sewage, and a public  
20 facility, and shall not mean a seasonal or temporary structure  
21 related to the tourism industry, an educational facility or power  
22 lines;

23 "Public highway" means a public highway as defined in section  
24 3 of P.L.1984, c.73 (C.27:1B-3);

25 "Reconstruction" means the repair or replacement of a  
26 building, structure, or other part of a development;

27 "Residential development" means a development that provides  
28 one or more dwelling units.

29 (cf: P.L.1973, c.185, s.3)

30 4. Section 4 of P.L.1973, c.185 (C.13:19-4) is amended to read  
31 as follows:

32 4. The "coastal area" shall consist of all that certain area  
33 lying between the line as hereinafter described and the line  
34 formed by the State's seaward (Raritan Bay and Atlantic ocean)  
35 territorial jurisdiction on the east thereof, the State's bayward  
36 (Delaware Bay) territorial jurisdiction on the south and southwest  
37 thereof, and the State's riverward (Delaware River) territorial  
38 jurisdiction on the west thereto. Beginning at the confluence of  
39 Cheesapeake Creek with the Raritan Bay; thence southwesterly  
40 along the center line of Cheesapeake Creek to its intersection  
41 with the Garden State Parkway; thence southeasterly along the  
42 Garden State Parkway to Exit 117 at State Highway 36; thence  
43 northeasterly along State Highway 36 to the intersection of  
44 Middle Road (County 516); thence easterly along Middle Road to  
45 the intersection of Palmer Avenue (County 7); thence  
46 northeasterly on Main Street to the intersection of State Highway  
47 36; thence easterly on State Highway 36 to the intersection of  
48 Navesink Avenue; thence southerly on Navesink Avenue to the  
49 intersection of Monmouth Avenue at Navesink; thence westerly  
50 on Monmouth Avenue to its intersection with Browns Dock Road;  
51 thence southerly on Browns Dock Road to its intersection with  
52 Cooper Road; thence southwesterly on Cooper Road to the  
53 intersection of State Highway 35; thence southerly on State  
54 Highway 35 to its intersection with State Highway 71; thence



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1 southeasterly on State Highway 71 to its crossing of the Central  
2 Railroad of New Jersey tracks , now the Consolidated Rail  
3 Corporation (Conrail)/New Jersey Transit Corporation (NJ  
4 Transit); thence southerly along the Central Railroad of New  
5 Jersey tracks (now Conrail/NJ Transit) to its intersection of 6th  
6 Avenue (County 2); thence westerly on 6th Avenue (County 2) to  
7 the intersection of State Highway 33; thence westerly along State  
8 Highway 33 to the crossing of State Highway 18; thence southerly  
9 on State Highway 18 to its intersection of Marconi Road; thence  
10 southeasterly on Marconi Road to Adrienne Road, continuing  
11 south on Adrienne Road to Belmar Boulevard; thence easterly on  
12 Belmar Boulevard and 16th Avenue to the intersection of State  
13 Highway 71; thence southerly on State Highway 71 to the  
14 intersection of State Highway 35; thence northwesterly along  
15 State Highway 35 to State Highway 34 at the Brielle Circle;  
16 thence northwesterly along State Highway 34 to the Garden State  
17 Parkway at Exit 96; thence southwesterly along the Garden State  
18 Parkway to the intersection of the Monmouth, Ocean County  
19 boundary; thence westerly along [said] that boundary to the  
20 intersection of the Central Railroad of New Jersey tracks (now  
21 Conrail); thence southwesterly along the tracks of the Central  
22 Railroad of New Jersey (now Conrail) to its junction with the  
23 tracks of the Pennsylvania Railroad near Whiting; thence easterly  
24 along the tracks of the Pennsylvania Railroad to its intersection  
25 with the Garden State Parkway near South Toms River; thence  
26 southerly along the Garden State Parkway to its intersection with  
27 [County Road 539 at Garden State Parkway exit 58; thence  
28 northerly along County Road 539 to its intersection with  
29 Martha-Stafford Forge Road; thence westerly along  
30 Martha-Stafford Forge Road to its intersection with Spur 563;  
31 thence northerly along Spur 563 to its intersection with County  
32 Road 563; thence southerly along County Road 563 to its  
33 intersection with County Road 542 at Green Bank; thence  
34 northwesterly along County Road 542 to its intersection with  
35 Weekstown-Pleasant Mills Road; thence southeasterly along  
36 Weekstown-Pleasant Mills Road to its intersection with County  
37 Road 563 at Weekstown; thence southeasterly along County Road  
38 563 to its intersection with Clarks Landing Road leading to Port  
39 Republic; thence easterly along Clarks Landing Road to its  
40 intersection with the Garden State Parkway; thence southerly  
41 along the Garden State Parkway to its intersection with]the  
42 boundary of the Bass River State Forest; thence southerly, and  
43 thence westerly, along the Bass River State Forest to its  
44 intersection with the Garden State Parkway in Bass River  
45 Township; thence southerly along the Garden State Parkway to its  
46 intersection with Alt. 559, and thence northwesterly along Alt.  
47 559 to its intersection with County Road 559 at Gravelly Run;  
48 thence northwesterly along County Road 559 to its intersection  
49 with U.S. 40 and S.R. 50 at Mays Landing; thence westerly along  
50 combined U.S. 40 and S.R. 50 to its intersection with S.R. [50] 40;  
51 thence westerly along S.R.40 to its intersection with S.R.50;  
52 thence southerly on S.R. 50 to its intersection with Buck Hill  
53 Road near Buck Hill; thence westerly along Buck Hill (River Road  
54 also Head of River Road and Aetna Drive) Road to its

1. intersection with S.R. 49; thence southeasterly along S.R. 49 to  
2. its intersection with S.R. 50; thence southeasterly along S.R. 50  
3. to its intersection with County Road 585 (now County Road 610);  
4. thence southwesterly along County Road 585 (now County Road  
5. 610) to its intersection with S.R. 47 at Dennisville; thence  
6. northwesterly along S.R. 47 to its intersection with State Road 49  
7. at Millville; thence through Millville along State Road 49 to its  
8. intersection with County Road [555] 610 (Cedar Street); thence  
9. [southerly] southwesterly along County Road [555] 610 (Cedar  
10. Street) to its intersection with County Road 555 (Race Street);  
11. thence southerly along County Road 555 (Race Street) to its  
12. intersection with County Road 27 (now County Road 627); thence  
13. southerly along County Road 27 (now County Road 627) to its  
14. intersection with County Road 70 (now County Road 670); thence  
15. southerly on County Road 70 (now County Road 670) to the  
16. Center of Mauricetown; thence through Mauricetown westerly on  
17. County Road 548 (now County Road 676) to its intersection with  
18. the tracks of the Central Railroad of New Jersey (now Conrail);  
19. thence northwesterly on the tracks of the Central Railroad of  
20. New Jersey (now Conrail) to its intersection with County Road 98  
21. (now County Road 698); thence easterly along County Road 98  
22. (now County Road 698) to the intersection with County Road 38  
23. (now County Road 638); thence northerly along County Road 38  
24. (now County Road 638) to its intersection with S.R. 49 east of  
25. Bridgeton; thence westerly along S.R. 49 through Bridgeton to its  
26. intersection with West Avenue; thence south on West Avenue to  
27. its intersection with County Road 5 (Roadstown Road) (now  
28. County Road 626); thence westerly along County Road 5  
29. (Roadstown Road) (now County Road 626) to Roadstown; thence  
30. northwesterly along the Roadstown Road to County Road 47 (now  
31. County Road 647); thence southwesterly along County Road 47  
32. (now County Road 647) to its intersection with County Road 19  
33. (now County Road 623); thence along County Road 19 (now  
34. County Road 623) northwesterly to Gum Tree Corner; thence  
35. northwesterly along County Road 19 (now County Road 623) from  
36. Gum Tree Corner across Stowe Creek to its intersection with  
37. Salem County Road 59 (now County Road 623) (Hancock's Bridge  
38. Road); thence northwesterly along County Road 59 (now County  
39. Road 623) to its intersection with County Road 51 (now County  
40. Road 651) at Coopers Branch; thence northeasterly along County  
41. Road 51 (now County Road 651) to its intersection with S.R. 49 at  
42. Quinton; thence northwesterly along S.R. 49 to its intersection  
43. with County Road 50 (now County Road 650); thence  
44. southwesterly along County Road 50 (now County Road 650) to its  
45. intersection with County Road 58 (now County Road 658); thence  
46. southerly on County Road 58 (now County Road 658) to its  
47. intersection with County Road 24 (now County Road 624); thence  
48. westerly along County Road 24 (now County Road 624) to its  
49. intersection with County Road 65 (now County Road 637); thence  
50. northeasterly along County Road 65 (now County Road 637) to its  
51. intersection with County Road 665 (Walnut Street); thence  
52. northerly along County Road 65 (now County Road 665) (Walnut  
53. Street) to its intersection with County Road 4 (now County Road  
54. 633); thence westerly along County Road 4 (now County Road

1 633) to its intersection with County Road 627; thence northerly  
2 along County Road 627 to its intersection with County Road 661;  
3 thence easterly along County Road 661 to its intersection with  
4 State Road 49; [thence westerly along County Road 4 and  
5 northerly along County Road 4 and thence easterly along County  
6 Road 4 to its intersection with State Road 49;] thence northerly  
7 along State Road 49 (Front Street) to its intersection with County  
8 Road 57 (now County Road 657); thence easterly along County  
9 Road 57 (now County Road 657) to its intersection with State  
10 Road 45; thence northerly along State Road 45 to its intersection  
11 with County Road 540 at Pointers; thence northerly and  
12 northwesterly along County Road 540 (Pointers Auburn  
13 Road/Deepwater-Slapes Corner Road) to its intersection with the  
14 New Jersey Turnpike; thence westerly along the New Jersey  
15 Turnpike to its intersection with County Road 33 (now County  
16 Road 551); thence southerly along County Road 33 (now County  
17 Road 551) to its intersection with State Road 49; thence  
18 southeasterly along S.R. 49 to its intersection with County Road  
19 26 (now County Road 632); thence northwesterly along County  
20 Road 26 (now County Road 632) to the Killcohook National  
21 Wildlife Refuge; thence northwesterly along this northeasterly  
22 boundary to the limits of the State's territorial jurisdiction on  
23 the Delaware River; provided, however, that the coastal area  
24 shall not include all that certain area in Cape May county lying  
25 within a line beginning at the intersection of S.R. 47 and County  
26 Road 54 (now County Road 654); thence westerly on County Road  
27 54 (now County Road 654); to the intersection of County Road 3  
28 (now County Road 603); thence southeasterly on County Road 3  
29 (now County Road 603) through the intersection of County Road 3  
30 (now County Road 603) with County Road 13 (now County Road  
31 639) to the intersection with County Road 47 (now County Road  
32 647); thence easterly and northerly along County Road 47 (now  
33 County Road 647) to its intersection with [State Road] U.S. Route  
34 9; thence northerly along [State Road] U.S. Route 9 to its  
35 intersection with State Road 47; thence westerly along State  
36 Road 47 to its intersection with County Road 54 (now County  
37 Road 654).

