

13:19-1

LEGISLATIVE HISTORY CHECKLIST
Compiled by the NJ State Law Library

(Coastal Area Facilities Review Act--expand application)

NJSA: 13:19-1

LWS OF: 1993 **CHAPTER:** 190

BILL NO: S1475

SPONSOR(S): Kyrillos and others

DATE INTRODUCED: January 25, 1993

COMMITTEE: **ASSEMBLY:** Environment
SENATE: Coastal Resources

AMENDED DURING PASSAGE: No Senate Committee Substitute enacted

DATE OF PASSAGE: **ASSEMBLY:** June 21, 1993
SENATE: June 10, 1993

DATE OF APPROVAL: July 19, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: Yes

See newspaper clippings-attached:

"Coastal building loophole closing," 7-21-93, Asbury Park Press.

"Florio signs law that restricts coastal building," 7-21-93, Philadelphia Inquirer."

974.90 New Jersey. Legislature. Senate. Coastal Resources and Tourism
B365 Committee.
1993 Public hearing held 10-29-93. Trenton, 1993.

984.90 New Jersey. Legislature. Senate. Coastal Resources and Tourism
B365 Committee.
1993b Committee meeting on the implementation of the new CAFRA
act...held 10-7-93. Trenton, 1993.

KB:pp

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.

- 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.

- 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 Cheesequake Creek with the Raritan Bay; thence southwesterly
40 along the center line of Cheesequake 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

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 southwestery 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 southwestery 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

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

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

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,

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.

1

2

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

SENATE, No. 1475

STATE OF NEW JERSEY

INTRODUCED JANUARY 25, 1993

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 1 of P.L.1973, c.185 (C.13:19-1) is amended to read
16 as follows:

17 1. This act shall be known and may be cited as the "Coastal
18 Area [Facility] Development Review Act."
19 (cf: P.L.1973, c.185, s. 1)

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

22 2. The Legislature finds and declares that:

23 a. New Jersey's bays, harbors, sounds, wetlands, inlets, the
24 tidal portions of fresh, saline or partially saline streams and
25 tributaries and their adjoining upland fastland drainage area nets,
26 channels, estuaries, barrier beaches, near shore waters and
27 intertidal areas together constitute an exceptional, unique,
28 irreplaceable and delicately balanced physical, chemical and
29 biologically acting and interacting natural environmental
30 resource called the coastal area [, that certain portions of the] ;

31 b. The natural resources of the coastal area are extraordinary
32 in their biological productivity and beauty, and that these
33 resources provide the foundation of a thriving commercial and
34 recreational fishing industry, as well as the cornerstone of a
35 summer tourism industry which generates billions of dollars in
36 annual economic activity to the economy of this State, the
37 coastal area provides recreation for millions of residents and
38 visitors, and that for these reasons, the coastal area constitutes a
39 priceless environmental resource worthy of stewardship and
40 protection;

41 c. The coastal area [are now suffering] continues to suffer
42 from serious adverse environmental effects resulting from
43 existing [facility activity impacts that would preclude or tend to

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 preclude those multiple uses which support diversity and are in
2 the best long-term, social, economic, aesthetic and recreational
3 interests of all people of the State;] development that prevents
4 the normal functioning of the ecology of the coastal area, and
5 that[, therefore, it is in the interest of the people of the State
6 that all of] the coastal area should be dedicated to those kinds of
7 land uses which [promote the public health, safety and welfare,
8 protect public and private property, and] are [reasonably]
9 consistent [and compatible] with the [natural laws governing]
10 continued natural functioning of the physical, chemical and
11 biological environment [of the coastal area .] , as well as the
12 public health, safety and welfare, and the protection of public
13 and private property;

14 [It is further declared that the coastal area and the State will
15 suffer continuing and ever-accelerating serious adverse
16 economic, social and aesthetic effects unless the State assists, in
17 accordance with the provisions of this act, in the assessment of
18 impacts, stemming from the future location and kinds of
19 facilities within the coastal area, on the delicately balanced
20 environment of that area.]

21 d. The Legislature further recognizes the legitimate economic
22 aspirations of the inhabitants of the coastal area and wishes to
23 encourage the development of compatible land uses in order to
24 improve the overall economic position of the inhabitants of that
25 area within the framework of a comprehensive environmental
26 design strategy which preserves the most ecologically sensitive
27 and fragile area from inappropriate development and provides
28 adequate environmental safeguards for the construction of any
29 [facilities] developments in the coastal area [.] ; and

30 e. It is therefore in the public interest and in furtherance of
31 the general welfare of the people of this State to establish a
32 system of enhanced regulatory review of development in the
33 coastal area, and that this system of review embrace types of
34 residential, commercial, industrial and public development that
35 have heretofore not been subject to regulation pursuant to the
36 provisions of this act.

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

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

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

43 "Commercial development" means a development designed,
44 constructed or intended to accommodate commercial or office
45 uses. "Commercial development" shall include, but need not be
46 limited to, any establishment used for the wholesale or retail sale
47 of food or other merchandise, or any establishment used for
48 providing professional, occupational, financial, or other
49 commercial services;

50 [a.] "Commissioner" means the [State] Commissioner of
51 Environmental Protection[.];

52 [b.] "Department" means the [State] Department of
53 Environmental Protection[.];

54 [c.] "Facility" includes any of the facilities designed or utilized

1 for the following purposes:

2 (1) Electric power generation--

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

4 Nuclear facilities.

5 (2) Food and food byproducts--

6 Beer, whiskey and wine production.

7 Fish processing, including the production of fish meal and fish
8 oil.

9 Slaughtering, blanching, cooking, curing, and pickling of meats
10 and poultry.

11 Trimming, culling, juicing, and blanching of fruits and
12 vegetables.

13 Animal matter rendering plants.

14 Operations directly related to the production of leather or furs
15 such as, but not limited to, unhairing, soaking, deliming, baiting,
16 and tanning.

17 Curing and pickling of fruits and vegetables.

18 Pasteurization, homogenization, condensation, and evaporation
19 of milk and cream to produce cheeses, sour milk, and related
20 products.

