

## SECTION 7

### PLANNING PROCESSES

#### Introduction

Three planning processes are incorporated into the State Coastal Management Program. They are: the Energy Facility Planning Process, the Shorefront Erosion/Mitigation Planning Process, and the Shorefront Access and Protection Process. These processes, which are described below, comply with federal regulations for the Coastal Zone Management Program.

#### Energy Facility Planning Process

Section 305 (b) (8) of the Coastal Zone Management Act of 1972, as amended, requires the management program of each State to include "a planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including but not limited to, a process anticipating and managing the impacts from such facilities".

#### I. Identification of Energy Facilities Likely to Locate In, or Significantly Affect a State's Coastal Area

Energy facilities likely to locate in, or significantly affect New York's coastal area include electric generating facilities (oil, coal, nuclear, hydropowered); electric and gas transmission facilities; oil and gas exploration, development, transfer and storage facilities (including LNG facilities); and alternative energy facilities (e.g. wind).

#### II. Procedures for Assessing the Suitability of Sites for Such Facilities

##### General Planning

For all such facilities, the planning process begins with the preparation of the State Energy Master Plan, as required by Article 5 of the Energy Law; determines State energy needs; and identifies proposed new, expanding or converting facilities and their locations. It contains:

- a. A forecast of the State's energy requirements for periods of five, ten and fifteen years, together with the bases for such forecasts;
- b. A summary of the plans of the State's major energy suppliers for meeting forecasted energy requirements, including descriptions of new energy sources;

- c. An identification and analysis of emerging trends related to energy supply, price and demand;
- d. A statement and justification for specific energy policies, as well as recommendations for administrative and legislative actions that the State Energy Office has determined are desirable to implement the State's energy policy; and
- e. Such additional information as the State Energy Office deems appropriate.

## 2. Activity Specific Processes

More specific procedures for siting individual facilities depend on the facility involved.

- a. Steam Electric Generating Facilities and Electric and Gas Transmission Facilities

### Additional Planning Requirements

Prior to any amendment of the State Energy Master Plan, members of the New York Power Pool and New York Gas Group must submit comprehensive long-range plans for future operations (including energy demands for the next five, ten and fifteen year period) to the State Energy Office and other State agencies. Public hearings must be held before the Board's adoption of a revision to the Master Plan. Once adopted, specific findings of projected electric and gas "requirements" for the forecast periods are binding, with respect to any determination of need for a facility, on those agencies having powers to issue certificates under Article VII and VIII of the Public Service Law.

The Coastal Management Program will review the Master Plan and present its comments to the Energy Planning Board if any inconsistencies with the Coastal Management policies are found.

### ii) Permitting Processes

The State's review process for individual facilities is set forth in Articles VII and VIII of the Public Service Law and regulations promulgated thereunder (see Appendix F). The procedure involves the following steps:

- 1 Application to the Public Service Commission for electric and gas transmission facilities, or to the New York State Board on Electric Generation Siting and the Environment for steam electric generating facilities.
- 2 Review for completeness
- 3 Establishment of dates for hearing -- within 60 days for an electric generating facility, 60-90 days for an electric transmission line, 20-60 days for a gas line
- 4) Pre-hearing (Electric generating)
- 5) Hearing can be joint
- 6 Examiner's decision (Electric generating)
- 7 Decision
- 8) Re-hearing procedures -- up to 3 months (Electric generating only)

In making its application for a proposed electric generation facility, the "applicant in its direct testimony and as part of the exhibit information required to be submitted by Parts 72 through 80 of NYCRR, Title 16, shall explain the extent to which the location, design, construction, operation and maintenance of a proposed electric generation facility at a proposed site is designed to comply with each Federal and State law, rule, regulation or standard, interstate compact, and international requirement relevant and material to a determination of the application". If a proposed facility will not be in full compliance with the above, the applicant must describe any limitation or procedure it proposes to assure compliance or justify nonconforming aspects. (see Appendix F of this document, NYCRR, Title 16, Subchapter E, Section 71.9.)

In making its application, the applicant must provide an analysis of the need for the facility. It must also provide information about the existing condition of and potential impacts on air quality, aquatic ecology, environmental noise, regional and site geology, land use and aesthetic characteristics, terrestrial ecology, and water quality and quantity, in addition to the waste characteristics of the proposed facility (see Appendix F of this document, NYCRR, Title 16, Subchapter E, Sections 72-80.)

The Board, in granting a certificate for construction, must find and determine:

- the public need for the facility;
- (b) the nature of the probable environmental impact;
- (c) that the facility represents the minimum adverse environmental impact, is compatible with public health and safety, and will not discharge any effluent that will be in contravention of the standards adopted by the department of environmental conservation;
- (d) that the facility is designed to operate in compliance with applicable state and local laws and regulations;
- (e) that the facility is consistent with long-range planning objectives for electric power supply in the state;

that the facility is in the public interest, concerning the environmental impact, the total cost to society, the possible available sites or alternative available sources of energy. (See Appendix F of this document, Article VIII of the Public Service Law, Section 146.)

In making its application for a major electric or gas utility transmission facility, "the applicant shall state whether it has pending or knows of others who have pending, with this commission or with any other governmental department or agency (State or Federal), an application or filing which concerns the subject matter of the proceeding before the commission. If one or more such applications or filings is pending, the applicant shall state, for each application or filing pending, whether the granting of any such other application or filing will have any effect on the grant or denial of a certificate, and whether the granting of a certificate will have any effect upon the grant or denial of any such other application or filing." (See Appendix F of this document, NYCRR, Title 16, Subchapter G, Part 86.9.)

In making its application, the applicant must submit a statement describing any study which has been made of the impact of the proposed facility on the environment. The applicant must also state what changes, if any, the construction and operation of the proposed facility might induce in the physical or biological processes of plant life or wildlife through any permanent or significant temporary change in the hydrology, topography, or soil of the area.

The Board, in granting a certificate for construction, must find and determine:

- (a) the public need for the facility;
- (b) the nature of the probable environmental impact;

that the facility represents the minimum adverse environmental impact, is compatible with public health and safety, and will not discharge any effluent that will be in contravention of the standards adopted by the department of environmental conservation;

that the facility is designed to operate in compliance with applicable state and local laws and regulations;

that the facility is consistent with long-range planning objectives for electric power supply in the state;

- (f) that the facility is in the public interest, concerning the environmental impact, the total cost to society, the possible available sites or alternative available sources of energy. (See Appendix F of this document, Article VIII of the Public Service Law, Section 146.)

In making its application for a major electric or gas utility transmission facility, "the applicant shall state whether it has pending or knows of others who have pending, with this commission or with any other governmental department or agency (State or Federal), an application or filing which concerns the subject matter of the proceeding before the commission. If one or more such applications or filings is pending, the applicant shall state, for each application or filing pending, whether the granting of any such other application or filing will have any effect on the grant or denial of a certificate, and whether the granting of a certificate will have any effect upon the grant or denial of any such other application or filing." (See Appendix F of this document, NYCRR, Title 16, Subchapter G, Part 86.9.)

In making its application, the applicant must submit a statement describing any study which has been made of the impact of the proposed facility on the environment. The applicant must also state what changes, if any, the construction and operation of the proposed facility might induce in the physical or biological processes of plant life or wildlife through any permanent or significant temporary change in the hydrology, topography, or soil of the area.

The applicant must also state what efforts have been made to assure that the transmission line right-of-way avoids scenic, recreational and historic areas; minimizes visibility from public areas; avoids heavily timbered, high points, ridge lines and steep slopes; preserves the natural landscape and minimizes conflict with any present or future planned land use. In addition, the applicant must indicate plans to protect natural vegetation, topsoil, wildlife habitat, and aquatic life. (See Appendix F of this document, NYCRR, Title 16, Subchapter G, Part 86.4.)

The Commission in granting the certificate for construction or operation of the major transmission facility must find and determine:

- a the need for the facility;
  - (b) the nature of the probable environmental impact that the facility represents the minimum adverse environmental impact;
  - (d) in the case of an electric transmission line, (1) what part, if any, of the line shall be located underground; (2) that such facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, which will serve the interests of electric system economy and reliability;
  - e in the case of a gas transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;
  - (f) that the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder;
  - (g) that the facility will serve the public interest, convenience and necessity. (See Appendix F of this document, Article VII of the Public Service Law, Section 126.)
- b. Offshore Gas and Oil Facilities and Activities

Drilling rigs, pipelines, refineries, storage and other gas and oil facilities which are located in the State's coastal waters and adjacent shorelands are subject to several different laws and regulations that assess, among other things, the siting of such facilities. In addition, offshore gas and oil exploration, development and production activities must meet State requirements.

The location of fuel gas transmission lines are subject to Article VII of the Public Service Law. The Public Service Commission, before issuing a certificate for the construction and operation of a major gas pipeline, must find that there is a public need for the facility and that it is compatible with the environment (See the discussion under Steam Electric Generating Facilities and Electric and Gas Transmission Lines and Appendix F for further information on this comprehensive siting review procedure). The Department of State will review applications for gas transmission lines which are submitted to the Commission and may present testimony during the review proceedings regarding the siting of such facilities.

Oil transmission lines in coastal waters are subject to several laws and their implementing regulations which focus upon the effects of such facilities upon valuable coastal resources. Any pipeline which would require excavation or fill activities is subject to the provisions of Article 15 (Water Resources) of the Environmental Conservation Law. In addition, the construction of such facilities would be regulated by the Tidal and Freshwater Wetlands laws (Article 25 and 24 of the Environmental Conservation Law, respectively). Such pipelines are evaluated as to their effects upon navigation, fish, aquatic and water resources, functions of wetlands and the public health, safety and welfare. Oil transmission lines subject to the above cited laws are subject to the review procedures established by Article 70 (Uniform Procedures) of the Environmental Conservation Law. These procedures call for: the submission of a complete application to the Department of Environmental Conservation; the publication of a notice of application including the date of any public hearing, if necessary, and time period for public comment; and, the approval or disapproval of the permit application within sixty days after the close of the public hearing record, or, if no hearing was held, ninety days after the submission of a complete application.

If the Department determines that a proposed oil pipeline would have a significant effect upon the environment, the preparation of an Environmental Impact Statement (EIS) will be necessary as required by Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law (See Appendix E for further information on this review procedure). When an EIS is prepared, the proposed action must be evaluated for its consistency with the coastal policies contained in the Department of State's Part 600 regulations.

Oil and gas exploration, development and production activities in New York's coastal waters are subject to the provisions of Article 23 (Mineral Resources) of the Environmental Conservation Law. This law regulates the drilling, casing, operation and the spacing and plugging of wells. It also provides for the leasing of State-owned underwater lands for the purposes of gas and oil development and production. An applicant seeking approval from the Department of Environmental Conservation for a proposed oil or gas exploration, development and production activity must submit a complete application. The Department will then provide public notice of the proposed activity and hold a public hearing. Within sixty days after the conclusion of the hearing, the Department must either approve or disapprove the application.

The Department would also be required by Article 8 of the Environmental Conservation Law to determine the environmental significance of the proposed activity. If it is determined that the activity would have a significant effect upon the environment, the preparation of an environmental impact statement would be necessary. In such instances, the Department must also determine the consistency of the activity with the coastal policies contained in the Department of State's Part 600 regulations.

Onshore oil and gas facilities (except for LNG and LPG storage and gas transmission facilities) must comply with established State air and water quality standards and tidal and freshwater wetlands requirements, where applicable. The discharge of pollutants into the air and water and the construction of facilities in or adjacent to designated wetlands are regulated by Articles 17 (Water Pollution Control), 19 (Air Pollution), 24 (Freshwater Wetlands) and 25 (Tidal Wetlands) of the Environmental Conservation Law. The review of such facilities under the above cited laws is subject to the procedures established in Article 70 (Uniform Procedures) of the Environmental Conservation Law. The review procedure established by this law is presented in the discussion under oil transmission lines.

