

Routine Program Change - Summary of rule changes and significance of change
Coastal Zone Management rules -Subchapter 7
Use rules
February 6, 2006

The rule changes described in detail below do not change the program approvability areas of special management areas and boundaries. While the rule changes may affect the program approvability areas of uses subject to management, authorities and organization or consideration of the national interest, these changes are not substantial for the reasons set forth below.

Rule Citation	Rule Change	Significance of Change
7:7E-7.1 Purpose	Changes to grammar	Changes in grammar for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-7.2 Housing use	Lot considered "infill" if development is located within 100 feet of both sides of the property	The change in determining whether a lot is considered "infill" does not substantially change the uses subject to management. This rule has contained an "infill" criterion for the construction of a single family home or duplex in a coastal high hazard area or erosion hazard area since 1990. However, individual single family dwellings were not regulated by the CMP until amendments to CAFRA took effect in July 1994. The infill criterion is intended to allow construction in areas where an undeveloped lot is already surrounded by other development. Prior to this change, a lot was considered "infill" if each of the lots abutting either side of the applicant's lot contained a building located within 100 feet of the applicant's lot lines. After several years experience regulating single family dwellings, the Department identified a problem with the requirement that the nearby developed lots abut the applicant's lot. This meant that an applicant whose lot had a building 50 feet away on each side would be eligible for a permit if the lots containing those buildings abut the applicant's lot, but would not be eligible for a permit if one of the nearby buildings were on a lot that is separated from the applicant's by another intervening lot. Many lots on the coastal area are only 40 to 50 feet wide. In some cases, the rule required the Department to allow a new house to be built as "infill" in an open space as large as 100 feet, while preventing construction of a house on a smaller lot with more surrounding development because a small, intervening lot existed between the proposed development and a neighboring house. This was contrary to the Department's intention in promulgating the original rule, which was to allow construction in areas where an undeveloped lot was already closely surrounded by other development. The change to this rule removes the abutting lot criteria. Therefore, in determining if a lot is infill, the Department will only consider whether there is a building within 100 feet on either side of the lot. The rule no longer requires that the Department consider whether the nearby building is on an adjacent lot or on one separated from the subject lot. This change is more in keeping with the original intent of the rule, that is to evaluate infill based on the amount of change to this rule continues. The infill rule change does not affect development on dunes.
	Changes to format and codification of standards for construction of a single family home/duplex located upland of the mean high water line to match the coastal general permits for construction, reconstruction (with or without expansion) of a home/duplex	Changes in format and codification for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	Requires construction or reconstruction (with or without expansion) of a home/duplex comply with the dune rule, unless it is located: (1) on the most landward slope of a secondary or territory dune; or	This change does not substantially change the uses subject to management or national interest. For 16 years, the CMP did not regulate the construction of individual single family dwellings. After several years experience reviewing applications for expansion or reconstruction of single family dwellings located on dunes and numerous site inspections the Department decided that the rule imposed on these single family dwellings in 1994, which prohibited expansion/reconstruction adversely affecting the dune system, should be revised. Based on the above, the Department determined that in limited situations the construction of a new, or reconstruction or expansion (with or without expansion) of a single family home or duplex in limited situations is acceptable.

Rule Citation	Rule Change	Significance of Change
7:7E-7.2 Housing use (continued)	(2) on a dune that is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead that existed on July 19, 1993	Therefore, the construction of a new, or reconstruction or expansion (with or without expansion) of a single family home or duplex on a secondary or tertiary dune is acceptable where the intervening dune is of sufficient volume to provide protection during a 100-year storm without resulting in a significant adverse long-term impact on the natural functioning of the beach and dune system. This is also true for dunes that have been isolated from the active beach and dune system by a paved public road, or public seawall or bulkhead maintained by a public entity of a sufficient size to eliminate the protective functioning of the dune. The change furthers the national interest in providing adequate consideration in the protection of barrier islands.
	Allows expansion or reconstruction of home/duplex on dune provided: (1) dwelling legally existed on July 19, 1993; (2) reconstruction is located within same footprint; (3) total area of disturbance does not exceed cumulative surface area of 750 square feet on the dune; (4) expansion is located on landward side of existing or reconstructed dwelling; and (5) dune area waterward of dwelling is enhanced through placement of sand and planting of native dune vegetation	<p>The change allowing the reconstruction or expansion of a home/duplex located on a dune in limited situations does not substantially change uses subject to management or national interest. The 1993 amendments to CAFRA resulted in the regulation of single family homes/duplexes within 150 feet of the mean high water line of a tidal water or landward limit of a beach or dune whichever is most landward. As a result of these amendments, beachfront homes/duplexes along the Atlantic Ocean and Delaware Bay became regulated by the Department. Prior to this, the CMP did not regulate the construction of individual single family dwellings. After several years experience reviewing applications for expansion or reconstruction of single family dwellings located on dunes and numerous site inspections the Department decided that the rule imposed on these single family dwellings in 1994, which prohibited expansion/reconstruction adversely affecting the dune system, should be revised. In an effort to balance the protection of the beach and dune system with the ability of property owners to make improvements to their property which prior to 1993 were not regulated under CAFRA, the Department has determined that in limited circumstances the reconstruction or expansion of a home/duplex located on a dune is acceptable. Specifically, the Department has determined that the expansion of a home/duplex by no more than 750 square feet on a dune within the area between lines extended landward and perpendicular to the mean high water line from the widest shore parallel points of the home/duplex will not result in a significant long-term impact on the natural functioning of the beach and dune system. Since the expansion is limited in size and must be located behind the existing or redeveloped dwelling, the associated impacts are minimal. In addition, this change requires that the dune area waterward of the home/duplex be enhanced with the placement of additional sand and native dune vegetation thereby improving the protection provided by the dune.</p> <p>The changes to this rule also allow the reconstruction of a home/duplex with an increase in the footprint of development. For every 10 feet the reconstructed home is set back landward if the existing footprint, the total area of the home may be increased by 200 square feet. Any expansion under this provision must be located on the non-waterward side of the new home. This change provides an incentive for property owners to relocate the reconstructed home further landward from the beach and dune. Enhancement of the dune area on the waterward side of the development is required through the placement of sand and native dune vegetation.</p> <p>The changes to this rule also allow the expansion of a home/duplex located on a dune through the enclosure of an existing deck, patio or porch. This provision is intended to allow minor expansions of the footprint of the home while limiting future development on the dune. Since the expansions are limited to existing decks, patios and porches on the non-waterward side of the home/duplex and limited to 400 square feet, the Department has determined that such activities will not have a significant, long-term adverse impact on the natural functioning of the beach and dune system.</p> <p>A conservation restriction for the dune area located waterward of the existing and/or approved home is required, thus ensuring that the protection of the dune remains in place. Based on the above, these changes are not substantial and continues to consider the national interest in the protection of barrier islands.</p>

Rule Citation	Rule Change	Significance of Change
7:7E-7.2 Housing use (continued)	<p>➤ Requires new construction, expansion or reconstruction of home/duplex located along a coastal bluff on the Atlantic Ocean, Delaware Bay, Raritan Bay or Sandy Hook Bay be setback 25 feet from top of bluff</p> <p>➤ Reduces setback for homes/duplexes not located along above waterways from 25 feet to 10 feet from top of bluff</p>	<p>The change to this rule allowing the construction of individual single family homes and accessory structures on a coastal bluff does not substantially change the uses subject to management and the national interest. Development, including single family homes has always been subject to a setback requirement from the top of bluff. However, individual single family dwellings have only been regulated since 1994. Under the amendments described herein, the setback from single family homes has been reduced from 25 feet from top of bluff to 10 feet. The rule requires that the proposed disturbance associated with the construction not result in the loss of stability of the bluff or vegetation on the face of the bluff. In addition, to the 10 foot setback, any development associated with the single family home that requires excavation must be setback from the of the bluff an additional foot for each foot of excavation. For example, a swimming pool that requires 8 feet of excavation must be setback 18 feet from top of bluff (10 foot setback plus one foot for each foot of excavation required.) It is anticipated that this change will allow the construction of single family homes closer to the face of the bluff while preserving the integrity of the bluff through retaining and protecting vegetation on the bluff proper construction and design techniques for any new foundation. The reduced setback for single family homes does not apply to the high-energy shoreline of the Atlantic Ocean, Delaware Bay, and Sandy Hook and Raritan Bays.</p> <p>The change to the setback requirements for this rule will continue to preserve the national interest in erosion hazard areas. The main objective of the national interest of these areas is to avoid short and long term impacts associated with high risk erosion hazard areas. The rule continues to require a setback from the top of bluff and also requires that the proposed disturbance not result in the loss of stability of the bluff. Further, the reduced setback for single family homes does not apply to the high-energy shorelines of the Atlantic Ocean, Delaware Bay, and Sandy Hook and Raritan Bays where the potential for damage of structures s much greater because of the structure's exposure to increased wave heights.</p>
	<p>➤ Setback for homes /duplexes eliminated if: (1) development is not located along the Atlantic Ocean, Delaware Bay, Raritan Bay or Sandy Hook Bay; and (2) proposed development is located within developed bluff area; or (3) proposed development is located landward of developed bluff area</p> <p>➤ "Developed bluff area" is area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993</p>	<p>The change does not substantially change uses subject to management or national interest. The 1993 amendments to CAFRA resulted in the regulation of single family homes/duplexes within 150 feet of the mean high water line of a tidal water or landward limit of a beach or dune whichever is most landward. As a result of these amendments, single family homes/duplexes located on coastal bluffs became regulated by the Department. Prior to this, the CMP did not regulate the construction of individual single family dwellings. After several years experience reviewing applications for expansion or reconstruction of single family dwellings located on coastal bluffs and numerous site inspections the Department decided that the rule imposed on these single family dwellings in 1994, which had no exceptions for the single family home redevelopment on developed bluff areas should be revised. This change is in recognition that until July 19, 1993, the Department did not regulate development of individual single family homes or duplexes in the CAFRA area and as a result, development occurred on coastal bluffs. This change balances the homeowner's ability to modify existing development on a bluff while protecting the undeveloped bluff areas. The change to the setback requirements for this rule will continue to preserve the national interest in erosion hazard areas.</p>
	Replaces Department standards with National Flood Insurance Program standards for single family homes/duplexes	<p>This change does not substantially change uses subject to management or the national interest. The housing use rule has always contained standards for the elevation of the lowest habitable floor of a single family home/duplex. This change replaces the Department's standard with a requirement that the development comply with the elevation and flood proofing standards of the National Flood Insurance Program since the Department's standards do not address all the complexities of the NFIP regulations concerning elevation and flood proofing. This change also makes the elevation and flood proofing standards the same as the municipal standards. This change furthers the national interest in protecting the public in flood hazard and erosion hazard areas.</p>

Rule Citation	Rule Change	Significance of Change
7:7E-7.2 Housing use (continued)	Updated cross-references	Changes updating cross-references for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-7.3 Resort/recreational use	Changes to punctuation and updated cross-references	Changes to punctuation and updating cross-references for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	Defined amusement pier	The addition of this definition does not substantially change the uses subject to management. A definition of amusement pier was added since the CZM rules address development of or on several types of piers. This definition will distinguish amusement piers from those piers in Atlantic City, which potentially could contain casino hotel and gambling related development for which this rule is not intended.
7:7E-7.3A Marina development	Changes in terminology	Changes in terminology for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-7.4 Energy use	<ul style="list-style-type: none"> ➤ Refined definition of energy facility to specify energy facilities include facilities, plants or operations for exploration, development, extraction/ processing of energy or fossil fuel 	<p>The changes to the definition of energy facilities do not substantially change uses subject to management or national interest. The Energy Use rule is divided into specific sections, each of which contains the standards for different energy uses, and all of which are under the heading Energy Facility Use: Outer Continental Shelf (OCS) oil and gas exploration and development, 7:7E-7.4(d); onshore support bases, 7:7E-7.4(e); platform fabrication yards and module construction, 7:7E-7.4(f); repair and maintenance facilities, 7:7E-7.4(g); pipe coating yards, 7:7E-7.4(h); pipelines and associated facilities, 7:7E-7.4(i); gas separation and dehydration facilities, 7:7E-7.4(j); gas compressor stations, 7:7E-7.4(k); gas pigging facility, 7:7E-7.4(l); gas processing plants, 7:7E-7.4(m); other gas related facilities, 7:7E-7.4(n); oil refineries, 7:7E-7.4(n); oil refineries, 7:7E-7.4(o); storage of crude oil, gases and other potentially hazardous liquid substances, 7:7E-7.4(p); tanker terminals, 7:7E-7.4(q); electric generating facilities (for base load, cycling, or peaking purposes) and related facilities, 7:7E-7.4(r); liquefied natural gas facilities, 7:7E-7.4(s). Thus the specific uses identified are The change to the definition specifying the types of energy facilities subject to this rule makes the definition inclusive of all the energy facilities that are identified in the rule. Reference to the Department of Energy Act was deleted since this was the only provision of the Act used in the rule.</p>
	<ul style="list-style-type: none"> ➤ Deleted reference to Department of Energy Act ➤ Siting standards revised to reflect the legislative amendments of CAFRA instead of siting based on need ➤ Changes made to oil refineries and petro-chemical facilities and electric generating station sections to delete requirement of demonstrated need 	<p>However, the intent of the reference to this Act remains, that is, not to include retail dealers as energy facilities. For the purposes of clarity, an example of a retailer dealer, gas stations, and a description of these facilities as commercial has been added for clarity. These changes continue to preserve the national interest in energy facilities. The changes to the standards for siting of energy facilities do not substantially change the uses subject to management or national interest. Prior to the 2003 changes, the siting standards provided for determinations to be made by the Department's Office of Energy, and referred to the State Energy Master Plan. The rule required consideration of the need for the energy facility. In 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 to 98, significantly modified the regulation of the energy industry in New Jersey. The Act indicated the intent to lower the high cost of energy and improve the quality of services, thereby improving the quality of life and placing the State in an improved competitive position in regional, national and international markets. The Act placed greater reliance on competitive markets. The Act also reduced the role of the Board of Public Utilities, which had replaced the Office of Energy, and moved the State away from consideration of need for energy facilities. As a result, the siting standards were replaced with standards that reflect the legislative mandate of CAFRA to work within the framework of a comprehensive environmental design strategy which preserves the most ecologically sensitive and fragile area from inappropriate development and provides adequate environmental safeguards for the construction of any developments in the coastal area. These standards are to be considered in selecting a site for an energy facility. Whereas the previous siting standards referred to the State Energy Master Plan, the revised standards are explicit in terms of what resources to consider in selecting a site for a facility.</p>

Rule Citation	Rule Change	Significance of Change
7:7E-7.4 Energy use (continued)		<p>These revised standards also take into account the potential effects of the facility on coastal resources, including scenic resources, and public use of the resources. The rule requires that energy facilities not be sited in certain Special Areas or marine fish and fisheries areas, unless site-specific information demonstrates that the facilities will not result in adverse impacts to these areas. The list of Special Areas includes those that are environmentally sensitive resource areas which may be adversely affected by energy development and not those where development is specifically encouraged, such as Special Urban Areas. Additionally the rule requires that facilities that are not water dependent be at least 500 feet inland of the mean high water line in the CAFRA area and in the limited growth and extension regions in the upland waterfront development area. These are the Western Ocean, Southern, Mullica-Southern Ocean, Great Egg Harbor River and Delaware Estuary regions. The set back requirement does not apply in Development regions where the general policy is to promote growth through infill and limited extension. Limited growth regions are those regions that contain large environmentally sensitive areas. Extension regions are regions where development should be channeled only after full development of the development regions, and where environmental sensitivity is weighed more heavily than in development regions, and where environmental sensitivity is weighed more heavily than in development regions. Water dependent facilities are exempted from the set back requirement since they require access to the water. The rule also requires that public access to and use of the waterfront and tidal waters is to be maintained and enhanced where feasible. Scenic and visual qualities of the coastal area are to be maintained as well.</p> <p>The deletion of the requirement that there be a demonstrated need for oil refineries and petrochemical facilities and electric generating stations does not substantially change the uses subject to management or national interest. As described above, as a result of the deregulation of the industry by the Electric Discount and Energy Compensation Act, the need of the facility is no longer considered in the siting of the facility. Instead, the siting standards are based on location of the proposed facility and potential effects on the coastal resources.</p> <p>The changes to the standards for siting energy facilities continue to preserve the national interest in energy facilities while also considering the national interest in recreation, public access to the waterfront, wetlands, endangered flora and fauna, living marine resources, floodplain and erosion hazard areas.</p>
	<p>Changes made to reflect current terminology, specifically:</p> <ul style="list-style-type: none"> (1) "Coastal Resource and Development Policies" to "Coastal Zone Management rules" (2) "Bay and Ocean Shore Segment" to "CAFRA area" where it applies to area above mean high water line (3) "Bay and Ocean Shore Segment" to "CAFRA area and coastal waters" where it applies to both area above and below mean high water line (4) "less developed area" "In and along the Atlantic Ocean and Delaware Bay to "CAFRA area" 	<p>Changes to update terminology for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.</p>

Rule Citation	Rule Change	Significance of Change
7:7E-7.4 Energy use (continued)	<p>(5) "territorial sea" to "coastal waters" since it does not only refer to the Atlantic Ocean as the term Territorial sea implies</p> <p>(6) "Built up area of coastal zone along Hudson, Raritan and Delaware Rivers" To "Urban area, Delaware and Northwest regions</p> <p>(7) updated names of Port of New York and New Jersey and Port of Camden and Philadelphia</p>	Changes to update terminology for the purposes of consistency throughout the Chapter are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	<p>➤ Deleted provision prohibiting pipeline corridors for landing oil in Central Pine Barrens area of Mullica River and Cedar Creek watersheds and portions of Rancocas Creek and Toms River watersheds</p> <p>➤ Deleted provision discouraging pipeline corridors for natural gas in Central Pine Barrens area</p>	<p>The changes concerning provisions relating to the Central Pine Barrens Area do not substantially change the uses subject to management or national interest. Prior to 2003, pipeline corridors for landing oil in the Central Pine Barrens area of the Mullica River and Cedar Creek watersheds and portions of the Rancocas Creek and Toms River watersheds, defined as a "critical area" for sewerage purposes and in non-degradation surface and groundwater quality standards at N.J.A.C. 7:9 were prohibited. Such landings were discouraged in other undeveloped parts of the Pine Barrens. Similarly, pipeline corridors for natural gas were discouraged unless the developer could demonstrate that the construction and operation of the proposed pipeline would meet the adopted non-degradation standards for water quality and cause no long-term adverse environmental impacts. The term "Central Pine Barrens area" is no longer used in describing Pinelands regions, nor do the rules cited still refer to this critical area. Moreover, since the energy use rule was first adopted in 1978, the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq. was enacted in 1979 and the Pinelands Comprehensive Management Plan was adopted in November 1980. The Comprehensive Management Plan sets forth specific standards for development of such facilities in the various regions of the Pinelands. The CZM rules' Pinelands National Reserve and Pinelands Protection Area rule, sets forth the standard for coastal development in the Pinelands. It requires that coastal development be consistent with the intent, policies and objectives of the National Parks and Recreation of 1978, P.L. 95-625, Section 502 and the State Pinelands Protection Act, N.J.S.A. 13:18A-1.</p> <p>Furthermore, the CZM rules on water quality and location of linear development protect surface water, groundwater and other sensitive resources from potential adverse impacts of pipeline corridor development. If the proposed development is also located within the Pinelands Protection Area or the Pinelands Preservation Area, it must also receive approval of the Pinelands Commission. Therefore, these outdated standards referring to the Central Pine Barrens Area were deleted. These changes continue to preserve the national interest in energy facilities while continuing to preserve the national interest in water quality.</p>
	Changes in grammar and punctuation for clarity	Changes in grammar and punctuation for clarity are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	Clarified that the "pig" is removed at an onshore "pigging facility"	The change clarifying where the "pig" in a gas pigging facility is removed does not substantially change the uses subject to management. This change is a minor technical change correcting the location of where the "pig" is removed.
	<p>➤ Deleted standard for compliance with US Department of Transportation regulation for other gas-related facilities</p> <p>➤ Deleted requirement that new or expanded electric generating facilities comply with applicable Federal and State regulation and Coastal Zone Management rules</p>	The deletion of these standards does not substantially change the uses subject to management or national interest because compliance with these and any other applicable Federal regulations is required regardless of the standards in this rule.