38 (cf: P.L.1973, c.185, s.4)

39 5. Section 5 of P.L.1973, c.185 (C.13:19-5) is amended to read  
40 as follows:

41 5. [No person shall construct or cause to be constructed a  
42 facility in the coastal area until he has applied for and received a  
43 permit issued by the commissioner; however, the provisions of  
44 this act shall not apply to facilities for which on-site  
45 construction, including site preparation, was in process on or  
46 prior to the effective date of this act.] A permit issued pursuant  
47 to P.L.1973, c.185 (C.13:19-1 et seq.) shall be required for:

48 a. A development located in the coastal area on any beach or  
49 dune;

50 b. A development located in the coastal area between the  
51 mean high water line of any tidal waters, or the landward limit of  
52 a beach or dune, whichever is most landward, and a point 150 feet  
53 landward of the mean high water line of any tidal waters or the  
54 landward limit of a beach or dune, whichever is most landward,

1 that would result, either solely or in conjunction with a previous  
2 development, in:

3 (1) A development if there is no intervening development with  
4 an above ground structure, excluding any shore protection  
5 structure or sand fencing, that is either completed or under  
6 active construction between the proposed site of the development  
7 and the mean high water line of any tidal waters;

8 (2) A residential development having three or more dwelling  
9 units if there is an intervening development with an above ground  
10 structure, excluding any shore protection structure or sand  
11 fencing, that is either completed or under active construction  
12 between the proposed site of the dwelling units and the mean high  
13 water line of any tidal waters;

14 (3) A commercial development having five or more parking  
15 spaces if there is an intervening development with an above  
16 ground structure, excluding any shore protection structure or  
17 sand fencing, that is either completed or under active  
18 construction between the proposed site of the commercial  
19 development and the mean high water line of any tidal waters; or

20 (4) A public development or industrial development;

21 c. A development located in the coastal area between a point  
22 greater than 150 feet landward of the mean high water line of  
23 any tidal waters or the landward limit of a beach or dune,  
24 whichever is most landward, and a point 500 feet landward of the  
25 mean high water line of any tidal waters or the landward limit of  
26 a beach or dune, whichever is most landward, which is located  
27 within the boundaries of a municipality which meets the criteria  
28 of a "qualifying municipality" pursuant to section 1 of P.L.1978,  
29 c.14 (C.52:27D-178), or which is located within the boundaries of  
30 a city of the fourth class with a population of over 30,000 persons  
31 according to the latest federal decennial census, that would  
32 result, either solely or in conjunction with a previous  
33 development, in:

34 (1) A residential development having 25 or more dwelling units;

35 (2) A commercial development having 50 or more parking  
36 spaces; or

37 (3) A public development or industrial development;

38 d. A development located in the coastal area at a point beyond  
39 500 feet landward of the mean high water line of any tidal waters  
40 or the landward limit of a beach or dune, whichever is most  
41 landward, and which is located within the boundaries of a  
42 municipality which meets the criteria of a "qualifying  
43 municipality" pursuant to section 1 of P.L.1978, c.14  
44 (C.52:27D-178), or which is located within the boundaries of a  
45 city of the fourth class with a population of over 30,000 persons  
46 according to the latest federal decennial census, that would  
47 result, either solely or in conjunction with a previous  
48 development, in:

49 (1) A residential development having 75 or more dwelling units;

50 (2) A commercial development having 150 or more parking  
51 spaces; or

52 (3) A public development or industrial development; or

53 e. Except as otherwise provided in subsection c. and subsection  
54 d. of this section, a development in the coastal area at a point

1 beyond 150 feet landward of the mean high water line of any tidal  
2 waters or the landward limit of a beach or dune, whichever is  
3 most landward, that would result, either solely or in conjunction  
4 with a previous development, in:

5 (1) A residential development having 25 or more dwelling units;

6 (2) A commercial development having 50 or more parking  
7 spaces; or

8 (3) A public development or industrial development.

9 (cf: P.L.1973, c.185, s.5)

10 6. (New section) Notwithstanding any other provision of law,  
11 rule or regulation to the contrary, the commissioner is authorized  
12 to issue a general permit in lieu of a permit issued pursuant to  
13 section 5 of P.L.1973, c.185 (C.13:19-5). The department shall  
14 adopt rules and regulations which identify the activities subject  
15 to general permit review, and which establish the criteria for the  
16 approval or disapproval of a general permit issued pursuant to  
17 this section. The department shall approve, approve with  
18 conditions, or disapprove an application for a general permit  
19 pursuant to this section in accordance with P.L.1975, c.232  
20 (C.13:1D-29 et seq.).

21 7. (New section) A permit shall not be required pursuant to  
22 section 5 of P.L.1973, c.185 (C.13:19-5) for:

23 a. A development which has received preliminary site plan  
24 approval pursuant to the "Municipal Land Use Law," P.L.1975,  
25 c.291 (C.40:55D-1 et seq.) or a final municipal building or  
26 construction permit on or prior to the effective date of this  
27 section, or a residential development which has received  
28 preliminary subdivision approval or minor subdivision approval on  
29 or prior to the effective date of this section where no subsequent  
30 site plan approval is required, provided that, in any of the cases  
31 identified above, construction begins within three years of the  
32 effective date of this section, and continues to completion with  
33 no lapses in construction activity of more than one year. This  
34 subsection shall not apply to any development that required a  
35 permit pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) prior to  
36 the effective date of this section;

37 b. The reconstruction of any development that is damaged or  
38 destroyed, in whole or in part, by fire, storm, natural hazard or  
39 act of God, provided that such reconstruction is in compliance  
40 with existing requirements or codes of municipal, State and  
41 federal law;

42 c. The enlargement of any development if the enlargement  
43 does not result in:

44 (1) the enlargement of the footprint of the development; or

45 (2) an increase in the number of dwelling units within the  
46 development;

47 d. The construction of a patio, deck or similar structure at a  
48 residential development;

49 e. Services provided, within the existing public right-of-way,  
50 by any governmental entity which involve:

51 (1) the routine reconstruction, substantially similar functional  
52 replacement, or maintenance or repair of public highways;

53 (2) public highway lane widening, intersection and shoulder  
54 improvement projects which do not increase the number of travel

1 lanes; or

2 (3) public highway signing, lighting, guiderail and other  
3 nonintrusive safety projects; or

4 f. The expansion of an existing, functional amusement pier,  
5 provided such expansion does not exceed the footprint of the  
6 existing, functional amusement pier by more than 25 percent, and  
7 provided such expansion is located in the area beyond 150 feet  
8 landward of the mean high water line, beach or dune, whichever  
9 is most landward.

10 A development subject to any exemption provided in this  
11 section shall be required to satisfy all other applicable  
12 requirements of law.

13 8. Section 6 of P.L.1973, c.185 (C.13:19-6) is amended to read  
14 as follows:

15 6. Any person proposing to construct or cause to be  
16 constructed, or to undertake or cause to be undertaken, as the  
17 case may be, a [facility] development in the coastal area shall  
18 file an application for a permit, if so required pursuant to section  
19 5 of P.L.1973, c.185 (C.13:19-5), with the commissioner, [in such  
20 form] on forms and with [such] any information [as] the  
21 commissioner may prescribe. The application shall include an  
22 environmental impact statement [as described in this act] which  
23 shall provide the information needed to evaluate the effects of a  
24 proposed development upon the environment of the coastal area.  
25 The department shall adopt rules and regulations that set forth  
26 the contents required in an environmental impact statement, and  
27 the conditions under which the commissioner may vary the  
28 content requirements of an environmental impact statement or  
29 waive the requirement that an environmental impact statement  
30 be submitted.

31 (cf: P.L.1973, c.185, s.6)

32 9. Section 8 of P.L.1973, c.185 (C.13:19-8) is amended to read  
33 as follows:

34 8. a. Within [30]20 working days following receipt of an  
35 application, the commissioner shall [notify]issue a notification to  
36 the applicant in writing regarding its completeness. The  
37 commissioner may declare the application to be complete for  
38 filing or may notify the applicant of specific deficiencies. The  
39 commissioner, within 15 days following the receipt of additional  
40 information to correct deficiencies, shall [notify]issue a  
41 notification to the applicant of the completeness of the amended  
42 application. The application shall not be considered to be filed  
43 until it has been declared complete by the commissioner.

44 b. The commissioner, within 15 days of declaring the  
45 application complete for filing, shall set a date for [the] either a  
46 public hearing or a public comment period. The date for the  
47 public hearing or the start of the public comment period shall be  
48 set not later than 60 days after the application is declared  
49 complete for filing.