In addition, onshore oil and gas facilities may be subject to the provisions of Article 8 of the Environmental Conservation Law which requires the preparation of an EIS, if it is determined that such facilities may have a significant effect upon the environment. When this occurs the Department of Environmental Conservation will have to determine the consistency of such facilities with the coastal policies contained in the Department of State's Part 600 regulations. One of the policies calls for facilitating the siting of water dependent uses which include energy-related uses and facilities.

c. LNG Facilities

Article 23 of the Environmental Conservation Law (Liquified Natural and Petroleum Gas) requires a certificate of environmental safety prior to construction, reconstruction, enlargement, or initiation of operation of LNG and LPG facilities. Procedures allow for complete consideration of the facility, the proposed site and alternate locations prior to the decision on granting a certificate. The procedures involve the following:

- 1) Application for certificate to the Department of Environmental Conservation
- 2) Public hearings
- 3) Department decision
- 4) Renewals, modifications
- 5) Suspensions, revocations

d. Other Energy Facilities

The procedures for assessing the suitability of a site for other facilities likely to locate in the coastal zone are essentially the same as for assessing the suitability of any other type of project in the coastal zone.

If a direct State action is involved, the Waterfront Revitalization and Coastal Resources Act requires consistency with the coastal policies. If no such direct or funding action is involved, suitability of significant facilities will be assessed in the context of State permitting actions subject to Article 8 of the Environmental Conservation Law (State Environmental Quality Review Act) which requires an environmental impact statement to be prepared for all actions (except actions subject to Article VII and VIII of the Public Service Law) which may have a significant effect upon the environment.

As amended, the SEQR regulations require that, a state agency's action be consistent with the coastal policies. Such a determination is made in addition to any requirements under one or more permitting programs. (See permitting programs described under Policy 27 in Part II, Section 6 of this document.)

### III. Articulation and Identification of Enforceable State Policies, Authorities and Techniques for Managing Energy Facilities and Their Impacts

State energy policies are contained in the Energy Law and State Energy Master Plan (see Appendix F for the Energy Law). In general, the policies deal with maintaining a dependable, economic supply of energy, promoting economic development and protecting the environment. State energy policies are as follows:

1. The State's consumption of petroleum products must be reduced. The economic cost and vulnerability to disruption resulting from the State's continued disproportionate reliance on oil strongly support actions to shift to less costly and/or more secure energy sources.
2. Conservation and renewable resources must make a greater contribution to energy supply and will require substantial additional government support to do so, at least in the near-term. In many applications, conservation and renewables appear to be the least costly, most economically productive and environmentally benign means to satisfy a significant portion of the State's current and anticipated energy requirements. Government action must enhance the respective contributions to be made by conservation and renewables in meeting those requirements.
3. The State of New York and its agencies should encourage the efficient use of natural gas and stimulate efforts to secure additional supplies of natural gas from sources that are economic and compatible with environmental, public health, and safety standards in order to reduce New York's dependence on oil. Natural gas is and will likely remain an economic and environmentally compatible alternative to oil. This policy will help insure that supply and demand remain balanced throughout the planning period.
4. The increased use of coal must be promoted where economically feasible and consistent with applicable environmental standards. Compared to continued use of oil, particularly in the utility sector, use of coal will result in economic advantages, given current and forecast cost differentials between coal and oil, and significant improvement in certainty of supply over the forecast period. Increased utilization of eastern coal is likely to stabilize regional energy costs and will stimulate regional economic development.
5. Regional cooperation, coordination, and action must be promoted to enhance the region's energy supply prospects. Interconnection of New York's electric and natural gas supply systems with Canada should be pursued as a vehicle for reducing costs and oil dependence to the extent economic and feasible. Interconnection may also lessen the adverse impacts on the State's environment from construction and operation of energy supply facilities.

6. Because of the need to develop a fully adequate national nuclear waste disposal program, and a need to clarify substantial uncertainties associated with economic, safety and regulatory issues related to the nuclear option, new nuclear power plants should not be included in the State's electricity supply plan at this time.
7. All consuming sectors must be given increased choice among competing energy forms, including conventional fuels, conservation, and renewable resources. Increased choice will benefit consumers by increasing price competition among energy forms, and will benefit the State by stimulating innovation and efficiency improvements.
8. Government must act to remove any existing legislative and administrative barriers inhibiting the development of energy sources, competition among fuel forms and energy conservation, except where such action would clearly compromise public health, safety or environmental quality. Justification for any such institutional barriers must be reexamined in light of compelling State energy needs.
9. The State's electric and gas utilities, as well as PASNY, should encourage and stimulate conservation and efficient use of energy by their customers. Electric and gas utilities should become more active purveyors of conservation and renewable resource technologies.

No person should be without adequate heat or should be forced to forego conservation improvements by reason of inability to pay. A commitment to protect public health and safety requires no less.

11. The energy research, development and demonstration programs being pursued in New York must be expanded and must emphasize those technologies that will, over the mid- to long-term, mitigate energy cost increases and energy supply interruption. Formal and informal coordination of the numerous energy RD&D programs throughout the State is essential to assure that these activities support and complement State energy policy.

In view of the extensive reliance on oil in the transportation sector, the State should continue to take action to maximize the efficient use of energy in this sector. Moreover, the relatively energy efficient mass transit and railroad systems throughout the State must be maintained to prevent shifts of mass transit and railroad riders to less efficient automobiles.

13. Comprehensive energy emergency preparedness activities, directed at mitigating the adverse economic and social impacts of an interruption in petroleum supplies, must be continued and increased in order to protect public health and safety.

In addition to the above cited policies, the State of New York has enacted laws and adopted regulations which govern the siting of certain energy uses and facilities. The basic policies contained in these laws and regulations are:

1. The siting of major steam electric generating and gas and electric transmission facilities shall be based upon public need and compatibility with the environment (Articles VII and VIII, PSL)
  2. The siting of liquified natural and petroleum gas facilities shall be based upon public safety and compatibility with the environment (Article 23 ECL)
  3. Facilitate the siting of water dependent uses and facilities on or adjacent to coastal waters (DOS Part 600 regulations)
- IV. Identification of How Interested and Affected Public and Private Parties May Be Involved in the Planning Process

The Department of State, as the agency responsible for the Coastal Management Program, will ensure that coastal concerns are part of energy facility deliberations by continuing to review the State Energy Plan and any amendments thereto. It also by law receives proposals for review under Articles VII and VIII of the Public Service Law and will participate in hearings under Article VII (as an automatic party) and Article VIII (as a party upon request).

In addition, pursuant to the Waterfront Revitalization and Coastal Resources Act, Department of State regulations and amendments to SEQRA regulations provide the procedural opportunities for the Department of State to undertake its required review of all actions, including energy facilities, which may affect the achievement of the coastal policies.

Before the State Energy Master Plan is amended, major private sector energy suppliers (NY Power Pool and NY Gas Group) are required to submit comprehensive long-range plans for future operations to the State Energy Office and other State agencies. These plans are reviewed and approved by the Energy Board.

Local governments and the general public are provided the opportunity to participate as parties in Article VII and VIII proceedings and other hearings conducted pursuant to the various permitting and environmental review procedures cited above. The Department of State will also encourage local governments which develop waterfront revitalization programs to consider future energy development activities, to identify appropriate sites, and to prepare local laws or other mechanisms for dealing with new or expanding energy development.

The national interest in the planning for and siting of energy facilities was determined from the National Energy Plan and through direct communication with appropriate Federal agencies. For a more complete discussion of the national interest in energy production and transmission facilities, see Part II, Section 9, Special Program Requirements, of this document.

### Shoreline Erosion/Mitigation Planning

Section 305 (b) (9) of the Coastal Zone Management Act of 1972, as amended, requires that state coastal management programs must include a shoreline erosion/mitigation planning process, the regulations for which are presented in 15 CFR 923.25:

"(1) The management program must include a method for assessing the effects of shoreline erosion and evaluating techniques for mitigating, controlling or restoring areas adversely affected by erosion."

"(2) There must be an identification and description of enforceable policies, legal authorities, funding techniques and other techniques that will be used to manage the effects of erosion as the State's planning process indicates is necessary."

As evidenced in the Flood and Erosion Hazards issue discussion (Part II, Section 5), which is incorporated by reference as part of this response, the effects of shoreline erosion and the techniques for dealing with it are of major concern to New York State. However, the State lacked a systematic basis for dealing with that concern until 1981 when the Coastal Erosion Hazard Areas legislation was enacted. The law (Environmental Conservation Law, Article 34) recognizes: the extensive damage caused by erosion in the State's coastal area; man's contribution to the problem by activities which exacerbate the erosion process or by placing property where it is exposed to damage; and, that many measures taken to control erosion are costly, often ineffective, and may be harmful to other lands. The law has three principal components: delineation of the hazard areas; promulgation of regulations; and implementation.

Procedures established by the law require the Department of Environmental Conservation, in full cooperation with affected local governments, to complete a preliminary identification of erosion hazard areas of the State's coastline. Coastal erosion hazard areas are defined by Article 34 in two ways. In the first, a requisite period of protection of structures is set at 40 years. That number is then multiplied by the annual land recession rate on lands where it is at least one foot, to define the inland extent of the hazard area. The recession rate will be measured using comparable maps and aerial photography, including 1979 photographs of the State's Great Lakes coast which were

flown specifically for this purpose, and funded under the federal Coastal Zone Management Act. The second definition of erosion hazard area encompasses dunes, beaches, shoals and other features which offer natural protection to shorelands. After required public hearings and consultations, final identification of coastal erosion hazard areas will be made. Priority is being given by DEC to identifying first those areas of the coastline which are eroding at a rate of 4 feet or more annually.

Within those identified erosion hazard areas, the regulatory provisions of the legislation will apply. For activities and development in such areas, regulations promulgated under Article 34 are required to establish minimum standards and criteria including: the use of setbacks; prevention of increase in erosion; minimizing of adverse effects on natural protective features; and measures to ensure the effectiveness of control structures. The law also specifies that, when public funds are to be used for activities and development, the public benefits must clearly outweigh the long-range adverse effects. Policies 11, 12, 13, 14, 15, 16, and 17 are based on those regulatory provisions.

Article 34 is designed to give, first, each affected local government the opportunity to implement its provisions with the adoption of a local coastal erosion hazard areas law or ordinance. If a local government fails to exercise its right, the county, or finally, DEC must issue regulations for that community.

In summary, the effects of full implementation of the Coastal Erosion Hazard Areas Act are: all erosion hazard areas of the State's coastline will be identified and mapped; a regulatory framework govern activities and development in those areas; and all government as well as private actions and programs will be constrained by the Act.

#### Shorefront Access and Protection Planning Process

Several State, regional, and local agencies participating in development of the Coastal Management Program identified specific sites in need of improved access for their functional or geographic areas of concern. Access sites for fishing, boating and other waterfront related activities have been identified by the Department of Environmental Conservation; the Office of Parks, Recreation and Historic Preservation; New York City Planning Commission; the Long Island Regional Planning Board; the Erie and Niagara Counties Regional Planning Board; the St. Lawrence-Eastern Ontario Commission; and individual counties participating in the program.

While most of the access site recommendations may reflect knowledge of the local area or specific functional plans, they are not based on a single coordinated statewide access planning process. The New York City Department of Planning has developed a methodology for identifying shorefront areas appropriate for

improved access. The Department tabulated the nature of the access issues for 33 areas. For three of these, detailed studies were undertaken consisting of: an examination of the study area in terms of current modes of access to the shore; identification of specific shorefront access concerns based on the above investigations; and recommended actions necessary to mitigate these concerns. The remaining identified areas will also be evaluated in this manner in the immediate future.

The Office of Parks, Recreation and Historic Preservation has also inventoried recreational facility capacity and undertaken supply and demand studies which can be applied to determination of access roads.

A single procedure for identifying, on a statewide basis, public shorefront areas appropriate for access has been developed as part of the Coastal Management Program and is outlined below. This procedure utilizes, in part, various methodologies and inventories already developed by State and local agencies and the lists of specific sites needing access improvements. This procedure satisfies the shorefront access and protection planning requirements of the Coastal Zone Management Act. Its application will result in a list of the specific access improvements to which the State will give priority within financial and legal limits. An interagency advisory committee will be established to oversee operation of the procedure.