Rule Citation	Rule Change	Significance of Change
7:7E-7.4 Energy use (continued)	<ul style="list-style-type: none"> ➤ Deleted requirement that an EIS be submitted that demonstrates that a new oil refinery or petrochemical facility has no unacceptable harm ➤ Encourages new oil refineries and petrochemical facilities outside of the CAFRA area to be located in industrial areas accessible to both their potential labor force and existing infrastructure 	<p>The changes to the standards for oil refineries and petrochemical facilities do not substantially change the uses subject to management or national interest. The requirement that an EIS be submitted was deleted since all application requirements and procedures are set forth in the Coastal Permit Program rules, N.J.A.C. 7:7, including the requirements for an EIS. Further, the provision encouraging these facilities outside of the CAFRA area to be located in industrial areas accessible to both their labor force and existing infrastructure is intended to enable a facility to avail itself of existing distribution systems and waste treatment systems. These changes continue to preserve the national interest in energy facilities.</p>
	<ul style="list-style-type: none"> ➤ Deleted reference that liquefied natural gas is transmitted by pipeline to a base-load electric generating station ➤ Updated reference to Federal regulations for the siting and operation of liquefied natural gas facilities 	<p>These changes do not substantially change the uses subject to management or national interest. Reference that liquefied natural gas is transmitted by pipeline to a base-load electric generating station was deleted since the transmission may also be to an inter or intrastate system. This change ensures that there are standards applicable to all liquefied natural gas facilities. Further, the listing of Federal regulations that apply to the siting and operation of LNG facilities has been updated. These changes continue to preserve the national interest in energy facilities.</p>
7:7E-7.5 Transportation use	<ul style="list-style-type: none"> ➤ Recodified intercept parking standards as part of the Atlantic City special area rule ➤ Deleted provision addressing hotel-casino facility parking contributions 	<p>The changes to this rule do not substantially change the uses subject to management or national interest. In order to consolidate the rules related to Atlantic City, the standards for intercept parking were codified as part of the Atlantic City special area rule, with one exception. The provision addressing parking contribution requirements was deleted. This provision required casino-hotels comply with their CAFRA permit requirement of contributing toward an equitable regional transportation solution in reducing traffic congestion in and out of Absecon Island by January 5, 1994.</p> <p>Casino-hotel facilities that had not complied with this provision were required to submit a peak hour travel demand reduction plan to the Department for approval by July 5, 1993. The above requirements were deleted because they were to be satisfied in 1993 and 1994, and therefore are no longer relevant. The changes to this rule continue to preserve the national interest in transportation.</p>
	Updated cross-reference	Changes to update cross-references are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-7.6 Public facility use	Changes to codifications, grammar and terminology	Changes to codifications, grammar and terminology are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
	<ul style="list-style-type: none"> ➤ Added definition of "Solid waste facility" ➤ Solid waste facilities shall not be located in coastal wetlands ➤ Requires solid waste facilities be consistent with Solid and hazardous waste rule, N.J.A.C. 7:7E-8.22 	<p>The changes to this rule concerning solid waste facilities do not substantially change the uses subject to management. A definition of solid waste facility consistent with the Department's solid waste rules, N.J.A.C. 7:26-1.4 has been added for the purposes of clarity. The provision prohibiting sanitary landfills within a wetland has been clarified to provide that solid waste facilities shall not be located in a coastal wetland as provided in the Wetlands Act of 1970. This change has been made to alleviate confusion caused by the term wetlands. The wetlands subject to the Wetlands Act of 1970 are subject to this Coastal Zone Management rules and those subject to the Freshwater Wetlands Protection Act are subject to the Freshwater Wetlands Act rules, N.J.A.C. 7:7A. This provision is being further modified to apply to all solid waste facilities instead of only sanitary landfills.</p>

Rule Citation	Rule Change	Significance of Change
7:7E-7.6 Public facility use (continued)		The change in terminology from “sanitary landfill” to “solid waste facility” was necessary because the term “solid waste facility” is more comprehensive and includes a variety of solid waste facilities that were previously addressed in the standards relevant to general public facilities previously codified as N.J.A.C. 7:7E-7.6(b) and currently codified at N.J.A.C. 7:7E-7.6(d). This change does not preclude the placement or expansion of solid waste facilities in freshwater wetlands or transition areas. The placement or expansion of a solid waste facility in a freshwater wetland or a transition area must comply with the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A. Further, the changes to this rule require that the facility comply with the Solid and Hazard Waste rule at N.J.A.C. 7:7E-8.22.
7:7E-7.7 Industry use	Changed definition of “industry” to delete SIC codes and replace them with verbal description consistent with definition in Coastal Permit Program rules, N.J.A.C. 7:7	<p>The changes to the definition of “industry use” are not considered substantial changes to uses subject to management. Prior to this change, Industry uses were defined by the Standard Industrial Classification (SIC) categories 2011 to 3999, excluding 2991 (petroleum refining) since that industry was addressed by the Coastal Zone Management rules’ Energy use rule. The Standard Industrial Classification (SIC) codes were a national business coding system that was in effect from the 1930’s until April 1997. The SIC codes were last revised by the Federal Office of Management and Budget in 1987 and published in an SIC manual.</p> <p>In 1992, the Office of Management and Budget formed the US Economic Classification Policy Committee, which consisted of representatives of the US, Canada and Mexico, developed a new coding system to replace SICs. The goal of this committee was to develop a classification system that identifies additional types of industries, is organized according to a consistent economic principle, and is uniform for Canada, Mexico and the United States. As a result of this committee, a new coding system known as the North American Industrial Classification System (NAICS) was adopted in April 1997. The new NAIC codes are based on a production-oriented framework which groups industry according to similar processes used to produce goods or services. The NAICS changes the manner in which industry is classified from being classified using business activity to using a production/process classification, and thus conversion from the SIC to NAIC system is not always one to one.</p> <p>The United States began implementing NAICS in 1997. The various United States statistical agencies will be phasing in the publication of NAICS-based data between 1999 and 2004.</p> <p>Since “industry” was defined based on these coding systems, this rule had to be amended to reflect the new classification system. Upon review of this rule, the Department determined that codes were used since they were a well-known method of classification. However, since the new coding system does not always correlate with the old SIC system, the references to the SIC codes were proposed for deletion.</p>
		Instead, the existing definition of “industry” was amended to incorporate the language of the definition of “industrial development” as defined in the Coastal Permit Program rules at N.J.A.C. 7:7-1.3, thus ensuring that the scope of the uses considered “industry” under this rule is not changed. Examples of industry uses were also included as part of the definition.
	Changes to grammar and cross-references	Changes to grammar and cross-references are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes. Since 1980, the Coastal Zone Management rules have encouraged industry in special urban areas, not special water areas. The change from special “urban” areas to special “water” areas was a misprint in the New Jersey Administrative Code. Therefore, the Department corrected the error in 2003.
7:7E-7.9 Port use	Changes in punctuation and grammar	Changes in punctuation and grammar are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.

Rule Citation	Rule Change	Significance of Change
7:7E-7.10 Commercial facility use	Standards for location of casino-hotels are recodified as part of Atlantic City special area rule	The change to this rule recodifying the standards for the location of casino-hotels into the Atlantic city special area rule does not substantially change the uses subject to management. This change was made to consolidate all rules that are specific to Atlantic City.
	Deleted casino-hotel standards: (1) Requiring compliance with certain Coastal Zone Management rules; and (2) Encouraging hotel-casino development and new residential development	The deletion of these standards does not substantially change the uses subject to management or national interest. The standard that requires hotel-casino development to comply with the High-rise structures, Transportation use and Traffic rules has been deleted because the Atlantic City special area rule requires that development comply with all the CZM rules. Further, the general policy statement encouraging hotel-casino development and residential development in Atlantic City to ensure that the objectives of the 1976 constitutional referendum on casino gambling are achieved has been deleted and replaced with the Atlantic City special area rule. The Atlantic City special area rule is intended to facilitate certain types of urban development and encourage redevelopment of Atlantic City and its beach and oceanfront facilities, in recognition of Atlantic City's unique situation based on the 1976 referendum approving casino gaming in Atlantic City. In addition, the adoption of the Atlantic City special area rule furthers the goal of redevelopment of this urban area as set forth in New Jersey's State Development and Redevelopment Plan, the 1976 referendum approving casino gambling in Atlantic City, and is consistent with the goals of CAFRA and the Coastal Zone Management Act (assisting the redevelopment of deteriorating waterfronts). By furthering the goals of these Acts, the Atlantic City rule preserves the national interest in protecting recreation, public access and furthers the national interest by promoting the redevelopment of deteriorated coastal urban areas.
7:7E-11 Coastal engineering	Clarified that shore protection priority standards do not apply to water dependent uses	This clarification does not substantially change the uses subject to management or national interest. The CZM rules attempt to balance the economic interest in development with resource protection. Maintenance and expansion of existing ports is one of the basic goals of the coastal management program, as is protection and enhancement of the coastal ecosystem. Both the Port special area rule and the Port use rule further the goal of port maintenance and expansion. Prior to this change, the Coastal engineering rule provided that coastal engineering use rules do not apply to water dependent uses in existing ports. This language was revised to clarify that this exemption applies only to shore protection priority standards. The standards for structural shore protection are already designed to balance need to provide shore protection with minimization of impacts to natural coastal resources and therefore would provide for essential shore protection within ports. The beach and dune management standards do not typically apply within these areas. This change continues to preserve the national interest in protecting existing port uses.
	Added gabions to the list of shore protection structures	The addition of gabions to the list of shore protection structures does not substantially change the uses subject to management or national interest. Gabions were added to the list of shore protection structures because gabions are being used more frequently as a means of structural shore protection.
	Added standards for replacement bulkheads of corrugated material	The changes to this rule that further clarify the acceptability standards for replacement bulkheads do not substantially change the uses subject to management. The standards for maintenance or reconstruction of an existing bulkhead have been further clarified to address the location of a replacement bulkhead when a corrugated material is used. Further, for the purposes of clarity, the standards for replacement bulkheads have been further codified.
		Prior to this rule change, a replacement bulkhead was required to be located within 18 inches of the existing bulkhead unless it could be demonstrated that the existing bulkhead could not accommodate an 18 inch replacement. A new standard for replacement bulkheads constructed of a corrugated material has been added since many replacement bulkheads are now being constructed of a corrugated non-polluting material, such as recycled plastic. This new standard requires that a replacement bulkhead of a corrugated material shall be located no more than 24 inches outshore of the existing bulkhead as measured from the waterward face of the existing bulkhead to the waterward face of the corrugated bulkhead. This provision recognizes that an additional area (beyond the 18 inches for other bulkhead replacement) is necessary to accommodate the corrugation.

Rule Citation	Rule Change	Significance of Change
7:7E-7.13 National Defense	Changes in grammar and cross-references	Changes to grammar and cross-references are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.
7:7E-7.14 High-rise structures	Exempts high-rise structures located in the Redevelopment Zone of the City of Long Branch from the requirement that the longest lateral dimension of the structure be oriented perpendicular to the beach or coastal waters.	<p>This change does not substantially change the uses subject to management or national interest. Prior to this change, the rule required the longest lateral dimension of any high-rise structure be oriented perpendicular to the beach or coastal water. This requirement was intended to preserve physical and visual access to the waterfront.</p> <p>In February 1998, the Department adopted the City of Long Branch Redevelopment Zone Permit which requires CAFRA-regulated development be consistent with the City's Design Guidelines Ordinance for its redevelopment zone. The Department participated in the development of the Design Guidelines Ordinance to ensure that it was consistent with the Coastal Zone Management rules, N.J.A.C. 7:7E. The City of Long Branch Design Guidelines Ordinance contains a new approach to ensuring that the visual and physical access to the waterfront is not compromised. The Design Guidelines Ordinance suggests that the orientation of a building is a site design decision that is governed by a range of different rules and development objectives such as the use of the proposed building and its physical relationship to its neighbors, size of tract, building type and profile, setback requirements, site service and access, etc. Therefore, the "best" solution for the orientation of a building is a unique one. The Design Guidelines contain setback, bulk, height and building line requirements which all contribute to addressing the objective of providing visual and physical access to the waterfront without deflating the shoreline. Since the Design Guidelines achieve the planning goals of this rule with respect to building orientation, high-rise structures in the City of Long Branch's Redevelopment Zone are not required to meet the building orientation standard but instead are required to comply with the Design Guidelines and the Redevelopment Zone Permit.</p> <p>This change preserves the national interest in protecting public access, both physical and visual to the waterfront and furthers the national interest by promoting the redevelopment of deteriorated coastal urban areas.</p>
	Added development on or above the existing ocean piers in Atlantic City to the list of developments exempted from this rule	<p>This change does not substantially change the uses subject to management or national interest. Utility structures that have a demonstrated need are already exempted from this rule. Under this change, the rule does not apply to development on or over the existing ocean piers in Atlantic City. The Atlantic City rule allows high-rise structures on and over the existing ocean piers. However, these structures will not, by virtue of their location, satisfy the standards of the High-rise rule. Standards have been incorporated into the Atlantic City rule to provide for light and air penetration to the beach, Boardwalk and water, and to maintain a sense of "openness" along the Boardwalk for pedestrian traffic.</p> <p>The Atlantic City special area rule furthers the goal of redevelopment of this urban area as set forth in New Jersey's State Development and Redevelopment Plan, the 1976 referendum approving casino gambling in Atlantic City, and is consistent with the goals of CAFRA and the Coastal Zone Management Act (assisting the redevelopment of deteriorating waterfronts). The changes to this rule facilitate the Atlantic City rule. The Atlantic City rule and the changes to this rule continue to preserve the national interest in protecting recreation and public access and further the national interest by promoting the redevelopment of deteriorated coastal urban areas.</p>
	Added formal definition of high-rise structure	This change does not substantially change the uses subject to management. Prior to this change, the rule implied that a high-rise structure was any structure more than 6 stories or more than 60 feet from existing pre-construction ground level. The change to this rule adding a formal definition of high-rise structure merely clarifies that a high-rise structure is a structure more than 6 stories or more than 60 feet in height as measured from pre-construction ground level.

Rule Citation	Rule Change	Significance of Change
7:7E-7.14 High-rise structures (continued)	Changes in codifications, grammar and cross-references	Changes in codifications, grammar and cross-references are considered to be minor changes to the program that do not affect the five program approvability areas but are included for notification purposes.

Rule text - Subchapter 7

February 6, 2006

Changes to existing rule text approved by OCRM are shown as follows:

Additions indicated in **boldface**; and

Deletions indicated in ~~[bracketed-strikethrough]~~.

7:7E-7.1 Purpose

Changes to existing text as approved by OCRM

~~[(a)]~~ Many types of development seek ~~[locations]~~ **to locate** in the coastal zone. The second stage in the screening process of the ~~[Rules on]~~ Coastal Zone Management **rules** ~~[spells out a set of rules for particular]~~ **involves analysis of appropriate** uses of coastal resources. Use rules are rules and conditions ~~[addressed]~~ **applicable** to particular kinds of development. Use rules do not preempt location rules which restrict development, unless specifically stated. In general, ~~[they introduce conditions which]~~ **conditions contained in the use rules** must be satisfied in addition to the Location rules (N.J.A.C. 7:7E-2 through 6), and the Resource rules described in the following subchapter (N.J.A.C. 7:7E-8).

Text of current rule

Many types of development seek to locate in the coastal zone. The second stage in the screening process of the Coastal Zone Management rules involves analysis of appropriate uses of coastal resources. Use rules are rules and conditions applicable to particular kinds of development. Use rules do not preempt location rules which restrict development, unless specifically stated. In general, conditions contained in the use rules must be satisfied in addition to the location rules (N.J.A.C. 7:7E-2 through 6), and the resource rules described in the following subchapter (N.J.A.C. 7:7E-8).