21 Coffee bean and cocoa bean roasting.

22 (3) Incineration wastes--

23 Municipal wastes (larger than or equal to 50 tons per day).

24 Automobile body (20 automobiles per hour or larger).

25 (4) Paper production--

26 Pulp mills.

27 Paper mills.

28 Paperboard mills.

29 Building paper mills.

30 Building board mills.

31 (5) Public facilities and housing--

32 Sanitary landfills.

33 Waste treatment plants (sanitary sewage).

34 Road, airport, or highway construction.

35 New housing developments of 25 or more dwelling units or
36 equivalent.

37 Expansion of existing developments by the addition of 25 or
38 more dwelling units or equivalent.

39 (6) Agri-chemical production--

40 Pesticides manufacture and formulation operations or either
41 thereof.

42 Superphosphate animal feed supplement manufacture.

43 Production of normal superphosphate.

44 Production of triple superphosphate.

45 Production of diammonium phosphate.

46 (7) Inorganic acids and salts manufacture--

47 Hydrofluoric acid and common salts.

48 Hydrochloric acid and common salts.

49 Nitric acid and common salts.

50 Sulfuric acid and common salts.

51 Phosphoric acid and common salts.

52 Chromic acid, including chromate and dichromate salts.

53 (8) Mineral products--

54 Asphalt batching and roofing operations including the

- 1 preparation of bituminous concrete and concrete.
- 2 Cement production, including Portland, natural, masonry, and
- 3 pozzolan cements.
- 4 Coal cleaning.
- 5 Clay, clay mining, and fly-ash sintering.
- 6 Calcium carbide production.
- 7 Stone, rock, gravel, and sand quarrying and processing.
- 8 Frit and glass production.
- 9 Fiberglass production.
- 10 Slag, rock and glass wool production (mineral wool).
- 11 Lime production, including quarrying.
- 12 Gypsum production, including quarrying.
- 13 Perlite manufacturing, including quarrying.
- 14 Asbestos fiber production.
- 15 (9) Chemical processes--
- 16 Ammonia manufacture.
- 17 Chlorine manufacture.
- 18 Caustic soda production.
- 19 Carbon black and charcoal production, including channel,
- 20 furnace, and thermal processes.
- 21 Varnish, paint, lacquer, enamel, organic solvent, and inorganic
- 22 or organic pigment manufacturing or formulating.
- 23 Synthetic resins or plastics manufacture including, but not
- 24 limited to, alkyd resins, polyethylene, fluorocarbons,
- 25 polypropylene, and polyvinylchloride.
- 26 Sodium carbonate manufacture.
- 27 Synthetic fibers production including, but not limited to,
- 28 semisynthetics such as viscose, rayon, and acetate, and true
- 29 synthetics such as, but not limited to, nylon, orlon, and dacron,
- 30 and the dyeing of these semi and true synthetics.
- 31 Synthetic rubber manufacture, including but not limited to,
- 32 butadiene and styrene copolymers, and the reclamation of
- 33 synthetic or natural rubbers.
- 34 The production of high and low explosives such as, but not
- 35 limited to, TNT and nitrocellulose.
- 36 Soap and detergent manufacturing, including but not limited to,
- 37 those synthetic detergents prepared from fatty alcohols or linear
- 38 alkylate.
- 39 Elemental sulfur recovery plants not on the premises where
- 40 petroleum refining occurs.
- 41 Used motor or other oil or related petroleum product
- 42 reclamation operations.
- 43 Petroleum refining, including but not limited to, distillation,
- 44 cracking, reforming, treating, blending, polymerization,
- 45 isomerization, alkylation, and elemental sulfur recovery
- 46 operations.
- 47 Organic dye and dye intermediate manufacturing.
- 48 Hydrogen cyanide or cyanide salts manufacture or use.
- 49 Glue manufacturing operations.
- 50 Manufacturing, fabricating, or processing medicinal and
- 51 pharmaceutical products including the grading, grinding, or
- 52 milling of botanicals.
- 53 (10) Storage--
- 54 Bulk storage, handling, and transfer facilities for crude oil, gas

1 and finished petroleum products not on the premises where
2 petroleum refining occurs.

3 Bulk storage, handling, transfer and manufacturing facilities of
4 gas manufactured from inorganic and organic materials including
5 coal gas, coke oven gas, water gas, producer, and oil gases.

6 (11) Metallurgical processes--

7 Production of aluminum oxide and aluminum metal and all
8 common alloys, such as those with copper, magnesium, and silicon.

9 Production of titanium metal, salts, and oxides.

10 Metallurgical coke, petroleum coke, and byproduct coke
11 manufacturing.

12 Copper, lead, zinc, and magnesium smelting and processing.

13 Ferroalloys manufacture such as, but not limited to, those
14 combined with silicon, calcium, manganese and chrome.

15 Integrated steel and iron mill operations including, but not
16 limited to, open hearth, basic oxygen, electric furnace, sinter
17 plant, and rolling, drawing, and extruding operations.

18 Melting, smelting, refining, and alloying of scrap or other
19 substances to produce brass and bronze ingots.

20 Gray iron foundry operations.

21 Steel foundry operations.

22 Beryllium metal or alloy production, including rolling, drawing
23 and extruding operations.

24 Operations involving silver, arsenic, cadmium, copper,
25 mercury, lead, nickel, chromium, and zinc including, but not
26 limited to, production, recovery from scrap or salvage, alloy
27 production, salt formation, electroplating, anodizing, and
28 metallo-organics compound products preparation.

29 Stripping of oxides from and the cleaning of metals prior to
30 plating, anodizing, or painting.

31 (12) Miscellaneous--

32 Operations involving the scouring, desizing, cleaning,
33 bleaching, and dyeing of wool.

34 Wood preserving processes which use coal or petroleum based
35 products such as, but not limited to, coal tars and/or creosotes.

36 Manufacture, use, or distillation of phenols, cresols, or coal tar
37 materials.

38 Manufacture of lead acid storage batteries and/or storage
39 batteries produced from other heavy metals, such as nickel or
40 cadmium.

41 Installation of above or underground pipelines designed to
42 transport petroleum, natural gas, and sanitary sewage.

43 Operations involving the dyeing, bleaching, coating,
44 impregnating, or glazing of paper.

45 Dyeing, bleaching, and printing of textiles other than wool.
46 Chemical finishing for water repelling, fire resistance, and
47 mildew proofing, including preshrinking, coating and impregnating.

48 Sawmill and planing mill operations.

49 Marine terminal and cargo handling facilities.

50 d. "Person" means and shall include corporations, companies,
51 associations, societies, firms, partnerships and joint stock
52 companies as well as individuals and governmental agencies.