1. Identify the types of public areas to which new or increased public access is desirable and a single planning process is appropriate for determining needed additional access.
  - a. Beaches - definition of beach is as follows: A beach is a zone of unconsolidated material that extends landward from the level of lowest water to the place where there is a marked change in natural or physiographic form (first line of terrestrial vegetation) or to the upper limit reached by the highest storm waves, which is the area subject to alternate erosion and deposition of beach material. The offshore limit of a beach is the mean low water line. A beach consists of both foreshore and backshore zones. Beach elements include dry sand areas, sand dunes, and areas of reasonably graduated slope to the water. Beaches are composed of a variety of materials, including sand, gravel, or pebbles. Areas composed of other materials may function as beaches when they are used for traditional beach activities.
  - b. Fishing and hunting areas
  - c. Boat launching sites and marinas
  - d. Scenic areas of statewide significance - as defined in the scenic quality issue discussion (Part II, Section 5) of this document

- e. Waterfront parks
  - f. The coast at large, to include other non-federal publicly-owned land
- 2 Inventory existing public areas to which public access is provided and/or desirable.
- a. Beaches - inventory and map those areas which meet the definition of beach above, including identification of those in public ownership. Sources are as follows:
    - Office of Parks, Recreation, and Historic Preservation Inventory of Recreation Sites
    - Land Use and Natural Resource Inventory (LUNR)
    - 3 Office of General Services State Land Inventory
    - New York City Coastal Management Program Report
    - 5) Nassau-Suffolk Regional Planning Board Coastal Management Program Report
    - St. Lawrence-Eastern Ontario Commission Coastal Management Program Report
    - 7 State Coastal Management Program Coastal Atlas (will map all beaches)
  - b. Fishing areas - an inventory and map of sites to which the public has access for fishing purposes within the coastal area. Sources are as follows:
    - Office of Parks, Recreation, and Historic Preservation Inventory of Recreation Sites
    - (2) Department of Environmental Conservation's Fish and Wildlife Management Program
    - (3) Office of General Services' State Lands Inventory
    - New York City Coastal Management Program Report
    - (5) Nassau-Suffolk Regional Planning Board Coastal Management Program Report
    - (6) St. Lawrence-Eastern Ontario Commission Coastal Management Program Report
    - (7) Sea Grant

- c. Boat launching sites and marinas - an inventory of all marinas and boat launching sites open to the public. Sources include all those listed under "a" above plus the Corps of Engineers, Sea Grant, and the Department of Transportation.
  - d. Scenic areas of statewide significance - an inventory and map. Principal source is the Coastal Management Program Coastal Atlas, plus information from the Department of Environmental Conservation and the Office of Parks, Recreation, and Historic Preservation.
  - e. Waterfront parks - an inventory and map. Sources are as follows:
    - 1) Office of Parks, Recreation, and Historic Preservation's Inventory of Recreation Sites
    - 2) Coastal Management Program Coastal Atlas
 Coast at large - a map and inventory of areas with general access to the shore. Sources include:
    - 1) Office of General Services Inventory of State Lands
    - 2) County tax maps
3. Describe the level and type of existing access at each site identified in terms of mode, capacity, and condition. Major source is the Office of Parks, Recreation, and Historic Preservation's Inventory of Recreation Sites.
  4. Assess the appropriateness of the above access relative to the capacity (physical and environmental) of the site to accommodate increased access and the present and future demand for use of the site.
  5. Where increased access is appropriate, indicate the appropriate means for improving access and the agency's responsibility.
  6. Establish a priority system for areas where increased access is appropriate.

## SECTION 8

### SPECIAL MANAGEMENT AREAS

#### Identification and Selection

The New York State Coastal Management Program has identified three categories of uses and activities which, because of their particular coastal related values, development pressures, or site specific circumstances, require detailed attention beyond the general planning and management system that constitutes the State's coastal program. The three categories of special management areas are: 1) State parks, 2) local waterfront revitalization areas, and 3) estuarine sanctuaries.

The Draft NYS Coastal Management Program Report dated March 1979<sup>1</sup> detailed identification and selection criteria for geographical areas of particular concern. The application of these criteria resulted in the proposed designation of 97 site specific geographic areas of particular concern and four categories of generic areas. Under the management program as presented in this final Coastal Management Program most of the areas that were identified can be adequately managed through the policies and various implementation measures of the program, notably the Waterfront Revitalization and Coastal Resources Act, the State Environmental Quality Review Act, Shoreowners Protection Act, State Historic Preservation Act, Articles VII and VIII of the Public Service Law and the Tidal and Freshwater Wetlands Act. Only the three areas mentioned above continue to require detailed and/or individual attention beyond the basic management program. State parks in the coastal area differ considerably in size, uses, and other circumstances and may require specific management programs which should be made part of the coastal management program. Each local revitalization waterfront area will have a program that, though it will adhere to common criteria, will be designed to meet the specific needs of each community. Similarly, any area designated as an estuarine sanctuary must be managed in a manner which will further federal sanctuary objectives.

A more complete description of the management of these three areas follows. Additional information including detailed regulations and guidelines are contained in appendices to this document.

<sup>1</sup>New York State Coastal Management Program, Appendix to Draft Report, March 1979, pp. F-1 to F-6.

## State Parks

Shorefront access and recreation are two of the major issues in New York State's coastal area. Public access to the coastline for recreational purposes is determined to a great extent by land ownership and land use patterns. Where coastal lands are privately owned, as is the case of most coastal lands in New York, public access is usually prohibited. In addition, the existing patterns of residential, commercial, industrial, and transportation land uses make large portions of New York's coast inaccessible or at the least severely limit access. For example, access to the Hudson River is substantially reduced because railroad lines run parallel to both sides.

While leisure time and the associated interest in recreation are increasing, physical barriers to public access persist and interest in buying coastal land for private purposes increases. Therefore, it is imperative that existing public access be preserved, maintained, and managed and where feasible, new access areas provided so that as many people as possible can take advantage of recreational opportunities.

State parks are the public facilities that provide coastal access and water-based recreational opportunities for the largest number of New York State residents. There are 90 State parks within New York's coastal boundary that represent probably the most important link between the people and the shore. The New York State Office of Parks, Recreation, and Historic Preservation (OPRHP), as part of its comprehensive outdoor recreation program, administers these 90 State parks which are grouped into four distinct categories: linear systems, boating facilities, parks and land preserves, and historic areas. Within each of these categories are subcategories of facilities to serve all types of users.

### Management Objectives

The overall management objective for State parks is to preserve and maintain these facilities so that the residents of New York State are guaranteed recreational access to the coastal area. However, four other management objectives are important, and should be considered in any specific management program for a State park:

1. Ensure first that water-dependent uses and then water-enhanced uses are accommodated within coastal State parks.
2. Manage land immediately adjacent to State parks so that incompatible development does not take place or is, at least, minimized.

3. Provide the appropriate level of public access to presently undeveloped or underutilized State parks.
4. Encourage the attainment of carrying capacities in underutilized State parks.

#### Priority Uses

Highest priority uses within coastal State parks are those recreational activities that are water-dependent or water-enhanced. The lowest priority uses are those that would be environmentally incompatible. The extent of this incompatibility will vary, of course, from park to park depending on the amount of existing development and the character of the parkland.

Priority uses of land immediately adjacent to State parks will also vary according to the types and intensity of both existing and proposed development and the nature and character of the State park. For example, in a park that has primarily been left in an undeveloped State, the highest priority development on adjacent land should be that which affords maximum protection to the natural character of the park. In a more highly developed park, adjacent land development should vary with the nature of the park.

1. Office of Parks, Recreation, and Historic Preservation - It is legislated policy of New York State (Title B, Article 3, Section 3.01 of the Parks, Recreation and Historic Preservation Law) to establish and maintain a system of State parks. State parks are administered by the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). The Office of Parks, Recreation, and Historic Preservation is presently in the final stages of developing a State Park Land Classification System. This system would examine the land capabilities of each State park area so that the type and level of appropriate development can be determined. When completed, this should give OPRHP increased capability for decision-making concerning desirable development at each of its coastal State parks.
2. Office of General Services - There is a great deal of unappropriated State land throughout New York State. It could be made available for parks through a transfer of jurisdiction from the Office of General Services to the Office of Parks, Recreation, and Historic Preservation.
3. Local Zoning - The Office of Parks, Recreation, and Historic Preservation's ownership, administration, and policy planning powers provide adequate management authority to meet management objectives within State parks. However, OPRHP does not have power to ensure that compatible development takes place in lands adjacent to State parks. Section 13.07 of the Parks, Recreation, and Historic Preservation Law prohibits any person from erecting or maintaining any advertising sign or structure within 500 feet of the border of any State park. Other than that, control of adjacent lands is left to the local government. The individual municipalities can, through zoning and other land use controls, regulate the use of these lands.
4. General Municipal Law - Section 239-m of the General Municipal Law does require, however, that any proposed zoning regulation or amendment to a zoning regulation which would change the regulations applying to real property within 500 feet of the boundary of a State park must be submitted to a county planning agency (or the appropriate regional planning agency if no county agency exists) for review. If the county planning agency disapproves the zoning proposal, the municipal agency having jurisdiction in local zoning matters may proceed with the disapproved regulation only after a vote of a majority plus one in favor. In addition, a resolution must be adopted setting forth the reasons for going counter to the county recommendations.

## Local Waterfront Revitalization Programs

As part of the State's Coastal Management Program, coastal localities are encouraged to use their resources and authorities to develop detailed programs for the revitalization of their waterfronts and the protection of coastal resources. While the State can promote development and provide for protection of critical resources and environments, the Waterfront Revitalization and Coastal Resources Act recognizes that local governments, with the assistance and cooperation of the State, are in the best position to determine what specific activities will take the best advantage of their local circumstances. To do this, the Act provides incentives for local governments to develop waterfront revitalization programs. It also sets up a process for cooperation between all levels of government. The objective is a detailed local program to which all levels of government are committed.

The general requirements for development and the content of an approved local waterfront revitalization program are described below. The more detailed guidelines that will be used by the Department of State in approving a local program are contained, in draft form, in an appendix to this document. These requirements are based on the Waterfront Revitalization and Coastal Resources Act which describes in some detail both the process for development and the content of a local waterfront revitalization program.

### Procedure for Program Development and Implementation

As to process, the Act provides that any local government or two or more local governments acting jointly may prepare a waterfront revitalization program and seek its approval by the Secretary of State. The Department of State will provide technical and financial assistance to local governments wishing to prepare waterfront revitalization programs. Guidelines have been prepared by the Department to aid localities in the preparation of their waterfront programs. More importantly, as required by the Act, the Department will actively work with each locality to facilitate the necessary consultation and coordination among local, county, regional, State, and Federal agencies and with community organizations in connection with the preparation of a local waterfront program. In addition, the Department of State will provide, as appropriate, to each participating locality, maps, data, model implementation mechanisms and technical advice.

Local programs are to include procedural as well as substantive elements. Among these are requirements that the program be long range, that the local government have adequate authority and the ability to implement the program, and that the program identify specific State actions including permit, funding, construction, and planning programs necessary for its implementation. The program must be approved by the legislative body and the chief executive officer of the municipality before it is submitted to the Secretary of State.

## Program Approval

Before approving a local waterfront revitalization program, the Secretary of State will consult with affected State and Federal agencies. The Secretary cannot approve a local program if he finds it conflicts with an existing State or Federal policy. When a conflict is found, the Secretary will attempt to resolve the differences.

Within sixty days of approving a local waterfront revitalization program, the Secretary will identify specific State permit, financial assistance, acquisition and capital construction programs likely to affect the achievement of the local program.

State agency programs so identified will, to the maximum extent practicable, be undertaken in a manner consistent with the approved local waterfront program. To assure the consistency of State actions with a local program, existing review and notification procedures, particularly SEQR and A-95, will be utilized. Using these and other procedures if necessary, State agencies will provide local government with adequate information on a proposed action. The municipality is expected to evaluate proposed actions and identify conflicts with its approved local program. Once notified by the locality of the potential conflicts, the Secretary will confer with the State agency and the local government to modify the action so that it will be consistent with the approved waterfront revitalization program.

The Secretary is also required by the Act to work with State agencies and seek additional means of implementing approved local waterfront programs. Where a local government has identified program elements which depend upon other than local funds and actions, the Secretary will consult with the appropriate State and Federal agencies to explore the possibilities or programming of additional assistance that would further the implementation of the local program.

## Program Content

As to the content of a local waterfront revitalization program, the Department of State guidelines are based on Sections 912, 915.4 and 915.5 of the Act. First, all local programs must be consistent with and work towards the achievement of the policies contained in Section 912. These policies are:

1. To achieve a balance between economic development and preservation that will permit the beneficial use of coastal resources, while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent adverse changes to ecological systems.