7:7E-7.2 Housing use

Changes to existing text as approved by OCRM

(a) (No change.)

(b) Standards relevant to water area and water's edge housing are as follows:

1. – 2. (No change.)

3. Housing is conditionally acceptable in the filled water's edge, provided that it meets the requirements of the Filled Water's Edge rule (N.J.A.C. 7:7E-3.23) and the Public access to the waterfront rule (N.J.A.C. 7:7E-8.11). ~~the [acceptable intensity of] residential development [shall be determined by applying the criteria of the General Land Area rule (N.J.A.C. 7:7E-5)]~~ **comply with the requirements for impervious cover and vegetative cover that apply to the site under N.J.A.C. 7:7E-5 and either N.J.A.C. 7:7E-5A or 5B**, except on bay islands where the requirements of the Bay Island Corridor rule (N.J.A.C. 7:7E-3.21) shall apply.

4. New housing involving the stabilization of existing lagoons through revegetation, bulkheading or other means is conditionally acceptable provided that the conditions of the ~~[Existing Lagoon Edge]~~ **existing lagoon edge** rule (N.J.A.C. 7:7E-3.24) and the ~~[Filling]~~ **filling** rule (N.J.A.C. 7:7E-~~[4-2(j)]~~ **4.10**) are satisfied.

5. – 7. (No change.)

(c) – (d) (No change.)

~~[(e) A single family home or duplex that is located upland of the mean high water line and is not part of a larger development must meet only the following:~~

~~1. All structures and on-site improvements shall comply with the coastal Rules for Beaches, Dunes, Wetlands, Wetland Buffers, Endangered or Threatened Wildlife or Vegetation Species Habitats and Coastal Bluffs, and shall comply with other Coastal Rules by meeting the following minimum standards. Compliance with the applicable rule may require changes in a building design and/or location:~~

~~i. On sites with shore protection structures, the residential structure shall be set back, a minimum of 25 feet from oceanfront shore protection structures, and at a minimum of 15 feet from bulkheads elsewhere. This distance is measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of a revetment.~~

~~ii. For sites adjacent to surface water bodies or wetlands, a silt fence shall be erected along the limit of disturbance parallel to the shoreline or wetlands limits. This fence shall have a 10-foot return on each end, be erected prior to construction and remain in place until all construction and landscaping is completed.~~

~~iii. For sites partially or completely within the erosion hazard area or coastal high hazard area, only infill developments meeting the following criteria are acceptable. A development qualifies as infill for purposes of this section if:~~

~~(1) It is shown as a buildable lot on municipal records prior to July 19, 1993;~~

~~(2) The lot is served by a municipal sewer system; and~~

~~(3) A house or commercial building is located in each lot abutting the lot line, perpendicular to the shoreline, and within 100 feet of said lot line.~~

~~iv. In non-tidal areas, the lowest structural member must be at least one foot above the base~~

flood elevation.

v. In tidal areas the following standards apply:

(1) For residential developments located within designated zones A1-30 on the community's Flood Insurance Rate Maps (FIRM), the lowest floor (including basement) must be elevated to or above the base flood elevation.

(2) For residential developments located within designated Zones V1-30 on the community's firm, the building must be elevated on pilings so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings) is elevated at or above the base flood level.

(3) The house shall be constructed as close to the landward site boundary as possible, and shall not be constructed waterward of the adjacent developments.

vi. For wooded sites, site clearing shall be limited to an area no greater than 20 feet from the footprint of the dwelling and the area deemed necessary for driveway, septic and utility lines installations.

vii. Indigenous coastal plants (as defined in the Vegetation rule, N.J.A.C. 7:7E-8.8) are encouraged to be used in landscaping wherever feasible. No plastic liners shall be used in landscaped or gravel areas. All liners shall be made of filter cloth or other permeable material. The use of non-indigenous vegetation and/or lawns is discouraged.

viii. All driveways shall be covered with permeable materials or pitched to drain all runoff onto permeable areas of the site.

2. Rationale.}]

(e) Standards relevant to the development of a single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation, filling, and clearing, excluding shore protection structures) which does not result in the development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b)8, and provided the single family home or duplex and accessory development are located landward of the mean high water line are as follows:

1. Development shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats;

2. Development shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (e)2i or ii below.

i. Development that is located on the landward slope of a secondary or tertiary dune as described at (e)2i(2) below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

(2) The cross-sectional volume per linear foot of the primary frontal dune waterward of the proposed single family home or duplex as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purposes of this section, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

(3) The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined by using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, and the information in the Department's Geographic Information System (GIS) database as found in the Historical Shoreline coverage 1836-1986; and

(4) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; or

ii. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the Dunes rule at N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal flood insurance rate map;

(2) The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding;

(3) The road, seawall or bulkhead is functional and is currently maintained by a public entity;

(4) The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;

(5) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; and

(6) The proposed development does not include the construction of a shore protection structure;

3. Development shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay.

Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a). If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (e)10i below, unless the development meets either (e)3i or ii below:

i. The development is located in the "developed bluff area." For the purposes of this paragraph, a "developed bluff area" is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or

ii. The development on the coastal bluff is located landward of the developed bluff area as defined at (e)3i above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.

4. Development shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, except as excluded under (i) below:

i. Development that is located on a site partially or completely within a coastal high hazard area or erosion hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, or Erosion Hazard Areas rule at N.J.A.C. 7:7E-3.19 if:

(1) The lot was shown as a subdivided lot prior to July 19, 1993;

(2) The lot is served by a municipal sewer system; and

(3) A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line;

5. The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material;

6. Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site;

7. For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations;

8. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;

9. For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed;

10. Development shall comply with the following setbacks:

i. On a site with coastal bluffs that is not located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;

ii. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to below grade structures;

iii. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (e)10i above;

11. The standards for the expansion or reconstruction (with or without expansion) of a single family home or duplex are found at N.J.A.C. 7:7E-7.2(f);

12. Rationale

(f) Standards relevant to the expansion, or reconstruction (with or without expansion) of a legally constructed habitable single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation, filling, and clearing, excluding shore protection structures) which does not result in the development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b)8, and provided the single family home or duplex and accessory development are located landward of the mean high water line are as follows:

1. Development shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats;

2. Development shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (f)2i through iv below.

i. Development that is located on the landward slope of a secondary or tertiary dune as described at (f)2i(2) below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

(2) The cross-sectional volume per linear foot of the primary frontal dune waterward of the proposed single family home or duplex as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purpose of this section, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

(3) The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined by using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, and the information in the Department's Geographic Information System (GIS) database as found in the Historical Shoreline coverage 1836-1986; and

(4) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures;

ii. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the dunes rule at N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal flood insurance rate map;

(2) The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding

(3) The road, seawall or bulkhead is functional and is currently maintained by a public entity;

(4) The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;

(5) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures; and

(6) The proposed development does not include the construction of a shore protection structure.

iii. Development that is located on a dune need not comply with the Dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

(1) The single family home or duplex legally existed on July 19, 1993;

(2) The development constructed after July 19, 1993 does not exceed a cumulative surface area of 750 square feet on the dune, excluding the area of reconstruction within the existing footprint of development and the area of development authorized under (f)iv below above;

(3) The development is located within the footprint of development of the existing single family home or duplex and/or on the landward side of the existing footprint of development and within the area between lines extended landward and perpendicular to the mean high water line from the widest shore parallel points of the existing footprint of development, except as provided at (f)2iii(4) below;

(4) For every 10 feet the footprint of development of the single family home or duplex is set back landward on the lot from the existing footprint of development of the single family home or duplex, the total area of development may be increased by 200 square feet in addition to that authorized in (f)2iii(2), provided the additional square footage is constructed on the non-waterward side of the single family home or duplex;

(5) The dune area waterward of the single family home or duplex is enhanced as follows:

(A) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest dune crest elevation at the site; and

(B) Native dune vegetation shall be planted as necessary to establish vegetative cover in accordance with the specifications contained in the Guidelines and Recommendations for Coastal Dune Restoration and Creation Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625-0439, (609) 292-0060; and

(6) A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

iv. Development that is located on a dune and entails the enclosure of an existing deck, patio, or porch, need not comply with the Dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

(1) The development is the enclosure of a deck, patio, or porch;

(2) The deck, patio, or porch enclosure is located on the non-waterward side of the single family home or duplex, as defined at N.J.A.C. 7:7-1.3;

(3) The deck, patio, or porch legally existed on July 19, 1993;

(4) The deck, patio, or porch abuts the dwelling;

(5) The enclosure does not extend beyond the limit of the existing deck, patio, or porch as it existed on July 19, 1993;

(6) The footprint of development of the deck, patio, or porch enclosure does not exceed 400 square feet;

(7) The dune area waterward of the single family home or duplex is enhanced as follows:

(A) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest existing dune crest elevation at the site; and

(B) Native dune vegetation shall be planted in accordance with the specifications contained in the Guidelines and Recommendations for Coastal Dune Restoration Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625-0439, (609) 292-0060; and

(8) A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

3. Development shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay.

Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a) If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (f)10i below, unless the development meets either (f)3i or ii below:

i. The development is located in the "developed bluff area." For the purposes of this paragraph, a "developed bluff area" is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or

ii. The development on the coastal bluff is located landward of the developed bluff area as defined at (f)3i above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.

4. Development shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, except as excluded under (i) below.

i. Development that is located on a site partially or completely within a coastal high hazard area or erosion hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, or Erosion Hazard Areas rule at N.J.A.C. 7:7E-3.19 if:

(1) The lot was shown as a subdivided lot prior to July 19, 1993;

(2) The lot is served by a municipal sewer system; and

(3) A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line;

- 5. The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material;**
- 6. Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site;**
- 7. For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations;**
- 8. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;**
- 9. For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed;**
- 10. Development shall comply with the following setbacks:**
- i. On a site with coastal bluffs that is not located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that the development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;**
- ii. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to below grade structures;**
- iii. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (f) 10i above;**
- 11. The standards for the development of a single family home or duplex are found at N.J.A.C. 7:7E-7.2(e);**
- 12. Rationale**

(g) (No change.)

Text of current rule

7:7E-7.2 Housing use rules

(a) "Housing" includes single family detached houses, multi-family units with apartments or town houses, high-rise buildings and mixed use developments.

(b) Standards relevant to water area and water's edge housing are as follows:

1. New housing or expansion of existing habitable housing is prohibited in Water Areas. Reconstruction of existing habitable structures on pilings located over water areas is conditionally acceptable except when damaged by wind, water or waves, in which case reconstruction is prohibited.
2. In special urban areas and along large rivers where water dependent uses are demonstrated to be infeasible, new housing is also acceptable on structurally sound existing pilings, or where piers have been removed as part of the harbor clean up program, the equivalent pier area may be replaced in the same or another location.
 - i. Structurally sound existing pilings may be reconfigured provided that the total area of water coverage is not increased and fisheries resources are not adversely impacted.
 - ii. Expansion of the total area of water coverage is discouraged, except where it can be shown that extensions are functionally necessary for water dependent uses.
 - iii. New housing acceptable under this rule shall be consistent with the Public Access to the Waterfront Rule (N.J.A.C. 7:7E-8.11), including provisions of fishing access as appropriate.
3. Housing is conditionally acceptable in the filled water's edge, provided that it meets the requirements of the Filled Water's Edge rule (N.J.A.C. 7:7E-3.23) and the Public Access to the Waterfront Rule (N.J.A.C. 7:7E-8.11). The residential development shall comply with the requirements for impervious cover and vegetative cover that apply to the site under N.J.A.C.

7:7E-5 and either N.J.A.C. 7:7E-5A or 5B, except on bay islands where the requirements of the Bay Island Corridor rule (N.J.A.C. 7:7E-3.21) shall apply.

4. New housing involving the stabilization of existing lagoons through revegetation, bulkheading or other means is conditionally acceptable provided that the conditions of the Existing Lagoon Edge rule (N.J.A.C. 7:7E-3.24) and the Filling rule (N.J.A.C. 7:7E-4.10) are satisfied.

5. On sites with existing shore protection structures, the residential structure shall be set back a minimum of 25 feet from the oceanfront shore protection structures, and a minimum of 15 feet from shore protection structures elsewhere. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the seaward side of the revetment.

6. Water area and water's edge housing shall include a provision for boat ramps wherever feasible unless an accessible boat ramp is nearby.

7. Rationale

(c) Standards relevant to floating homes are as follows:

1. A floating home is any waterborne structure designed and intended primarily as a permanent or seasonal dwelling, not for use as a recreational vessel, which will remain stationary for more than 10 days.

2. Floating homes are prohibited in the coastal zone. Those floating homes registered with the New Jersey Department of Motor Vehicles prior to June 1, 1984 are not subject to this paragraph.

3. Rationale

(d) Standards relevant to cluster development are as follows:

1. Housing developments are encouraged to cluster dwelling units on the areas of sites most suitable for development. "Clustering" is defined as an increase of net density realized by reducing the size of private lots and retaining or increasing the gross density of a project.

2. Rationale

(e) Standards relevant to the development of a single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation, filling, and clearing, excluding shore protection structures) which does not result in the development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C. 7:7-2.1(b)8, and provided the single family home or duplex and accessory development are located landward of the mean high water line are as follows:

1. Development shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats;

2. Development shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (e)2i or ii below.

i. Development that is located on the landward slope of a secondary or tertiary dune as described at (e)2i(2) below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

(2) The cross-sectional volume per linear foot of the primary frontal dune waterward of the proposed single family home or duplex as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purposes of this section, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

(3) The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined by using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, and the information in the Department's Geographic Information System (GIS) database as found in the Historical Shoreline coverage 1836-1986; and

(4) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; or

ii. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the Dunes rule at N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal flood insurance rate map;

(2) The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding;

(3) The road, seawall or bulkhead is functional and is currently maintained by a public entity;

(4) The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;

- (5) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to develop the single family home or duplex and/or accessory structures; and
- (6) The proposed development does not include the construction of a shore protection structure;
3. Development shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a). If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (e)10i below, unless the development meets either (e)3i or ii below:
- i. The development is located in the "developed bluff area." For the purposes of this paragraph, a "developed bluff area" is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or
 - ii. The development on the coastal bluff is located landward of the developed bluff area as defined at (e)3i above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.
4. Development shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, except as excluded under (i) below:
- i. Development that is located on a site partially or completely within a coastal high hazard area or erosion hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, or Erosion Hazard Areas rule at N.J.A.C. 7:7E-3.19 if:
 - (1) The lot was shown as a subdivided lot prior to July 19, 1993;
 - (2) The lot is served by a municipal sewer system; and
 - (3) A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line;
5. The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material;
6. Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site;
7. For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations;
8. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;
9. For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed;
10. Development shall comply with the following setbacks:
- i. On a site with coastal bluffs that is not located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;
 - ii. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to below grade structures;
 - iii. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (e)10i above;
11. The standards for the expansion or reconstruction (with or without expansion) of a single family home or duplex are found at N.J.A.C. 7:7E-7.2(f);
12. Rationale
- (f) Standards relevant to the expansion, or reconstruction (with or without expansion) of a legally constructed habitable single family home or duplex and/or accessory development (such as garages, sheds, pools, driveways, grading, excavation, filling, and clearing, excluding shore protection structures) which does not result in the development of more than one single family home or duplex either solely or in conjunction with a previous development as defined at N.J.A.C.