53 e.] "Development" means a subdivision or resubdivision of a
54 parcel of land into two or more parcels, or the construction,

1 relocation, reconstruction, or enlargement of any building or
2 structure, and shall include residential, commercial, industrial,
3 and public development;

4 "Dwelling unit" or "dwelling" means a house, townhouse,
5 apartment, condominium, cabana, hotel or motel room, a room in
6 a hospital, nursing home or other residential institution, mobile
7 home, campsite for a tent or recreational vehicle, floating home,
8 or any other habitable structure of similar size and potential
9 environmental impact;

10 "Governmental [agencies] agency" means the Government of
11 the United States, the State of New Jersey, or any other [states,
12 their] state, or a political [subdivisions] subdivision, authority,
13 [agencies, or instrumentalities] agency or instrumentality
14 thereof, and shall include any interstate [agencies.] agency or
15 authority;

16 "Industrial development" means a development which involves
17 a manufacturing or industrial process, which shall include, but
18 need not be limited to, electric power production, food and food
19 by-product processing, paper production, agri-chemical
20 production, chemical processes, storage facilities, metallurgical
21 processes, mining and excavation processes, and processes
22 utilizing mineral products;

23 "Person" means any individual, corporation, company,
24 association, society, firm, partnership, joint stock company, or
25 governmental agency;

26 "Public development" means a development that is publicly
27 financed and designed to provide a public benefit, which includes,
28 but need not be limited to, solid waste facilities, wastewater
29 treatment plants, roads and highways, airports, and bridges;

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

32 "Residential development" means a development which
33 provides one or more dwelling units;

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

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

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

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

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

1 northeasterly along County Road 65 (now County Road 637) to its
2 intersection with County Road 665 (Walnut Street); thence
3 northerly along County Road 65 (now County Road 665) (Walnut
4 Street) to its intersection with County Road 4 (now County Road
5 633); thence westerly along County Road 4 (now County Road
6 633) to its intersection with County Road 627; thence northerly
7 along County Road 627 to its intersection with County Road 661;
8 thence easterly along County Road 661 to its intersection with
9 State Road 49; [thence westerly along County Road 4 and
10 northerly along County Road 4 and thence easterly along County
11 Road 4 to its intersection with State Road 49;] thence northerly
12 along State Road 49 (Front Street) to its intersection with County
13 Road 57 (now County Road 657); thence easterly along County
14 Road 57 (now County Road 657) to its intersection with State
15 Road 45; thence northerly along State Road 45 to its intersection
16 with County Road 540 at Pointers; thence northerly and
17 northwesterly along County Road 540 (Pointers Auburn
18 Road/Deepwater-Slapes Corner Road) to its intersection with the
19 New Jersey Turnpike; thence westerly along the New Jersey
20 Turnpike to its intersection with County Road 33 (now County
21 Road 551); thence southerly along County Road 33 (now County
22 Road 551) to its intersection with State Road 49; thence
23 southeasterly along S.R. 49 to its intersection with County Road
24 26 (now County Road 632); thence northwesterly along County
25 Road 26 (now County Road 632) to the Killcohook National
26 Wildlife Refuge; thence northwesterly along this northeasterly
27 boundary to the limits of the State's territorial jurisdiction on
28 the Delaware River; provided, however, that the coastal area
29 shall not include all that certain area in Cape May county lying
30 within a line beginning at the intersection of S.R. 47 and County
31 Road 54 (now County Road 654); thence westerly on County Road
32 54 (now County Road 654); to the intersection of County Road 3
33 (now County Road 603); thence southeasterly on County Road 3
34 (now County Road 603) through the intersection of County Road 3
35 (now County Road 603) with County Road 13 (now County Road
36 639) to the intersection with County Road 47 (now County Road
37 647); thence easterly and northerly along County Road 47 (now
38 County Road 647) to its intersection with [State Road] U.S. Route
39 9; thence northerly along [State Road] U.S. Route 9 to its
40 intersection with State Road 47; thence westerly along State
41 Road 47 to its intersection with County Road 54 (now County
42 Road 654).

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

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

46 5. [No person shall construct or cause to be constructed a
47 facility in the coastal area until he has applied for and received a
48 permit issued by the commissioner; however, the provisions of
49 this act shall not apply to facilities for which on-site
50 construction, including site preparation, was in process on or
51 prior to the effective date of this act.] A person shall not
52 construct or cause to be constructed a development in the coastal
53 area until that person has been issued a permit approved by the

1 commissioner in accordance with the provisions of this act.

2 a. Except as otherwise provided in subsection b. and subsection
3 c. of this section, a permit shall be required for a development in
4 the coastal area that would result, either solely or in conjunction
5 with a previous development, in:

6 (1) A residential development having three or more dwelling
7 units located in the area between the mean high water line of any
8 tidal waters and a point 1,000 feet landward of that mean high
9 water line;

10 (2) A residential development having six or more dwelling units
11 located in the area between a point greater than 1,000 feet and a
12 point 2,000 feet landward of the mean high water line of any tidal
13 waters;

14 (3) A residential development having 12 or more dwelling units
15 located in the area at a point beyond 2,000 feet landward of the
16 mean high water line of any tidal waters to the boundary of the
17 coastal area;

18 (4) A commercial development having five or more parking
19 spaces located in the area between the mean high water line of
20 any tidal waters and a point 1,000 feet landward of that mean
21 high water line;

22 (5) A commercial development having 10 or more parking
23 spaces located in the area between a point greater than 1,000
24 feet and a point 2,000 feet landward of the mean high water line
25 of any tidal waters;

26 (6) A commercial development having 50 or more parking
27 spaces located in the area at a point 2,000 feet landward of the
28 mean high water line of any tidal waters to the boundary of the
29 coastal area; or

30 (7) A public development or industrial development.

31 b. A permit shall be required for a development in a
32 municipality located in the coastal area which meet the criteria
33 of a "qualifying municipality" pursuant to section 1 of P.L.1978,
34 c.14 (C.52:27D-178), that would result, either solely, or in
35 conjunction with a previous development, in:

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

37 (2) A commercial development having 100 or more parking
38 spaces; or

39 (3) A public development or industrial development.

40 c. A permit shall not be required pursuant to this section for:

41 (1) A development for which on-site construction, including
42 site preparation, was in process on or prior to the date of
43 enactment of P.L. , c. (C.) (now before the Legislature
44 as this bill). This paragraph shall not apply to any development
45 defined as a "facility" that required a permit pursuant to
46 P.L.1973, c.185 (C.13:19-1 et seq.) as of the date of enactment of
47 P.L. , c. (C.) (now before the Legislature as this bill);

48 (2) The reconstruction of:

49 (a) any building or structure that is a commercial
50 development, residential development, or public development
51 that is damaged or destroyed, in whole or in part, by fire, storm,
52 natural hazard or other act of God and which does not result in a
53 greater structural footprint; or

54 (b) any building or structure that is a commercial development

1 or public development which does not result in an increased
2 square footage of floor area, or in a change in the use of that
3 building or structure;

4 (3) The reconstruction of a building or structure that did not at
5 the time of construction require issuance of a permit pursuant to
6 P.L.1973, c.185 (C.13:19-1 et seq.).

7 d. A development subject to any exemption provided in
8 subsection c. of this section shall be required to satisfy all other
9 applicable requirements of law.

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

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

13 6. a. Any person proposing to construct or cause to be
14 constructed, or undertake or cause to be undertaken, as the case
15 may be, a [facility] development in the coastal area shall file an
16 application for a permit, if so required pursuant to section 5 of
17 P.L.1973, c.185 (C.13:19-5), with the commissioner, [in such
18 form] on forms and with [such] any other information [as] the
19 commissioner may prescribe. The application shall include an
20 environmental impact statement as described in [this act] section
21 7 of P.L.1973, c.185 (C.13:19-7), unless the commissioner waives
22 the requirement pursuant to subsection b. of this section.