2. To encourage the development and use of existing ports and small harbors including use and maintenance of viable existing infrastructures, and to reinforce their role as valuable components within the State's transportation and industrial network.

To conserve, protect and where appropriate promote commercial and recreational use of fish and wildlife resources and to conserve and protect fish and wildlife habitats identified by the Department of Environmental Conservation as critical to the maintenance or re-establishment of species of fish or wildlife. Such protection shall include mitigation of the potential impact from adjacent land use or development.

- 4 To encourage and facilitate public access for recreational purposes.
- 5 To minimize damage to natural resources and property from flooding and erosion, including proper location of new land development, protection of beaches, dunes, barrier islands, bluffs and other critical coastal features and use of non-structural measures, whenever possible.
- 6 To encourage the restoration and revitalization of natural and man-made resources.
7. To encourage the location of land development in areas where infrastructure and public services are adequate.
8. To conserve and protect agricultural lands as valued natural and ecological resources which provide for open spaces, clean air sheds and aesthetic value as well as for agricultural use.

The guidelines for determining whether a local program is consistent with, and furthers the achievement of these policies, reflect the elaboration of these policies found in the comparable policies of the Policies Section of this document. These guidelines are to be found in Appendix B of this document.

In addition to being consistent with and furthering the policies of the Act, a local waterfront revitalization program must focus on each of the following specific activities (Section 914.5) to an extent commensurate with the particular circumstances of that local government. That is, the more relevant the use or activity is to the circumstances revealed in a community's analysis of its coastal area, the higher the priority for such use or activity will be, and the less relevant the use or activity, the lower its priority.

- a. The facilitation of appropriate industrial and commercial uses which require or can benefit substantially from a waterfront location, such as but not limited to waterborne transportation facilities and services, and support facilities for commercial fishing and aquaculture.
- b. The increased use of and access to coastal waters and the waterfront for water-related activities such as boating, swimming, fishing, walking, and picnicking.
- c. The promotion and preservation of scenic, historic, cultural and natural resources as community amenities and tourist designations.
- d. The strengthening of the economic position of the State's major ports and small harbors.
- e. The reuse of existing infrastructure and building stock and the removal of deteriorated structures and unsightly conditions that have negative effects upon the waterfront area and adjacent neighborhoods.
- f. The application of local aesthetic considerations in the design of new structures and the redevelopment of waterfront sites.
- g. The protection of sensitive ecological areas, including but not limited to dunes, tidal and freshwater wetlands, fish and wildlife habitats, and the protective capability of coastal land features. Such protection will assure that land use or development will not affect such areas.

The guidelines for determining whether a local government has adequately incorporated these activities in its program are based on an analysis of the conditions, problems, and opportunities that exist along the community's shore, and that can in good part, be successfully addressed with the resources of that community. The community will undertake the analysis as a preliminary step to the development of a local waterfront program. Guidelines for local programs will require that these activities be undertaken in a manner that is consistent with the program policies as described in this document.

Finally, local program guidelines include the requirement that a program address the following items identified in the legislation (Section 915.4):

- a. Boundaries of the waterfront area;
- b. An inventory of natural and historic resources of the waterfront area to be protected;

A Statement of the goals and objectives of the program;  
and

- d. Identification of the uses, public and private, to be accommodated in the waterfront area.

### Estuarine Sanctuaries

The Estuarine Sanctuary Program was established under Section 315 of the Federal Coastal Zone Management Act of 1972, as amended, in response to the findings of the National Estuarine Study which documented the awesome and rapid destruction of the Nation's estuaries. The expressed purpose of this program is to identify acquire and preserve estuarine areas which are still reasonably natural systems so that these areas can then function as natural field laboratories where scientists can conduct long-term studies and educational programs. Through this program, the federal government provides grants on a 50:50 matching basis to acquire, develop and manage such estuarine areas as sanctuaries.

Uses of estuarine sanctuaries are intended to serve objectives such as the following:

To gain a more thorough understanding of ecological relationships within the estuarine environment;

To make baseline ecological measurements;

To serve as a natural control in order to monitor changes and assess the impacts of human stresses on the ecosystem;

To provide a vehicle for increasing public knowledge and awareness of the complex nature of estuarine ecosystems, their values and benefits to man and nature, and the problems confronting them; and

To encourage multiple use of the estuarine sanctuaries to the extent that such usage is compatible with the primary sanctuary purposes of research and education.

### New York State's Proposal

In August, 1982 New York State submitted its application for an acquisition grant for purposes of creating the Hudson River Estuarine Sanctuary. The acquisition grant request to NOAA for \$375,000, matched by an equivalent amount of State funds and services, would be used for establishment of a 4,130 acre sanctuary of which potentially 382 acres of wetlands, waters and shoreline would be purchased and to develop or renovate facilities at two or more of the four Hudson River sites. These facilities (i.e., buildings, roads, parking lots, trails, and boardwalk) will be used to accommodate research activities,

educational programs, and visitors. The great majority of land within the proposed sanctuary boundaries is already publicly owned or under negotiation for public acquisition under pre-existing programs. The chief importance of establishing the proposed sanctuary would be the development of a coordinated program of research and education that would not be otherwise realized.

The composition of real property within the proposed sanctuary is as follows (acreages are approximate):

<u>Stockport</u>	Total area - 1,149 acres
Currently publicly owned	692-804 acres
Proposed for acquisition	152-264 acres
<u>Tivoli</u>	Total area - 1,481 acres
Currently publicly owned	1,436 acres
Under negotiation	45 acres
<u>Iona Island</u>	Total area - 556 acres
Currently publicly owned	556 acres
Proposed for acquisition	0 acres
<u>Piermont Marsh</u>	Total area - 934 acres
Currently publicly owned	871 acres
Under negotiation	73 acres

The total area of all four sites is 4,130 acres. Of this, 2,860 acres are wetlands and shallows, comprising 13% of the Hudson River Estuary's total area of wetlands and shallows (less than 6 feet deep at low tide).

Estuarine sanctuary research programs would emphasize ecosystem-level understanding of the Hudson Estuary and especially its wetlands and shallows, as well as applied concerns of coastal management including the management of fish, game and fur resources, vegetation, endangered and rare species, and the reduction and mitigation of human impacts on the coastal zone. Much research has been done on the Hudson River Estuary, but efforts have generally been fragmented and there are many serious gaps in the knowledge needed to effectively manage the Estuary. The proposed Hudson River Estuarine Sanctuary would help to coordinate and unify Hudson River research and to provide information to coastal managers at all levels of government and the private sector with the goal of wise resource management.

The proposed estuarine sanctuary sites contain a variety of fauna and flora and estuarine habitats representative of the Hudson River Estuary, and are located within easy reach of millions of New York State and greater New York City area residents. The proposed sanctuary would provide an opportunity for many to learn more of the estuary's geology, ecology and resources. Estuarine sanctuary funds would be used to develop exhibit space at the Bear Mountain Trailside Museums complex near Iona Island Marsh for Hudson Estuary related exhibits; this complex is visited by over 600,000 people each year. Funds would also be used to set up facilities at or near the Tivoli Bays site for educational exhibits and for research work. Additionally, selected programs such as guided field trips, self-guided trail brochures, and educational media available to public groups and schools on loan could be developed.

#### Management of the Proposed Hudson River Estuarine Sanctuary

The NYS Department of Environmental Conservation will administer the proposed sanctuary and will be directly responsible for the content and structure of the sanctuary's management plan, the expenditure of program funds, and the formulation and implementation of general program elements (such as research programs and educational programs). A Sanctuary Steering Committee comprised of representatives of the five State agencies involved in the sanctuary: Department of Environmental Conservation (DEC), Palisades Interstate Park Commission (PIPC), the Office of Parks, Recreation and Historic Preservation (OPRHP), the Department of State (DOS), and the Office of General Services (OGS) has been formed. The Committee will guide DEC on issues related to the formulation and implementation of the sanctuary's management plan, the expenditure of program funds, and formulation and implementation of general program elements. Adoption of the Sanctuary Management Plan is subject to the unanimous approval of the Steering Committee. Consistent with the management plan, the State agencies will exercise prerogatives and make decisions regarding use of lands to which they hold title.

A Memorandum of Agreement, signed by the agencies represented on the Steering Committee, has been appended to the Final Environmental Impact Statement. The Memorandum of Agreement outlines interagency arrangements for the administration and management of the sanctuary, and expresses the agencies' agreement to carry out the management plan.

Three citizens' advisory groups (Columbia, Dutchess, and Rockland Counties), representing local government and sanctuary user groups, will act as the Sanctuary Advisory Committee and make recommendations to the Steering Committee. The Advisory Committee will channel public support and criticism to the Steering Committee.

Implementation of the Hudson River Estuarine Sanctuary will be coordinated with the State's Coastal Management Program by virtue of three separate mechanisms. First, DOS staff will serve on the Steering Committee which will perform the duties described above, most important being its role in assisting with the development, and ultimately providing approval of the Management Plan for the Hudson River Estuarine Sanctuary. The Management Plan will set forth compatible and non-compatible uses for the Sanctuary. Furthermore, it will provide direction for future research and education activities to be conducted in the Sanctuary.

Secondly, the Department of State, as the State's lead agency for the Coastal Management Program, is responsible for review of federal consistency determinations to be made by federal agencies relative to their direct actions. By this mechanism, the Department of State can help assure that the objectives of the Hudson River Estuarine Sanctuary Management Plan are not preempted by the actions by Federal agencies.

Finally, coordination of the two Programs will be reinforced by the State consistency provisions found in Regulations (19 NYCRR, Part 600) pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42). The direct actions of State agencies within Sanctuary boundaries must be found to be consistent with the policies set forth in those regulations.

## AREAS FOR PRESERVATION OR RESTORATION

The Coastal Zone Management Act requires that "the management program make provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or aesthetic values (Section 306 (c) (9))". These same regulations further specify that standards and criteria must be developed and applied by the state in designating these areas.

The general planning and management program in Section 6 contains several policies and criteria that will result in the identification of specific areas to be preserved or restored because of their conservation, recreational, ecological, or aesthetic value. New York State has determined that significant fish and wildlife habitats, significant scenic areas, and estuarine sanctuaries will be proposed as Areas for Preservation or Restoration.

### Criteria

The policies on protection of habitats and scenic areas contain detailed criteria for identification of habitats and scenic areas (cf. Policy 7 A. a-e and Policy 25 A., respectively). Estuarine sanctuaries have been identified as special management areas in part because of the need to preserve such areas; criteria for their identification are found in the discussion of special management areas.

### Procedures

The procedure by which significant fish and wildlife habitats and scenic areas will be designated is as follows:

1. DEC and DOS will jointly investigate and analyze potential areas;
2. a. DEC will identify those areas which are critical to the maintenance or reestablishment of a species of fish or wildlife;  
b. DOS, following consultation with DEC and OPRHP, will identify scenic areas of statewide significance;
3. Public comment, including that of Federal and State agencies and affected local governments, will be solicited on the significance of the areas and accuracy of associated data, maps, and other supporting information;
4. After consideration of any comments received, the Secretary of State will add these areas to the official Coastal Area Map.

Procedures for designating estuarine sanctuary candidates are referenced in the discussion on Special Management Areas.

## SECTION 9

### SPECIAL FEDERAL PROGRAM REQUIREMENTS

#### Introduction

Several Federal program requirements warrant special discussion due to their particular subject matter and role in a State's coastal management program. They are the requirements pertaining to national interest, uses of regional benefit, ~~Federal consistency and public participation~~

A State must demonstrate that in the development of its program, adequate consideration was given to various types of facilities which may locate in coastal areas and are of interstate or national concern. In addition, the State's management program must ensure that consideration of such facilities will be continued throughout its implementation phases (15 CFR 923.52).

There are some types of land and water uses and facilities which are of benefit to several coastal communities, or for that matter, an entire region. Some of these uses may be subject to governmental regulations which could prevent their siting at coastal locations. A State's management program must identify uses and facilities of regional benefit and demonstrate how they would not be unreasonably restricted or excluded (15 CFR 923.12). It should be noted that these uses and facilities may be considered of national interest.