50 (cf: P.L.1973, c.185, s.8)

51 10. Section 9 of P.L.1973, c.185 (C.13:19-9) is amended to  
52 read as follows:

53 9. a. The commissioner, or a member of the department  
54 designated by [him] the commissioner, [shall] may hold a hearing



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1 to afford interested parties the opportunity to present, orally or  
2 in writing, their position concerning the filed application and any  
3 data they may have developed in reference to the environmental  
4 or other relevant effects of the proposed [facility] development.  
5 The department shall adopt rules and regulations which set forth  
6 the conditions under which a hearing is to be held. If no hearing  
7 is held, the department shall provide for a 30-day comment  
8 period and shall provide sufficient public notice as to the  
9 commencement of the comment period.

10 b. The commissioner, within 15 days after the hearing, if one  
11 is held, or 15 days after the close of the comment period if no  
12 hearing is held, may require an applicant to submit any additional  
13 information necessary for the complete review of the application.

14 c. The department shall approve, approve with conditions, or  
15 disapprove an application for a permit pursuant to P.L.1973,  
16 c.185 (C.13:19-1 et seq.) within 60 days after the hearing, if one  
17 is held, or within 60 days after the close of the comment period if  
18 no hearing is held. In the event the commissioner requires  
19 additional information as provided in subsection b. of this section,  
20 the department shall approve, approve with conditions, or  
21 disapprove an application within 90 days following receipt of the  
22 additional information.

23 (cf: P.L.1979, c.86, s.3)

24 11. Section 10 of P.L.1973, c.185 (C.13:19-10) is amended to  
25 read as follows:

26 10. The commissioner shall review filed applications, including  
27 [the] any environmental impact statement and all information  
28 presented at public hearings or during the comment period, or  
29 submitted during the application review period. [He shall issue a  
30 permit only if he finds] A permit may be issued pursuant to this  
31 act only upon a finding that the proposed [facility] development:

32 a. Conforms with all applicable air, water and radiation  
33 emission and effluent standards and all applicable water quality  
34 criteria and air quality standards.

35 b. Prevents air emissions and water effluents in excess of the  
36 existing dilution, assimilative, and recovery capacities of the air  
37 and water environments at the site and within the surrounding  
38 region.

39 c. Provides for the [handling and] collection and disposal of  
40 litter, [trash, and refuse] recyclable material and solid waste in  
41 such a manner as to minimize adverse environmental effects and  
42 the threat to the public health, safety, and welfare.

43 d. Would result in minimal feasible impairment of the  
44 regenerative capacity of water aquifers or other ground or  
45 surface water supplies.

46 e. Would cause minimal feasible interference with the natural  
47 functioning of plant, animal, fish, and human life processes at the  
48 site and within the surrounding region.

49 f. Is located or constructed so as to neither endanger human  
50 life or property nor otherwise impair the public health, safety,  
51 and welfare.

52 g. Would result in minimal practicable degradation of unique  
53 or irreplaceable land types, historical or archeological areas, and  
54 existing public scenic [and aesthetic] attributes at the site and

1 within the surrounding region.

2 (cf: P.L.1973, c.185, s.10)

3 12. Section 11 of P.L.1973, c.185 (C.13:19-11) is amended to  
4 read as follows:

5 11. Notwithstanding the applicant's compliance with the  
6 criteria listed in section 10 of [this act] P.L.1973, c.185  
7 (C.13:19-10), if the commissioner finds that the proposed  
8 [facility] development would violate or tend to violate the  
9 purpose and intent of this act as specified in section 2 of  
10 P.L.1973, c.185 (C.13:19-2), or [if the commissioner finds] that  
11 the proposed [facility] development would materially contribute  
12 to an already serious and unacceptable level of environmental  
13 degradation or resource exhaustion, [he] the commissioner may  
14 deny the permit application, or [he] the commissioner may issue a  
15 permit subject to such conditions as [he] the commissioner finds  
16 reasonably necessary to promote the public health, safety and  
17 welfare, to protect public and private property, wildlife and  
18 marine fisheries, and to preserve, protect and enhance the  
19 natural environment. [In addition, the] The construction and  
20 operation of a nuclear electricity generating facility shall,  
21 however, not be approved by the commissioner unless [he] the  
22 commissioner [shall find] finds that the proposed method for  
23 disposal of radioactive waste material to be produced or  
24 generated by [such] the facility will be safe, conforms to  
25 standards established by the [Atomic Energy] Nuclear Regulatory  
26 Commission and will effectively remove danger to life and the  
27 environment from such waste material.

28 (cf: P.L.1973, c.185, s.11)

29 13. Section 1 of P.L.1986, c.145 (C.13:19-11.1) is amended to  
30 read as follows:

31 1. Notwithstanding the provisions of any rule or regulation to  
32 the contrary, the department shall not require the provision for  
33 low and moderate income housing as a condition for approval of  
34 an application to construct or undertake a [facility] development  
35 in the coastal area pursuant to the provisions of P.L.1973, c.185  
36 (C.13:19-1 et seq.).

37 (cf: P.L.1986, c.145, s.1)

38 14. Section 14 of P.L.1973, c.185 (C.13:19-14) is amended to  
39 read as follows:

40 14. In the event of rental, lease, sale or other conveyances by  
41 an applicant to whom a permit is issued, such permit, with any  
42 conditions, shall be continued in force and shall apply to the new  
43 tenant, lessee, owner, or assignee so long as there is no change in  
44 the nature of the [facility] development set forth in the original  
45 application.

46 (cf: P.L.1973, c.185, s.14)

47 15. Section 17 of P.L.1973, c.185 (C.13:19-17) is amended to  
48 read as follows:

49 17. a. The department [is hereby authorized to] shall, pursuant  
50 to the provisions of the "Administrative Procedure Act,"  
51 P.L.1968, c.410 (C.52:14B-1 et seq.), adopt [, amend and repeal]  
52 rules and regulations to effectuate the purposes of this act.

53 b. Within one year of the enactment date of P.L. ,c. (C. )  
54 (now before the Legislature as this bill), the department, in



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1 consultation with the State Planning Commission and county and  
 2 municipal governments located in the coastal area, as defined in  
 3 section 4 of P.L.1973, c.185 (C.13:19-4), shall adopt new rules  
 4 and regulations to implement P.L. , c. (C. ) (now before the  
 5 Legislature as this bill). Any rules or regulations adopted  
 6 pursuant to this subsection shall be closely coordinated with the  
 7 provisions of the State Development and Redevelopment Plan  
 8 adopted pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) and  
 9 the federal "Coastal Zone Management Act of 1972," 16 U.S.C.  
 10 §1451 et seq.

11 (cf: P.L.1973, c.185, s.17)

12 16. Section 18 of P.L.1973, c.185 (C.13:19-18) is amended to  
 13 read as follows:

14 18. [If any person violates any of the provisions of this act,  
 15 rule, regulation or order promulgated or issued pursuant to the  
 16 provisions of this act, the department may institute a civil action  
 17 in the Superior Court for injunctive relief to prohibit and prevent  
 18 such violation or violations and said court may proceed in a  
 19 summary manner. Any person who violates any of the provisions  
 20 of this act, rule, regulation or order promulgated or issued  
 21 pursuant to this act shall be liable to a penalty of not more than  
 22 \$3,000.00 to be collected in a summary proceeding or in any case  
 23 before a court of competent jurisdiction wherein injunctive relief  
 24 has been requested. If the violation is of a continuing nature,  
 25 each day during which it continues shall constitute an additional,  
 26 separate and distinct offense. The department is hereby  
 27 authorized and empowered to compromise and settle any claim  
 28 for a penalty under this section in such amount in the discretion  
 29 of the department as may appear appropriate and equitable under  
 30 the circumstances.]

31 a. Whenever the department finds that a person has violated  
 32 any provision of P.L.1973, c.185 (C.13:19-1 et seq.), or any  
 33 regulation, rule, permit, or order adopted or issued by the  
 34 department pursuant thereto, the department may:

35 (1) Issue an order requiring the person found to be in violation  
 36 to comply in accordance with subsection b. of this section;

37 (2) Bring a civil action in accordance with subsection c. of this  
 38 section;

39 (3) Levy a civil administrative penalty in accordance with  
 40 subsection d. of this section; or

41 (4) Bring an action for a civil penalty in accordance with  
 42 subsection e. of this section.

43 Pursuit of any of the remedies specified under this section shall  
 44 not preclude the seeking of any other remedy specified.

45 b. Whenever the department finds that a person has violated  
 46 any provision of P.L.1973, c.185, or any regulation or rule  
 47 adopted, or permit or order issued, by the department pursuant to  
 48 that act, the department may issue an order specifying the  
 49 provision or provisions of the act, regulation, rule, permit, or  
 50 order of which the person is in violation, citing the action which  
 51 constituted the violation, ordering abatement of the violation,  
 52 and giving notice to the person of his right to a hearing on the  
 53 matters contained in the order. The ordered party shall have  
 54 20 days from receipt of the order within which to deliver to the

1 department a written request for a hearing. After the hearing and  
2 upon finding that a violation has occurred, the department may  
3 issue a final order. If no hearing is requested, then the order shall  
4 become final after the expiration of the 20-day period. A request  
5 for hearing shall not automatically stay the effect of the order.

6 c. The department may institute an action or proceeding in the  
7 Superior Court for injunctive and other relief, including the  
8 appointment of a receiver, for any violation of P.L.1973, c.185,  
9 or any regulation or rule adopted, or permit or order issued, by  
10 the department pursuant to that act, and the court may proceed  
11 in the action in a summary manner.

12 Such relief may include, singly or in combination:

13 (1) A temporary or permanent injunction;

14 (2) Assessment of the violator for any cost incurred by the  
15 department in removing, correcting or terminating the adverse  
16 effects upon the land or upon water or air quality resulting from  
17 any violation of any provision of P.L.1973, c.185, or any  
18 regulation or rule adopted, or permit or order issued, by the  
19 department pursuant to that act, for which the action under this  
20 subsection may have been brought.