23 b. The commissioner may waive the requirement that an
24 environmental impact statement be included in an application for
25 a permit for a proposed development by general rule or for an
26 individual permit application. The commissioner may waive the
27 requirement that an environmental impact:

28 (1) based upon a consideration of the size, type, or location of
29 the proposed development;

30 (2) because the development is to be located in a municipality
31 which meets the criteria of "qualifying municipality" pursuant to
32 section 1 of P.L.1978, c.14 (C.52:27D-178); or

33 (3) because the requirement of an environmental impact
34 statement would place an unreasonable burden on the applicant
35 compared with the environmental effects anticipated for that
36 proposed development.

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

38 8. Section 7 of P.L.1973, c.185 (C.13:19-7) is amended to read
39 as follows:

40 7. The environmental impact statement shall provide the
41 information needed to evaluate the effects of a proposed
42 [project] development upon the environment of the coastal area.
43 The department shall not require any information to be included
44 in an environmental impact statement other than the information
45 set forth in this section.

46 a. The department shall require that an environmental impact
47 statement shall include:

48 [a. An inventory of existing environmental conditions at the
49 project site and in the surrounding region which shall describe air
50 quality, water quality, water supply, hydrology, geology, soils,
51 topography, vegetation, wildlife, aquatic organisms, ecology,
52 demography, land use, aesthetics, history, and archeology; for
53 housing, the inventory shall describe water quality, water supply,
54 hydrology, geology, soils and topography;

1 b.] (1) A [project] development description which shall specify
2 what is to be done and how it is to be done, during construction
3 and operation;

4 [c. A listing of all licenses, permits or other approvals as
5 required by law and the status of each;

6 d. An assessment of the probable impact of the project upon
7 all topics described in a.;

8 e.] (2) A listing of adverse environmental impacts which
9 cannot be avoided;

10 [f.] (3) Steps to be taken to minimize adverse environmental
11 impacts during construction and operation, both at the [project]
12 development site and in the surrounding region; and

13 [g.] (4) Alternatives to all or any part of the [project]
14 development with reasons for their acceptability or
15 nonacceptability[;] .

16 b. The department may require that an environmental impact
17 statement may include:

18 (1) An inventory of existing environmental conditions at the
19 development site and in the surrounding region which shall
20 describe air quality, water quality, water supply, hydrology,
21 geology, soils, topography, vegetation, wildlife, aquatic
22 organisms, ecology, demography, land use, history, and
23 archeology;

24 (2) An assessment of the probable impact of the development
25 upon all topics described in paragraph (1) of this subsection;

26 (3) A listing of all licenses, permits or other approvals as
27 required by law and the status of each; and

28 [h.] (4) A reference list of pertinent published information
29 relating to the [project] development, the [project] development
30 site, and the surrounding region.

31 (cf: P.L.1973, c.185, s.7)

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

43 [b. The commissioner, within 15 days of declaring the
44 application complete for filing, shall set a date for the hearing.
45 The date for the hearing shall be set not later than 60 days after
46 the application is declared complete for filing.]

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

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

50 9. a. The commissioner, or a member of the department
51 designated by [him] the commissioner, shall, upon a written
52 request by the applicant or any other interested party, received
53 within 15 days of the application being filed, hold a hearing
54 within 60 days of the application being filed, or if no hearing is

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

8 b. The commissioner, within 15 days after the hearing, if one
9 is held, or 15 days after the close of the comment period if no
10 hearing is held, may require an applicant to submit any additional
11 information necessary for the complete review of the application.
12 (cf: P.L.1979, c.86, s.3)

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

15 10. The commissioner shall review filed applications, including
16 [the] any environmental impact statement and all information
17 presented at public hearings or submitted during the comment
18 period. [He shall issue a permit only if he finds] A permit may be
19 issued only upon a finding that the proposed [facility]
20 development:

21 a. Conforms with all applicable air, water and radiation
22 emission and effluent standards and all applicable water quality
23 criteria and air quality standards.

24 b. Prevents air emissions and water effluents in excess of the
25 existing dilution, assimilative, and recovery capacities of the air
26 and water environments at the site and within the surrounding
27 region.

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

32 d. Would result in minimal feasible impairment of the
33 regenerative capacity of water aquifers or other ground or
34 surface water supplies.

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

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

41 g. Would result in minimal practicable degradation of unique
42 or irreplaceable land types, historical or archeological areas, and
43 existing public scenic [and aesthetic] attributes at the site and
44 within the surrounding region.

45 h. Is consistent with the management plan for the coastal area
46 as provided in section 11 of P.L.1985, c.398 (C.52:18A-206).

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

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

50 11. Notwithstanding the applicant's compliance with the
51 criteria listed in section 10 of [this act] P.L.1973, c.185
52 (C.13:19-10), if the commissioner finds that the proposed
53 [facility] development would violate or tend to violate the
54 purpose and intent of this act as specified in section 2 of

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

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

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

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

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

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

31 12. a. The commissioner shall notify the applicant within [60]
32 90 days after the hearing or comment period as to the granting or
33 denial of a permit. The reasons for granting or denying the permit
34 shall be stated. In the event the commissioner requires additional
35 information as provided for in section 9 of P.L.1973, c.185
36 (C.13:19-9), [he] the commissioner shall notify the applicant of
37 [his] the decision within 90 days following the receipt of the
38 information.

39 b. If the decision to grant or conditionally grant a permit
40 would result in a development substantially different from that in
41 the application on which the hearing or comment period was held,
42 the commissioner shall give notice of that fact to the applicant
43 and to the public prior to the time notice of a decision is to be
44 given to an applicant pursuant to subsection a. of this section,
45 provide reasonable opportunity for public inspection of the
46 preliminary decision, and allow an additional 45-day comment
47 period before the applicant is notified of the final decision.

48 c. Any determination made by the department pursuant to the
49 provisions of P.L.1973, c.185 (C.13:19-1 et seq.), including the
50 issuance of a permit, shall constitute a contested case pursuant
51 to the "Administrative Procedure Act," P.L.1968, c.410
52 (C.12:11B-1 et seq.) Any applicant or interested party shall be
53 afforded an opportunity to contest the determination in an
54 administrative hearing before the commissioner or the Office of

1 Administrative Law. An organization may contest a
2 determination on behalf of its membership. For the purposes of
3 this section, a person shall be considered an interested party if
4 the person:

5 (1) has raised an objection to the determination either orally
6 or in writing prior to the determination by the department;

7 (2) alleges a significant issue of law or fact with respect to the
8 determination; and

9 (3) alleges an interest, which may include an environmental or
10 recreational interest, which is or may be affected by the
11 determination.