7:7-2.1(b)8, and provided the single family home or duplex and accessory development are located landward of the mean high water line are as follows:

1. Development shall comply with N.J.A.C. 7:7E-3.22, Beaches, 7:7E-3.27, Wetlands, 7:7E-3.28, Wetland buffers, and 7:7E-3.38, Endangered or threatened wildlife or vegetation species habitats;

2. Development shall comply with N.J.A.C. 7:7E-3.16, Dunes, except as provided under (f)2i through iv below.

i. Development that is located on the landward slope of a secondary or tertiary dune as described at (f)2i(2) below, whichever is most landward, need not comply with the dunes rule, N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The area of the site proposed to be developed is located greater than 500 feet landward of the mean high water line of the adjacent water body;

(2) The cross-sectional volume per linear foot of the primary frontal dune waterward of the proposed single family home or duplex as measured above the 100-year stillwater elevation and waterward of the primary frontal dune crest, is greater than 1,100 square feet. For the purpose of this section, primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep waterward and landward slopes immediately landward of and adjacent to the beach, and subject to erosion and overtopping from high tides and waves during major coastal storms. Secondary and tertiary dunes means the second and third dune mound or ridge, respectively, landward from and adjacent to the primary frontal dune;

(3) The beach area adjacent to the proposed development is either naturally stable without beach nourishment or naturally accretional without beach nourishment, as determined by using the method described at N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, and the information in the Department's Geographic Information System (GIS) database as found in the Historical Shoreline coverage 1836-1986; and

(4) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures;

ii. Development that is located on a dune which is isolated from a beach and dune system by a paved public road, public seawall or public bulkhead, existing on July 19, 1993, need not comply with the dunes rule at N.J.A.C. 7:7E-3.16, if the site and the development meet all of the following criteria:

(1) The road, seawall or bulkhead is of sufficient size to be designated as the V-zone boundary on the municipal flood insurance rate map;

(2) The road, seawall or bulkhead has eliminated the protective function of the isolated dune, by providing a significant barrier to coastal processes, including storm waves and flooding

(3) The road, seawall or bulkhead is functional and is currently maintained by a public entity;

(4) The area of proposed construction is designated as an A-Zone, B-Zone or C-Zone on the municipal Flood Insurance Rate Map;

(5) The site disturbance, including grading, excavation and vegetation removal, is limited to that necessary to expand or reconstruct the single family home or duplex and/or accessory structures; and

(6) The proposed development does not include the construction of a shore protection structure.

iii. Development that is located on a dune need not comply with the Dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

(1) The single family home or duplex legally existed on July 19, 1993;

(2) The development constructed after July 19, 1993 does not exceed a cumulative surface area of 750 square feet on the dune, excluding the area of reconstruction within the existing footprint of development and the area of development authorized under (f)iv below above;

(3) The development is located within the footprint of development of the existing single family home or duplex and/or on the landward side of the existing footprint of development and within the area between lines extended landward and perpendicular to the mean high water line from the widest shore parallel points of the existing footprint of development, except as provided at (f)2iii(4) below;

(4) For every 10 feet the footprint of development of the single family home or duplex is set back landward on the lot from the existing footprint of development of the single family home or duplex, the total area of development may be increased by 200 square feet in addition to that authorized in (f)2iii(2), provided the additional square footage is constructed on the non-waterward side of the single family home or duplex;

(5) The dune area waterward of the single family home or duplex is enhanced as follows:

(A) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest dune crest elevation at the site; and

(B) Native dune vegetation shall be planted as necessary to establish vegetative cover in accordance with the specifications contained in the Guidelines and Recommendations for Coastal Dune Restoration and Creation Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625-0439, (609) 292-0060; and

(6) A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

iv. Development that is located on a dune and entails the enclosure of an existing deck, patio, or porch, need not comply with the Dunes rule, N.J.A.C. 7:7E-3.16, if the development meets the following criteria:

- (1) The development is the enclosure of a deck, patio, or porch;
- (2) The deck, patio, or porch enclosure is located on the non-waterward side of the single family home or duplex, as defined at N.J.A.C. 7:7-1.3;
- (3) The deck, patio, or porch legally existed on July 19, 1993;
- (4) The deck, patio, or porch abuts the dwelling;
- (5) The enclosure does not extend beyond the limit of the existing deck, patio, or porch as it existed on July 19, 1993;
- (6) The footprint of development of the deck, patio, or porch enclosure does not exceed 400 square feet;
- (7) The dune area waterward of the single family home or duplex is enhanced as follows:
 - (A) Sand fill shall be placed as necessary to establish a uniform dune crest elevation matching the highest existing dune crest elevation at the site; and
 - (B) Native dune vegetation shall be planted in accordance with the specifications contained in the Guidelines and Recommendations for Coastal Dune Restoration Projects (DEP, 1985) and/or Restoration of Sand Dunes Along the Mid-Atlantic Coast (U.S. Soil Conservation Service, 1992). These documents are available upon request from the Department's Land Use Regulation Program, PO Box 439, Trenton, New Jersey 08625-0439, (609) 292-0060; and
- (8) A conservation restriction for the dune areas waterward of the existing and/or approved single family home or duplex and/or accessory development is recorded in accordance with N.J.A.C. 7:7-1.5(b)18.

3. Development shall comply with N.J.A.C. 7:7E-3.31, Coastal bluffs, if the site is located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay. Coastal bluffs are defined at N.J.A.C. 7:7E-3.31(a) If the site is not located on one of the four water bodies listed above, the development shall comply with the setback requirements at (f)10i below, unless the development meets either (f)3i or ii below:

i. The development is located in the "developed bluff area." For the purposes of this paragraph, a "developed bluff area" is an area delineated by the limit of existing buildings, in-ground pool or tennis court that existed on July 19, 1993; or

ii. The development on the coastal bluff is located landward of the developed bluff area as defined at (f)3i above, and does not exceed the cumulative surface area of the developed bluff area on the site. If all or part of the proposed development on the coastal bluff is located landward of the existing developed bluff area, an equivalent area of the existing developed bluff area shall be restored through the planting of native woody vegetation species.

4. Development shall comply with N.J.A.C. 7:7E-3.18, Coastal High Hazard Areas, and N.J.A.C. 7:7E-3.19, Erosion Hazard Areas, except as excluded under (i) below.

i. Development that is located on a site partially or completely within a coastal high hazard area or erosion hazard area need not comply with the Coastal High Hazard Areas rule, N.J.A.C. 7:7E-3.18, or Erosion Hazard Areas rule at N.J.A.C. 7:7E-3.19 if:

- (1) The lot was shown as a subdivided lot prior to July 19, 1993;
- (2) The lot is served by a municipal sewer system; and
- (3) A house or commercial building is located within 100 feet of each of the lot lines that run roughly perpendicular to the mean high water line. The 100 feet shall be measured outward from each lot line, along a line generally parallel to the mean high water line;

5. The use of plastic under landscaped or gravel areas is prohibited. All sub-gravel liners shall be made of filter cloth or other permeable material;

6. Any driveway shall be covered with a permeable material or else shall be pitched to drain all runoff onto permeable areas of the site;

7. For a wooded site, site clearing shall be limited to an area no more than 20 feet from the footprint of the single family home or duplex and the area necessary for driveway, septic, and utility line installations;

8. The development shall comply with the elevation and flood proofing requirements of the National Flood Insurance Program regulations at 44 CFR Chapter 1;

9. For a site adjacent to or including surface water bodies or wetlands, a silt fence with a 10-foot landward return shall be erected at the limit of disturbance along the waterward and wetland sides of the development before construction begins. This fence shall be maintained and remain in place until all construction and landscaping is completed;

10. Development shall comply with the following setbacks:

i. On a site with coastal bluffs that is not located on the Atlantic Ocean, Delaware Bay, Raritan Bay, or Sandy Hook Bay, the single family home or duplex and/or accessory structures shall be set back a minimum of 10 feet from the crest of the bluff provided that the development will not result in a loss of stability of the bluff or vegetation on the bluff face. Any structure that requires excavation shall be set back one foot beyond the 10 foot setback for every foot of excavation below existing grade;

ii. On an oceanfront site with existing or proposed shore protection structures, the single family home or duplex and/or accessory structures (except decks) shall be set back at least 25 feet from existing or proposed oceanfront shore protection structures. This distance shall be measured from the waterward face of a bulkhead or seawall and from the top of slope on the waterward face of the revetment. This setback shall not apply to below grade structures;

iii. On a non-oceanfront site with existing or proposed shore protection structures, the single family home or duplex and accessory structures (except decks) shall be set back at least 15 feet from existing or proposed shore protection structures. If there is no alternative to locating the proposed development at least 15 feet landward of the shore protection structure, the Department shall reduce the required setback if an engineering certification is submitted demonstrating that, after the proposed development has been constructed, the shore protection structure can be replaced within 18 inches of the existing shore protection structure and a conservation restriction in a form approved by the Department is recorded for the property which states that any reconstruction of a shore protection structure shall be within 18 inches of the existing shore protection structure. A site with coastal bluffs shall instead comply with (f)10i above;

11. The standards for the development of a single family home or duplex are found at N.J.A.C. 7:7E-7.2(e);

12. Rationale

(g) The standards relevant to housing and transportation are as follows:

1. The development of housing at locations and densities that contribute to the feasibility of public transportation is encouraged.
2. Residential developments are encouraged to include bicycle paths to activity centers and bicycle storage facilities.
3. Residential developments are encouraged to provide pedestrian amenities which include lighted walkways with benches, lighted sidewalks with curb ramps and intersections, shade trees, and pedestrian controlled traffic lights.
4. Rationale

7:7E-7.3 Resort/recreational Use

Changes to existing text as approved by OCRM

(a) [“]Resort/recreation uses[“] include the wide range of small and large developments attracted to and often dependent upon locations along the coast. These uses include hotels, motels, marinas, boating facilities, campgrounds, amusement piers, parks and recreational structures such as bathhouses, natural areas, open space for active and passive recreation, and linear paths for bicycling and jogging (see N.J.A.C. 7:7E-7.10 and N.J.A.C. 7:7E-5.5(d)).

(b) – (c) (No change.)

(d) Standards relevant to marinas are as follows:

1. (No change.)
2. New marinas or expansion or renovation (including, but not limited to, dredging, bulkhead construction and reconstruction, and relocation of docks) of existing marinas for recreational boating are conditionally acceptable if:
 - i. – ii. (No change.)

iii. Restrooms and at least one portable toilet emptying receptacle shall be provided at a marina. The portable toilet emptying receptacle requirement may be satisfied either by the installation of a receptacle device or by the designation of either a pumpout or restroom facility for this use; and

- (1) (No change.)
 - (2) Discharge to a subsurface sewerage disposal system constructed in accordance with N.J.A.C. 7:9-2 and N.J.A.C. 7:7E-[4-2(t)] **8.21**; or
 - (3) (No change.)
- iv. (No change.)
3. – 10. (No change.)

(e) Standards relevant to amusement piers, parks and boardwalks are as follows:

1. For the purposes of this subsection, "amusement pier" means an elevated, pile-supported structure located on a beach and/or tidal water, seaward of a bulkhead or boardwalk, and perpendicular to the mean high water line, on which amusements are located. For purposes of this definition, "amusements" includes rides, games of skill or chance for prizes other than cash payoffs, vendors of toys and/or other merchandise. "Amusements" do not include games for cash payoffs, or bars or restaurants;

Recodify existing 1. – 3. as 2. – 4. (No change in text.)

Text of current rule

(a) Resort/recreation uses include the wide range of small and large developments attracted to and often dependent upon locations along the coast. These uses include hotels, motels, marinas, boating facilities, campgrounds, amusement piers, parks and recreational structures such as bathhouses, natural areas, open space for active and passive recreation, and linear paths for

bicycling and jogging (see N.J.A.C. 7:7E-7.10 and N.J.A.C. 7:7E-5.5(d)).

(b) Standards relevant to recreation priority are as follows:

1. Each waterfront municipality should contain at least one waterfront park on each body of water within the municipality. Municipalities that do not currently provide, or have active plans to provide, access to the water will not be eligible for Green Acres or Shore Protection Bond Funding.
2. Resort/recreation uses and commercial fisheries uses shall have priority over all other uses in Monmouth, Ocean, Atlantic, and Cape May counties with highest priority reserved for those uses that serve a greater rather than a lesser number of people, and those uses that provide facilities for people of all ages and for people with physical handicaps.
3. Rationale

(c) Standards relevant to recreation areas within developments are as follows:

1. "Recreation areas" include a variety of types and sizes of open space adequate to accommodate appropriate recreational activities or facilities.
2. Appropriate recreation areas shall be incorporated in the design of all residential, industrial and commercial development to the maximum extent practicable, as necessary to ensure that needed on-site recreation opportunities will not be precluded by a lack of suitable open space. The "maximum extent practicable" will be determined based on guidelines of the Green Acres Program (N.J.S.A. 13:8A-1 et seq.) which consider the recreation resource supply and demand, the natural characteristics of the site, and the ability to identify a public agency or other organization willing to manage, maintain and develop the open space as a recreational resource. What is necessary will be determined by consideration of recreation resource supply and demand and municipal and county open space and recreation master plans.
3. Rationale

(d) Standards relevant to marinas are as follows:

1. Marina means any dock, pier, bulkhead, mooring or similar structure or a collection of adjacent structures under singular or related ownership providing permanent or semi-permanent dockage to five or more vessels.
2. New marinas or expansion or renovation (including, but not limited to, dredging, bulkhead construction and reconstruction, and relocation of docks) of existing marinas for recreational boating are conditionally acceptable if:
 - i. The marina includes the development of an appropriate mix of dry storage areas, public launching facilities, berthing spaces, repair and maintenance facilities, and boating and hardware supply facilities, depending upon site conditions.
 - ii. The marina posts prominent signs indicating discharges shall not be allowed within the basin and provides restrooms and marine septic disposal facilities for wastewater disposal from boats. For marinas with dockage for 25 or more vessels or any on vessel with live-aboard arrangement, adequate and conveniently located pumpout stations shall be provided.
 - iii. Restrooms and at least one portable toilet emptying receptacle shall be provided at a marina. The portable toilet emptying receptacle requirement may be satisfied either by the installation of a receptacle device or by the designation of either a pumpout or restroom facility for this use; and
 - (1) Discharge to a municipal or regional treatment plant where practicable;
 - (2) Discharge to a subsurface sewerage disposal system constructed in accordance with N.J.A.C. 7:9-2 and N.J.A.C. 7:7E- 8.21; or
 - (3) Discharge to a holding tank with waste being removed by a licensed septage hauler. A marina employing this method shall maintain a record of waste removal; and
 - iv. New marina facilities and expansions and renovation of existing marinas shall provide public access in accordance with the Public Access to the Waterfront Rule (N.J.A.C. 7:7E-8.11).
3. New marinas or boat launching facilities that provide primarily for sail, oar or rental boating are encouraged.
4. Expansions of existing marinas shall be encouraged by limiting non-water dependent land uses that preclude support facilities for boating.
5. Publicly funded marinas shall be designed to be part of multiple use parks, to the maximum extent practicable.
6. Recreational boating facilities are acceptable provided that they are designed and located in order to cause minimum feasible interference with the commercial boating industry.
7. New marinas are encouraged to locate on filled water's edge sites, where minimal dredging is required.
8. Construction of new marinas within areas designated by the Department as shellfish habitat is prohibited. Expansions of existing marinas within shellfish habitat areas shall comply with the standards of the Shellfish Habitat rule (N.J.A.C. 7:7E-3.2) and Submerged Vegetation rule (N.J.A.C. 7:7E-3.6).
9. Marinas shall comply with the design standards set forth in N.J.A.C. 7:7E-7.3A to the maximum extent practicable.
10. In addition to complying with all other applicable portions of these rules, all new, expanded and renovated boat mooring facilities with five or more slips which are located on any portion of the Navesink River, Shrewsbury River or Manasquan River (upstream of the Route 35 Bridge) or

the St. George's Thorofare shall meet the conditions in (d)10i through iii below. Renovation shall include complete or partial alteration of any portion of a structure, including construction, reconstruction of or relocation of existing docks, piers, moorings and bulkheads and dredging. The conditions are:

- i. A pumpout facility shall be constructed and maintained at those facilities at which boats over 24 feet in length or those with on-board septic facilities (heads) shall be docked. All other facilities shall construct and maintain on site marine septic disposal facilities;
- ii. No pressure treated lumber or other lumber treated with any other substance shall be used in any portion of the project. This restriction applies only to bulkhead sheathing and planking, and dock planking, and does not apply to pilings. In addition, this restriction does not apply to any construction upland of the mean high water line; and
- iii. The applicant and/or property owner shall finance monthly sampling and testing of fecal coliform levels per milliliter of water at five locations selected by the Department in the water in which the project is located. Testing shall be performed by a State-certified laboratory and shall be conducted beginning in the first month following the mooring of vessels and monthly thereafter for two full seasons of operation (that is, May 1 through October 31). The monitoring shall occur on the day of the month selected by the Department and no advance notice of the sampling day shall be given to the property-owner. Results of the monitoring shall be provided to the Department and the property-owner in writing by the laboratory within 10 calendar days after the date of sampling.

(1) The State-certified laboratory shall determine the pre-construction median level of fecal coliform in the water at each of the Department selected test sites at the applicant's expense, and advise the Department and the applicant in writing of these results within 10 calendar days after the date of sampling. If any post-construction test at any single site yields fecal coliform levels which exceed the pre-construction reading at that site by 100 percent, the property owner shall allow Department personnel access to the property during day-light hours to assess whether the operation of the project is causing or contributing to the elevated reading.

(2) In the event the Department determines in writing that the elevated readings of fecal coliform are caused, in whole or in part, by the operation of the project, the property owner shall, as a condition of the permit, cease such uses and practices as described in writing by the Department and shall implement such practices as determined by the Department in writing to be minimally necessary to reduce the levels of fecal coliform emanating from the project.

(3) In the event the Department determines that the laboratory has twice or more failed to sample in the correct location, failed to comply with commonly accepted sampling techniques and laboratory methods or has divulged the date of sampling to the applicant and/or property-owner in advance of sampling, the property owner shall immediately discontinue use of such laboratory upon receipt of written notice to this effect from the Department and shall arrange for all future sampling to be conducted by another State-certified laboratory. For every month in which sampling does not occur as a result of a change in laboratory, an extra month of sampling shall be required from the property owner during the next season of operation.

(4) If the property owner fails to arrange for water sampling as required herein without first securing the express written permission of the Department to omit sampling for that month, the property owner shall be in violation of the terms of the permit issued under these rules and the Department shall notify the property owner in writing of its intention to revoke the permit and prohibit use of the project pending final revocation of the permit in accordance with N.J.A.C. 7:7-4.11(b).

11. Rationale

(e) Standards relevant to amusement piers, parks and boardwalks are as follows:

1. For the purposes of this subsection, "amusement pier" means an elevated, pile-supported structure located on a beach and/or tidal water, seaward of a bulkhead or boardwalk, and perpendicular to the mean high water line, on which amusements are located. For purposes of this definition, "amusements" includes rides, games of skill or chance for prizes other than cash payoffs, vendors of toys and/or other merchandise. "Amusements" do not include games for cash payoffs, or bars or restaurants;
2. New amusement piers are prohibited, except in areas with privately held riparian grants, where they are discouraged. Expanded or extended amusement piers, parks, and boardwalks at the water's edge or in the water, and the on-site improvement or repair of existing amusement piers, parks and boardwalk areas are discouraged unless the proposed development meets the following conditions:
 - i. The amusement pier, park, or boardwalk does not reasonably conflict with aesthetic values, ocean views, or other beach uses and wildlife functions;
 - ii. The proposed pier expansion will not eliminate or affect the existing direct public access to the beach, unless another access point is provided immediately adjacent to the expanded pier, for each access point eliminated;
 - iii. The surrounding community can adequately handle the activity and uses to be generated by the proposed development;
 - iv. The pier expansion is constructed on pilings at the same elevation as the existing pier; and
 - v. The pier expansion includes a provision for public seating and viewing at the terminal end of the expansion.
3. The expansion of a pier qualifying for a General Permit under N.J.A.C. 7:7-7 is acceptable.

4. Rationale

7:7E-7.3A Marina development

Changes to existing text as approved by OCRM

(a) (No change.)

(b) The following pertains to marina construction:

1. – 5. (No change.)