21 d. The department is authorized to assess, in accordance with  
22 a uniform policy adopted therefor, a civil administrative penalty  
23 of not more than \$25,000 for each violation. No assessment may  
24 be levied pursuant to this subsection until after the violator has  
25 been notified by certified mail, personal service or any other  
26 means authorized under the New Jersey Court Rules. The notice  
27 shall include a reference to the section or provision of P.L.1973,  
28 c.185, the regulation, rule, permit, or order issued by the  
29 department pursuant to that act that has been violated, a concise  
30 statement of the facts alleged to constitute a violation, a  
31 statement of the amount of the civil administrative penalties to  
32 be imposed, including any interest that may accrue thereon if the  
33 penalty is not paid when due, and a statement of the party's right  
34 to a hearing. The ordered party shall have 20 calendar days from  
35 receipt of the notice within which to deliver to the department a  
36 written request for a hearing. After the hearing and upon finding  
37 that a violation has occurred, the department may issue a final  
38 order after assessing the amount of the fine specified in the  
39 notice. If no hearing is requested, the notice shall become a final  
40 order after the expiration of the 20-day period. Payment of the  
41 assessment is due when a final order is issued or the notice  
42 becomes a final order. The department may compromise any  
43 civil administrative penalty assessed under this section in an  
44 amount the department determines appropriate. A civil  
45 administrative penalty assessed, including a portion thereof  
46 required to be paid pursuant to a payment schedule approved by  
47 the department, which is not paid within 30 days of the date that  
48 payment of the penalty is due, shall be subject to an interest  
49 charge on the amount of the penalty, or portion thereof, which  
50 shall accrue as of the date payment is due. If the penalty is  
51 contested, no additional interest charge shall accrue on the  
52 amount of the penalty until after the date on which a final order  
53 is issued.

54 Interest charges assessed and collectible pursuant to this

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1 subsection shall be based on the rate of interest on judgments  
 2 provided in the New Jersey Rules of Court. For the purposes of  
 3 this subsection, the date that a penalty is due is the date that  
 4 written notice of the penalty is received by the person  
 5 responsible for payment thereof, or such later date as may be  
 6 specified in the notice.

7 e. Any person who violates the provisions of P.L.1973, c.185,  
 8 any rule or regulation adopted pursuant thereto, or any permit or  
 9 order issued by the department pursuant to that act, an  
 10 administrative order issued pursuant to subsection b. of this  
 11 section or a court order issued pursuant to subsection c. of this  
 12 section, or who fails to pay a civil administrative penalty in full  
 13 pursuant to subsection d. of this section, shall be subject, upon  
 14 order of a court, to a civil penalty of not more than \$25,000 for  
 15 each violation, and each day during which a violation continues  
 16 shall constitute an additional, separate, and distinct offense.

17 Any penalty established pursuant to this subsection may be  
 18 imposed and collected with costs in a summary proceeding  
 19 pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et  
 20 seq. The Superior Court and the municipal court shall have  
 21 jurisdiction to enforce the provisions of "the penalty enforcement  
 22 law" in connection with this act.

23 f. There is created in the department a special nonlapsing  
 24 fund, to be known as the "Cooperative Coastal Monitoring  
 25 Enforcement Fund." Except as otherwise provided in this section,  
 26 all monies from penalties, fines, or recoveries of costs collected  
 27 by the department pursuant to this section on and after the  
 28 effective date of this section, shall be deposited in the fund.  
 29 Interest earned on monies deposited in the fund shall be credited  
 30 to the fund. Unless otherwise specifically provided by law,  
 31 monies in the fund shall be utilized by the department for the  
 32 cost of providing aircraft overflights for coastal monitoring,  
 33 surveillance and enforcement activities conducted by the  
 34 department and for the cost of administering P.L.1973, c.185  
 35 (C.13:19-1 et seq.). The department shall submit annually to the  
 36 Legislature a report which provides an accounting of all monies  
 37 deposited in the fund and the purposes for which monies in the  
 38 fund are disbursed.

39 (cf: P.L.1973, c.185, s.18)

40 17. Section 19 of P.L.1973, c.185 (C.13:19-19) is amended to  
 41 read as follows:

42 19. The provisions of this act shall not be regarded as to be in  
 43 derogation of any powers now existing and shall be regarded as  
 44 supplemental and in addition to powers conferred by other laws,  
 45 including the authority of the department to regulate waterfront  
 46 development pursuant to R.S.12:5-1 et seq. and municipal zoning  
 47 authority. The provisions of this act shall not apply to those  
 48 portions of the coastal areas regulated pursuant to enforceable  
 49 orders under [the Wetlands Act, C.13:9A-1 et seq., section 16  
 50 however shall apply to the entire area within the boundaries  
 51 described herein.] P.L.1970, c.272 (C.13:9A-1 et seq.).

52 (cf: P.L.1973, c.185, s.19)

53 18. R.S.12:5-3 is amended to read as follows:

54 12:5-3. a. All plans for the development of any waterfront

1 upon any navigable water or stream of this State or bounding  
2 thereon, which is contemplated by any person or municipality, in  
3 the nature of individual improvement or development or as a part  
4 of a general plan which involves the construction or alteration of  
5 a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other  
6 similar or dissimilar waterfront development shall be first  
7 submitted to the Department of Environmental Protection. No  
8 such development or improvement shall be commenced or  
9 executed without the approval of the Department of  
10 Environmental Protection first had and received, or as  
11 hereinafter in this chapter provided.

12 b. The following are exempt from the provisions of subsection  
13 a. of this section:

14 (1) The repair, replacement or renovation of a permanent  
15 dock, wharf, pier, bulkhead or building existing prior to January  
16 1, 1981, provided the repair, replacement or renovation does not  
17 increase the size of the structure and the structure is used solely  
18 for residential purposes or the docking or servicing of pleasure  
19 vessels;

20 (2) The repair, replacement or renovation of a floating dock,  
21 mooring raft or similar temporary or seasonal improvement or  
22 structure, provided the improvement or structure does not exceed  
23 in length the waterfront frontage of the parcel of real property  
24 to which it is attached and is used solely for the docking or  
25 servicing of pleasure vessels; and

26 (3) Development in the coastal area, as defined in section 4 of  
27 P.L.1973, c.185 (C.13:19-4), landward of the mean high water line  
28 of any tidal waters.

29 (cf: P.L.1981, c.315, s.1)

30 19. Section 11 of P.L.1985, c.398 (C.52:18A-206) is amended  
31 to read as follows:

32 11. [Nothing in this act] a. The provisions of P.L. 1985, c.398  
33 (C.52:18A-196 et seq.) shall not be construed to affect the plans  
34 and regulations of the Pinelands Commission pursuant to the  
35 "Pinelands Protection Act," [(P.L. 1979, c. 111),] P.L. 1979, c.111  
36 (C.13:18A-1 et seq.) or the Hackensack Meadowlands  
37 Development Commission pursuant to the "Hackensack  
38 Meadowlands, Reclamation and Development Act"[( P.L.1968,  
39 c.404), or the Department of Environmental Protection pursuant  
40 to the "Coastal Area Facility Review Act" (P.L.1973, c.185)]  
41 P.L.1968, c.404 (C.13:17-1 et seq.). The State Planning  
42 Commission shall rely on the adopted plans and regulations of  
43 these entities in developing the State Development and  
44 Redevelopment Plan.

45 b. The State Planning Commission may adopt, after the  
46 enactment date of P.L. , c. (C. ) (now before the  
47 Legislature as this bill), the coastal planning policies of the rules  
48 and regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et  
49 seq.), the coastal planning policies of the rules and regulations  
50 adopted pursuant to subsection b. of section 17 of P.L.1973, c.185  
51 (C.13:19-17) and any coastal planning policies of rules and  
52 regulations adopted pursuant to P.L.1973, c.185 (C.13:19-1 et  
53 seq.) thereafter as the State Development and Redevelopment  
54 Plan for the coastal area as defined in section 4 of P.L.1973,

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1 c.185 (C.13:19-4).

2 (cf: P.L.1985, c.398, s.11)

3 20. (New section) a. The Coastal Area Review Board  
4 established pursuant to section 13 of P.L.1973, c.185 (C.13:19-13)  
5 is, upon the completion date of its duties, abolished, and all  
6 powers, functions and duties thereof shall terminate. Any appeal  
7 pending before the Coastal Area Review Board prior to the  
8 enactment date of this act may be decided by the board. Any  
9 appeal initiated on or after the enactment date of this act shall  
10 be referred to the Office of Administrative Law.

11 b. For the purposes of this section, "completion date," with  
12 respect to the Coastal Area Review Board, shall mean the date  
13 upon which all decisions on appeal to the board from decisions by  
14 the commissioner pursuant to P.L.1973, c.185 (C.13:19-1 et seq.),  
15 have been rendered by the board, as certified by the voting  
16 members thereof. Notice of the certification of the completion  
17 date shall be published by the board in the New Jersey Register.

18 21. (New section) The commissioner may waive the permit  
19 requirement for development in the coastal area pursuant to  
20 P.L.1973, c.185 (C.13:19-1 et seq.) for any development that  
21 involves the grading or excavation of a dune by a governmental  
22 agency if the commissioner finds that such a waiver is warranted  
23 as a result of a storm, natural disaster or similar act of God.

24 22. Section 4 of P.L.1975, c.232 (C.13:1D-32) is amended to  
25 read as follows:

26 4. In the event that the department fails to take action on an  
27 application for a construction permit within the 90-day period  
28 specified herein, then the application shall be deemed to have  
29 been approved; provided, however, that the time periods specified  
30 in [section 12 of] P.L.1973, c.185 [(C.13:19-12)] (C.13:19-1 et  
31 seq.) shall apply to applications for construction permits pursuant  
32 to the Coastal Area Facility Review Act, P.L.1973, c.185  
33 (C.13:19-1 et seq.).