12 d. An aggrieved person shall submit the following information
13 to initiate an administrative hearing pursuant to subsection c. of
14 this section:

15 (1) a statement of each legal or factual question alleged to be
16 at issue, and its relevance to the determination, together with a
17 designation of the specific factual areas to be adjudicated and
18 the hearing time estimated to be necessary for adjudication;

19 (2) information supporting the request, which shall be
20 submitted pursuant to regulations adopted by the department for
21 such purposes pursuant to the "Administrative Procedure Act";

22 (3) the name, mailing address, and telephone number of the
23 person making the request;

24 (4) a clear and concise factual statement of the nature and
25 scope of the interest of the requester;

26 (5) the names and addresses of all persons and organizations
27 that the requester represents; and

28 (6) specific references to the contested determination, if any,
29 as well as suggested revised or alternative permit conditions.

30 (cf: P.L.1973, c.185 s.12)

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

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

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

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

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

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

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

49 18. [If any person violates any of the provisions of this act,
50 rule, regulation or order promulgated or issued pursuant to the
51 provisions of this act, the department may institute a civil action
52 in the Superior Court for injunctive relief to prohibit and prevent
53 such violation or violations and said court may proceed in a
54 summary manner. Any person who violates any of the provisions

1 of this act, rule, regulation or order promulgated or issued
2 pursuant to this act shall be liable to a penalty of not more than
3 \$3,000.00 to be collected in a summary proceeding or in any case
4 before a court of competent jurisdiction wherein injunctive relief
5 has been requested. If the violation is of a continuing nature,
6 each day during which it continues shall constitute an additional,
7 separate and distinct offense. The department is hereby
8 authorized and empowered to compromise and settle any claim
9 for a penalty under this section in such amount in the discretion
10 of the department as may appear appropriate and equitable under
11 the circumstances.]

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

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

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

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

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

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

26 b. Whenever the department finds that a person has violated
27 any provision of P.L.1973, c.185, or any regulation or rule
28 adopted, or permit or order issued, by the department pursuant to
29 that act, the department may issue an order specifying the
30 provision or provisions of the act, regulation, rule, permit, or
31 order of which the person is in violation, citing the action which
32 constituted the violation, ordering abatement of the violation,
33 and giving notice to the person of his right to a hearing on the
34 matters contained in the order. The ordered party shall have
35 20 days from receipt of the order within which to deliver to the
36 department a written request for a hearing. After the hearing and
37 upon finding that a violation has occurred, the department may
38 issue a final order. If no hearing is requested, then the order shall
39 become final after the expiration of the 20-day period. A request
40 for hearing shall not automatically stay the effect of the order.

41 c. The department may institute an action or proceeding in the
42 Superior Court for injunctive and other relief, including the
43 appointment of a receiver, for any violation of P.L.1973, c.185,
44 or any regulation or rule adopted, or permit or order issued, by
45 the department pursuant to that act, and the court may proceed
46 in the action in a summary manner.

47 Such relief may include, singly or in combination:

48 (1) A temporary or permanent injunction;

49 (2) Assessment of the violator for the costs of any
50 investigation, inspection, or monitoring survey which led to the
51 establishment of the violation, and for the reasonable costs of
52 preparing and litigating the case under this subsection;

53 (3) Assessment of the violator for any cost incurred by the
54 department in removing, correcting or terminating the adverse

1 effects upon the land or upon water or air quality resulting from
2 any violation of any provision of P.L.1973, c.185, or any
3 regulation or rule adopted pursuant thereto or any permit or
4 order issued by the department pursuant to that act for which the
5 action under this subsection may have been brought;

6 (4) Assessment against the violator of compensatory damages
7 for any damage or loss or destruction of wildlife, fish or aquatic
8 life, or habitat and for any other actual damages caused by any
9 violation of P.L.1973, c.185, any regulation or rule adopted
10 pursuant thereto, or any permit or order issued by the department
11 pursuant to that act for which the action under this subsection
12 may have been brought. Assessments under this subsection shall
13 be paid to the department, except that compensatory damages
14 may be paid by specific order of the court to any persons who
15 have been aggrieved by the violation.

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

47 (1) and the amount of the penalty is upheld in whole or in part,
48 an interest charge shall accrue and be collectible on the amount
49 of the penalty upheld as of the date that payment was originally
50 due on the penalty that was contested;

51 (2) no interest charge may be assessed on the amount of any
52 penalty that was paid prior to or within 30 days from the date
53 payment of the contested penalty was originally due, and if the
54 amount paid to the department was in excess of the amount that

1 is subsequently upheld, the department shall be liable for
2 payment of an interest charge for such excess amount, which
3 interest charge shall accrue as of the date that the penalty was
4 received by the department.

5 Interest charges assessed and collectible pursuant to this
6 subsection shall be based on the rate of interest on judgments
7 provided in the New Jersey Rules of Court. For the purposes of
8 this subsection, the date that a penalty is due is the date that
9 written notice of the penalty is received by the person
10 responsible for payment thereof, or such later date as may be
11 specified in the notice.

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

23 Any penalty imposed pursuant to this subsection may be
24 collected with costs in a summary proceeding pursuant to "the
25 penalty enforcement law," N.J.S. 2A:58-1 et seq. The Superior
26 Court and the municipal court shall have jurisdiction to enforce
27 the provisions of "the penalty enforcement law" in connection
28 with this act.

29 f. There is created in the department a special nonlapsing
30 fund, to be known as the "Cooperative Coastal Monitoring
31 Enforcement Fund." Except as otherwise provided in this section,
32 all monies from penalties, fines, or recoveries of costs collected
33 by the department pursuant to this section on and after the
34 effective date of this section, shall be deposited in the fund.
35 Interest earned on monies deposited in the fund shall be credited
36 to the fund. Unless otherwise specifically provided by law,
37 monies in the fund shall be utilized exclusively by the department
38 for the cost of providing aircraft overflights for monitoring,
39 surveillance and enforcement activities of the Cooperative
40 Coastal Monitoring Program established in the department.
41 (cf: P.L.1973, c.185, s.18)

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

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

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

1 19. R.S.12:5-3 is amended to read as follows:

2 12:5-3. a. All plans for the development of any waterfront
3 upon any navigable water or stream of this State or bounding
4 thereon, which is contemplated by any person or municipality, in
5 the nature of individual improvement or development or as a part
6 of a general plan which involves the construction or alteration of
7 a dock, wharf, pier, bulkhead, bridge, pipeline, cable, or any other
8 similar or dissimilar waterfront development shall be first
9 submitted to the Department of Environmental Protection. No
10 such development or improvement shall be commenced or
11 executed without the approval of the Department of
12 Environmental Protection first had and received, or as
13 hereinafter in this chapter provided.