6. Clean dredged ~~and [spoiled]~~ **material** with adequate grain size shall be used for beach nourishment.

(c) The following pertains to marina operation:

1. (No change.)

2. Operators shall immediately notify ~~[DEP]~~ **the Department** and the Coast Guard of all significant hydrocarbon spills.

3. - 7. (No change.)

Text of current rule

(a) The following pertains to marina project design:

1. The following should be followed to promote water quality in the marina basin:

i. Basin depths must never exceed the depths of access channels nor the open water to which the basin is connected.

ii. Deep-draft slips shall be constructed in naturally deep portions of the site in order to minimize the need for dredging.

iii. Floating breakwaters are preferred in low-energy areas (where wavelengths are less than twice the width of the breakwater).

iv. Sharp angles are to be avoided; corners should be gently rounded, never square.

v. Basin depths should uniformly deepen toward the exit and waterway outside the basin.

vi. Entrance channels should not be located on corners.

vii. Where possible, entrance channels should be oriented in the direction of the prevailing winds to promote wind-driven circulation.

viii. Enclosed basins should include openings at opposite ends to promote circulation.

ix. Slips should be oriented parallel to currents, never broadside; this promotes circulation and reduces the load on the pier structure.

x. Fuel pumps shall include back pressure cut-off valves. Main cut-off valves shall be available both at the dock and in the upland area of the marina.

xi. Fuel docks should be sturdy using a floating design wherever possible in order to withstand significant storm affected tidal ranges.

xii. To control stormwater runoff, upland portions of the site should include water quality features such as detention basins and limit pollutants from entering the waterway.

2. Sloping rip-rap bulkheads are preferred over solid vertical structures; they better dissipate wave energy and provide a more diverse habitat for marine organisms.

3. To avoid standing waves, bulkheads should never be parallel to one another.

4. To minimize the impact on the photic zone, dock and pier widths should be minimized. In addition, the structures should stand as high above mean high water as possible and should be oriented north-south to the maximum extent practicable.

5. The distance from a parked car to a slip should never exceed 180 meters.

6. Septic systems shall be installed with a minimum setback of 100 feet and in soils with a minimum depth to the seasonal high water table of four feet or more.

7. For safety, the usable width of the entrance channel should be at least four times the beam of the widest expected vessel, or a minimum of 19 meters.

8. The marina shall provide pumpout station(s) (fixed or portable). Marinas which allow occupation of berthed vessels for a period of 72 hours or more shall provide slipside pumpout facilities.

9. The marina shall provide abundant trash receptacles along with adequate fish cleaning areas, including separate and well-marked dispensers for organic refuse.

10. Ample parking facilities shall be provided, with a minimum of 0.6 spaces per slip (the number will range from 0.6 to 2.5 spaces per slip, depending on the nature of the marina).

11. The design should include an aesthetically pleasing landscape design.

12. Maintenance areas shall be screened by proper landscaping and shall include techniques which will prevent materials from entering the water.

13. The fueling facility shall be designed to accommodate four of the largest expected vessels.

14. For safety, the turning area of the basin should be at least 2.25 times the length of the longest expected vessel.

15. Marinas shall provide restroom facilities according to the following schedule:

i. For a small marina (up to 40 boats):

(1) Men: One toilet stall, one urinal, and one washbasin.

(2) Women: Two toilet stalls and one washbasin.

ii. For a small "quality" or medium marina (40 to 80 boats):

(1) Men: One urinal, one toilet stall, one shower stall, and one washbasin.

(2) Women: Two toilet stalls, one washbasin, and one shower stall.

iii. For a large marina (over 80 boats):

(1) Add:

(A) One urinal per 30 boats (men);

- (B) One toilet stall per 60 boats (men);
- (C) One toilet stall per 30 boats (women);
- (D) One washbasin per 30 boats (men and women);
- (E) One shower stall per 60 boats (men and women).

16. For safety, comfort, and to avoid interference with commercial boating activity, marinas will be designed such that wave heights do not exceed two to four feet in the entrance channel and one to 1.5 feet in the berthing area. Such a design will assume four foot external wave conditions.

17. The marina shall develop and implement a recycling plan for solid waste as appropriate to county requirements.

(b) The following pertains to marina construction:

1. Only high-grade, slow leaching wood preservatives shall be used on pilings and other dock/pier woods.
2. If dredging is necessary, it shall be scheduled around critical life stages of marine organisms.
3. Dredging shall take place during the colder months when the dissolved oxygen levels are naturally high.
4. Erosion and sediment controls shall be in place prior to construction.
5. Where appropriate (currents under 1.5 knots), sediment curtains shall be used during dredging.
6. Clean dredge spoil with adequate grain size shall be used for beach nourishment.

(c) The following pertains to marina operation:

1. The marina must have available adequate floating containment booms and absorbant materials in the event of hydrocarbon spills. Employees shall be trained in the deployment and proper usage of such equipment.
2. Operators shall immediately notify the Department and the Coast Guard of all significant hydrocarbon spills.
3. Operators shall take immediate action in the event of a spill, including boom deployment and spreading of absorbent materials.
4. Waste receptacles shall be emptied daily.
5. Boat maintenance shall be undertaken as far from the water as possible.
6. Clean dredged material with adequate grain size shall be used for beach nourishment.
7. No-discharge signs shall be posted through-out the marina basin.

7:7E-7.4 Energy use

Changes to existing text as approved by OCRM

(a) ~~[General definition of energy uses:]~~ Energy ~~[uses]~~ **facilities** include~~[s]~~ facilities, plants or operations ~~[which produce, convert, distribute or store energy]~~ **for the production, conversion, exploration, development, distribution, extraction, processing, or storage of energy or fossil fuels. Energy facilities also include onshore support bases and marine terminals.** ~~[Under the Department of Energy Act, the Energy Act, the term energy facility does]~~ **Energy facilities do** not include ~~[an]~~ operations~~s~~ conducted by a retail dealer, **such as a gas station, which is considered a commercial development.**

~~[(b) Standards relevant to general energy facility siting procedure are as follows:~~

- ~~1. The acceptability of all proposed new or expanded coastal energy facilities shall be determined by the DEP Office of Energy (as part of the Reorganization Plan 002-1991, the Office of Energy was placed within the DEP, and responsibility for the State Energy Master Plan as well as commenting on energy policy was delegated to the Department and the Program).~~
- ~~2. DEP's Office of Energy will determine the need for future coastal energy facilities according to three basic standards. The Office of Energy will submit an Energy Report to the Program with its determination of the need for a coastal energy facility based on three required findings:~~
 - ~~i. The existing sources of supply will not be adequate to meet future levels of demand, including careful consideration of the potential effects of conservation;~~
 - ~~ii. No better technological alternative exists to meet future levels of demand; and~~
 - ~~iii. No better locational alternative to the proposed site exists.~~
- ~~3. The Program will determine the acceptability of coastal energy facilities using the Rules on Coastal Zone Management supported by appropriate, technically sound analyses of alternatives.~~
- ~~4. Rationale: BPU and the Department share the responsibility for carrying out the energy facility siting, planning and project review elements of the New Jersey Coastal Management Program. The State Energy Master Plan and its appendices, the Coastal Resource and Development Policies, and the Memorandum of Understanding between the Department and BPU provide a clear framework for decision-making by these two State agencies on the review of proposed facilities, as well as the basis for continued consultation and cooperative planning.]~~

(b) Standards relevant to siting of new energy facilities, including all associated development activities, are as follows:

1. Energy facilities shall not be sited in Special Areas as defined at N.J.A.C. 7:7E-3.1 through 3.42, 3.44, 3.46, and marine fish and fisheries areas defined at N.J.A.C. 7:7E-

8.2. unless site-specific information demonstrates that such facilities will not result in adverse impacts to these areas;

2. Except for water dependent energy facilities, energy facilities shall be sited at least 500 feet inland of the mean high water line of tidal waters in the following areas:

i. The CAFRA area; and

ii. The Western Ocean, Southern, Mullica-Southern Ocean, Great Egg Harbor River and Delaware Estuary regions, as defined at N.J.A.C. 7:7E-5A.2(d);

3. Public access to and use of the waterfront and tidal waters shall be maintained and, where feasible, enhanced in the siting of energy facilities, pursuant to N.J.A.C. 7:7E-8.11; and

4. The scenic and visual qualities of coastal areas shall be maintained as important public resources in the siting of energy facilities, pursuant to N.J.A.C. 7:7E-8.12.

(c) (No change.)

(d) (No change)

(e) Standards relevant to onshore support bases are as follows:

1. New or expanded onshore support bases and marine terminals to support offshore oil and gas exploration, development, and production (including **but not limited to** facilities for work boats, crew boats and helicopters, pipelaying barges, pipeline jet barges, ocean-going tugs, anchor handling vessels, and limited, short-term storage facilities) are encouraged at locations in ~~built-up urban coastal area~~ **the Urban Area, Delaware River and Northern Waterfront regions** and discouraged in **the CAFRA area** ~~[less developed areas of the coastal zone].~~

i. (No change.)

ii. (No change.)

2. Rationale

(f) Standards relevant to platform fabrication yards and module construction are as follows:

1. Platform fabrication yards and module construction are encouraged in ~~built-up coastal areas of the coastal zone, along the Hudson, Raritan and~~ **the Urban Area, Delaware River[s] and Northern Waterfront regions**, which have the requisite acreage, adequate industrial infrastructure, ready access to the open sea, and adequate water depth, and where the operation of such a yard would not alter existing recreational uses of the ocean and waterways in the areas. They are discouraged elsewhere in the coastal zone.

2. (No change.)

(g) Standards relevant to repair and maintenance facilities are as follows:

1. Repair and maintenance facilities for vessels and equipment for offshore activities are encouraged in the **Urban Area, Delaware River and Northern Waterfront [Areas] regions**. Repairs can be accommodated on an emergency basis in existing ship repair facilities in the ~~[Atlantic Ocean and Delaware Bay area]~~ **CAFRA area as defined at N.J.A.C. 7:7E-1.8**, but not on a continual, long-term basis.

2. Rationale

(h) Standards relevant to pipe coating yards are as follows:

1. Pipe coating yards are discouraged ~~[along the Atlantic Ocean and Delaware Bay]~~ **in the CAFRA area** and encouraged **in** ~~[along the Delaware River and in the port area under the jurisdiction of]~~ the Port ~~[Authority]~~ of New York and New Jersey **and the Port of Camden and Philadelphia**.

2. Rationale

(i) Standards relevant to pipelines and associated facilities are as follows:

1. Crude oil and natural gas pipelines to bring hydrocarbons from offshore **of the New Jersey[s]** coast to existing refineries, ~~[and]~~ oil and gas transmission and distribution systems, and other new oil and natural gas pipelines are conditionally acceptable, **provided** ~~[subject to the following conditions and restrictions]:~~

i. For safety and conservation of resources, the number of pipeline corridors, including trunk pipelines for natural gas and oil, shall be limited, to the maximum extent feasible, and designated following appropriate study and analysis by ~~[the DEP Office of Energy and Land Use Regulation Program, and]~~ interested Federal, State and local agencies, affected industries, and the general public;

ii. The pipeline corridors for landing oil or natural gas are to be located in or adjacent to existing already developed or disturbed road, railroad, pipeline, electrical transmission or other rights-of-way, to the maximum extent practicable;

~~[iii. Oil and gas pipelines are subject to the following restrictions, respectively, regarding the Central Pine Barrens and other particularly sensitive areas:~~

~~(1) Pipeline corridors for landing oil are prohibited in the Central Pine Barrens area of the Mullica River, Cedar Creek watersheds and portions of the Rancocas Creek and Toms River watersheds, defined as the 760 square mile region adopted by DEP as "critical area" for sewerage purposes and non-degradation surface and groundwater quality standards (see N.J.A.C. 7:9-4.6(i), (j), and~~

N.J.A.C. 7:9-10.1(b) and Appendix, Figure 16 incorporated herein by reference), and discouraged in other undeveloped parts of the Pine Barrens; and

(2) Pipeline corridors for natural gas are discouraged in the Central Pine Barrens as defined above, unless the developer can demonstrate that the construction and operation of the proposed pipeline will meet the adopted non-degradation standards for water quality and cause no long-term adverse environmental impacts;]

[iv.] **iii** Proposals to construct offshore oil and gas pipelines, originating on the Outer Continental Shelf, and all of the contemplated ancillary facilities along the pipeline route such as, for example, gas separation and dehydration facilities, gas processing plants, oil storage terminals, and oil refineries, will be evaluated [by the Department's Office of Energy and Land Use Regulation Program] in terms of the entire pipeline corridor through the State of New Jersey and [the adjacent] **its coastal waters** [territorial sea];

iv. Pipeline corridors through the State coastal waters shall, to the maximum extent feasible, avoid offshore munitions, chemical and waste disposal areas, heavily used waterways, geological faults, wetlands and significant fish or shellfish habitats;

v. Pipelines shall be buried to a depth sufficient to minimize exposure by scouring, ship groundings, anchors, fishing and clamming and other potential obstacles on the sea floor. Trenching operations shall be conducted in accordance with applicable Federal regulations;

[v.] **2.** [To preserve the recreational and resort character of the coastal areas, the following conditions and prohibitions shall apply to oil and gas pipeline-related facilities:-

(1) New major pumping stations and other ancillary facilities associated with offshore oil and gas pipelines, **not specifically identified in this section**, [shall be] **are** discouraged [from locations in the Bay and Ocean Shore] **in the CAFRA area and coastal waters**;

[(2) Gas separation and dehydration plants and compressor stations and other facilities associated with natural gas pipelines which are approved shall be protected by adequate visual, sound, and vegetative buffer areas; and]

3. Oil and gas pipeline related facilities shall provide adequate visual, sound, and vegetative buffers; and

[3.] **4.** Offshore platforms for pumping or compressor stations are encouraged to be located out of sight of the shoreline.

[vi. Pipeline corridors through the State coastal waters shall, at a minimum and to the maximum extent feasible, avoid offshore munitions, chemical and waste disposal areas, heavily used waterways, geological faults, wetlands and significant fish or shellfish habitats.

vii. Pipelines shall be buried to a depth sufficient to minimize exposure by scouring, ship groundings, anchors, fishing and clamming and other potential obstacles on the sea floor. Trenching operations shall be conducted in accordance with applicable Federal regulations.]

[2.] **5.** Rationale

(j) Standards relevant to gas separation and dehydration facilities are as follows:

1. [Definitions:] **For the purposes of this paragraph, the following terms have the following meanings:**

i. "Separation" [is defined as] **means** the removal of free liquids from a gas stream. [They] **Free liquids** may be either hydrocarbon liquids[;] (which may be processed into fuels such as ethane, butane (and propane)[;] or free water.

ii. "Dehydration" [is] **means** the removal of water vapor from the gas stream after separation of the liquid from the gas.

2. Separation and dehydration facilities are discouraged in the [Bay and Ocean Shore area] **CAFRA area and coastal waters**. [Such facilities that are approved shall meet all applicable air and water quality standards, and be protected by]

3. Separation and dehydration facilities shall:

i. Provide adequate visual, sound, and vegetative buffers; **and** [Separation and dehydration facilities will be]

ii. Be reviewed as part of the overall proposed gas transportation system [by the Department].

[3.] **4.** (No change.)

(k) Standards relevant to gas compressor stations are as follows:

1. (No change.)

2. Compressor stations are encouraged to be located out of the sight of the shoreline on platforms in offshore waters. They are discouraged [from locations in the Bay and Ocean Shore area] **in the CAFRA area and coastal waters**.

3. (No change.)

(l) Standards relevant to gas pigging facility are as follows:

1. A "pig" is a scraping tool that is forced through a pipeline to clean out accumulations of wax, scale, gas liquids or any foreign materials from the inside walls of the pipe. The pig is inserted offshore and would be removed at an [offshore] **onshore** location called a "pigging facility."

2. A pigging facility, which may or may not be associated with a separation and dehydration facility, is discouraged in the [Bay and Ocean Shore area] **CAFRA area**. The need for and location of the facility will be reviewed within the context of the entire natural gas pipeline system.

3. (No change.)

(m) Standards relevant to gas processing plants are as follows:

1. (No change.)
2. Gas processing plants proposed for locations between the offshore pipeline landfall and interstate natural gas transmission lines shall be prohibited from sites within the ~~Bay and Ocean Shore area~~ **CAFRA area** and shall be located the maximum distance from the shoreline. The siting of gas processing plants will be reviewed in terms of the total pipeline routing system ~~by the Department's Office of Energy and the Program~~.
3. (No change.)

(n) Standards relevant to other gas-related facilities are as follows:

1. Additional facilities related to a natural gas pipeline such as metering and regulating stations, odorization plants, and block valves are conditionally acceptable in the ~~Bay and Ocean Shore area~~ **CAFRA area** ~~provided they are protected by~~ **if** adequate visual, sound, and vegetative buffer areas **are provided** ~~are approved by the Office of Energy and Program, and are in compliance with United States Department of Transportation regulation~~.
2. (No change.)

(o) Standards relevant to oil refineries and petrochemical facilities are as follows:

1. New oil refineries and petrochemical facilities are conditionally acceptable outside of the ~~Bay and Ocean Shore area~~ **CAFRA area** provided ~~that~~ they are consistent with all applicable Location and Resource rules ~~there is a need for the facility as determined by the Office of Energy, and an Environmental Impact Statement determines that the facility will have no unacceptable impacts.~~
- ~~1-~~**2.** New oil refineries and petrochemical facilities outside the ~~Bay and Ocean Shore area~~ **CAFRA area** are encouraged to locate in established industrial areas accessible to their potential labor force **and existing infrastructure**.
- ~~ii-~~**3.** New oil refineries and petrochemical facilities are prohibited in the ~~Bay and Ocean Shore Segment~~ **CAFRA area**.
- ~~iii-~~**4.** Expansion in capacity of existing oil refineries and petrochemical facilities at existing sites, which are all located outside of the ~~Bay and Ocean Shore Region~~ **CAFRA area**, will be acceptable if such expansion does not violate applicable State air and water quality standards.
- ~~2-~~**5.** (No change.)