34 (cf. P.L.1975, c.232, s.4)

35 23. (New section) In addition to the information required to be  
36 submitted annually to the Legislature pursuant to section 2 of  
37 P.L.1991, c.417 (C.13:1D-115), the department shall report  
38 annually to the Legislature on actions taken to reduce fees and  
39 increase the efficiency of application processing pursuant to  
40 section 6 of P.L.1973, c.185 (C.13:19-6), section 9 of P.L.1973,  
41 c.185 (C.13:19-9) and section 7 of P.L. , c. (C. )(now before  
42 the Legislature as this bill).

43 24. The following are repealed:

44 Section 7 of P.L.1973, c.185 (C.13:19-7);

45 Section 12 of P.L.1973, c.185 (C.13:19-12); and

46 Section 16 of P.L.1973, c.185 (C.13:19-16).

47 25. Section 13 of P.L.1973, c.185 (C.13:19-13) is repealed.

48 26. This act shall take effect one year from the enactment  
49 date of this act, except that section 15, section 19 and section 20  
50 shall take effect immediately, and section 25 shall take effect  
51 upon the completion date provided in subsection b. of section 20.  
52 The Commissioner of Environmental Protection and the State  
53 Planning Commission may take such anticipatory actions as may  
54 be necessary to provide for the timely implementation of this act  
55 on the effective dates set forth herein.

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3 ***Revises provisions of the "Coastal Area Facility Review Act."***

STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR  
SENATE, No. 1475

STATE OF NEW JERSEY

DATED: MAY 27, 1993

The Senate Coastal Resources and Tourism Committee favorably reports a Senate Committee Substitute for Senate Bill No. 1475.

The Senate Committee Substitute for Senate Bill No. 1475 would revise the provisions of the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), known commonly by the acronym CAFRA. This substitute would tighten existing regulatory thresholds for the issuance of permits pursuant to CAFRA, and would provide enhanced protection of water quality, habitat and wildlife within these areas of increased regulatory review.

Specifically, the substitute replaces the current CAFRA definition of "facility" with a definition of "development." "Facility" was defined to include a number of industrial facilities, some public facilities, and housing developments over 25 units. In contrast, the definition of "development" in the substitute utilizes much of the language from the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), thus covering most residential, commercial, industrial, and public developments.

The new definition eliminates the current exemptions for (1) certain residential projects under 25 units, (2) some industrial and public facilities, and (3) many commercial developments (e.g. strip shopping centers, restaurants, office buildings, etc.). Currently, the provisions of CAFRA require commercial developments to obtain a CAFRA permit if the development involves a parking lot of over 300 parking spaces, in which case the parking lot is considered a road and thus regulated.

The substitute requires that these developments be subject to a tiered system of review based upon the proximity of that development to the mean high water line of tidal waters, a beach or a dune.

All new development proposed on a beach or dune, as defined in the substitute, would be subject to DEP permit review.

Within 150 feet of the mean high water line, a beach or a dune, whichever is most landward, any development which constitutes "first use" in that area would be subject to permit review; however, if there is already an intervening structure (i.e., "first use") within 150 feet of the water, beach or dune, only residential developments of three or more units, commercial developments with five or more parking spaces and all public and industrial developments planned for construction behind that intervening structure and seaward of the point 150 from the water, beach or dune would require permit review.

Beyond 150 feet from the water, beach or dune, residential developments of 25 or more units, commercial developments of 50



or more parking spaces and all industrial and public developments would be subject to permit review. This threshold would be modified somewhat in municipalities located within the coastal area which meet the criteria of "qualifying municipality" pursuant to section 1 of P.L.1978, c.14 (C.52:27D-178) (known generally as "urban aid" municipalities). In these municipalities, residential developments of 25 or more units and commercial developments of 50 or more parking spaces would need a permit if they were proposed in the area between 150 feet and 500 feet from the water, beach or dune. Beyond 500 feet in these municipalities, residential developments of 75 or more units and commercial developments of 150 or more parking spaces would require permit review.

The substitute also contains a number of additional exemptions from permit requirements and review such as: developments which have received preliminary site plan approval pursuant to the "Municipal Land Use Law" or a final municipal building permit, and residential developments which have received preliminary or minor subdivision approval, provided that construction begins within three years of the substitute's effective date; the reconstruction of any development which was damaged or destroyed by fire, storm, natural hazard or act of God; enlargements which do not increase the footprint or number of dwelling units of the development; the construction of a patio, deck or similar structure; the routine reconstruction, maintenance or repair of a public highway, including safety and repaving improvements; the construction of seasonal or temporary structures related to the tourism industry; and limited expansions of existing, functional amusement piers.

The substitute authorizes the DEPE to issue a general permit, in lieu of a CAFRA permit, for those activities which generally have lower environmental impact. The department is required to adopt rules and regulations which identify the activities subject to general permit review, and which establish criteria for the approval or disapproval of a general permit.

The substitute also contains a provision requiring the Commissioner of Environmental Protection to adopt rules and regulations that set forth the contents required in an environmental impact statement, and the conditions under which the commissioner may waive or vary the content requirements. The substitute also allows the commissioner to waive the requirement that a public hearing be held on a permit application for development in the coastal area. However, if a public hearing is not held, the DEPE would be required to provide for a comment period.

The substitute also directs the DEPE, in consultation with the State Planning Commission and local coastal governments, to adopt rules and regulations to implement the substitute's provisions within one year of the enactment date. The substitute also authorizes the State Planning Commission to adopt the coastal planning policies of DEPE rules and regulations adopted pursuant to CAFRA, now and in the future, as the State Development and Redevelopment Plan for the coastal area.

The penalty section of CAFRA has been amended to allow for greater civil penalties for violations. The substitute provides the DEP with the civil enforcement powers provided under most other environmental acts. In addition to clarifying injunctive powers, the



substitute increases the maximum level of penalties for violations from \$3,000 to \$25,000. The substitute also allows the DEP to issue civil administrative penalties. The substitute also provides that penalty monies be deposited in a special nonlapsing fund, to be known as the "Cooperative Coastal Monitoring Enforcement Fund." Penalty monies would be used by DEP to defray the costs of monitoring, surveillance and enforcement activities of the Cooperative Coastal Monitoring Program and of administering CAFRA.

The substitute also amends R.S.12:5-3 to provide that CAFRA shall be the only State law regarding the regulation of development in the coastal area landward of the mean high waterline of tidal waters. The effect of this provision would be to supersede any regulations that would regulate coastal land development pursuant to what is commonly known as the Waterfront Development Law, R.S.12:5-1 et seq.

The substitute requires the DEPE to report annually to the Legislature on actions taken to reduce fees and increase the efficiency of application processing under CAFRA.

The substitute also authorizes the commissioner of DEPE to waive the CAFRA permit requirement in cases where a governmental agency must grade or excavate a dune as a result of a storm, natural disaster or similar act of God.

The substitute also makes technical corrections to the description of the boundaries of the coastal area as defined in CAFRA, and makes changes to the boundaries to remove areas overlapping with the pinelands protection area.

The substitute also repeals section of 13 of P.L.1973, c.185 (C.13:19-13), thereby abolishing the Coastal Area Review Board established therein, repeals section 16 of P.L.1973, c.185 (C.13:19-16), which directed DEP to develop a long-term environmental management strategy for the coastal area, and repeals section 7 of P.L.1973, c.185 (C.13:19-7), which established the content requirements of an environmental impact statement pursuant to CAFRA. This last section is no longer necessary because the substitute directs the Commissioner of DEPE to adopt rules and regulations concerning the content requirements of environmental impact statements, as noted above. The substitute also repeals section 12 of P.L.1973, c.185 (C.13:19-12), which required the DEPE to approve or deny a permit within 60 days of a hearing. This section has been consolidated into another section while leaving the substance of this requirement unchanged.

Finally, the substitute changes certain definitions from the plural to the singular and makes other technical changes.

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**SENATOR JOSEPH M. KYRILLOS, JR. (Chairman):** Good morning, everybody. Big microphone this morning, keep it at a distance. I'm Senator Joe Kyrillos, and I welcome you to this meeting of the Senate Coastal Resources and Tourism Committee, an oversight hearing on the implementation of the newly revised Coastal Area Development Review Act. The recent overhaul of the State's coastal development law was really a major advance in the fight for coastal protection. It was also a very significant political accomplishment for the Legislature, I may add. But the job isn't done; it's not complete. The Legislature in general, and this Committee in specific, has an obligation to make certain that the rules and regulations that are drafted are done so in a manner that reflects our intended goals.

The Department of Environmental Protection and Energy, through Assistant Commissioner John Weingart, has recently conducted a series of public meetings to explain the provisions of the new CAFRA legislation, and to seek input into how best to implement the law. So the purpose of today's hearing -- I thought it was appropriate to have it -- is to receive a report from Commissioner Weingart on the results of the hearings that he's conducted; the Department's plans on how they intend to utilize the feedback from the hearings when drafting their regulations; and to get a general fix on their mindset.

Before we welcome John, I want to acknowledge Senator Walter Rand, the distinguished representative from Camden County, who is one of the most active members of our Committee, an important member of our Committee, and one of the senior members of the State Senate.

Walter, thank you very much for being here.

**SENATOR RAND:** My pleasure.

**SENATOR KYRILLOS:** Anything you'd like to add to the hearing before we begin?

SENATOR RAND: Senator, I just missed the place so badly that I had to rush up here.

SENATOR KYRILLOS: Very good, very good. Great to see you, Senator.

And I extend my-- I extend the apologies of other members of the Committee, a couple of whom had intended on being here today. Senator Ciesla and Senator Palaia had to cancel at the last minute. I recognize that it's a very busy time of the year.

Very good. With that, the only witness we have planned for this morning-- I don't intend for the meeting to go very long, for those of you that are here to observe, and I take it that most of you are. If there's anybody that would like to speak, let George know.

Assistant Commissioner John Weingart. John, welcome.

A S S T. C O M M. J O H N W E I N G A R T: Thank you.

SENATOR KYRILLOS: Thank you very much.

ASSISTANT COMMISSIONER WEINGART: Returning to the scene of the crime.