14 b. The following are exempt from the provisions of subsection
15 a. of this section:

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

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

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

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

32 20. Section 3 of P.L.1975, c.232 (C.13:1D-31) is amended to
33 read as follows:

34 3. The department shall approve, condition or disapprove an
35 application for a construction permit within 90 days following the
36 date that the application is complete, except that this time
37 period may be extended for a 30-day period by the mutual
38 consent of the applicant and the department, provided that the
39 department request the applicant for such an extension at least
40 15 days prior to the expiration date for the approval, conditioning
41 or disapproval of such an application. This section shall not apply
42 to applications for permits issued for developments pursuant to
43 P.L.1973, c. 185 (C.13:19-1 et seq.).

44 (cf: P.L.1975, c.232, s.3)

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

47 11. a. [Nothing in this act] The provisions of P.L.1985, c.398
48 (C.52:18A-196 et seq.) shall not be construed to affect the plans
49 and regulations of the Pinelands Commission pursuant to the
50 "Pinelands Protection [Act" (P.L.1979, c.111) ,] Act," P.L.1979,
51 c.111 (C.13:18A-1 et seq.) and the Hackensack Meadowlands
52 Development Commission pursuant to the "Hackensack
53 Meadowlands, Reclamation and Development [Act" (P.L.1968,
54 c.404), or the Department of Environmental Protection pursuant

1 to the "Coastal Area Facility Review Act" (P.L.1973, c.185)]
2 Act," P.L.1968, c.404 (C.13:17-1 et seq.). The State Planning
3 Commission shall rely on the adopted plans and regulations of
4 these entities in developing the State Development and
5 Redevelopment Plan.

6 b. Within 18 months of the effective date of this section, the
7 State Planning Commission shall, in consultation with the
8 Department of Environmental Protection, draft and adopt a
9 management plan for the coastal area as defined in section 4 of
10 P.L.1973, c.185 (C.13:19-4). The management plan for the
11 coastal area shall thereafter be a part of the continuing process
12 of the State Development and Redevelopment Plan.

13 c. The management plan for the coastal area shall be
14 developed in a manner necessary to effectuate the purposes of
15 P.L.1973, c.185 (C.13:19-1 et seq.) and shall be closely
16 coordinated with the provisions of the federal "Coastal Zone
17 Management Act of 1972," 16 U.S.C. §1451 et seq.

18 d. The State Planning Commission shall, where appropriate,
19 consult with the Pinelands Commission in developing the
20 management plan as provided in subsection b. of this section as it
21 affects the planning and management of the development or use
22 of any land in the coastal area that is also within the boundaries
23 of the Pinelands National Reserve. The management plan
24 provisions relating thereto shall be developed in a manner
25 necessary to effectuate the purposes of the "Pinelands Protection
26 Act," P.L.1979, c.111 (C.13:18A-1 et seq.) and section 502 of the
27 "National Parks and Recreation Act of 1978," 16 U.S.C. §471i.
28 (cf: P.L.1985, c.398, s.11)

29 22. a. (New section) The commissioner may waive the permit
30 requirement for development in the coastal area if the
31 commissioner finds that the requirement of a permit would
32 create an extraordinary hardship for the applicant because a
33 significant investment had been made in obtaining the approval of
34 municipal or county governmental entities, as the case may be,
35 prior to the effective date of this section and if the development
36 would not have been required to obtain a permit prior to that
37 effective date. The commissioner may waive the permit
38 requirements pursuant to this section, provided the waiver would
39 not result in a substantial impairment of the natural resources of
40 the coastal area.

41 b. The commissioner may waive strict compliance with the
42 provisions of P.L.1973, c.185 (C.13:19-1 et seq.), and the rules
43 and regulations adopted pursuant thereto, upon a finding that a
44 waiver is necessary to alleviate extraordinary hardship or to
45 satisfy a compelling public need, and is consistent with the
46 purposes and provisions of P.L.1973, c.185 (C.13:19-1 et seq.).

47 23. (New section) The department shall annually prepare and
48 submit to the Senate Coastal Resources and Tourism Committee
49 and the Assembly Environment Committee, or their successors as
50 designated respectively by the President of the Senate and the
51 Speaker of the General Assembly, a report regarding the status of
52 applications for development in the coastal area pursuant to
53 P.L.1973, c.185 (C.13:19-1 et seq.). The report shall:

54 a. Include any statistical or other type of information deemed

1 pertinent by the department to evaluate the effectiveness of the
2 permit review capabilities and performance of the department;

3 b. Identify recurring problems in the permitting process and
4 procedures, and describe the causes thereof, and suggest possible
5 solutions to those recurring problems;

6 c. Provide an evaluation and analysis of the permit data and
7 information collected and set forth in the report, which data shall
8 include:

9 (1) The number of permit applications received by the
10 department in the preceding year;

11 (2) The number of permit applications pending;

12 (3) The total number of permits issued, modified, and denied
13 by the department;

14 (4) The average period of time that elapses between the
15 receipt of a permit application and an administrative review of
16 the application for completeness;

17 (5) The average period of time that elapses between an
18 administrative review of a permit application for completeness
19 and its being deemed complete;

20 (6) The average period of time that elapses between a permit
21 application being deemed complete and the issuance,
22 modification, or denial of the permit; and

23 (7) The average total period of time that elapses between the
24 receipt of a permit application and the issuance, modification, or
25 denial of the permit;

26 d. Make recommendations for appropriate legislative or
27 administrative action to enhance the effectiveness of the permit
28 review capabilities and performance of the department.

29 24. (New section) a. The Coastal Area Review Board
30 established pursuant to section 13 of P.L.1973, c.185 (C.13:19-13)
31 is upon the completion date of its duties, abolished, and all
32 powers, functions and duties thereof shall terminate. Any appeal
33 pending before the Coastal Area Review Board prior to the
34 effective date of this section may be decided by the board.

35 b. An appeal from a decision of the commissioner made by an
36 applicant after the effective date of this section, and prior to the
37 effective date of section 13 of P.L. , c. (C.) (now before
38 the Legislature as this bill) shall constitute a contested case
39 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
40 (C.52:14B-1 et seq.), and an applicant shall be afforded an
41 opportunity to contest the decision in the manner provided
42 therein. Upon the effective date of section 13 of P.L. , c.
43 (C.) (now before the Legislature as this bill) and thereafter,
44 an appeal from a decision of the commissioner shall be made in
45 the manner provided therein.

46 c. For the purposes of this section, "completion date," with
47 respect to the Coastal Area Review Board, shall mean the date
48 upon which all decisions on appeal from decisions by the
49 commissioner pursuant to section 12 of P.L.1973, c.185
50 (C.13:19-12), have been rendered by the Coastal Area Review
51 Board, as certified by the voting members thereof. Notice of the
52 certification of the completion date shall be published by the
53 board in the New Jersey Register.