(p) Standards relevant to storage of crude oil, gases and other potentially hazardous liquid substances are as follows:

1. The storage of crude oil, gases and other potentially hazardous liquid substances as defined in N.J.A.C. 7:1E-1.1 under the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.) is prohibited on barrier islands and discouraged elsewhere in the ~~Delaware and Raritan Bay and Atlantic Ocean Shore region~~ **CAFRA area**.
- ~~1-~~**2. The storage of crude oil, gases and other potentially hazardous liquid substances is** ~~not~~ **conditionally acceptable in** the **Urban Area**, Northern Waterfront and Delaware River ~~areas~~ **regions** ~~such facilities are conditionally acceptable if they meet air and water Resource Policies and are~~ **if it is** compatible with or adequately buffered from surrounding uses.
- 3. The storage of crude oil, gases and other potentially hazardous liquid substances is not acceptable where it would limit or conflict with a potential recreational use.**
- ~~ii-~~**4.** ~~They are~~ **The storage of crude oil, gases and other potentially hazardous liquid substances is** not acceptable along the water's edge unless ~~they are~~ **the storage facility is** supplied by ship, in which case ~~they are~~ **it is** acceptable on the filled water's edge ~~subject to the above conditions~~ **provided the storage facility complies with (p) 1, 2 and 3 above.**
- ~~iii-~~ ~~They are not acceptable where they would limit or conflict with a potential recreational use.~~
- ~~2-~~ **5.** (No change.)

(q) Standards relevant to tanker terminals are as follows:

1. New or expanded tanker facilities ~~will be~~ **are** acceptable only in existing ports and harbors where the required channel depths exist to accommodate tankers.
 - i. Multi-company use of existing and new tanker terminals ~~will be~~ **is** encouraged in the Port of New York and New Jersey and ~~in the area bounded by the Delaware River Port Authority,~~ **the Port of Camden and Philadelphia**, where adequate infrastructure exists to accommodate the secondary impacts which may be generated by such terminals, such as processing and storage facilities.
 - ~~ii-~~ **2.** New tanker terminals ~~will be~~ **are** discouraged in ~~other parts of the coast~~ **areas not identified in (q) 1 above.**
 - ~~iii-~~ **3.** Offshore tanker terminals and deepwater ports are discouraged ~~from the Bay and Ocean Shore Region, pending a thorough evaluation of the implications of such a facility.~~
 - ~~2-~~ **4.** Rationale

(r) Standards relevant to electric generating stations are as follows:

1. New or expanded electric generating facilities (for base load, cycling, or peaking purposes) and related facilities are conditionally acceptable ~~subject to the conditions that follow. Conversion or~~

modification of existing generating facilities for purposes of fuel efficiency, cost reduction, or national interest are conditionally acceptable provided they meet applicable State and Federal laws and standards.] **provided:**

[i. The construction and operation of the proposed facility shall comply with the Rules on Coastal Zone Management, with special reference to air and water quality standards and policies on marine resources and wildlife.]

[ii.] **i.** The [Office of Energy and the Program shall find the] proposed location and **site** design of the electric generating facility is the [most reasonable] alternative **which has the least practicable impacts to the coastal zone**, [for the production of electrical power that the Office of Energy has determined is needed. The finding shall be] based on a comparative evaluation [by the applicant] of alternative sites within the coastal zone and inland[.]. [and of alternative technologies for the transportation and conversion of energy as well as the productive use of plant residuals, including thermal discharges.]

[iii.] **ii.** (No change in text.)

[iv.] **iii.** Nuclear generating stations shall be located in generally remote, rural, and low density areas, consistent with the criteria of 10 CFR 100 (United States Nuclear Regulatory Commission rules on siting nuclear generating stations) and/or any other related Federal regulations. In addition, [NJDEP shall find that] the nuclear generating facility [is proposed for a location where the appropriate] **shall be located in an area where the appropriate** low population zone and population center distance are likely to be maintained around the nuclear generating facility, through techniques such as land use controls or buffer zones.

[v.] **iv.** The construction and operation of a nuclear generating station shall not be approved unless [DEP finds that] the proposed method for disposal of the spent fuel to be produced by the facility will be safe, conforms to standards established by the United States Nuclear Regulatory Commission, and will effectively remove danger to life and the environment from the radioactive waste material. This finding is required under present State law (N.J.S.A. 13:19-11) and will be made consistent with judicial decisions (see Public Interest Research Group v. State of New Jersey, 152 N.J. Super. 191 (App.Div., **certif. Den., 75 N.J. 538** (1977))) and Federal law.

[vi.] **v.** (No change in text.)

2. Conversion or modification of existing generating facilities for purposes of fuel efficiency, cost reduction, or national interest is conditionally acceptable provided it meets applicable State and Federal laws and standards.

[2-] **3.** (No change in text.)

(s) Standards relevant to liquefied natural gas (LNG) facilities are as follows:

1. New marine terminals and associated facilities that receive, store, and vaporize liquefied natural gas for transmission by pipeline [~~to a base-load electric generating station~~] are discouraged in the coastal zone unless a clear and precise justification for such facilities exists in the national interest; the proposed facility is located and constructed so as to neither unduly endanger human life and property, nor otherwise impair the public health, safety and welfare, as required by N.J.S.A. 13:19-10f; and such facilities comply with the Coastal [~~Resource and Development Policies~~] **Zone Management rules**.

i. LNG facilities shall be sited **and operated** in accordance with the standards set forth in **the Natural Gas Act of 1938, the Natural Gas Policy Act of 1978, the Outer Continental Shelf Lands Act, the Energy Policy Act of 1992, and the National Environmental Policy Act, which set forth standards for siting, design, installation, inspection, testing, construction, operation, transportation of gas, replacement, and maintenance of facilities**. [P.L. 96-129, Title I Subtitle B, Pipeline Safety Act of 1979, Section 6(a)(3), which states that no new LNG facility may be operated unless an accident contingency plan is found to be adequate by the Department of Transportation under the Natural Gas Act.]

ii. [~~In determining the~~] **The** acceptability of proposed LNG facilities [~~DEP~~] will consider siting criteria [such as:] **including but not limited to:**

(1) [~~the~~] **The** risks inherent in tankering LNG along New Jersey's waterways;

(2) [~~the~~] **The** risks inherent in transferring LNG onshore; and

(3) [~~the~~] **The** compatibility of the facility with surrounding land uses, population densities, and concentrations of commercial or industrial activity.

iii. (No change.)

2. (No change.)

Text of current rule

(a) Energy facilities include facilities, plants or operations for the production, conversion, exploration, development, distribution, extraction, processing, or storage of energy or fossil fuels. Energy facilities also include onshore support bases and marine terminals. Energy facilities do not include operations conducted by a retail dealer, such as a gas station, which is considered a commercial development.

(b) Standards relevant to siting of new energy facilities, including all associated development activities, are as follows:

1. Energy facilities shall not be sited in Special Areas as defined at N.J.A.C. 7:7E-3.1 through 3.42, 3.44, 3.46, and marine fish and fisheries areas defined at N.J.A.C. 7:7E-8.2, unless site-specific information demonstrates that such facilities will not result in adverse impacts to these

areas;

2. Except for water dependent energy facilities, energy facilities shall be sited at least 500 feet inland of the mean high water line of tidal waters in the following areas:

i. The CAFRA area; and

ii. The Western Ocean, Southern, Mullica-Southern Ocean, Great Egg Harbor River and Delaware Estuary regions, as defined at N.J.A.C. 7:7E-5A.2(d);

3. Public access to and use of the waterfront and tidal waters shall be maintained and, where feasible, enhanced in the siting of energy facilities, pursuant to N.J.A.C. 7:7E-8.11; and

4. The scenic and visual qualities of coastal areas shall be maintained as important public resources in the siting of energy facilities, pursuant to N.J.A.C. 7:7E-8.12.

(c) Coastal energy facilities construction and operation shall not directly or indirectly result in net loss of employment in the State for any single year.

1. Coastal energy facility construction and operation which results in loss of 200 or more person-years of employment in jobs in New Jersey directly or indirectly related to the State's coastal tourism industry in any single year is prohibited.

2. Rationale

(d) Standards relevant to Outer Continental Shelf (OCS) oil and gas exploration and development are as follows:

1. Exploration of the Mid-Atlantic, North Atlantic, and other offshore areas with potential reserves of oil and natural gas is discouraged, as long as there are other viable alternatives with less or no environmental threats to the coastal environment, including energy conservation, which have not been fully explored. Should exploration occur and commercially recoverable amounts of oil or natural gas be found, development and production of offshore hydrocarbons shall be carried out according to the specific energy facility policies of this section.

2. Rationale

(e) Standards relevant to onshore support bases are as follows:

1. New or expanded onshore support bases and marine terminals to support offshore oil and gas exploration, development, and production (including, but not limited to, facilities for work boats, crew boats and helicopters, pipelaying barges, pipeline jet barges, ocean-going tugs, anchor handling vessels, and limited, short-term storage facilities) are encouraged at locations in the Urban Area, Delaware River and Northern Waterfront regions and discouraged in the CAFRA area.

i. Preferable locations for water-dependent onshore support bases include urban waterfront areas, where onshore adverse physical, economic, and institutional impacts will be less than the impacts likely to be placed on less industrially developed areas which are more dependent upon tourism and the resort industry.

ii. Small facilities for storing oil spill containment and cleanup equipment for offshore operations, and emergency crew transport facilities, including crew boat operations, will, however, be acceptable along the Atlantic Ocean or Delaware Bay where such a location would facilitate and expedite offshore emergency operations.

2. Rationale

(f) Standards relevant to platform fabrication yards and module construction are as follows:

1. Platform fabrication yards and module construction are encouraged in the Urban Area, Delaware River and Northern Waterfront regions, which have the requisite acreage, adequate industrial infrastructure, ready access to the open sea, and adequate water depth, and where the operation of such a yard would not alter existing recreational uses of the ocean and waterways in the areas. They are discouraged elsewhere in the coastal zone.

2. Rationale

(g) Standards relevant to repair and maintenance facilities are as follows:

1. Repair and maintenance facilities for vessels and equipment for offshore activities are encouraged in the Urban Area, Delaware River and Northern Waterfront regions. Repairs can be accommodated on an emergency basis in existing ship repair facilities in the CAFRA area as defined at N.J.A.C. 7:7E-1.8, but not on a continual, long-term basis.

2. Rationale

(h) Standards relevant to pipe coating yards are as follows:

1. Pipe coating yards are discouraged in the CAFRA area and encouraged in the Port of New York and New Jersey and the Port of Camden and Philadelphia.

2. Rationale

(i) Standards relevant to pipelines and associated facilities are as follows:

1. Crude oil and natural gas pipelines to bring hydrocarbons from offshore of the New Jersey coast to existing refineries, oil and gas transmission and distribution systems, and other new oil and natural gas pipelines are conditionally acceptable, provided:

i. For safety and conservation of resources, the number of pipeline corridors, including trunk pipelines for natural gas and oil, shall be limited, to the maximum extent feasible, and designated

following appropriate study and analysis by interested Federal, State and local agencies, affected industries, and the general public;

- ii. The pipeline corridors for landing oil or natural gas are to be located in or adjacent to existing already developed or disturbed road, railroad, pipeline, electrical transmission or other rights-of-way, to the maximum extent practicable;
 - iii. Proposals to construct offshore oil and gas pipelines, originating on the Outer Continental Shelf, and all of the contemplated ancillary facilities along the pipeline route such as, for example, gas separation and dehydration facilities, gas processing plants, oil storage terminals, and oil refineries, will be evaluated in terms of the entire pipeline corridor through the State of New Jersey and its coastal waters;
 - iv. Pipeline corridors through the State coastal waters shall, to the maximum extent feasible, avoid offshore munitions, chemical and waste disposal areas, heavily used waterways, geological faults, wetlands and significant fish or shellfish habitats;
 - v. Pipelines shall be buried to a depth sufficient to minimize exposure by scouring, ship groundings, anchors, fishing and clamming and other potential obstacles on the sea floor. Trenching operations shall be conducted in accordance with applicable Federal regulations;
2. New major pumping stations and other ancillary facilities associated with offshore oil and gas pipelines, not specifically identified in this section, are discouraged in the CAFRA area and coastal waters;
 3. Oil and gas pipeline related facilities shall provide adequate visual, sound, and vegetative buffers; and
 4. Offshore platforms for pumping or compressor stations are encouraged to be located out of sight of the shoreline.
 5. Rationale

(j) Standards relevant to gas separation and dehydration facilities are as follows:

1. For the purposes of this subsection, the following terms have the following meanings:
 - i. "Separation" means the removal of free liquids from a gas stream. Free liquids may be either hydrocarbon liquids (which may be processed into fuels such as ethane, butane (and propane) or free water.
 - ii. "Dehydration" means the removal of water vapor from the gas stream after separation of the liquid from the gas.
2. Separation and dehydration facilities are discouraged in the CAFRA area and coastal waters.
3. Separation and dehydration facilities shall:
 - i. Provide adequate visual, sound, and vegetative buffers; and
 - ii. Be reviewed as part of the overall proposed gas transportation system.
4. Rationale

(k) Standards relevant to gas compressor stations are as follows:

1. "Compressor stations" are facilities located along natural gas pipelines which raise the pressure of the gas in order to transport the resource more efficiently and economically.
2. Compressor stations are encouraged to be located out of the sight of the shoreline on platforms in offshore waters. They are discouraged in the CAFRA area and coastal waters.
3. Rationale

(l) Standards relevant to gas pigging facility are as follows:

1. A "pig" is a scraping tool that is forced through a pipeline to clean out accumulations of wax, scale, gas liquids or any foreign materials from the inside walls of the pipe. The pig is inserted offshore and would be removed at an onshore location called a "pigging facility."
2. A pigging facility, which may or may not be associated with a separation and dehydration facility, is discouraged in the CAFRA area. The need for and location of the facility will be reviewed within the context of the entire natural gas pipeline system.
3. Rationale

(m) Standards relevant to gas processing plants are as follows:

1. A "gas processing plant" is designed to recover liquifiable hydrocarbons from a gas stream before it enters a commercial transmission line. A gas processing facility may include treatment, recovery and fractionation equipment to separate the recovered liquid hydrocarbon stream into its various components including, for example, ethane, butane and propane.
2. Gas processing plants proposed for locations between the offshore pipeline landfall and interstate natural gas transmission lines shall be prohibited from sites within the CAFRA area and shall be located the maximum distance from the shoreline. The siting of gas processing plants will be reviewed in terms of the total pipeline routing system.
3. Rationale

(n) Standards relevant to other gas-related facilities are as follows:

1. Additional facilities related to a natural gas pipeline such as metering and regulating stations, odorization plants, and block valves are conditionally acceptable in the CAFRA area if adequate visual, sound, and vegetative buffer areas are provided.
2. Rationale

(o) Standards relevant to oil refineries and petrochemical facilities are as follows:

1. New oil refineries and petrochemical facilities are conditionally acceptable outside of the CAFRA area provided they are consistent with all applicable location and resource rules.
2. New oil refineries and petrochemical facilities outside the CAFRA area are encouraged to locate in established industrial areas accessible to their potential labor force and existing infrastructure.
3. New oil refineries and petrochemical facilities are prohibited in the CAFRA area.
4. Expansion in capacity of existing oil refineries and petrochemical facilities at existing sites, which are all located outside of the CAFRA area, will be acceptable if such expansion does not violate applicable State air and water quality standards.
5. Rationale

(p) Standards relevant to storage of crude oil, gases and other potentially hazardous liquid substances are as follows:

1. The storage of crude oil, gases and other potentially hazardous liquid substances as defined in N.J.A.C. 7:1E-1.1 under the Spill Compensation and Control Act (N.J.S.A. 58:10-23.11 et seq.) is prohibited on barrier islands and discouraged elsewhere in the CAFRA area.
2. The storage of crude oil, gases and other potentially hazardous liquid substances is conditionally acceptable in the Urban Area, Northern Waterfront and Delaware River regions if it is compatible with or adequately buffered from surrounding uses.
3. The storage of crude oil, gases and other potentially hazardous liquid substances is not acceptable where it would limit or conflict with a potential recreational use.
4. The storage of crude oil, gases and other potentially hazardous liquid substances is not acceptable along the water's edge unless the storage facility is supplied by ship, in which case it is acceptable on the filled water's edge provided the storage facility complies with (p)1, 2 and 3 above.
5. Rationale

(q) Standards relevant to tanker terminals are as follows:

1. New or expanded tanker facilities are acceptable only in existing ports and harbors where the required channel depths exist to accommodate tankers.
 - i. Multi-company use of existing and new tanker terminals is encouraged in the Port of New York and New Jersey and the Port of Camden and Philadelphia, where adequate infrastructure exists to accommodate the secondary impacts which may be generated by such terminals, such as processing and storage facilities.
2. New tanker terminals are discouraged in areas not identified in (q)1 above.
3. Offshore tanker terminals and deepwater ports are discouraged.
4. Rationale

(r) Standards relevant to electric generating stations are as follows:

1. New or expanded electric generating facilities (for base load, cycling, or peaking purposes) and related facilities are conditionally acceptable provided:
 - i. The proposed location and site design of the electric generating facility is the alternative which has the least practicable impacts to the coastal zone, based on a comparative evaluation of alternative sites within the coastal zone and inland.
 - ii. Fossil fuel (coal, oil or gas) and hydroelectric generating stations are discouraged in scenic or natural areas that are important to recreation and open space purposes.
 - iii. Nuclear generating stations shall be located in generally remote, rural, and low density areas, consistent with the criteria of 10 CFR 100 (United States Nuclear Regulatory Commission rules on siting nuclear generating stations) and/or any other related Federal regulations. In addition, the nuclear generating facility shall be located in an area where the appropriate low population zone and population center distance are likely to be maintained around the nuclear generating facility, through techniques such as land use controls or buffer zones.
 - iv. The construction and operation of a nuclear generating station shall not be approved unless the proposed method for disposal of the spent fuel to be produced by the facility will be safe, conforms to standards established by the United States Nuclear Regulatory Commission, and will effectively remove danger to life and the environment from the radioactive waste material. This finding is required under present State law (N.J.S.A. 13:19-11) and will be made consistent with judicial decisions (see *Public Interest Research Group v. State of New Jersey*, 152 N.J. Super. 191 (App.Div., certif. Den., 75 N.J. 538 (1977)) and Federal law.
 - v. The construction and operation of a nuclear generating station shall not be approved unless DEP finds that the proposed method for disposal of the spent fuel to be produced by the facility will be safe, conforms to standards established by the United States Nuclear Regulatory Commission, and will effectively remove danger to life and the environment from the radioactive waste material. This finding is required under present State law (N.J.S.A. 13:19-11) and will be made consistent with judicial decisions (see *Public Interest Research Group v. State of New Jersey*, 152 N.J. Super. 191 (App.Div.1977)) and Federal law.
2. Conversion or modification of existing generating facilities for purposes of fuel efficiency, cost reduction, or national interest is conditionally acceptable provided it meets applicable State and Federal laws and standards.
3. Rationale

(s) Standards relevant to liquefied natural gas (LNG) facilities are as follows:

1. New marine terminals and associated facilities that receive, store, and vaporize liquefied natural gas for transmission by pipeline are discouraged in the coastal zone unless a clear and precise justification for such facilities exists in the national interest; the proposed facility is located and constructed so as to neither unduly endanger human life and property, nor otherwise impair the public health, safety and welfare, as required by N.J.S.A. 13:19-10f; and such facilities comply with the Coastal Zone Management rules.

i. LNG facilities shall be sited and operated in accordance with the standards set forth in the Natural Gas Act of 1938, 15U.S.C. 717-717z, the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432, the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, October 24, 1992, and the National Environmental Policy Act, 42 U.S.C. 4321 et seq., which set forth standards for siting, design, installation, inspection, testing, construction, operation, transportation of gas, replacement, and maintenance of facilities.

ii. In determining the acceptability of proposed LNG facilities the Department will consider siting criteria including but not limited to:

(1) The risks inherent in tankering LNG along New Jersey's waterways;

(2) The risks inherent in transferring LNG onshore; and

(3) The compatibility of the facility with surrounding land uses, population densities, and concentrations of commercial or industrial activity.

iii. New LNG facilities that liquefy, store and vaporize LNG to serve demand during peak periods shall be located in generally remote, rural, and low-density areas where land use controls and/or buffer zones are likely to be maintained.