SENATOR KYRILLOS: That's right. It's been too long. I miss you. Congratulations on your array of public hearings. I know it was above and beyond what is necessary by statute. From what I understand, from newspaper accounts and what I hear informally, they were productive sessions.

ASSISTANT COMMISSIONER WEINGART: Thank you for holding this hearing. I'm happy to tell you what we've been doing. As you know, the Governor signed the CAFRA amendments two and a half months ago, on July 19 of this year. They take effect one year later, July 19 of 1994.

What we have done so far is, we have held three public meetings that we've -- the coastal county planning boards have cosponsored these meetings with us. We've held one in Ocean, one in Cumberland, and one in Monmouth County. The one in Cumberland County was cosponsored by the Cape May, Salem, and

Cumberland County Planning Boards. We've also attended a number of meetings, both myself, personally, and members of my staff, with the Monmouth Ocean Development Council, the South Jersey Builders Association, the Ocean County Environmental Agency's annual conference, and were scheduled to speak to the South Ocean Chamber of Commerce. We have our own builders advisory group and environmental advisory groups that we'll be meeting with to talk about these CAFRA Amendments. We've also been saying to anyone who'll listen that we'd be happy to come talk with them about these amendments and hear suggestions of how best to implement them.

At the three meetings we've held, there were about a total of 120 people. Senator Ciesla attended the one in Ocean County. Assemblyman Collins was at part of the one in Cumberland County. They were similar in that at all of them we heard a lot of very good, thoughtful comments. I began each meeting by summarizing what was in the amendments, and what our timetable was for proposing them and adopting regulatory changes. Then we heard comments.

They were similar in that at least two of them -- I guess only two of them -- had one person who was basically opposed to all laws and regulations and made that clear. In one case, one of those people walked out of the meeting. In one newspaper article, that was all that you read about in the article -- was this person who walked out of the meeting. But that was very much not the character of the meetings. The meetings were much more specific and substantive than that.

The focal point in terms of issues that people talked to us about was, in Ocean County in particular, the effect on existing single family homes of people; that people wanted to add additions to them. That was probably the largest issue we heard about. The second largest issue was, how are we going to regulate beach activity on beaches and dunes? The concern about single family houses came almost entirely from the

perspective of the home owner wanting as little regulation as possible. The concern about regulation of beaches and dunes came from a variety of perspectives, ranging from towns that were concerned about maintaining their own practices with a minimum of regulations, to a number of individuals and groups who were very concerned about how municipalities manage beach activities. They wanted to be sure that the Department would exercise oversight of that, and be protective of beach and dune processes.

Our plan, at this point-- What we announced at those meetings was to try to propose regulatory changes by January of this year, and we would have three sets of regulatory changes that hopefully would procede at the same time.

One would be procedural changes that would describe how you go about requesting a public hearing: how much information has to be submitted to the Department in an application; how many copies of the application, so forth. Those regulations would probably also be the place where we would propose general permits.

A second set of regulations, or the substantive regulations that say what type of development is allowed on or near dunes and wetland buffers, and what types -- in what ways are marinas regulated -- those regulations, we would propose amendments to those as well.

The third set is our regulations that concern fees, in which we would propose the fees for these permits. At this point, we have no conclusions of what we are going to include in any of these regulations. We're still-- As I indicated out, we're going through the public process.

Among the ideas, we have thought about one concerning at least most of the additions to single family houses would include a permit by rule, which would be-- We would, in our regulations, specify that for single -- additions to single family houses that meet certain criteria; for example, that are

not on the water-ward side of the building; that are less than a certain amount of square footage -- and then there might be some environmental stands attached to that -- for those activities, they don't need to talk to us. Provided they meet those standards that we spell out in the rules, they're legal. If somebody built an addition to a house that didn't conform to those standards and was -- they would be in violation of the law. But as long as they did that, they wouldn't have to give us notice; they wouldn't have to apply for a permit; they wouldn't have to give us a fee.

That's an idea we're pursuing. We have yet to discuss it with the Attorney General's Office to see if it's legal. But it's one we're pursuing as a way that might be able to enable both the Department to focus on the projects with a larger environment impact, as well as giving some relief to some of the people who've been very concerned about how this law is going to affect them, in reference to individual home owners.

We have received very -- some specific comments about what types of activities should not be regulated at all. As you know, the law said that the construction of a patio deck or similar structure at a residential development is unregulated. The question is, what is a similar structure? We will propose something to deal with that in our regulation.

We received one specific suggestion list from Lacey Township's government that we're considering. That has some ideas that seem -- some that seem questionable, some that seem good, and we're going to be reviewing that. That will be in the regulation as well.

One of the other areas in which we're looking to pose a general permit, or a series of general permits, would be for beach and dune maintenance activities. Our current thought is to work with each shorefront municipality to develop a general

permit specific to that municipality. That would outline what practices are acceptable in a beach and dune; that it might be in that same general permit that we talked about emergency response activities, as well as ongoing normal maintenance -- or the emergency response might be in a separate provision. That idea is something we've mentioned at each of the public meetings. That has seemed to be well received so far.

I guess that's all I can add to where we were when we were -- when I was here when you were debating the bill. I'll be happy to answer any questions.

We still don't know what the fees would be. We do know that currently the permit programs for the CAFRA permit programs and the other land use permit programs are supported almost entirely by fees, as opposed to being supported by any State appropriations, as they were in the past, and as they are in many other states. So that the fees will be of a magnitude sufficient to support the program, we know -- I know what the fees are today under the Waterfront Development Act, in which some individual homes are regulated. For example, outside the CAFRA area, our fee is \$500 for the first dwelling unit, and \$125 for each additional unit. Our commercial fees are \$700 plus one-half of one percent of the construction costs up to a maximum of \$4000. That's what we've been charging out of the Waterfront Development Act. That's a figure we will look at in calculating the fees for this program.

The only thing I'd add in closing is that we have, as I'd indicated when I testified on the bill when it was being debated, we will need to have a staff on board before this law takes effect. We will need to have staff on board next July to start reviewing the permit applications we receive, and to start enforcing the law. We will be working with the Treasurer's Office. We've already begun that process to try to identify a funding source, because they will have to be paid for before the fees start coming in. It will also be a



challenging exercise since, I think, much of the work in the first year of the law will be work that will not generate a fee, or probably will not generate a fee.

We anticipate our estimate is that we will receive probably 1000 exemption requests during the first year that the law takes effect. People calling in to say, "Does this law apply to me or not?" My earnest hope is not to charge for that question. It seems to me that that's a function government should provide, to say, "You don't need a permit. You don't have to pay to tell us that." But the staff that makes that determination has to be paid somehow. We'll have to be addressing that.

I'd be happy to answer any questions you may have.

SENATOR KYRILLOS: Thank you very much, John.

Senator Rand, I've got a series of questions, and you jump in when you want to.

John, I think this should be of great interest to many home owners along the coastline, that at least your mindset or thinking process at this point -- I know you've got a ways to go -- is that most additions to single family homes that meet your criteria won't need any permit at all, won't have to pay any fee. That ought to be good news to a lot of people.

I remember an Atlantic City Press clip after your meeting, I think, in Ocean County. An exercise man who wanted to build a garage led off the story, and was very upset. He said he was going to go out and build his garage before July 1. I take it -- and correct me if I'm wrong -- it's that kind of improvement you're talking about. Maybe you could just flesh out a little bit of the criteria that you think people would have to meet.

ASSISTANT COMMISSIONER WEINGART: I think it's that kind-- It is that type of development we're talking about. Although that man would have liked all of government to go away, this will not fully satisfy him. I believe--

SENATOR KYRILLOS: I understand that, but at least he won't believe--

ASSISTANT COMMISSIONER WEINGART: Right.

SENATOR KYRILLOS: --that he doesn't have to do his garage by July 1. But I guess he doesn't have to act that quickly.

ASSISTANT COMMISSIONER WEINGART: The major criterial thing, other than the ones I mentioned to say, is that if your not building -- if your building on the water-ward side of the building, then we will want to have some review process for that. If your not building on the water-ward side of the building, the criteria might include -- one I mentioned is the square footage, another might be that it not increase the number of dwelling units. Those type of criteria would be what we're looking for more than environmental criteria. If it's an environmental criteria of saying that you have to minimize storm water runoff, for example, that's more the kind of thing that would be in an actual general permit, where someone would apply and get issued the permit

SENATOR KYRILLOS: Okay. I think that's a very significant bit of news that you've given to us this morning. You mentioned similar structures -- patios, decks, similar structures. I guess Lacey Township made a few recommendations. What are some similar structures that you're thinking of?

ASSISTANT COMMISSIONER WEINGART: Well, Lacey Township is the only one that's submitted the only list we have so far. Their list is: cabanas, carports, fences, garages, gazebos, greenhouses, hot tubs and spas, open porches, pools, retaining walls, satellite dishes and antennas, screen porches, sheds, showers, and sun rooms. I don't know, that's a starting point for us to look. That's real helpful. That's what they said their building official said. That's the list of activities they've used locally that they found -- either they don't

review them, or they find their review is not worth anything. That's not-- They don't change anything. So that's a list we will start from.

SENATOR KYRILLOS: For the record, because I know that there was a lot of rhetoric thrown around in May and June, that array of similar structures or similar exercises-- Let me just get your reaction: Sweeping sand from a driveway?

ASSISTANT COMMISSIONER WEINGART: That will not need a permit.

SENATOR KYRILLOS: That will not need a permit. I thought you might say that. Painting a house?

ASSISTANT COMMISSIONER WEINGART: Painting a house will not need a permit.

SENATOR KYRILLOS: Okay. Replacing a window on a house?

ASSISTANT COMMISSIONER WEINGART: That will not need a permit.

SENATOR KYRILLOS: Installing an outdoor stall shower?

ASSISTANT COMMISSIONER WEINGART: That we don't know yet, because of the water use--

SENATOR KYRILLOS: The water use--

ASSISTANT COMMISSIONER WEINGART: --and the disposal. Both the water usage and the water disposal, we don't know.