~~A State's coastal management program must contain the procedures that will be followed by the State and Federal agencies in order to implement the Federal consistency requirement contained in the Coastal Zone Management Act of 1972, as amended. These procedures are intended to help a State achieve its coastal policies (15 CFR 923.53).~~

Finally, a coastal State must ensure that State agencies, local governments, various interest groups and the general public are afforded full opportunity to participate in the development of its management program (15 CFR 923.55). The preparation and distribution of program information and public meetings and workshops are the common means for addressing this requirement.

The projects which meet one of the following two criteria have been determined to be projects for which a substantial amount of time, money and effort have been expended, and will not be subject to New York State's Coastal Management Program and therefore will not be subject to review pursuant to the Federal consistency procedures of the Federal Coastal Zone Management Act of 1972, as amended: (1) those projects identified as grandfathered pursuant to State Environmental Quality Review Act at the time of its enactment in 1976; and (2) those projects for which a final Environmental Impact Statement has been prepared prior to the effective date of the Department of State Part 600 regulations [see Appendix A, DOS Consistency Regulations, NYCRR Title 19, Part 600, §600.3(4)]. If an applicant needs assistance to determine if its proposed action meets one of these two criteria, the applicant should contact the Department of State.

## National Interest

The Federal Act requires State programs, to provide "adequate consideration of the national interest involved in planning for, and in the siting of, facilities which are necessary to meet requirements which are other than local in nature" (Section 306 (c) (8)). In giving adequate consideration to such facilities, State programs must also assure that "natural resource considerations of a national nature enter into the assessment of the demand for the locational needs of particular types of facilities" (see 15 CFR 923.52 (c) (4)).

New York State's coast possesses natural resource, historic, scenic, recreation, defense and broad-ranging economic values which are of importance not only to the State, but to the Nation. Certain development actions which could affect these coastal values were examined during the preparation of the Coastal Management Program to ensure that sufficient attention was given to various national interests.

New York's Coastal Management Program assures continued protection of natural resources of more than State significance through existing legislation, program policies and procedures, and special management areas. The State's Program includes detailed consideration of coastal resources, including water, wetlands and adjacent areas, fish and wildlife habitats, erosion hazard areas (including barrier islands and beaches), agricultural lands, historic and cultural resources, and scenic areas. At the same time, the Program also recognizes the critical need for development of certain facilities which depend upon and affect the various coastal resources.

For the purposes of this Program, national defense, energy production and transmission, recreation, and transportation facilities are considered to be of national interest. For each type of facility, the following information is provided: (1) sources relied upon for description of national interest; (2) descriptions of national interest in above facilities; (3) description of how the CMP considers the national interest in such facilities; and (4) the process for continued consideration of the national interest.

### National Defense Facilities

Through direct communications with the various branches of the U.S. Department of Defense and analyses of the policy papers issued by its agencies, it was determined that areas of national defense interest include: (1) the accurate identification of all lands owned or leased by the military; (2) the maintenance of transportation facilities within coastal areas at levels that would ensure optimum military mobility; and (3) the need to provide new or expand existing military facilities.

Military facilities in New York's Coastal Area are not substantial in size or number. Department of Defense (DOD) lands and facilities are listed in Appendix D. While the State's Coastal Management Program does not apply to Federally-owned lands, including those under the jurisdiction of DOD, it still recognizes the paramount importance of military facilities not only for national defense but also for their contributions to the economic, educational and cultural life of the Nation and State. Therefore, New York's Program contains no policy that contradicts the basic justification for new or expanded military facilities. It is also recognized that any new or expanded national defense facility can be sited at any location under the eminent domain authority of DOD.

In the future, defense needs and other coastal interests could be in conflict if: increased public access to the coast would interfere with the military functions of defense installations; new defense facilities were planned for sensitive ecological areas; or, off-site transportation improvements were necessary for the continued operation of a military facility.

New York State will seek to prevent serious conflicts between national defense interests and Coastal Management Program concerns by using the consistency procedures contained in this Section to comment on proposed military projects which affect the coastal area of the State. Through this process, the Department of State will suggest reasonable mitigation measures and/or alternative sites, if appropriate, so that DOD activities will be conducted in a manner which is consistent to the maximum extent practicable with the State's Program.

#### Energy Production and Transmission Facilities

The National Energy Plan was the primary source for determining the national interest in energy facilities. Direct communications with the Department of Energy, Federal Energy Administration, Bureau of Land Management, Maritime Administration, Geological Survey, Department of Transportation, Army Corps of Engineers, and Nuclear Regulatory Commission provided additional information.

The National Energy Plan sets forth three overriding objectives for the Nation: (1) reduce dependence on foreign oil and vulnerability to supply interruptions; (2) keep imports sufficiently low to weather the period when oil production approaches its capacity limitation; and, (3) have renewable and essentially inexhaustible sources of energy for sustained economic growth. The salient features of the National Energy Plan are: conservation; national pricing and production policies; reasonable certainty and stability in government policies; substitution of abundant energy resources for those in short supply; and, development of non-conventional technologies for the future.

Many energy facilities are already situated in the State's coastal area, including steam electric generating plants, transmission lines, oil storage tanks and LNG facilities. The Program's policies on energy are in accord with existing State laws and plans which address energy needs and environmental quality in a comprehensive manner.

The State has demonstrated its recognition of the national interest in energy facilities by the number and scope of facilities already located in or planned for New York's coastal area. The total 1981 capacity for New York State utilities was 30,331 megawatts. This was produced by the following types of existing facilities: (1) oil - 100 units, (2) hydro - 17 units, (3) gas - 6 units, (4) coal - 30 units, and (5) nuclear - 5 units. In addition, other facilities are in various stages of planning and development: (1) 2 nuclear - under construction, (2) 1 coal - under construction, (3) 3 coal - licensed to be constructed, and (4) 1 pumped storage - licensed to be constructed. When operating, these new facilities will produce 5,868 megawatts. Finally, 15 plants are proposed to be converted to coal and would produce 3,685 megawatts.

Article 5 of the State's Energy Law is the principal authority under which the national interest in energy is considered. This law requires the preparation and adoption of a statewide energy plan which establishes the State's future energy requirements.

In determining these requirements, consideration must be given to factors which relate to reducing the State's and the Nation's dependence on foreign oil and also to developing renewable sources of energy. Factors include: the extent to which energy conservation measures and new energy technologies may affect the State's energy requirements; the extent to which indigenous energy resources may contribute to meeting the State's requirements. Section 5-110.a (4) of Article 5 requires that one of the factors that shall be taken into consideration in preparation of the Energy Plan is "the impact of the national energy policies on the State's energy needs and on available sources of supplies".

The State Energy Master Plan must be reviewed at least once every two years; at that time the State Energy Office will prepare any amendments necessary to update the plan or issue a determination that no amendments are necessary and the reasons supporting the determination. Any interested person may seek such a review upon written application to the Energy Office for an amendment to the Master Plan. Amendments are to be adopted by the Energy Planning Board in the same manner as the plan itself; thus again the national interest will be considered.

Under Article 5 of the Energy Law, the Energy Office must also formulate and revise a State energy conservation plan to be submitted pursuant to the Federal Energy Policy and Conservation Act of 1975. In addition, any action requiring preparation of an EIS under the State Environmental Quality Review Act must be reviewed as to its effects on the use and conservation of energy.

Article 5 requires the New York Power and Gas Pools to submit to the Energy Office comprehensive long-range plans for future operations. After analysis and review of the plans, the Energy Office will project long-range electric and gas demands and supply requirements for 4, 8, 12 and 16 year forecast periods. These findings are binding under Article VII and VIII of the Public Service Law with respect to any determination of need for an electric generation or transmission facility.

Interstate and international arrangements established by the members of the New York Power Pool also serve the national interest. Interconnections with the Pennsylvania - New Jersey - Maryland power system, the New England power pool, Hydro Quebec and Ontario Hydro provide mutual reserve capability to ensure those systems' reliability. Electricity generated by the Power Authority of the State of New York (PASNY) in its coastal hydro-electric plants is sold to the State of Vermont. Finally, PASNY purchases significant quantities of power from the two Canadian systems.

In accordance with the provisions of Article 42 of the Executive Law, the Secretary of State will review the above described programs and actions for consistency with the coastal area policies. In particular, the Secretary will review the preparation of the State Energy Master Plan for assurance that there is adequate consideration of the national interest in the siting of the energy facilities which are necessary to meet requirements which are other than local in nature consistent with article V, Section 110. a. (4). The Secretary will take particular note of Policy 27 ("Decisions on the siting and construction of major energy facilities in the coastal area will be based on public energy needs, compatibility of such facilities with the environment, and the facilities' need for a shorefront location") and Policy 29 ("Encourage the development of energy resources on the Outer Continental Shelf, in Lake Erie and in other water bodies, and ensure the environmental safety of such activities") in making these decisions. For a further description of the process of siting energy facilities, see Part II, Section 7.

#### Recreation Facilities

Various documents, legislation, and Federal agencies were consulted to determine the national interest in recreation facilities including: Nationwide Outdoor Recreation Plan; Gateway National Park Plan; Fire Island National Seashore Park Plan; Land and Water Conservation Fund Act; Historic Preservation Act - P.L. 89-665; Heritage Conservation and Recreation Service; and National Park Service.

National recreation objectives drawn from the above sources are: (1) to consider recreation as an equal among other uses competing for space along coastlines; (2) to provide high quality recreational opportunities to all people while protecting the coastal environment; (3) to increase public recreation possibilities in high density areas; (4) to protect existing recreation areas from the adverse effects of contiguous uses; (5) to improve coordination and management of recreation areas; and, (6) to accelerate the no-cost transfer of surplus Federal property for recreational uses.

New York's coast possesses many fine and varied public recreation areas, including the Fire Island National Seashore and a portion of the Gateway National Park System. The State's Coastal Management Program recognizes the multiple values of these facilities in terms of their contribution to the economy, their role in achieving more desirable land use patterns, and their immeasurable benefit to the health of residents and visitors. In support of these values and the national interest, New York's Program supports increasing the number of recreation facilities in its coastal area while protecting them from excessive use and incompatible adjacent development. For a complete discussion of recreation policies, see Part II, Section 6 of this report.

Conflicts between various national and State interests arise inevitably when activities, such as residential, transportation or energy development, compete with recreational facilities for use of limited waterfront space. Frequently, the other uses prevail because they are considered more profitable and more critical.

A number of State laws, plans and processes ensure that, among other critical concerns, the national interest in recreation will be adequately considered in New York State. First, the State Comprehensive Recreation Plan, administered by the Office of Parks, Recreation and Historic Preservation (OPRHP) contains a priority rating system for allocating funds for recreation purposes. One factor in that system gives positive weight to an activity which will contribute to the achievement of State, regional and national goals for recreation. OPRHP also administers the Urban Cultural Park Program which is intended to improve the physical, economic and recreational environments of the State's historic communities.

Under the State Environmental Quality Review Act, recreational concerns must be considered as part of the environmental assessment process; so too under Article VII and VIII of the Public Service Law which requires environmental impact analysis for proposed energy facilities. Finally, under the Parks, Recreation and Historic Preservation, Environmental Conservation, Transportation, and Highway Laws, the State may acquire land for recreational purposes. Appendices E and F contain additional information on these laws and programs.

## Transportation Facilities

In determining the national interest in transportation, the following documents and Federal agencies were consulted: Department of Transportation Act (49 US 1651, et. seq.); Railway Safety Act of 1970 (45 USC 421); Coast Guard, Primary Duties (14 USC 2); Department of Transportation; Maritime Administration; Interstate Commerce Commission; and, U.S. Army Corps of Engineers.

From these sources, it was determined that the national interest in transportation is: (1) to develop a balanced national transportation system including well-integrated surface, air, water, and subsurface modes; and, (2) to provide fast, safe, efficient and convenient transportation via one or more modes for the movement of people, goods and services to, from, and through coastal regions.

The Coastal Management Program considers major ports, navigation channels, interstate highways, railroads, airports and their ancillary facilities to be in the national interest. For these facilities, the Program supports the State's Department of Transportation policies. These policies, as presented in the Department's Transportation Master Plan, are clearly supportive of national transportation concerns.