54 25. The following is repealed:

1 Section 13 of P.L.1973, c.185 (C.13:19-13).
2 26. The following are repealed:
3 Section 16 of P.L.1973, c.185 (C.13:19-16); and
4 Section 22 of P.L.1979, c.111 (C.13:18A-23).
5 27. Sections 1 through 19, inclusive, section 21, section 22, and
6 section 25 of this act shall take effect one year from the date of
7 enactment of this act. Section 20 and section 23 of this act shall
8 take effect immediately. Section 24 of this act shall take effect
9 upon the completion date provided in section 23 of this act. The
10 Commissioner of Environmental Protection and the State
11 Planning Commission may take such anticipatory actions as may
12 be necessary to provide for the timely implementation of this act
13 on the effective dates set forth herein.

14
15
16
17

Sponsor's STATEMENT

18 This bill would revise the provisions of the "Coastal Area
19 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), known
20 commonly by the acronym CAFRA. This bill would provide for
21 the application of more stringent environmental standards in
22 reviewing development permits under CAFRA, and tighten
23 existing regulatory thresholds for the issuance of permits
24 pursuant to CAFRA.

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

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

41 The bill requires that these developments be subject to a tiered
42 system of review based upon the proximity of that development
43 to the mean high water line of tidal waters. In municipalities
44 located within the coastal area which meet the criteria of
45 "qualifying municipality" pursuant to section 1 of P.L.1978, c.14
46 (C.52:27D-178) (known generally as "urban aid" municipalities),
47 only those residential development of 75 or more units would
48 need a permit, regardless of its proximity to the water. These
49 provisions would subject certain developments in the coastal area
50 not presently subject to Department of Environmental Protection
51 (DEP) permit review to such review, and would thus substantially
52 close what is commonly referred to as the CAFRA "loophole."

53 The bill also contains a number of additional exemptions from
54 permit requirements and review such as: developments for which

1 on-site construction was in process; the reconstruction of any
2 development which did not require a permit pursuant to CAFRA
3 as originally enacted; the reconstruction of any building or
4 structure damaged or destroyed by fire, storm, natural hazard or
5 act of God; or any development for which a "hardship waiver" has
6 been granted by the Commissioner of Environmental Protection.

7 The bill also contains a provision allowing the Commissioner of
8 Environmental Protection to waive the requirement that an
9 environmental impact statement be prepared for all
10 developments in the coastal area based upon a consideration of
11 the size, type or location of the development, and if the
12 commissioner determines that the requirement of an
13 environmental impact statement would place an unreasonable
14 burden upon the person proposing such a development when
15 compared with any potential adverse environmental impacts. The
16 bill also provides DEP with the discretion to vary certain
17 provisions of the existing environmental impact statement
18 requirements of CAFRA. The bill also allows the commissioner
19 to waive the requirement that a public hearing be held on all
20 permit applications for development in the coastal area.

21 The bill also provides that any determination made by DEP
22 pursuant to the provisions of the CAFRA shall constitute a
23 contested case pursuant to the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.), and that any qualifying
25 interested party would be afforded an opportunity to contest such
26 a determination in an administrative hearing before the
27 commissioner or the Office of Administrative Law.

28 The bill also authorizes the Commissioner of Environmental
29 Protection to approve permits notwithstanding the requirements
30 of CAFRA, in order to "alleviate extraordinary hardship, or to
31 satisfy a compelling public need, and would not result in a
32 substantial impairment of the resources of the coastal area."
33 This "hardship waiver" language is similar to that contained in
34 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1
35 et seq.).

36 The bill also directs the State Planning Commission, in
37 consultation with DEP, to prepare a management plan for the
38 coastal area. The management would become part of the State
39 Development and Redevelopment Plan.

40 The penalty section of CAFRA has been amended to allow for
41 greater civil penalties for violations. The bill provides the DEP
42 with the civil enforcement powers provided under most other
43 environmental acts. In addition to clarifying injunctive powers,
44 the bill increases the maximum level of penalties for violations
45 from \$3,000 to \$25,000. The bill also allows the DEP to issue civil
46 administrative penalties. The bill also provides that penalty
47 monies be deposited in a special nonlapsing fund, to be known as
48 the "Cooperative Coastal Monitoring Enforcement Fund."
49 Penalty monies would be used by DEP to defray the cost of
50 monitoring, surveillance and enforcement activities of the
51 Cooperative Coastal Monitoring Program.

52 The bill also amends R.S.12:5-3 to provide that CAFRA shall
53 be the only State law regarding the regulation of development in
54 the coastal area landward of the mean high waterline of tidal

1 waters. The effect of this provision would be to supersede any
2 regulations that would regulate coastal land development
3 pursuant to what is commonly known as the Waterfront
4 Development Law, R.S.12:5-1 et seq.

5 The bill also requires that the DEP submit annual reports to the
6 Senate Coastal Resources and Tourism Committee, and the
7 Assembly Environment Committee, or their successors,
8 containing information on the efficiency of the permit review
9 process, and any recommendations for enhanced efficiency in
10 implementing the department's responsibilities under the bill.

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

15 The bill also amends section 2 of CAFRA, altering the findings
16 and declarations of the Legislature to reflect the regulatory
17 provisions contained in the bill.

18 The bill also repeals section of 13 of P.L.1973, c.185
19 (C.13:19-13), thereby abolishing the Coastal Area Review Board
20 established therein, repeals section 16 of P.L.1973, c.185
21 (C.13:19-16), which directed DEP to develop a long-term
22 environmental management strategy for the coastal area, and
23 repeals section 22 of P.L.1979, c.111 (C.13:18A-23), which
24 directed the DEP to revise the environmental design for those
25 parts of the coastal area within the Pinelands National Reserve
26 which may conflict with the provisions of federal law regarding
27 the pinelands.

28 The bill also amends the title of P.L.1973, c.185 to reflect the
29 changed emphasis of CAFRA. The bill also amends the short title
30 of CAFRA to the "Coastal Area Development Review Act," thus
31 reflecting the change in terms used throughout the bill.

32 Finally, the bill changes certain definitions from the plural to
33 the singular and makes other technical changes.

34

35

36

37

38 Revises provisions of the "Coastal Area Facility Review Act."

SENATE COASTAL RESOURCES AND TOURISM COMMITTEE

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 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.

ASSEMBLY ENVIRONMENT COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1475

STATE OF NEW JERSEY

DATED: JUNE 17, 1993

The Assembly Environment Committee favorably reports Senate Bill No. 1475 (SCS).

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 in the current law to include a number of industrial facilities, some public facilities, and housing developments of 25 or more units. In contrast, the definition of "development" in the substitute covers more types of 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 300 or more 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 Department of Environmental Protection (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 feet 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 subdivision approval or minor subdivision approval, provided that construction begins within three years of the substitute's effective date; the reconstruction of any development that was damaged or destroyed by fire, storm, natural hazard or act of God; enlargements that do not increase the footprint or number of dwelling units of the development; the construction of a patio, deck or similar structure at a residential development; 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 DEP to issue a general permit in lieu of a CAFRA permit. The department is required to adopt rules and regulations that 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 DEP 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 DEP would be required to provide for a comment period.