SENATOR KYRILLOS: Here's a more serious question: Constructing a booth to sell beach badges by a municipality?

ASSISTANT COMMISSIONER WEINGART: I don't know that either. If it's temporary, the way the amendments -- the legislative amendments are worded, it's not regulated. If it's a permanent building on the beach, you probably would need a permit. We would want to look to see whether there was some -- what it's going to do to be on the beach. Most municipalities actually put those kind of stalls -- they don't put them on the beach. I don't know any municipality that actually has one. But even if it was in the 150-foot area, we would probably regulate that.

SENATOR KYRILLOS: Okay. I would take it that that kind of booth would qualify for a general permit.

ASSISTANT COMMISSIONER WEINGART: I would imagine that would be the case.

SENATOR KYRILLOS: Let me ask you about that. I know you don't know what the permit costs will be. I know you're working it out right now. But I think it's safe to assume that the general permit will be significantly cheaper than a full-blown CAFRA permit.

ASSISTANT COMMISSIONER WEINGART: Yes.

SENATOR KYRILLOS: Fair to say?

ASSISTANT COMMISSIONER WEINGART: Yes, that's fair to say.

SENATOR KYRILLOS: Time frames: I assume, and when we wrote the law, I think we expected that the time frame for approval would be significantly shorter for a general permit.

ASSISTANT COMMISSIONER WEINGART: Yes.

SENATOR KYRILLOS: Is that fair to say?

ASSISTANT COMMISSIONER WEINGART: Yes, that's fair to say. I think-- I mean, that's fair to say no matter what. I don't mean what I'm saying now to be a caveat to that, but it depends in part on staffing. The length of time things take depends on staffing, so that, for example, the length of time it takes us to issue CAFRA permits and other land use permits now has gone down, probably, an average of 30 days over the last three or four years. But if we-- That's because, in part, there are fewer permits per staff member. If that changes, that has an effect on that. But clearly our intention is to have general permits be something that's easy -- relatively easy for an applicant to write, and relatively easy for us to review and to do quickly.

SENATOR KYRILLOS: You mentioned beach and dune regulations, probably specific to a municipality general permit. Talk about that for a minute. What kinds of things do towns want to do, and what?

ASSISTANT COMMISSIONER WEINGART: Well, there are a variety of activities, ranging from most -- most -- if not all shorefront towns smooth out their beach every morning during the summer.

SENATOR KYRILLOS: Right.

ASSISTANT COMMISSIONER WEINGART: Ranging from that on the one hand, to some municipalities, at least in the past, have taken their dunes and bulldozed them from one part of the beach to another to have them be more convenient in different seasons. The maintenance is something that we would like to write a general permit that would say, "Provided you're not destroying the dune; provided you're not doing anything else that's bad for the environment, go ahead and do it." The latter, of moving dunes around, is something we would like to say, at a minimum, you need a permit to do it. It's not going to be covered by a general permit, and more probably, it's not going to be something that's even going to be allowed.

So you can apply for an individual permit, but you're not likely to get approved. So that would be a case where we would have a general permit. That would not include that activity. Then we'd have substantive regulations that would spell out that that was an activity that couldn't -- shouldn't take place.

SENATOR KYRILLOS: So I take it for the beach and dune regulations by a municipality, you're going to have ongoing discussions with certain towns that are more vocal than others. Long Beach Island municipalities that are concerned about this sort of thing will be able to sit down with you face-to-face and talk about what they think is necessary, obviously need to put in a permit and all that.

ASSISTANT COMMISSIONER WEINGART: Yes. I mean, I think there will be some areas of disagreement and a lot of areas of agreement.

SENATOR KYRILLOS: George, our Aide from the Office of Legislative Services, points out to me, John, that the legislation deals with a couple of exceptions that are written, like these seasonal temporary structures related to tourism industry should be exempt. So I know you're sensitive on the example that I gave out, the booth to sell beach badges. I think we want to be very careful, as you do the regulations -- at least from, you know, the Legislature's perspective -- that you don't -- you're not too tough on that sort of thing, because we recognize that there are things like that that emerge when towns perhaps have to do very quickly in order to respond to tourism demands and whatnot. I know you understand that, but George reminds me of that. That's a very important point. The beach badge booth is not the big thing that I think the Legislature was concerned about.

What's the budget now? What do you-- What does it cost to run this CAFRA program today? What's it going to cost next year?

Perhaps in the third year it's going to be less, because I take it there are some start-up costs that will ease over time.

ASSISTANT COMMISSIONER WEINGART: Yes, it's hard to give a simple answer, because we have combined over -- in recent years -- combined the administration of a number of laws -- the Wetlands laws, the Waterfront Development Act, and CAFRA -- so that it's all administered in one land use regulation program. So I could get you the specific numbers for CAFRA, although there aren't specific staff people who work just on that law. They work on-- So that if a project needs-- Whatever projects in Ocean County need a permit go to the one -- the people who would deal with Ocean County permits.

Our estimate is that to implement this law, we would need a total of 23 more staff people, which is 18 permitting people and 5 enforcement staff. I guess the rough calculation,

when you include salaries and fringe and supplies to support those people, is something along the order of \$50,000 a person. So that's an additional \$900,000 a year. What I meant by the start-up costs is not that the program will get cheaper in the subsequent years, but that the permit fees would start to come in and would pay them.

SENATOR KYRILLOS: Well, do you think that over time, as there's more education and people understand what is and isn't necessary for a CAFRA permit, that you're going to get fewer and fewer questions?

ASSISTANT COMMISSIONER WEINGART: Yes, that I do think. I think one of the reasons we were happy to be able to cosponsor these public meetings with the counties was to try to start getting a dialogue -- more of a dialogue with local officials. Because with the existing CAFRA and other land use laws, municipal construction officials have been very important for helping implement them. The more the municipal construction officials know that if you're doing this, that you need a CAFRA permit, and if you're doing this, you don't, the easier it is for everybody. Because then people could just be told at the local level.

The problem in the past with other laws, when they start -- and this will happen here, too, to some extent -- there is some uncertainty at the local level. Even a question that seems pretty obvious where you or I might be able to say, "No, that's not regulated," a local government will pass something with a condition that you have to get a letter from the DEPE saying it's not regulated. There's a lot of that kind of work that goes on until there's more familiarity.

SENATOR KYRILLOS: How will people be notified? How will the average person know if the new law affects them?

ASSISTANT COMMISSIONER WEINGART: I think--

SENATOR KYRILLOS: What kind of outreach mechanism would we have for home owners and business owners?

ASSISTANT COMMISSIONER WEINGART: I think everybody in Ocean County knows now, from my understanding-- I think, hopefully, our ongoing public process will help that, that the these meetings attracted some attention. When we propose actual rules, I imagine that will attract more. As it gets into the spring, we will be sending out letters and other information to all municipal officials, particularly construction officials, to say July 19 is coming. This is what it means on July 19.

Because of the way the grandparent provision is written in this law, there may be somewhat less confusion than there is -- I hope that will be -- less confusion than there is at the start of some other laws. Because if you have your municipal approval by July 19, you can go on. So there will be questions over the summer and in the fall next year of, "Did this project have its municipal approval by that date?" But basically, we just hope to have a public outreach program and let people know.

SENATOR KYRILLOS: Well, I know there's a lot--  
I'm sorry, Senator Rand?

SENATOR RAND: Senator, I wonder -- just to put a question in referring to a question that you asked -- we both attended the Alliance for Action dinner yesterday.

SENATOR KYRILLOS: That's correct.

SENATOR RAND: One of the things that one of the speakers kept stressing -- and he addressed the Governor directly, who was sitting there -- was that the fees are beginning to kill him. He specifically mentioned the DEPE. I have not been innocent of doing the very thing that the man criticized. But do you ever foresee a time the Legislature will encompass it in the budget, rather than by fees and funded as it should be? There's a contradiction there.

I know as you grow -- like you said that you're going to grow even just for start-up costs -- we cut the budget,



which again, reflects upon the Agency's ability to hire help. I think we would be much better off -- at least I've come to the point of view that we would certainly be far better off -- to recognize the fact that we have an obligation, and fund it in the Legislature. Let the Legislature fund it, not run away from it. Joe, we've both been guilty of that same thing.

Now, I don't know what other states are doing. They tell me South Florida, they have impact fees. Private sectors are doing tremendous amounts of developing. But we've built ourselves a system of taxation which feeds our system of taxation. That's continued to proliferate more and more, becoming larger and larger. Just as you've said, "When you pass a piece of legislation, you're guilty." You either-- I believe we ought to have a true fiscal test whether we're willing to fund it or not, before we pass legislation and then have a Legislature start to scream when they want to carry it out. I thought you might want to make some comment on that.

ASSISTANT COMMISSIONER WEINGART: I would be happy to. I agree with you completely. I think the premise of saying that those people who are regulated should pay part of the cost of the program makes sense. Whether it's a land use, someone who wants to build a development, or someone who's operating a factory, to say that they should bear the entire cost, I think, is increasingly subject to question. The society as a whole benefits from having a well-protected coastal zone. It's not just the development community that benefits from that.

Other states, in answer your question, do do it differently. I spoke earlier this week with an official from the California Coastal Commission, and I asked him what his fees were because this was on my mind. He said he wasn't sure. I was surprised he didn't know. He said, "Well, we don't -- the fees just go directly to the Legislature, to the

General Treasury. We get an appropriation every year from the Treasury, and all the fees go directly to the Treasury. So we're not particularly involved in that."

That kind of change would have a whole lot of benefits. It would mean-- It would make a much more easily predictive administrative process if the DEPE, in this case, were to submit a budget -- or submit as part of our budget, "We need 'X' dollars for our permitted programs," and the Legislature could then say that is too much or too little. We'd know what the budget was, as opposed to trying to anticipate how many permit applications there are going to be in a year, and how many -- how much money we're going to get. That's something we in the Department would be delighted to discuss with you for the next budget, and I think we'll probably want to discuss it with you for the next budget.