2. Rationale

7:7E-7.5 Transportation use

Changes to existing text as approved by OCRM

(a) Standards relevant to roads are as follows:

1. New road construction must be consistent with the Rule on Location of Linear Development **at N.J.A.C. 7:7E-6.1**, and shall be limited to situations where:

i. – vi. (No change.);

2. (No change.)

(b) – (c) (No change.)

(d) Standards relevant to parking facilities are as follows:

1. – 2. (No change.)

~~[Each hotel-casino facility located in Atlantic City shall provide one of every five non-Absecon and non-Brigantine Island resident hotel-casino employees commuting during the daily peak hour with an intercept space. Absecon Island residents are residents of Atlantic City, Margate, Ventnor and Longport. Brigantine Island residents are residents of the City of Brigantine. Non-Absecon and non-Brigantine Island resident employees commuting during the daily peak hour is the sum number of non-Absecon and non-Brigantine Island resident employees of the shift with the largest number of employees plus the number of non-Absecon and non-Brigantine employees of the next largest adjoining shift. This intercept parking space shall be located off Absecon and Brigantine Islands, specifically outside of the municipal boundary of the five municipalities identified above. If off-island sites are not available, temporary use of other sites is conditionally acceptable if an applicant can demonstrate that it will be moved to an off-island site within one year.~~

~~i. Alternatives that would reduce vehicle miles traveled and peak hour employee travel demand may be substituted for the employee intercept parking space requirements for casino facilities. The Department will review proposed alternatives in consultation with the Department of Transportation. The Department will approve alternatives, which it determines will reduce vehicle miles traveled and peak hour employee travel by at least as much as would result from furnishing intercept parking as described above. Acceptable alternatives include, but are not limited to, employee subsidies for bus, rail, transit, van pools, and/or bicycle programs.~~

~~ii. Alternative scheme proposals must include documentation indicating the existing travel pattern and mode of travel characteristics of non-Absecon and non-Brigantine Island resident employees. This information shall be provided to the Department along with the necessary data used to establish the vehicle miles traveled and peak hour employee travel demand with and without the proposed peak hour traffic reduction program. All proposals shall include a monitoring program to be submitted to the Department to verify the success of the proposed traffic reduction program, update the employee travel characteristics pattern and serve as a basis for future adjustments if necessary.~~

~~iii. All casino-hotel facilities which are required by their CAFRA permits to contribute toward an equitable regional transportation solution in reducing traffic congestion in an out-of-Absecon Island shall comply with this requirement by January 5, 1994. Casino-hotel facilities which do not currently comply with this requirement shall submit a peak hour travel demand reduction plan to the DEPE for approval by July 5, 1993.]~~

~~[4.]~~ **3.** (No change.)

Text of current rule

(a) Standards relevant to roads are as follows:

1. New road construction must be consistent with the rule on location of linear development at N.J.A.C. 7:7E-6.1, and shall be limited to situations where:
 - i. A clear need exists, taking into account the alternatives of upgrading existing roads and of using public transportation to meet the need;
 - ii. Provision is made to include construction of bicycle and foot paths, except where these would not be feasible;
 - iii. Provision is made to include, where appropriate, catwalks and parking access to nearby water bodies.
 - iv. Provision is made for coordinated construction of public transportation rights-of-way and facilities, such as bus lanes, rail lines, and related transit stop or station facilities and parking, except where such construction would not be feasible;
 - v. Visual and physical access to the coastal waters is maintained, to the maximum extent practicable; and
 - vi. Induced development in conflict with coastal rules would not be expected to result.
2. Rationale

(b) Standards relevant to public transportation are as follows:

1. New and improved public transportation facilities, including bus, rail, air, boat travel, people mover systems and related parking facilities, are encouraged.
2. Development of existing rights-of-way which would preclude either their use for public transportation or public recreation trails is discouraged.
3. Rationale

(c) Standards relevant to bicycle and foot paths are as follows:

1. The construction of internal bicycle paths, foot paths and sidewalks in residential, commercial, and industrial developments is required to the maximum extent practicable.
2. Linear bicycle and foot paths are encouraged along the edges of all water bodies, and from the water body to the nearest public road, provided they would not disturb Special Areas or subject the user to danger.
3. Existing bicycle and foot paths shall be continued around development when it is not practical to pass through development.
4. Rationale

(d) Standards relevant to parking facilities are as follows:

1. Parking facility standards apply to all of the following:
 - i. Any parking facility of which any part is within the area subject to the Waterfront Development Act (N.J.S.A. 12:5-1 et seq.);
 - ii. Any parking facility and related access, of which any part of the facility or related access is located in the coastal zone; or
2. Parking lots, garages and large paved areas are conditionally acceptable, provided that they will not interfere with existing or planned mass transit services, the extent of paved surfaces is minimized, and landscaping with indigenous species is maximized.
3. Rationale

7:7E-7.6 Public facility use

Changes to existing rule text approved by OCRM

(a) (No change.)

~~[(b) Standards relevant to general public facilities are as follows:~~

- ~~1. Upgrading existing facilities to meet development and redevelopment needs in developed waterfront areas is encouraged. New or expanded public facility development (except wastewater treatment facilities) is conditionally acceptable provided that:
 - i. The public facility would serve a demonstrated need that cannot be met by an existing public facility at the site or region;
 - ii. Alternate technologies, including conservation, are an impractical or infeasible approach to meeting all or part of the need for the public facility; and
 - iii. The public facility would not generate significant secondary impacts inconsistent with the Rules on Coastal Zone Management.~~
- ~~2. Rationale: Solid waste conservation techniques such as recycling, resource and energy recovery and volume reduction, must be explored and proved infeasible before a new or expanded sanitary landfill preferably at a regional scale, is deemed acceptable. —Sanitary landfills must demonstrate that the leachate will not adversely impact the ground or surface waters, by using an impervious liner and/or leachate collection, treatment and disposal system. Acceptable plans for restoring the site must be submitted with the original proposal.]~~

(c) Standards relevant to solid waste facilities are as follows: **(b) Solid waste facility means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste, but shall not include a recycling center, a regulated medical waste**

collection facility authorized pursuant to N.J.A.C. 7:26-3A.39, or an intermodal container facility authorized pursuant to N.J.A.C. 7:26-3.6.

1. Solid waste facilities are conditionally acceptable provided:

i. Solid waste conservation techniques such as recycling, resource and energy recovery, and volume reduction ~~[must be]~~ **are** explored and proved infeasible before a new or expanded sanitary landfill, preferably at a regional scale, is deemed acceptable[.];

ii. **The solid waste facility is not located in a coastal wetland as provided at N.J.A.C. 7:7-2.2(b); and**

~~[2.—Sanitary landfills that are located in the upland shall demonstrate that the leachate will not adversely impact the ground or surface waters by using an impervious liner and/or leachate collection, treatment and disposal system. Acceptable plans for restoring the site must be submitted with the original proposal.~~

~~3. Sanitary landfills are prohibited in Wetlands.]~~

iii. **The solid waste facility complies with the Solid and hazardous waste rule at N.J.A.C. 7:7E-8.22.**

2. Rationale

~~[(d) Standards relevant to wastewater treatment facilities are as follows:]~~ **(c) Wastewater treatment facilities are conditionally acceptable provided:**

1. **The [Wastewater] wastewater treatment [facilities] facility, [(including sewer lines)] are conditionally acceptable provided they are], is consistent with an approved Water Quality Management (208) Plan [approved by the Office of Land and Water Planning, and comply with the following:]**

~~[i. Wastewater treatment facilities shall not generate significant secondary]~~ **2. The secondary impacts associated with the facility are [inconsistent] consistent with the [Rules on] Coastal Zone Management rules[-]; and**

~~[ii. Wastewater treatment facilities]~~ **3. The facility shall [, to the maximum extent feasible,] provide for multiple use of the site, including open space and recreation use, to the maximum extent feasible.**

4. Rationale

(d) New or expanded public facilities other than those listed at (b) and (c) above are conditionally acceptable provided:

1. The public facility would serve a demonstrated need that cannot be met by an existing public facility at the site or region;

2. Alternate technologies, including conservation, are an impractical or infeasible approach to meeting all or part of the need for the public facility; and

3. The public facility would not generate significant secondary impacts inconsistent with the Coastal Zone Management rules.

~~[(e) Rationale]~~

Current rule text

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

(b) Solid waste facility means any system, site, equipment or building which is utilized for the storage, collection, processing, transfer, transportation, separation, recycling, recovering or disposal of solid waste, but shall not include a recycling center, a regulated medical waste collection facility authorized pursuant to N.J.A.C. 7:26-3A.39, or an intermodal container facility authorized pursuant to N.J.A.C. 7:26-3.6.

1. Solid waste facilities are conditionally acceptable provided:

i. Solid waste conservation techniques such as recycling, resource and energy recovery, and volume reduction are explored and proved infeasible before a new or expanded sanitary landfill, preferably at a regional scale, is deemed acceptable;_

ii. The solid waste facility is not located in a coastal wetland as provided at N.J.A.C. 7:7-2.2(b); and

iii. The solid waste facility complies with the Solid and hazardous waste rule at N.J.A.C. 7:7E-8.22.

2. Rationale

(c) Wastewater treatment facilities are conditionally acceptable provided:

1. The wastewater treatment facility, including sewer lines, is consistent with an approved Water Quality Management (208) Plan;

2. The secondary impacts associated with the facility are consistent with the Coastal Zone Management rules; and

3. The facility shall provide for multiple use of the site, including open space and recreation use, to the maximum extent feasible.

4. Rationale

(d) New or expanded public facilities other than those listed at (b) and (c) above are conditionally acceptable provided:

1. The public facility would serve a demonstrated need that cannot be met by an existing public facility at the site or region;
2. Alternate technologies, including conservation, are an impractical or infeasible approach to meeting all or part of the need for the public facility; and
3. The public facility would not generate significant secondary impacts inconsistent with the Coastal Zone Management rules.

7:7E-7.7 Industry use

Changes to existing text approved by OCRM

(a) Industry uses ~~[include a wide variety of]~~ **are uses that involve** industrial processing, manufacturing, storage ~~[and]~~ **or** distribution activities. **These uses include, but are not limited to, electric power production, food and food by-product processing, paper production, agri-chemical production, chemical processes, storage facilities, metallurgical processes, mining and excavation processes, and processes using mineral products.** ~~[Industry is defined by Standard Industrial Classification (SIC) categories 2011 to 3999, except for 2991 (petroleum refining), which is covered by Use rule N.J.A.C. 7:7E-7.4(i).]~~ **Industrial uses do not include petroleum refining which is considered an Energy Use and therefore subject to the standards of N.J.A.C. 7:7E-7.4.**

(b) ~~[Industry is]~~ **Industrial uses are** encouraged in special ~~[water]~~ **urban** areas. **Elsewhere, industrial uses are [and] conditionally acceptable [elsewhere] provided [it is compatible] they comply** with all applicable Location and Resource rules. Particular attention should be given to Location rules which reserve the water's edge for water dependent uses (N.J.A.C. 7:7E-3.16 and 7:7E-3.32; to ~~[Resource]~~ **the Buffers and compatibility of uses** rule N.J.A.C. 7:7E-8.13, which requires that the use be compatible with existing uses in the area or adequate buffering be provided; and ~~[Resource]~~ **the Public access to the waterfront** rule N.J.A.C. 7:7E-8.11 which places public access requirements upon the use.

(c) – (g) (No change.)

Text of current rule

(a) Industry uses are uses that involve industrial processing, manufacturing, storage or distribution activities. These uses include, but are not limited to, electric power production, food and food by-product processing, paper production, agri-chemical production, chemical processes, storage facilities, metallurgical processes, mining and excavation processes, and processes using mineral products. Industrial uses do not include petroleum refining which is considered an energy use and, therefore subject to the standards of N.J.A.C. 7:7E-7.4.

(b) Industrial uses are encouraged in special urban areas. Elsewhere, industrial uses are conditionally acceptable provided they comply with all applicable location and resource rules. Particular attention should be given to Location rules which reserve the water's edge for water dependent uses (N.J.A.C. 7:7E-3.16 and 7:7E-3.32); to the Buffers and compatibility of uses rule N.J.A.C. 7:7E-8.13, which requires that the use be compatible with existing uses in the area or adequate buffering be provided; and the public access to the waterfront rule, N.J.A.C. 7:7E-8.11, which places public access requirements upon the use.

(c) New industrial development is encouraged to locate at or adjacent to existing industrial sites, to the maximum extent practicable.

(d) Industry that is easily accessible to its labor force by foot or public transportation is encouraged.

(e) Marine resource-dependent industry, such as commercial fishing, is encouraged and shall have priority over other waterfront uses, except for recreation.

(f) The cogeneration of electricity with process steam is encouraged.

(g) Rationale

7:7E-7.9 Port use

Changes to existing text as approved by OCRM

(a) ~~[“]Port uses[“]~~ **are concentrations of shoreside marine terminals and transfer facilities for the movement of waterborne cargo (including fluids), and including facilities for loading, unloading and temporary storage.**

(b) (No change.)

(c) New port uses outside of existing ports ~~[see definition]~~ **as defined at** N.J.A.C. 7:7E-

3.11(a) are acceptable only when there is a clear demonstration of need, and when suitable land and water area is not available in or adjacent to an existing port.

Text of current rule

(a) Port uses are concentrations of shoreside marine terminals and transfer facilities for the movement of waterborne cargo (including fluids), and including facilities for loading, unloading and temporary storage.

(b) Port-related development and marine commerce is encouraged in and adjacent to established port areas. Water-dependent development shall not be preempted by non-water dependent development in these areas.

(c) New port uses outside of existing ports as defined at N.J.A.C. 7:7E-3.11(a) are acceptable only when there is a clear demonstration of need, and when suitable land and water area is not available in or adjacent to an existing port.

(d) New or expanded ports must be compatible with surrounding land uses and provide for maximum open space and physical and visual access to the waterfront, provided that this access does not interfere with port operations or endanger public health and safety. New or expanded ports must also not interfere with national, State, county or municipal parks, recreational areas, or wildlife refuges.

(e) New, expanded or redeveloped port facilities must have direct access to navigation channels of sufficient depth for anticipated vessel access, with minimal dredge and fill requirements, adequate access to road, rail transportation, and adjacent land with sufficient load bearing capacity for structures.

(f) Limited water-dependent, port-related activity, such as commercial fishing, support facilities and emergency oil spill cleanup storage, is acceptable at the small commercial harbors in the coastal zone.

(g) Rationale

7:7E-7.10 Commercial facility use

Changes to existing text approved by OCRM

(a) (No change.)

~~[(b) Standards relevant to casino hotels are as follows:~~

~~1. "Casino hotels" are hotels with casinos as provided for in the Casino Control Act (P.L. 1977, c.100, as amended)~~

~~2. Casino hotel development in Atlantic City shall be located in the city's traditional resort area (along the Boardwalk), and in the State Marina area to the maximum extent practicable.~~

~~i. Casino hotel development is discouraged in existing residential areas and in areas where access u public transportation between the proposed hotel-casino and the Boardwalk is limited.~~

~~ii. Casino hotel development is discouraged along the access highways to Atlantic City.~~

~~iii. Hotel-casino development shall comply with the High-Rise Structures (N.J.A.C. 7:7E-7.14) and Transportation Use (N.J.A.C. 7:7E-8.14) Policies.~~

~~iv. Hotel-casino development and new residential development are encouraged in Atlantic City to ensure that the objectives of the 1976 constitutional referendum on casino gambling, including the stimulation of new construction and the revitalization of Atlantic City and its region, are achieved. The policies if the program shall be interpreted consistent with these objectives.~~

~~3. Rationale]~~

Recodify existing (c) and (d) as (b) and (c) (No change in text.)