In the development of its Coastal Management Program, the State has indicated where conflicts exist or could arise between the Program's policies and the national interest in transportation. In the Hudson River Valley and at many locations along the Great Lakes, public access to the shorefront is inhibited by rail lines and interstate highways. Expansion or improvement of existing port facilities could interfere with existing or the provision of new recreational waterfront facilities. Finally, the dredging and deepening of navigation channels may adversely affect significant fish habitat and the quality of coastal waters.

In the face of these conflicts, New York State will continue to give adequate and balanced consideration to all national and State concerns through review of A-95 notifications and environmental impact statements prepared under the State's Environmental Quality Review Act. The Department of State will suggest reasonable mitigation measures and/or alternative sites as appropriate.

### Uses of Regional Benefit

As indicated previously, a State's coastal management program must ensure that local regulations applicable to land and water uses within the coastal area do not unreasonably restrict or exclude those uses which are of regional benefit. This requirement addresses the situation where a local government may oppose or place severe limitations on the siting of a needed regional serving facility or in another situation, where a municipality may fail to adequately protect natural resources which are deemed to be of areawide importance.

## Identification Criteria

New York's Coastal Management Program must identify uses of regional benefit and then demonstrate how each will not be unduly restricted or excluded. Two Federal guidelines are to be followed in identifying such uses. First, the use or facility must have an effect on more than one unit of local government. Second, the use or facility must have a direct and significant impact on coastal waters.

This Program has used two additional guidelines in the identification of these regional uses. Since the overall objective of the State's Program is to implement its policies, such regional uses or facilities should then assist the State in the achievement of these policies. In particular, the need for a waterfront location should be taken into consideration, for it is the land along the shoreline where local, State and national concern is the greatest. Area-serving uses and facilities which are either publicly owned or regulated by the State is the other guideline that was used in this identification process.

### Types of Regional Uses

Based upon the above Federal and State guidelines, several types of land and water uses are identified, as well as the means for assuring that such uses will not be unreasonably restricted or excluded by local regulations.

1. Recreational uses of regional benefit shall include:

State parks and other recreational uses

County parks and other recreational uses

All of the above uses satisfy the identification criteria. First, they provide recreational opportunities to people who reside both within and outside the municipality where such uses are located. Second, these uses have direct effects on coastal waters, for the recreational activities conducted on waters and the adjacent lands may impair the quality of such waters. Third, all of the uses are cited in coastal policies as possible means for increasing water-oriented recreational opportunities. Finally, these uses are in public ownership and serve many communities.

The above recreational uses are not unreasonably restricted by local laws and ordinances. The acquisition and subsequent development of land with the Coastal Area for State and county recreational purposes are not subject to local regulations. Case law, rather than statutory provision, is the basis for this determination. Several judicial decisions have declared that State and county governmental functions are not subject to local land use regulation.<sup>1</sup> Therefore, the siting of such recreational uses within the Coastal Area of the State cannot be unreasonably restricted or prohibited by a local government.

2 Transportation uses of regional benefit shall include:

State and county highways, including necessary bridges and tunnels

Intercity and commuter rail service facilities, including necessary bridges and tunnels

Major cargo handling ports

Navigation channels serving major ports

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<sup>1</sup> For general discussion on this subject, see Anderson, New York Zoning Law and Practice, Section 9.04, (2nd Edition, 1973)

Specific judicial decisions on this topic are as follows:

City of Rochester v. Town of Rush, 336 NYS 2d 160, 71 Misc. 2d 451 (1972)

Nehrbas v. Incorporated Village of Lloyd's Harbor 2d 190, 159 NYS 2d 145 (1957)

Village of Larchmont v. Town of Hamaoneck, 239 NY (1924)

These transportation and related uses satisfy the two Federally required identification criteria and partially fulfill the State's Coastal Management Program guidelines. With respect to the required criteria, the above uses and facilities are of benefit to the residents in the locality as well as the people and businesses in the general area where such uses are located. Because of their nature, these uses may have direct and significant impacts upon coastal waters. In terms of the State's criteria, the Program's policies address either singularly or collectively the above transportation uses, for they are essential to economic activity within the coastal area and the State as a whole. Ports do require waterfront sites and navigation channels are, of course, situated in coastal waters. The other two transportation uses do not require a location in or near coastal waters, except in situations where a water body must be traversed to provide for uninterrupted service. Finally, most of the State and county highways are provided and maintained by their respective governments. There are situations, however, where this is not true for parts of New York's coastal area. For example, public authorities have been established, such as the Triborough Bridge and Tunnel Authority in New York City<sup>2</sup> for the purposes of constructing, operating and maintaining necessary bridges, tunnels and roadways leading to such facilities. All of the State's major port facilities and most of its rail service facilities are also constructed, operated and maintained by public authorities established under New York's Public Authority Law. Some railroad lines in New York's coastal area are still under private ownership, such as the Delaware and Hudson. As for navigation channels serving major ports, these are situated on underwater lands owned and, thus, controlled by the State of New York.

State and county highways are not subject to local regulation for the reasons discussed previously. The major ports and most of the rail facilities are not subject to local siting restrictions because of the

<sup>2</sup> N.Y.S. Public Authority Law, Article 3, Title 3.

Specifically, the rating and identification of significant fish and wildlife habitats was started in 1980. The identification of important agricultural lands and scenic areas of statewide significance will begin being mapped in October 1982. During the early Spring of 1983, there will be opportunity for Federal, State and local agencies as well as the general public to comment on the maps and accompanying narrative, if any. After consideration of comments received the information will be transferred to the Coastal Area Map and formally incorporated into the program by the end of the grant period.

The mapping of erosion hazard areas has been underway since 1980. In January 1983, maps of areas with high rates of erosion (four feet or more per year) will be available for review by the affected local governments. After holding public hearings and considering all the comments on the identified areas, the Commissioner of the Department of Environmental Conservation will formally designate the areas with high rates of erosion by May, 1983. Following such designations, affected local governments have six months to develop and adopt regulations for the erosion hazard areas (See Article 34, ECL for further details).

The identification of the remaining erosion hazard areas will begin by Spring 1983 and will be completed not later than January, 1984 as required by Article 34. Funding under Section 306 of the OCZM Act will be provided to DEC to assist its efforts to complete this mapping before January, 1984.

#### Coastal Resources Development

The wise use and proper development of New York's coastal resources is of vital importance to the State and its waterfront communities. The overall objective of this category is to improve upon the current economic and social utilization of the State's waterfront while ensuring the protection of significant resources. In response to this objective, the work program includes several different activities which focus upon the use of coastal resources. Three of the tasks to be performed center around the development of coordinated policies and strategies for commercial fishing and port operations. Access to existing recreational facilities and publicly owned lands will be identified as well as the opportunities to increase access to such facilities and lands. Efforts will be started to determine ways for simplifying existing Federal, State and local procedures which affect waterfront development activities. Also alternative methods for financing such development activities will be investigated, and the information distributed to waterfront communities.

powers generally granted to public entities. The siting of such facilities are regulated by the State's Department of Transportation.<sup>3</sup> The U.S. Corps of Engineers, in cooperation with the State's Department of Environmental Conservation, is responsible for maintaining the navigation channels serving the State's major ports.

3. Energy uses shall include:

Electric generation facilities

Electric and gas transmission facilities

These uses and facilities fulfill several of the previously described identification guidelines. First, major electric and gas facilities are beneficial, for they supply the energy necessary for the operation of industries, transportation vehicles and services, and home heating. Second, these uses can have substantial impacts upon coastal waters. Third, if these facilities are properly sited and operated, several Coastal Management Program policies will be achieved and statewide concerns over their effects on water quality, fish and wildlife, air quality and aesthetics will be minimized. Also, some of these facilities do require locations along the waterfront or access to coastal waters in order to properly function. Finally, some major electric generation and transmission facilities are provided by the Power Authority of the State of New York (PASNY).

Steam electric generation and electric and gas transmission facilities are subject to the single comprehensive siting and permit procedures established under Article VII and VIII of the Public Service Law. These processes ensure that such facilities will not be unreasonably restricted by local regulations. Hydroelectric and nuclear-fueled generation facilities are subject to Federal review and approval.

Federal Consistency

Federal agencies are responsible for numerous programs which can further the policies and purposes of the State's Coastal Management Program. The Coastal Zone

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<sup>3</sup> N.Y.S. Transportation Law, Article 5

Management Act of 1972, as amended, requires that actions of Federal agencies which impact the coastal zone must be undertaken consistently with approved State management programs. These Federal actions are:

Federally conducted or supported activities, including development projects;

Federal licenses or permits;

Federal financial assistance; and

Outer Continental Shelf (OCS) plans



~~The Department of State will coordinate and review Federal actions affecting New York's Coastal Area for consistency with the State's Coastal Management Program. In carrying out this responsibility, the Department will consult with other State agencies and local governments before providing its official comment on all Federal actions. If an action, other than a Federally conducted or supported activity is determined to be inconsistent with the management program, the Federal agency proposing to permit, authorize or finance the activity may not proceed, unless the Secretary of Commerce finds that such action is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security.~~

The basis for all consistency reviews are the enforceable policies in Part II, Section 6 of this document, all the guidelines developed to assist in this review, and all approved management programs for Special Management Areas, particularly local waterfront revitalization programs which have been formally incorporated into the State's Coastal Management Program.

~~The Department of State intends to meet the Federal consistency provisions without causing burdensome responsibilities on applicants and Federal agencies. This will be accomplished by first seeking an early consultation between pertinent State and Federal officials and involved private parties. Federal agencies and applicants proposing an action for which a consistency review is or may be required should consult the Department of State as early as possible in the planning of the action. This will allow the Department to advise the agency or applicant of the relevant coastal policies and provisions of the State's Coastal Management Program and will help to eliminate potential conflicts before extensive work on a particular proposal has been completed. Implementing this principle will establish more efficient coordination between State and Federal actions.~~

Second, whenever possible, the Department of State will base its consistency determination on documents normally required for compliance with Federal regulations or approval. ~~Generally, these will include environmental impact statements and assessments, applications for Federal permits and licenses, Federal grant applications, and supporting information.~~

Third, ~~if additional information should be needed to make a consistency determination, the Department of State will promptly notify the Federal agency or applicant of this need, specify in detail the nature of the required information, and indicate the reasons for the additional data.~~

~~Fourth, whenever both Federal and State consistency determinations are required for proposed action, the review of this action will, whenever possible occur at the same time.~~

Fifth, the State, when appropriate, may enter into agreements with Federal agencies that would further define the scope, procedures to be used, and the notification process for reporting the results of that review. The primary objectives of such agreements will be to ease the burden of consistency review on applicants and Federal agencies, and to synchronize and simplify existing and new review and/or regulatory procedures and programs at both the Federal and State level.

#### Consistency Procedures for Federally Conducted or Supported Activities

Consistency reviews, including the necessary information outlined in the National Oceanic and Atmospheric Administration (NOAA) ~~Federal consistency regulations~~ will be submitted to the Department of State.

Activities, which are determined by the appropriate Federal agencies as directly affecting the coastal zone and are listed in Part I of Table 2, require a consistency determination. Activities not listed in this Table will be monitored through the A-95 review process and other relevant processes. If a consistency determination and review is needed for any unlisted activity, the Department of State will notify the Federal agency.

Federal agencies must provide the Department of State with a consistency determination at the earliest practicable time in the planning of the activity, preferably when the analysis of alternatives is still ongoing. Federal agencies will notify the Department by procedures established by any future agreement that may be sought between a Federal agency and the Department, or by any recognized means of notification.

For the present, Federal agencies are encouraged to use existing mechanisms such as OMB Circular A-95 and NEPA environmental impact statements to provide the notification. In any case, the consistency determination must be provided no later than 90 days before final approval of the activity.

Upon receipt of a consistency determination from a Federal agency, the Department of State will review the determination and inform the Federal agency of its agreement or disagreement with the consistency determination within 45 days. If needed, the Department may request an extension of 15 days. The Federal agency may presume State agency agreement if the State agency fails to provide a response within 45 days from receipt of the Federal agency notification.

In the event the Department of State is in disagreement with a Federal agency's consistency determination, the agency will be informed of the reasons for disagreement, accompanied by supporting information and alternatives, if any, which would make the activity consistent.