SENATOR KYRILLOS: Thank you.

SENATOR RAND: There's a chance -- all according to what happens in November -- to talk to you or to talk to me.

SENATOR KYRILLOS: Knowing you, Senator Rand, no matter what happens, we should be talking to you. But I think you bring up an excellent point, and I think there is a growing collective mindset that we have to, over time, wean our environmental programs away from support solely from the fees that the programs generate--

ASSISTANT COMMISSIONER WEINGART: Let me add one thing to that.

SENATOR KYRILLOS: --and fund it out of the General Treasury. Given the fiscal plight the State has been in in recent years, it's been difficult to do, but that really ought to be our goal over time.

ASSISTANT COMMISSIONER WEINGART: Where I thought one of your questions was going earlier was, in terms of whether we were going to charge lower fees to municipalities or local governments, it didn't go that way.

SENATOR KYRILLOS: I wasn't going to ask you about numbers, John.

ASSISTANT COMMISSIONER WEINGART: But other people ask that question, and that plays directly into Senator Rand's question. Because if we're supported entirely by fees, and we charge a lower fee to anybody, in effect, everybody else who is regulated has to subsidize that. If the Legislature provided the money, it means the Legislature could set priorities and say, "Well, you should charge less for -- nothing for schools, affordable housing projects, or whatever."

SENATOR KYRILLOS: It's clear that there's got to be some start-up time. I notice in a couple newspaper editorials around the State, people criticize the delay time, but it's necessary. I mean, it's going to take you some time to get your act together.

But I must tell you, 23 people seems surprising to me. Maybe I shouldn't be surprised. It seems like a lot of new people, and I suspect if people read about it tomorrow, they're going to be a little bit --

ASSISTANT COMMISSIONER WEINGART: Let me tell you right now--

SENATOR KYRILLOS: --taken aback. It's a lot of folks.

ASSISTANT COMMISSIONER WEINGART: --the numbers are-- It's based on the following estimates: We estimate 1000 additional permit applications a year; 1000 exemption requests; 500 applicability determinations, where someone wants to know what permit they need; and 1000 violation reports that would be followed up. That estimate is-- It's an estimate that's based on--

SENATOR RAND: When you've done nothing for so long, that's a result.

SENATOR KYRILLOS: Right. Senator Rand mentioned the Alliance for Action dinner that we both attended last night, a large business and labor gathering. I was approached by a

representative from a large utility concerning their routine maintenance activity along the shoreline. This new law will affect them and the utility industry. I think he mentioned to me, John, that he was going to have some direct discussion with you over it. Do you want to talk about that a little bit?

ASSISTANT COMMISSIONER WEINGART: Yes, there were people from some utilities at some of the public meetings, including the one in Monmouth last week. We have had in the CAFRA-- We have in the CAFRA regulations at the moment, and have had them in the past, an exemption for linear developments of less than 1200 feet; that if you're building a sewer line or utility line or whatever of less than 1200 feet, you don't need a permit. So we start with that as the basis of discussion. What I asked when the utility representatives testified at the meeting last week was whether that was sufficient. They said they'd talk to me later, so I don't know the answer.

We clearly don't want to get into regulating something where you have to put a line in to connect two other places. There's just no other route, and it's just obvious. Twelve hundred feet has been what we've used for a number of years, and that seemed to have been a good cutoff. We're open to others if people suggest them.

SENATOR KYRILLOS: The routine activity maintenance projects, the day-to-day work that doesn't involve new or expansive projects, are not something that we're going to be regulating under this law.

ASSISTANT COMMISSIONER WEINGART: In general, that's the case. I mean, there is some of that kind of work that occurs in wetlands, or adjacent to wetlands, that is regulated; that if someone has to get into the wetlands to -- probably not under this law, but under the Wetlands Acts--

SENATOR RAND: Mr. Chairman, didn't we have some amendatory language which took care of the Department of Transportation and Utilities? Didn't I remember that?

ASSISTANT COMMISSIONER WEINGART: Department of Transportation.

SENATOR KYRILLOS: I think we did, and I defer to John on that.

SENATOR RAND: The others weren't included in that?

ASSISTANT COMMISSIONER WEINGART: It specifically included roads -- road work, but--

SENATOR KYRILLOS: Okay. I just have a few more questions. People have come up to me, Commissioner, and expressed concern as to whether or not they fall within the 150-foot zone. How do you measure where the mean high waterline is? What happens if there's a development that's right on the cusp, that straddles the line? How do we deal with that?

ASSISTANT COMMISSIONER WEINGART: I should have mentioned that, because that was one of the other issues that was brought up at the public meetings more than once. In many cases, I think it will be easy. If there's a bulkhead, it's easy to measure 150 feet and then the bulkhead. If it's on the ocean side, where it's the inland, the 150-foot measurement starts at the inland limit of the beach or dune. I think it's going to be fairly easy to measure where the dune starts and measure inland. There may be some-- There will be some cases where it's harder, and there are maps under the Tidelands Program that show where the mean high waterline is in some cases. And it will be-- In some cases, it will be a conversation and a site visit between the municipal building official and the State representative.

If there is a project that falls on the cusp, my answer at this point would be that if -- or my thought at this point would be that if there is a building that is -- where part of the building is within that 150 feet, we would regulate that building. But if that building was part of a development, we wouldn't regulate the entire development. We would just regulate that building that fell in that area.

SENATOR KYRILLOS: Okay. One other concern expressed is that the grandfathering provision will be difficult to regulate. Do you have any concerns that you're not going to be able to figure out what should be grandfathered and what shouldn't be?

ASSISTANT COMMISSIONER WEINGART: No, I think that's going to be pretty easy. I mean, at some of the public meetings people were coming up with scenarios that were somewhat complicated. If a local approval is thrown out by a court and then reinstated, that thing, I think -- even those, I think, will be pretty easy to address. I don't think there are going to be too many of those. So I think that should be pretty -- that should work pretty smoothly.

SENATOR KYRILLOS: Very good. I just have one final question, and then I'll defer to Senator Rand for any remarks or questions that he may want to finish up with. About the municipality of Lakewood in Ocean County, I've heard from Assemblyman Singer and from George Buckwald, who runs, I think, the Lakewood Industrial Commission down there -- I'm not quite sure the formal name of it -- their desire to have Lakewood come out of the CAFRA zone. This was a late suggestion in the legislative process. I think when we were appearing before Assemblywoman Maureen Ogden's Assembly Environmental Committee, Assemblyman Singer raised this for the very first time. When you look at the map, it does appear that Lakewood is fairly far westward. I wanted to get your thoughts on it.

ASSISTANT COMMISSIONER WEINGART: Assemblyman Singer did raise, as you said, that point, and I haven't looked into it as much as I would like to. There are sensitive environmental features in Lakewood that can be protected under CAFRA, that had been protected under CAFRA. The amendments that the Legislature just passed to CAFRA have very little impact in Lakewood. CAFRA continues to be regulated -- regulate largely at the level of 25 residential units. I guess

a somewhat more commercial development would be regulated now. So it's something I would be happy to look at further, and I will look at further.

I'm not quite sure what the problem is. There have been several projects in Lakewood, particularly in the Lakewood Industrial Park, that have needed CAFRA permits over the past 20 years; that have gotten CAFRA permits and have been built. There have been conditions attached to those permits, and changes made in the developments that have made those projects more environmentally sensitive than they would have been otherwise. So it's not just a paper exercise. But at the same time, those permit applications have all been approved and have gone through fairly smoothly.

But I plan to talk to Assemblyman Singer and others, try and understand what the problem is, and see whether that's the right thing to do.

SENATOR KYRILLOS: I would like--

ASSISTANT COMMISSIONER WEINGART: If that's going to be changed, as you and I discussed earlier, that would have to be changed by legislation.

SENATOR KYRILLOS: Right. I'd like to get your thoughts on it in the future. Somebody correct me if I'm wrong, but I think Lakewood is among the listed municipalities that we've allowed to higher densities for residential building--

ASSISTANT COMMISSIONER WEINGART: Right, that's true. So actually they even benefit from these amendments.

SENATOR KYRILLOS: They actually in many ways have the easier time of it, so to speak, with the new law than they had before.

Senator Rand, any--

SENATOR RAND: I really have no questions, except to say that the people that I spoke to in my district have enjoyed the seashore for the first time in -- or as much as in -- the last 20 years.

ASSISTANT COMMISSIONER WEINGART: It's all because of these amendments.

SENATOR RAND: Well, if you have to keep the seashore environmentally sound, I suppose that's where my vote would be, to keep it environmentally sound. I think it's important, and evidently the -- it's reflected by people coming down the shore this past summer. Just keep the hurricanes away, will you please?

SENATOR KYRILLOS: That's right.

ASSISTANT COMMISSIONER WEINGART: We won't give them a permit.

SENATOR KYRILLOS: Senator Rand rightly points out that we had a really excellent summer. I hope that a few years from now we'll have good summers, and that this new law will have helped to contribute to it -- to good, clean ocean environment. John, we'll continue to follow your progress as you go through the regulatory process. You're going to make some proposals in January, I take it. When do they need to be complete?

ASSISTANT COMMISSIONER WEINGART: Well, they need to be-- I would like to get them all adopted in May so that they're clear and people would know about them ahead of time. We would have time to educate people about them before they take effect in July.

SENATOR KYRILLOS: We'll follow things through the winter and spring. Over the months and after the regulations are complete, if you feel that some of the things need to be codified through legislation, I hope you'll advise us of that. We'll go to work on that.

I thank you very much for being here, and for your sensitivity to the problems associated with this new law. I think you individually do appreciate the spirit of the Legislature and the way in which we constructed the law. We



want to be tough where we should be tough, but we don't want to be too burdensome where we need not necessarily be. I think you understand that. I wish you luck.

ASSISTANT COMMISSIONER WEINGART: Thanks very much.

SENATOR KYRILLOS: Thank you.

Hearing adjourned.

**(MEETING CONCLUDED)**