The substitute also directs the DEP, in consultation with the State Planning Commission and local governments in the coastal area, 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 DEP 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 DEP 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 DEP 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 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 DEP 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 DEP 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.

Most of the substantive provisions of the substitute would take effect one year after the enactment date.

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

It is the committee's and the sponsors' intent that certain provisions in the substitute be interpreted as follows:

(1) Public facilities shall be regulated according to the number of parking spaces associated with them in the same manner as commercial development is regulated in that regard;

(2) If a municipality has adopted a dune ordinance as stringent as State law and rules and regulations adopted pursuant thereto, as determined by the DEP, then review pursuant to this legislation would not be required for developments on dunes in that

municipality;

(3) No permit would be required pursuant to this legislation to sweep sand from roads;

(4) The last portion of the exemption set forth in subsection f. of section 7 of this legislation, which states that "provided such expansion is located in the area beyond 150 feet landward of the mean high water line, beach or dune, whichever is most landward" should be read to mean that "provided such expansion is located in the area beyond 150 feet landward of the mean high water line."; and

(5) Nothing in this legislation is intended to limit the ability of the Pinelands Commission and the Department of Environmental Protection to ensure, through existing agreements or prospective arrangements as determined to be necessary, that the requirements of section 502 (g)(2)(B) of the "National Parks and Recreation Act of 1978," 16 U.S.C. §471i, have been met in that portion of the Pinelands National Reserve located in the coastal area.



OFFICE OF THE GOVERNOR

NEWS RELEASE

CN-001
Contact:

Jon Shure
Audrey Kelly
609/777-2600

TRENTON, N.J. 08625
Release:

Monday
July 19, 1993

GOVERNOR SIGNS BILL TO BRING SENSIBLE COASTAL DEVELOPMENT

SEA BRIGHT -- Ending more than a decade of gridlock, Governor Jim Florio today signed a bill revamping the state's coastal development law, calling it an historic shore protection effort which will close loopholes in the current law and strike a proper balance between protecting natural resources and providing for economic growth.

"One of the most important things we can do to protect the Jersey Shore is maintain the fragile balance along our coast between nature and our economic and recreational needs," said Governor Florio, standing on the Sea Bright boardwalk. "Today, we're keeping that commitment and keeping the heartbeat of our shore beating strong. I came here to sign a bill that breaks 13 years of gridlock, so we can protect our precious natural resources for generations to come."

"This bill affords coastal protection close to the water's edge and still allows people to rebuild after storms and make most home improvements without running a gauntlet of permits and paperwork," said Governor Florio. "It assures that development in the most sensitive parts of the coastal area is constructed to protect our water quality, promote public access and enhance the beauty of our shore."

The Coastal Area Facilities Review Act (CAFRA) was first enacted in 1973 and was designed to control the development of industrial and commercial facilities along desirable coastal areas. Commercial development consisting of 300 or more parking spaces was also subject to review. The law came under criticism over a "loophole" which only required a review of residential developments of 25 or more units, which left the coastline dotted with a patchwork of 24-unit developments.

The new law removes the loophole that allowed intrusive development on or near sand dunes and shore; it replaces the definition of "facility" with a definition of "development". It requires *all* development to be subject to a tiered system of review based upon its proximity to the high water line of tidal

waters, a beach or dune. All new development proposed on a beach or dune would be subject to permit review. In addition, the new law would regulate other development in the following ways:

- Within 150 feet of the high water line, beach or dune (whichever is closest to land), any development which constitutes "first use" in that area would be subject to permit review. If there is an existing structure within 150 feet of the water, beach or dune, only residential development with three or more units, commercial development with five or more parking spaces, and all public and industrial developments would require permit review.
- Beyond 150 feet from the mean high water line, beach or dune, residential developments of 25 or more units, commercial developments with 50 or more parking spaces, and all industrial and public developments would be subject to permit review.

For "urban aid" municipalities, such as Asbury Park or Keansburg, any residential development having 75 or more units or any commercial development having 150 or more parking spaces would be subject to review beyond 500 feet of the water, beach or dune, whichever is most inland.

The new law streamlines the permitting process by allowing the state Department of Environmental Protection and Energy (DEPE) to issue general permits in lieu of a full-blown CAFRA permit after adopting regulations establishing categories and criteria for general permits. It cuts red tape by abolishing the Coastal Area Review Board and eliminates the requirement for a public hearing and an environmental impact statement for each CAFRA project, leaving it up to the DEPE to establish information and public participation requirements by rule.

The legislation provides an absolute right to rebuild any damaged coastal development, provided that such reconstruction is in compliance with existing state and federal law. As a result of DEPE's expanded authority to regulate development in the CAFRA zone, the department will be better able to implement the federally-approved Pinelands Management Plan in accordance with the state's Pinelands Protection Act and the federal National Parks and Recreation Act of 1978, which the Governor sponsored while in Congress.

"Our 127 miles of New Jersey coastline are a sanctuary for people and sea life, and the star attraction of our tourism industry. We must protect the Shore from environmentally-intrusive development now and forever," said Governor Florio.

"For our urban towns with aging waterfronts, we're providing important economic incentives to attract new investment and create jobs," he said. "For homeowners, we're not looking over your shoulder if you're building a new patio or deck or sweeping sand off your property. And everyone will find a more efficient permit process."

Governor Florio noted the new law was the product of bi-partisan agreement among the Administration, the environmental community and the building industry. The Governor gave credit to the environmental community and the business industry for putting shore protection ahead of special interests. This coalition also laid a strong foundation for future discussions of coastal protection issues.

"Some would prefer to let our laws stand as they are. But the vast majority, especially after the storms of the past couple of years, see the wisdom of taking steps to provide greater protection for our fragile coastline," said Governor Florio. "This bill is a good first step, but there will always be more for us to do. Because in the end, we can't preserve New Jersey's way of life if we don't preserve the Shore."

"For us, living near the ocean means a special responsibility to keep our shore economy strong, our water clean and our coastlines pristine for the next generation," he said.

The CAFRA region extends from the confluence of the Cheesequake Creek and Raritan Bay in Middlesex County, along the Atlantic Ocean coastline and Delaware Bay, northwest along the Delaware River to Pennsville, Salem County. It includes all riparian, tideland and wetland acreage, encompassing 1,376 square miles of land area, and ranges in width from a few thousand feet to 24 miles.

S 1475 was sponsored by Senators Joe Kyrillos and John Bennett, and Assemblypersons Maureen Ogden, Steve Corodemus and Tom Smith.

#