#### Consistency Procedures for Activities Requiring Federal Licenses or Permits

~~Applicants, requiring Federal licenses or permits for activities affecting the State's Coastal Area or for certain renewals or amendments to such licenses or permits, shall provide the Department of State with the application and a certification, with required supporting information, demonstrating that the proposed activities are consistent with the State's Coastal Management Program.~~

Federal agencies may not issue a license or permit unless: the State concurs with the applicant's consistency certification; it is conclusively presumed to concur; or the U.S. Secretary of Commerce finds that a proposal is consistent with the purposes of the Federal Coastal Zone Management Act or is necessary in the interest of national security. Licenses and permits subject to consistency review are listed in Part II of Table 2. In addition, the Department of State will continue to monitor other activities requiring a Federal license or permit, and, if necessary, will notify the Federal agency, the applicant, and the Assistant Administrator of Coastal Zone Management (within 30 days of receiving the notice for the license or permit) that an unlisted license or permit will be subject to a consistency review.

At the same time an application for a license or permit is submitted to a Federal agency, the applicant shall transmit a copy of the application, together with the necessary data and information, and the consistency certification to the Department of State. The Department of State shall make the consistency determination based on the State's coastal policies, regulations and procedures and will make a decision or notify the applicant within 3 months, as provided in NOAA regulations. In no case can the consistency review take more than 6 months.

With respect to Federal licenses and permits associated with those energy facilities subject to Articles VII and VIII of the Public Service Law (utility transmission facilities and steam electric generating plants, respectively), the information needed to assess their consistency will be developed during the lengthy statutory review period, particularly the required formal hearings. Consequently, the State will not consider an application of any such license or permit to be supported by the necessary information and data under 15 CFR 930.56 (b) and 930.58 (a)(2) until the hearings have been completed. Concurrence or objection will be based upon the Certification of Environmental Compatibility and Public Need which will be issued within six months from the completion of the hearings.

Public notice will be given for any license or permit being reviewed for consistency in the Environmental Notice Bulletin, and in a newspaper having general circulation within the community where the license or permit activity is proposed. For activities which are subject to a State permit, the Department of State will use the applicable agency's notification process. Should this or other reasonable forms of public notification not be available or if the nature of the permit being applied for is of sufficient interest, the Department of State will carry out the public notice.

When the Department of State objects to a consistency certification, it will notify, in writing, the applicant, the Federal agency and the Assistant Administrator of NOAA. The notification will describe how the proposed activity is inconsistent and alternatives, if any, which would make the activity consistent.

#### Consistency Procedures for Federal Financial Assistance

Federal assistance for projects or programs affecting the State's Coastal Area will be monitored by the Department of State. Those proposed projects or programs which are inconsistent with the Coastal Management Program may not be funded by Federal

agencies unless the U.S. Secretary of Commerce finds that such proposals are consistent with the Federal Act or are necessary for national security purposes.

The Department of State will use the A-95 Project Notification and Review Process to monitor proposed Federal assistance projects in the Coastal Area. All applications for Federal assistance which are applicable to the planning, design, construction, alteration or expansion of physical development projects or other activities which could affect the State's Coastal Area will be subject to a consistency review. The applicant must certify consistency with the policies of the Program. This certification should be contained in the A-95 Review Notification, or if not applicable, Federal agencies will notify the Department by procedures established by any future agreement which may be sought between the Federal agency and the Department, or by any recognized means of notification. The Division of the Budget, the State agency designated to administer the A-95 process, shall notify the Department of State of proposed Federal assistance projects in the Coastal Area.

Within the time limits provided for review, the Department of State will notify the appropriate Federal agencies and applicants of any objections to proposed projects. The objection will describe how the proposed project is inconsistent with specific policies and shall recommend alternative measures, if any, which would make the project consistent. Applicants will also be notified of appeal procedures under NOAA regulations.

If the Department of State identifies an application for Federal assistance to conduct an activity which affects but is not within the Coastal Area, the Department shall provide notice to that effect to the Federal agency, the applicant, the A-95 Clearinghouse and the Assistant Administrator of NOAA within the designated comment period.

The Federal financial assistance projects and programs subject to consistency review, are listed in Part III of Table 2.

#### Consistency Procedures for Activities in Outer Continental Shelf Plans

The activities described in detail in plans for the exploration, development and production of Outer Continental Shelf (OCS) resources and affecting the Coastal Area must be certified by the person submitting the plan that the activity complies with the program and will be carried out in a manner consistent with the

program. The activities described in the plans will be evaluated for consistency with the State's Coastal Management Program in accordance with the NOAA Federal consistency regulations. The Department of State will coordinate and provide the public notification necessary for the review of OCS plans. During this review, the Department will consult with the Department of Environmental Conservation as to the consistency of the OCS plans with the State's Coastal Management Program. The review will be based on the enforceable policies, standards, laws, and regulations of the State's coastal program.

All OCS plans will be processed as soon as reasonably possible. The maximum review period as established by Federal regulations is three months following commencement of State review, with an additional three month period available to the State upon notification to the appropriate parties of the status of the review and the basis for the additional time. Total review period cannot exceed six months. Based on the review, should the Department of State object to a consistency certification for an OCS activity, the Federal agency may not approve the plan or issue any license or permit for activities described in detail in the plan unless the U.S. Secretary of Commerce finds that the proposal meets the purposes of the Federal Coastal Zone Management Act or is necessary in the interest of national security.

TABLE 2

FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS  
LIKELY TO DIRECTLY AFFECT NEW YORK STATE'S COASTAL AREA

I. Direct Federal Activities and Development Projects

Department of Commerce, National Marine Fisheries Service:

Fisheries Management Plans

Department of Defense, Army Corps of Engineers:

- Proposed authorizations for dredging, channel improvement, breakwaters, other navigational works, erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with the potential to impact coastal lands and waters.

Land acquisition for spoil disposal or other purposes

Selection of open water disposal sites

Department of Defense, Air Force, Army and Navy:

- Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).

Plans, procedures and facilities for handling or storage use zones.

Establishment of impact, compatibility or restricted use zones.

Department of Energy:

- Prohibition orders.

General Services Administration:

Acquisition, location and design of proposed Federal government property or buildings, whether leased or owned by the Federal government.

Disposition of Federal surplus lands and structures.

Department of Interior, Fish and Wildlife Service:

- Management of National Wildlife refuges and proposed acquisitions.

Department of Interior, National Park Service:

National Park and Seashore management and proposed acquisitions.

Department of Interior, Minerals Management Service:

-- OCS lease sale activities including tract selection, lease sale stipulations, etc.

Department of Transportation, Coast Guard:

Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.

Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).

Expansion, abandonment, designation or anchorages, lightering areas or shipping lanes and ice management practices and activities.

Department of Transportation, Federal Aviation Administration:

Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

Department of Transportation, Amtrak, Conrail:

Expansions, curtailments, new construction, upgradings or abandonments of railroad facilities or services, in or affecting the State's coastal area.

Department of Transportation, St. Lawrence Seaway Development Corporation:

-- Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

Department of Transportation, Federal Highway Administration:

Highway construction

Department of Defense, Army Corps of Engineers:

Department of Defense, Army Corps of Engineers:

Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).

Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).

Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).

Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).

Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404 (33 U.S.C. 1344).

All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4 (f) of the River and Harbors Act of 1912 (33 U.S.C.).

Department of Energy, Federal Energy Regulatory Commission:

-- Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3 (11), 4 (e) and 15 of the Federal Power Act (16 U.S.C. 796 (11), 797 (11) and 808).

Orders for interconnection of electric transmission facilities under Section 202 (b) of the Federal Power Act (15 U.S.C. 824 a (b)).

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

Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717 f (b)).

Department of Energy, Economic Regulatory Commission:

Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.

Exemptions from prohibition orders.

Environmental Protection Agency:

NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Sections 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).

Permits pursuant to the Resources Recovery Conservation Act of 1976.

Permits pursuant to the underground injection Control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300 h-c).

Permits pursuant to the Clean Air Act of 1976 (U.S.C. 1857).

Department of Interior, Fish and Wildlife Services:

Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153 (a)).

Department of Interior, Mineral Management Service:

-- Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or authorizations granted for activities described in detail in OCS exploration, development, and production plans.

Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

Interstate Commerce Commission:

Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

Nuclear Regulatory Commission:

Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

Department of Transportation, Coast Guard:

- Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.

Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

Department of Transportation, Federal Aviation Administration:

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

III. Federal Assistance

Department of Agriculture

- 10.068 Rural Clean Water Program
- 10.409 Irrigation, Drainage, and Other Soil and Water Conservation Loans
- 10.410 Low to Moderate Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.413 Recreation Facility Loans
- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.419 Watershed Protection and Flood Prevention Loans
- 10.422 Business and Industrial Loans
- 10.423 Community Facilities Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

Department of Commerce

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning

- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commerical Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

Department of Housing and Urban Development

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing
- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks
- 14.213 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

Department of the Interior

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 14.411 Historic Preservation Grants-In-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program

- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.592 Water Research and Technology-Matching Funds to State Institutes

Department of Transportation

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

General Services Administration

- 39.002 Disposal of Federal Surplus Real Property

Community Services Administration

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

Small Business Administration

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

Environmental Protection Agency

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency

66.451 Solid and Hazardous Waste Management Program  
Support Grants  
66.452 Solid Waste Management Demonstration Grants  
66.600 Environmental Protection Consolidated Grants  
Program Support  
Comprehensive Environmental Response,  
Compensation and Liability (Super fund)

Note: Numbers refer to the Catalog of Federal Domestic  
Assistance Programs, 1980 and its two subsequent  
updates.

## Public Participation

As indicated previously, governmental entities, interested parties and the general public must have the opportunity to participate in the development of a state's coastal management program. From the outset of developing New York's Program, the Department of State actively sought to inform and involve private citizens, local, regional and statewide interest groups, local governments, and regional and State agencies. The Department prepared a Coastal Management Handbook outlining the issues and explaining the purposes of the Federal program. A display and slide show were also prepared and taken to meetings to increase public awareness of coastal resources and issues.

In the first years of program development, local and regional agencies were under contract with the Department to inventory coastal resources and to make recommendations on preliminary boundaries and areas warranting special management attention. During this period, Department staff met on a one-to-one basis with local officials and conducted small workshop sessions with officials, interest groups and coastal residents. These meetings proved to be a most productive public involvement technique.

### Citizens Advisory Committee

The core of the State's public involvement effort is the Coastal Management Citizens' Advisory Committee. The committee is made up of representatives from the five coastal regions of the State. It met regularly during the development of the program to review technical reports, make recommendations on the State's program and legislation, and assist in public participation activities.

### Public Meetings

During June and July of 1978, the Department held a series of 16 public meetings in the coastal regions of the State from Lake Erie to Long Island. The purpose of these meetings was to receive public reaction on the general approach for developing the coastal program. In advance of these meetings, the Department widely distributed a newsletter identifying certain coastal issues and suggesting possible alternatives for program administration. The newsletter asked whether local governments should be required to participate in a coastal management program or whether State agencies alone should operate this type of program. It also asked what State agency should be responsible for the program. Maps showing the proposed boundaries of New York's Coastal Area were displayed at these meetings.

The meetings drew comments from coastal residents, community groups, universities, regional organizations, local governments and others. These participants raised excellent questions about boundaries, areas and problems of particular concern, funding potentials, adequacy of existing authorities, private property rights, regional coordination, rationale for the various local/State administrative options, approval and monitoring of local programs and more. Following these meetings a draft Coastal Management Program document was prepared which incorporated recommendations submitted earlier by regional and local agencies and also included ideas expressed at the public meeting.

### Public Hearings

In April, 1979, the Department of State held 9 public hearings in the coastal regions of the State. The purpose of these hearings was to receive comments from all parties interested in implementing legislation. The Department broadly disseminated these documents prior to the hearings. A summary describing coastal policies and showing the proposed Coastal Area was also distributed.

### Comments

The hearings again drew comments from a wide variety of individuals and organizations. Participants expressed major concerns about the following:

The proliferation of State bureaucratic structures which would be ineffective and which would infringe upon the authority of local governments.

The need for expanded representation on the Coastal Management Board to include members from particular fields of expertise and from various geographic regions.

The need to use existing review procedures to implement the coastal program.

The definition of coastal erosion hazard areas and the procedures for identifying these areas.

## Responses

In response to the above concerns, the following actions were taken:

Program legislation was revised to provide that an existing agency - the Department of State - serve as the State's Coastal Management Agency. Certain additional responsibilities were given to the Secretary of State relative to determining consistency of Federal actions with the State's Program, and receipt and administration of Federal grants.