Text of current rule

(a) Standards relevant to hotels and motels are as follows:

1. Hotels and motels are commercial establishments, known to the public as hotels, motor-hotels, motels, or tourist courts, primarily engaged in providing lodging, or lodging and meals, for the general public. Also included are hotels and motels operated by membership organizations, whether open to the general public or not.

2. New, expanded or improved hotels and motels are conditionally acceptable provided that the development complies with all Location and Resource rules and with the rule for high-rise structures and is compatible in scale, site design, and architecture with surrounding development.

3. Hotels, motels or restaurants may be water oriented if they take full advantage of a waterfront location.

4. In special urban areas, new hotel, motel, or restaurant development is acceptable in the filled water's edge and over large rivers on structurally sound pilings, provided it is consistent with rules on Filled Water's Edge (N.J.A.C. 7:7E-3.23) and Special Urban Areas (N.J.A.C. 7:7E-3.43),

and the existing total area of water coverage is not expanded except where it can be demonstrated that extensions are functionally necessary for water dependent uses.

5. Rationale

(b) Standards relevant to retail trade and services are as follows:

1. Retail and trade service is a broad category including, but not limited to, establishments selling merchandise for personal and household consumption, such as food stores and clothing stores; offices; service establishments such as banks and insurance agencies; establishments such as restaurants and night clubs; and establishments for participant sports such as bowling alleys and indoor tennis courts.

2. In special urban areas, new or expanded retail trade and service establishments are conditionally acceptable in filled water's edge areas and over large rivers on structurally sound existing pilings as part of mixed use developments, provided that the development is consistent with the rule on Filled Water's Edge (N.J.A.C. 7:7E-3.23) and Special Urban Areas (N.J.A.C. 7:7E-3.43), and the existing total area of water coverage is not expanded except where it can be demonstrated that extensions are functionally necessary for water dependent uses.

3. Elsewhere in the coastal zone, new or expanded retail trade and service establishments are conditionally acceptable provided that the development:

- i. Complies with all applicable Location and Resource rules;
- ii. Is compatible in scale, site design, and architecture with surrounding development; and
- iii. Where appropriate, utilizes the water area as the central focus of the development.

4. Rationale

(c) Standards relevant to convention centers and arenas are as follows:

1. "Convention centers" are facilities designed primarily for holding conventions. "Arenas" are commercial facilities designed primarily for spectator sporting events. Arenas do not include indoor tennis courts, bowling alleys and other facilities primarily designed for participant sports, nor arenas affiliated with schools and colleges.

2. New convention centers and arenas are encouraged in special urban areas, and conditionally acceptable in Development regions, provided that the development is compatible in scale, site design, and architecture with surrounding development, and is accessible by public transportation. New convention centers and arenas are discouraged in Barrier Island, Extension and Limited Growth regions.

3. Rationale

7:7E-7.11 Coastal engineering

Changes to existing text approved by OCRM

(a) Coastal engineering includes a variety of structural and non-structural measures to manage water areas and the shoreline for natural effects of erosion, storms, and sediment and sand movement. Beach nourishment, sand fences, pedestrian control on dunes, stabilization of dunes, dune restoration projects, dredged material disposal and the construction of retaining structures such as bulkheads, **gabions**, revetments and seawalls are all examples of coastal engineering.

1. ~~Coastal engineering standards are subject to the Location rules on General Water Areas and to the Special Area rules. These coastal engineering use rules~~ **the standards relevant to shore protection priorities in (b) below** do not apply to water dependent uses within existing ports.

(b) (No change.)

(c) Standards relevant to dune management are as follows:

1. Dune restoration, creation and maintenance projects as non-structural shore protection measures, including sand fencing, revegetation, additions of non-toxic appropriately sized material, control of pedestrian and vehicular traffic, are encouraged. These projects ~~must be carried out in accordance~~ **shall comply** with N.J.A.C. 7:7E-3A, Standards for Beach and Dune Activities.

2. (No change.)

(d) (No change.)

(e) Standards relevant to structural shore protection are as follows:

1. The construction of new shore protection structures or expansion or fortification of existing shore protection structures, including, but not limited to, jetties, groins, seawalls, bulkheads, **gabions** and other retaining structures to retard longshore transport and/or to prevent tidal waters from reaching erodible material is acceptable only if it meets all of the following five conditions:

- i. The structure is essential to protect water dependent uses or heavily used public recreation beach areas in danger from tidal waters or erosion, or the structure is essential to protect existing structures and infrastructure in developed shorefront areas in danger from erosion, or the structure is essential to mitigate, through, for example, the construction of a retained earthen berm, the projected erosion in an erosion hazard area along a headland and provide erosion

protection for a development that is otherwise acceptable under the ~~[Rules on]~~ Coastal Zone Management **rules**;

ii. – v. (No change.)

vi. If the proposed project requires filling of a water area it must be consistent with the General Water Area rule for Filling (N.J.A.C. 7:7E-~~[4.2(j)]~~ **4.10**) and all other relevant coastal rules.

~~[2. Maintenance or reconstruction of an existing bulkhead is conditionally acceptable, provided it does not result in the extension of the structure or the upland by more than 18 inches in any direction. Maintenance or reconstruction of an existing bulkhead which results in extension of the structure or upland by more than 18 inches shall be considered new construction, unless it can be demonstrated that the existing bulkhead can not physically accommodate an 18 inch replacement. In such cases, the Department may allow for bulkhead replacement at a location which is as close as physically possible to the existing bulkhead sheathing. All measurements shall be made from the waterward face of the existing bulkhead sheathing to the waterward face of the new bulkhead sheathing.]~~

2. Maintenance or construction of an existing bulkhead is conditionally acceptable provided that it meets (e)2i, ii or iii below. All measurements shall be made from the waterward face of the original bulkhead alignment of the existing bulkhead to the waterward face of the replacement bulkhead.

i. The replacement bulkhead is located within 18 inches outshore of the existing bulkhead, except in accordance with (e)2ii or iii below;

ii. The replacement bulkhead is located no more than 24 inches outshore of the existing bulkhead when the replacement bulkhead is constructed of a corrugated material, and the replacement bulkhead is located as close as possible to the face of the existing bulkhead; or

iii. Maintenance or reconstruction of an existing bulkhead which does not meet (e)2i or ii above shall be considered new construction, unless it can be demonstrated that the existing bulkhead cannot physically accommodate a replacement in accordance with (e)2i or ii above. In such case, the replacement bulkhead shall be as close as physically possible to the original bulkhead alignment.

3. Stone rip-rap and sloped concrete **and gabion** revetments which allow for growth of vegetation are the preferred form of retaining structures.

4. – 6. (No change.)

Text of current rule

(a) Coastal engineering includes a variety of structural and non-structural measures to manage water areas and the shoreline for natural effects of erosion, storms, and sediment and sand movement. Beach nourishment, sand fences, pedestrian control on dunes, stabilization of dunes, dune restoration projects, dredged material disposal and the construction of retaining structures such as bulkheads, gabions, revetments and seawalls are all examples of coastal engineering.

1. The standards relevant to shore protection priorities in (b) below do not apply to water dependent uses within existing ports.

(b) Standards relevant to shore protection priorities are as follows:

1. Non-structural solutions to shoreline erosion problems are preferred over structural solutions. Vegetative shore protection measures have been proven effective, and are preferred at shoreline sites in which they are feasible. Feasibility is dependent on the following factors: shoreline geometry; shoreline slope; sediment type; boat traffic; and wind and extent of exposed land/water surface (fetch). The infeasibility and impracticability of a non-structural solution must be demonstrated before structural solutions may be deemed acceptable.

2. Rationale

(c) Standards relevant to dune management are as follows:

1. Dune restoration, creation and maintenance projects as non-structural shore protection measures, including sand fencing, revegetation, additions of non-toxic appropriately sized material, control of pedestrian and vehicular traffic, are encouraged. These projects shall comply with N.J.A.C. 7:7E-3A, Standards for Beach and Dune Activities.

2. Rationale

(d) Standards relevant to beach nourishment are as follows:

1. Beach nourishment projects, such as non-structural shore protection measures, are encouraged, provided that:

i. The particle size and type of the fill material is compatible with the existing beach material to ensure that the new material will not be removed to a greater extent than the existing material would be by normal tidal fluctuations;

ii. The elevation, width, slope and form of the proposed beach nourishment projects are compatible with the characteristics of the existing beach;

iii. The sediment deposition will not cause unacceptable shoaling in downdrift inlets and navigation channels; and

iv. Public access to the nourished beach is provided in cases where public funds are used to complete the project.

2. Rationale

(e) Standards relevant to structural shore protection are as follows:

1. The construction of new shore protection structures or expansion or fortification of existing shore protection structures, including, but not limited to, jetties, groins, seawalls, bulkheads, gabions and other retaining structures to retard longshore transport and/or to prevent tidal waters from reaching erodible material is acceptable only if it meets all of the following five conditions:
 - i. The structure is essential to protect water dependent uses or heavily used public recreation beach areas in danger from tidal waters or erosion, or the structure is essential to protect existing structures and infrastructure in developed shorefront areas in danger from erosion, or the structure is essential to mitigate, through, for example, the construction of a retained earthen berm, the projected erosion in an erosion hazard area along a headland and provide erosion protection for a development that is otherwise acceptable under the Coastal Zone Management rules;
 - ii. The structure will not cause significant adverse impacts on local shoreline sand supply;
 - iii. The structure will not create net adverse shoreline sand movement downdrift, including erosion or shoaling;
 - iv. The structure will cause minimum feasible adverse impact to living marine and estuarine resources;
 - v. The structure is consistent with the State's Shore Protection Master Plan;
 - vi. If the proposed project requires filling of a water area it must be consistent with the General Water Area rule for Filling (N.J.A.C. 7:7E-4.10) and all other relevant coastal rules.
2. Maintenance or construction of an existing bulkhead is conditionally acceptable provided that it meets (e)2i, ii or iii below. All measurements shall be made from the waterward face of the original bulkhead alignment of the existing bulkhead to the waterward face of the replacement bulkhead.
 - i. The replacement bulkhead is located within 18 inches outshore of the existing bulkhead, except in accordance with (e)2ii or iii below;
 - ii. The replacement bulkhead is located no more than 24 inches outshore of the existing bulkhead when the replacement bulkhead is constructed of a corrugated material, and the replacement bulkhead is located as close as possible to the face of the existing bulkhead; or
 - iii. Maintenance or reconstruction of an existing bulkhead which does not meet (e)2i or ii above shall be considered new construction, unless it can be demonstrated that the existing bulkhead cannot physically accommodate a replacement in accordance with (e)2i or ii above. In such case, the replacement bulkhead shall be as close as physically possible to the original bulkhead alignment.
3. Stone rip-rap and sloped concrete and gabion revetments which allow for growth of vegetation are the preferred form of retaining structures.
4. Public access, including parking where appropriate, must be provided to publicly funded shore protection structures and to waterfront land created by public projects, unless public access would create a safety hazard to users. Physical barriers or local regulations which unreasonably interfere with access to, along or across a structure are prohibited.
5. The construction of bulkheads subject to wave runup forces (V-Zones) must be designed and certified by a professional engineer to withstand the forces of wave runup, and must include a splash pad on the landward side. The splash pad must have a minimum width of 10 feet, and may be constructed of concrete, asphalt or other erosion resistant material. If a cobblestone or similar splash pad is utilized, appropriate subbase and filter cloth must be incorporated into the design. A provision for the use of rip-rap along the seaward toe of the bulkhead structure may be required on a case-by-case basis, as a means to limit the scour potential.
6. Rationale

7:7E-7.13 National defense facilities use

Changes to existing text approved by OCRM

(a) A ~~["]~~national defense facility~~["]~~ is any building, group of buildings, marine terminal, or land area owned or operated by a defense agency (Army, Navy, Air Force, Marines, Coast Guard) and used for training, research, material support, or any other defense-related use.

(b) National Defense facilities are conditionally acceptable~~["], and will be approved if one of two findings can be made:"]~~ **provided the development meets either (b)1 or 2 below:**

1. The proposed facility is consistent with all relevant ~~["Coastal Resource and Development Policies"]~~ **Coastal Zone Management rules**; or
2. The proposed facility is coastally dependent, will be constructed and operated with maximum possible consistency with Coastal ~~["Resource and Development Policies"]~~ **Zone Management rules**, and will result in minimal feasible degradation of the natural environment.

(c) - (d) (No change.)

Text of current rule

(a) A national defense facility is any building, group of buildings, marine terminal, or land area owned or operated by a defense agency (Army, Navy, Air Force, Marines, Coast Guard) and used

for training, research, material support, or any other defense-related use.

(b) National defense facilities are conditionally acceptable provided the development meets either (b)1 or 2 below:

1. The proposed facility is consistent with all relevant Coastal Zone Management rules; or
2. The proposed facility is coastally dependent, will be constructed and operated with maximum possible consistency with Coastal Zone Management rules, and will result in minimal feasible degradation of the natural environment.

(c) The construction of new facilities or expansion of existing facilities on land not owned by a defense agency is discouraged, unless it can be shown that the facility cannot feasibly be accommodated on an existing base.

(d) Rationale

7:7E-7.14 High-rise structures

Changes to existing text approved by OCRM

(a) ~~[All high-rise structures]~~ **High-rise structures are structures which are** more than six stories or more than 60 feet **in height as measured** from existing preconstruction ground level ~~[are encouraged to locate in an area of existing high density, high-rise and/or intense settlements. Utility structures that have a demonstrated need are exempted from this policy, but must comply with all other applicable Coastal Rules. High-rise housing and other structures are acceptable subject to the following conditions:]~~

1. (No change.)
2. The longest lateral dimension of any high-rise structure must be oriented perpendicular to the beach or coastal waters, **except for a high-rise structure that is located in the Redevelopment Zone of the City of Long Branch and authorized pursuant to the Long Branch Redevelopment Zone Permit at N.J.A.C. 7:7-7.5.**
3. -7. (No change.)

(b) The standards for high-rise structures are as follows:

1. High-rise structures are encouraged to locate in an urban area of existing high density, high-rise and/or intense settlements;

~~[7-]~~ **2.** High-rise structures within the view of coastal waters shall be separated from coastal waters by at least one public road or an equivalent area (at least 50 feet) physically and visually open to the public except as provided by N.J.A.C. 7:7E-~~[3-46]~~ **3.48**;

~~[2-]~~ **3.** The longest lateral dimension of any high-rise structure must be oriented perpendicular to the beach or coastal waters, except for a high-rise structure that is located in the Redevelopment Zone of the City of Long Branch and authorized pursuant to the Long Branch Redevelopment Zone Permit at N.J.A.C. 7:7-~~[7-5]~~ **7.4**.

~~[3-]~~ **4.** (No change.)

~~[4-]~~ **5.** High-rise structures outside of the Hudson River ~~[Waterfront Special]~~ **waterfront special** area as defined by N.J.A.C. 7:7E-~~[3-46]~~ **3.48** shall not overshadow the dry sand beach between 10:00 A.M. and 4:00 P.M. between June 1 and September 20, and shall not overshadow waterfront parks year round;

~~[5-]~~ **6.** The proposed structure must be in character with the surrounding transitional heights and residential densities, or be in character with a municipal comprehensive development scheme requiring an increase in height and density which is consistent with all applicable Coastal ~~[Resource and Development Policies]~~ **Zone Management rules**;

~~[6-]~~ **7.** The proposed structure must not have an adverse impact on air quality, traffic, and existing infrastructure; **and**

~~[7-]~~ **8.** (No change.)

(c)The High-rise structures rule shall not apply to the following types of development:

1. Development in Atlantic City on existing ocean piers which meets the standards at N.J.A.C. 7:7E-3.49(c) or pedestrian bridges which meet the standards at N.J.A.C. 7:7E-3.49(i)1; or

2. Utility structures that have a demonstrated need.

~~[e-]~~ **(d)** (No change.)

Text of current rule

(a) High-rise structures are structures which are more than six stories or more than 60 feet in height as measured from existing preconstruction ground level.

(b) The standards for high-rise structures are as follows:

1. High-rise structures are encouraged to locate in an urban area of existing high density, high-rise and/or intense settlements;
2. High-rise structures within the view of coastal waters shall be separated from coastal waters

by at least one public road or an equivalent area (at least 50 feet) physically and visually open to the public except as provided by N.J.A.C. 7:7E-3.48;

3. The longest lateral dimension of any high-rise structure must be oriented perpendicular to the beach or coastal waters, except for a high-rise structure that is located in the Redevelopment Zone of the City of Long Branch and authorized pursuant to the Long Branch Redevelopment Zone Permit at N.J.A.C. 7:7-7.4.

4. The proposed structure must not block the view of dunes, beaches, horizons, skylines, rivers, inlets, bays, or oceans that are currently enjoyed from existing residential structures, public roads or pathways, to the maximum extent practicable;

5. High-rise structures outside of the Hudson River waterfront special area as defined by N.J.A.C. 7:7E-3.48 shall not overshadow the dry sand beach between 10:00 A.M. and 4:00 P.M. between June 1 and September 20, and shall not overshadow waterfront parks year round;

6. The proposed structure must be in character with the surrounding transitional heights and residential densities, or be in character with a municipal comprehensive development scheme requiring an increase in height and density which is consistent with all applicable Coastal Zone Management rules;

7. The proposed structure must not have an adverse impact on air quality, traffic, and existing infrastructure; and

8. The proposed structure must be architecturally designed so as to not cause deflation of the beach and dune system or other coastal environmental waterward of the structure.

(c) The high-rise structures rule shall not apply to the following types of development:

1. Development in Atlantic City on existing ocean piers which meets the standards at N.J.A.C. 7:7E-3.49(c) or pedestrian bridges which meet the standards at N.J.A.C. 7:7E-3.49(i)1; or

2. Utility structures that have a demonstrated need.

(d) Rationale