The concept of a Board was dropped, but an advisory committee was structured to provide specific representation from ten particular areas of expertise and eight specific geographic areas. In addition to these 18 members, the advisory committee would be comprised of six ex-officio members representing the State agencies with major responsibilities for carrying out aspects of the Coastal Management Program. The advisory committee would provide advice to the Secretary on the conduct of the Program.

The legislation was revised to provide for the use of the State Environmental Quality Review Act as the mechanism by which State agencies would determine the consistency of their proposed actions with the Coastal Management Program. Where two or more State agencies had jurisdiction over a particular project, and these agencies had irreconcilable differences as to the consistency of an action, the legislation was revised so that a project applicant or either agency could request the Secretary of State to resolve differences. The Secretary could consult with the advisory committee in any dispute resolution.

The definition of the coastal erosion hazard areas was expanded to permit identification of dunes, beaches and other natural areas providing protection against erosion to other land. In addition, this legislation was revised to provide for identification of erosion hazard areas after the Department of Environmental Conservation (DEC) had adopted program regulations. A new requirement also called for the DEC to promulgate standards and criteria for the design and construction of erosion protective structures so that they have a reasonable probability of controlling erosion for at least 30 years.

## Legislative Hearings

Late in 1979, the New York State Senate and Assembly jointly sponsored hearings to solicit public views on the proposed coastal management and coastal erosion hazards areas bills. Participants were asked to address a number of concerns including: the adequacy of the bills to address environmental, economic and social impacts on New York's coastline; the appropriate role of government agencies in implementing a State coastal program; the economic benefits of State and local participation in the Federal program as well as the costs to the private sector; and modifications which should be made in the two bills.

Testimony at these hearings concerning the future of the Coastal Management Program was overwhelmingly in favor of the legislative passage of these two bills (38 statements in favor; 13 opposed). Even some of the testimony opposed to the proposed legislation was in support of the idea of coastal management and merely called for a restructuring of the management process.

### Comments

The basic thrust of the supportive arguments was that: (1) a statewide management program was necessary to provide for the coordination of land use, and natural resource protection policies in the coastal regions; (2) erosion hazards areas legislation was needed since erosion has a major impact on people living along the shores of Lake Ontario and Long Island; (3) a statewide program, working in concert with local authorities, was necessary to ensure New York State's consistency with Federal guidelines and regulations concerning Coastal Zone Management; (4) a State-administered Coastal Management Program approved by the Federal government is a prerequisite for the allocation of Coastal Energy Impact Program (CEIP) funds to New York and that the State should not lose this opportunity for Federal monies.

The arguments opposed to a State Coastal Management Program basically maintained that: (1) existing legislation, if properly implemented, was good enough to protect vital coastal resources and that additional legislation would duplicate existing regulation and cause confusion over authority leading to bureaucratic entanglement; (2) the Federal government's CEIP funds were being offered to New York "like a carrot on a stick" and that in the rush to receive a Federal grant, the legislation was not being properly considered; (3) bills did not offer enough protection to the coastal environment and were too permissive and vague in allowing commercial and industrial development along

ecologically sensitive waterfronts; and, (4) the proposed legislation would infringe upon economic or recreational activities of farmers and sportsmen, respectively, through the increased governmental control of land uses.

### Responses

In 1980, the legislation was again modified to reflect the comments received at the legislative hearings:

Water dependent activities were redefined to include other than economic activities, and specific recognition was given to the attraction of coastal areas for residential purposes.

Membership of the advisory committee was expanded to include expert representatives from the areas of residential construction and tourism.

Legislative provisions on Geographic Areas of Particular Concern were simplified and substantially revised to include certain aesthetic areas, agricultural lands, fish and wildlife habitats and water dependent use areas.

Coastal policies were simplified and the way in which they apply was clarified.

Improvements were made to better integrate the consistency review process with State Environmental Quality Review Act procedures.

A specific procedure was added for voluntary withdrawal of local governments from participation in the State program.

In June, 1980, the New York State Assembly passed both the program and erosion bills, but the Senate did not. In 1981, a new bill entitled the Waterfront Revitalization and Coastal Resources Act was introduced in the Legislature. This bill included a balanced approach to coastal resource protection and development; use and coordination of existing State environmental management and economic development programs; streamlining of procedures; and voluntary local programs. The bill was, however, shortened and simplified with an emphasis on local revitalization efforts. This was in response to criticism about potential negative economic impacts of a coastal program. In July, the Senate and Assembly passed the waterfront revitalization and erosion bills and the Governor signed them into law.

## Year of the Coast

In 1980, Governor Carey joined in proclaiming the Year of the Coast. The Department of State then organized or participated in organizing a number of events to highlight the importance of the State's coast. The Department brought together local government representatives from coastal areas to a workshop where they shared their experiences on a variety of local projects. In the summer, the Department worked with the Mid-Hudson League of Women Voters to organize a "See-shore Sail"; and in September, the Department held a Year of the Coast boatripe in New York City to view potential revitalization sites. Finally, the Department co-sponsored a conference with the New York-New Jersey Port Authority on revitalization of the port. A number of brochures, updates and maps were prepared for distribution at these events.

## SECTION 10

### DESCRIPTION OF WORK PROGRAM

#### Introduction

Throughout this document, a number of activities and items have been identified and discussed that are essential to the effective administration and implementation of New York State's Coastal Management Program. The discussion on these activities have provided the Department of State with the basis for developing a work program which would be carried out under New York's initial 306 grant. The purpose of this section is to briefly describe the types of activities that will be undertaken by the Department, other State agencies and local governments during the grant period.

#### Program Objective

The principal aim of New York State's first grant under Section 306 of the Coastal Zone Management Act, as amended, is to put into effect the essential components of the State's Coastal Management Program. These programmatic elements will initiate new and advance ongoing State activities that are in support of the national policies expressed in Section 303 of the Act, specifically: (1) the protection of natural resources; (2) reduction of life and property losses in flood and erosion prone areas; (3) proper siting of major facilities and other forms of development, including priority consideration of coastal dependent uses; (4) provision for better public access to the coast; (5) assistance for revitalizing waterfronts and ports and for preserving coastal features; (6) simplification of governmental procedures; (7) coordination and consultation with federal agencies; (8) public and local government participation in coastal management decision-making; and (9) assistance for the planning, conservation and management of living marine resources.

All of the above policies, as well as the policies contained in the State's Coastal Management Program, are addressed by work tasks which are grouped into seven major categories:

1. Program administration
2. Consistency review
3. Coastal resources protection
4. Coastal resources development
5. Major activities affecting coastal resources
6. Public information
7. Local waterfront revitalization programs

### Program Administration

The primary objective of this category is to establish and undertake administrative activities that will support or lead to the effective implementation of the State's Coastal Management Program. As the designated "lead agency", the Department of State will perform various programmatic, fiscal management and legal activities which are essential to the overall administration of the State's Program and 306 grant. In addition, the Department must fulfill administrative and review responsibilities required by the State's Waterfront Revitalization and Coastal Resources Act. Some of the tasks that will be performed under this category including the review and approval of local waterfront revitalization programs, evaluation of federal and state legislative proposals for their potential impacts upon the State's coastal program, and the revision of the Coastal Area maps to incorporate information on the location of significant habitats and scenic resources, important farm lands and areas with approved local waterfront revitalization programs.

### Consistency Review Activities

The sole objective of this category is to ensure that the actions of Federal and State agencies are consistent with the policies of New York State's Coastal Management Program. ~~The tasks under this category provide for two separate review processes which take into account the different roles to be performed by the Department of State. These processes are crucial to the implementation of New York's coastal program. Therefore, the Department will consult with Federal and State agencies in order to familiarize the agencies' staffs with content and intent of New York's coastal program policies and procedures. This effort should minimize any conflicts or differences that may arise during these review processes.~~

As the State's 306 agency, the Department of State will coordinate the consistency review procedure applicable to activities undertaken or approved by federal agencies. This will involve providing public notice and holding public hearings, when necessary, and reviewing consistency determinations and certifications. The Department will also review the proposed actions of state agencies and provide recommendations to the agencies on the consistency of their actions.

### Coastal Resources Protection

The protection of significant natural coastal resources is a goal of New York State's Coastal Management Program and the Federal Coastal Zone Management Act of 1972, as amended. The objective of this work program category is not a broad sweeping one, but instead is directed at implementation activities which will provide further protection to significant fish and wildlife habitats, important agricultural lands and scenic resources of statewide significance as well as beaches, dunes, barrier islands and bluffs in erosion prone areas.

Specifically, the rating and identification of significant fish and wildlife habitats was started in 1980. The identification of important agricultural lands and scenic areas of statewide significance will begin being mapped in October 1982. During the early Spring of 1983, there will be opportunity for Federal, State and local agencies as well as the general public to comment on the maps and accompanying narrative, if any. After consideration of comments received the information will be transferred to the Coastal Area Map and formally incorporated into the program by the end of the grant period.

The mapping of erosion hazard areas has been underway since 1980. In January 1983, maps of areas with high rates of erosion (four feet or more per year) will be available for review by the affected local governments. After holding public hearings and considering all the comments on the identified areas, the Commissioner of the Department of Environmental Conservation will formally designate the areas with high rates of erosion by May, 1983. Following such designations, affected local governments have six months to develop and adopt regulations for the erosion hazard areas (See Article 34, ECL for further details).

The identification of the remaining erosion hazard areas will begin by Spring 1983 and will be completed not later than January, 1984 as required by Article 34. Funding under Section 306 of the OCZM Act will be provided to DEC to assist its efforts to complete this mapping before January, 1984.

#### Coastal Resources Development

The wise use and proper development of New York's coastal resources is of vital importance to the State and its waterfront communities. The overall objective of this category is to improve upon the current economic and social utilization of the State's waterfront while ensuring the protection of significant resources. In response to this objective, the work program includes several different activities which focus upon the use of coastal resources. Three of the tasks to be performed center around the development of coordinated policies and strategies for commercial fishing and port operations. Access to existing recreational facilities and publicly owned lands will be identified as well as the opportunities to increase access to such facilities and lands. Efforts will be started to determine ways for simplifying existing Federal, State and local procedures which affect waterfront development activities. Also alternative methods for financing such development activities will be investigated, and the information distributed to waterfront communities.

## Major Activities Affecting Coastal Resources

There are a number of ongoing and potential activities within and outside New York State which could affect the management of coastal resources. It is important to the success of New York's Coastal Program that the Department of State participate in these activities to reflect programmatic concerns as well as receive valuable advice. Thus, the objective of this category is to coordinate the State's Coastal Management Program with other state, interstate, national and international efforts that may impact the use and protection of New York's coastal resources.

Tasks in the work program which respond to this objective include: the creation and operation of a statewide advisory committee on waterfront revitalization and coastal management; participation on regional, interstate and international committees or organizations which have general and specific coastal interests; and participation on the State's Hudson River Estuarine Sanctuary Steering Committee.

## Public Information

Public awareness is essential to a successful and sustained coastal management program. The objective of this category, therefore, is to ensure that the general public, State and local officials understand the importance of coastal resources, the thrust of the State's Program and the means for properly managing the resources. The publication and distribution of documents is one means of meeting this objective; however, other techniques will be employed. For instance, the Department of State will sponsor a waterfront revitalization conference and design competition to generate interest and innovative approaches to waterfront related problems. Also, a popular brochure will be produced to assist AMTRAK riders in identifying important scenic, historic and other points of interest along the Hudson River.

## Local Waterfront Revitalization Programs

The State's Coastal Management Program and the Waterfront Revitalization and Coastal Resources Act recognize that the development of detailed local programs based on the State's coastal policies will augment the State's means for implementing those policies. The objective of this category is to initiate a concerted effort to have local governments develop and implement waterfront revitalization programs. This effort will consist of three components: (1) aid for the preparation of appropriate approval documentation; (2) assistance for the development of local programs; and (3) support of activities which will implement approved local programs. All

such local programs must address all relevant coastal policies. Each community's program will focus on major concerns which reflect community, State and Federal priorities. For example, LWRPs would include implementation provisions for increased: resource protection; water dependent uses; access; waterfront revitalization; dredging; permit simplification; and other issues of concern, commensurate with the particular circumstances of that community.