

APPENDIX D - BRIEF DESCRIPTION OF APPLICABLE LAWS, STATUTES, REGULATIONS AND PERMITS

(1) Waterfront Development Law (N.J.S.A. 12:5-3)

This statute encompasses all development at or below the mean high water line in tidal waters of the state. It also stipulates that most developments up to 500 feet from the mean high water line in the Coastal Zone but outside the CAFRA area be subject to a permit. Waterfront development activities include, but are not limited to, the construction or addition of docks, wharves, piers, bridges, pipelines, pilings, dolphins, permanent buildings, and removal or deposition of subaqueous materials (dredging or filling).

(2) New Jersey Water Pollution Control Act of 1977 (N.J.S.A. 58:10A-1 *et seq.*)

Those persons who presently discharge or plan to discharge to surface waters of the state are required to obtain a New Jersey Pollutant Discharge Elimination System (NJPDES) Discharge to Surface Water (DSW) permit. Point source discharges are prohibited without a NJPDES-DSW permit. Any persons who presently discharge or propose to discharge pollutants to or via conveyances which will or may result in the introduction of pollutants into the ground waters of the state are required to obtain a NJPDES Discharge to Ground Water (DGW) permit. The DGW permit is required to monitor the actual or potential discharge of pollutants through monitoring of the discharge, monitoring of the groundwater, or both.

(3) Coastal Area Facility Review Act (CAFRA; N.J.S.A. 13:19-1 *et seq.*)

CAFRA regulates all development on beaches and dunes, and the first house or other development within 150 feet of the waterline, beach or dune. Beyond the 150-foot area but still within the CAFRA zone, all industrial and public developments will be subject to permit review. The CAFRA region extends from the confluence of the Cheesequake Creek and Raritan Bay in Middlesex County, along the Atlantic Ocean coastline and Delaware Bay, northwest along the Delaware River to Pennsville, Salem county.

(4) Flood Hazard Area Control Act (N.J.S.A. 58:16A-50 *et seq.*)

This act empowered the NJDEP to develop land use regulations to control development in the flood hazard areas in order to minimize potential on and offsite damage to public or private property, to protect and enhance the public's health and welfare by minimizing the degradation of water quality from point and non-point pollution sources, and to protect wildlife and fisheries. A Stream Encroachment Permit is required for the construction, installation or alteration of any structure or permanent fill along, in or across, the channel or flood plain of any watercourse.

(5) Wetlands Act of 1970 (N.J.S.A. 13:9A-1 *et seq.*)

Coastal wetlands extend from the head of tide at Trenton on the Delaware River south along Delaware Bay, up the east coast to the mouth of the Raritan River. A permit is required for development or excavation in mapped tidal wetlands, including the construction of catwalks, piers, docks, the construction of boat channels and mooring basins, the construction of impoundments, the installation of utilities, the diversion or appropriate use of pesticides, driving or causing to pass over or upon wetlands with any mechanical conveyance which may alter or impair the natural contour of the wetlands or natural vegetation, and filling, excavation, or construction of any structure. Maps of the regulated wetlands are filed with each of the following counties -- Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Middlesex, Monmouth, Ocean, and Salem.

(6) Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 *et seq.*)

A Freshwater Wetlands Permit is needed prior to engaging in a regulated activity in and around freshwater wetlands and associated transition areas. Regulated activities include: (1) the removal, excavation, disturbance or dredging of soil, sand, gravel or aggregate material of any kind; (2) the drainage or disturbance of the water level or water table; (3) the dumping discharging or filling with any materials; (4) the driving of pilings; (5) the placing of obstructions; and (6) the destruction of plant life which would alter the character of a freshwater wetland or transition area. In addition, the placement of dredged or fill material into state open waters will require an open water fill permit.

(7) Soil Erosion and Sediment Control Act (N.J.S.A. 4:24-1 *et seq.*)

Municipalities and all other public agencies are required to condition development project approvals on the Soil Erosion and Sediment Control Certification approval from the local soil conservation district for projects that disturb more than 5,000 square feet of surface area of land. Certification is also required for demolition of structures, construction of parking lots, construction of public facilities, operation of mining or quarrying activities and for clearing or grading of land for other than agricultural or horticultural purposes. Best management practices must be installed to control soil erosion, sedimentation, and nonpoint source pollution, and for stormwater management during construction and other land disturbance activities.

(8) Tidelands Conveyances (Riparian Grants, Leases and/or Licenses)

Tidelands grants, leases and/or licenses are required for the use of state-owned riparian lands. These conveyances are granted by the Tidelands Resource Council. The council is guided by the NJDEP Coastal Resources and Development Policies (essentially the core of New Jersey's Coastal Management Program) and by its own interpretation of protecting the public interest.

(9) Solid Waste Management Act (N.J.S.A. 13:1E-1 *et seq.*)

This act establishes a statutory framework for solid waste collection, disposal and utilization activities. The statute designates each county and the Hackensack Meadowlands Development Commission as Solid Waste Management Districts and empowers those districts to develop and implement comprehensive solid waste management plans. The Act grants the Department of Environmental Protection the power to regulate and supervise all solid waste collection and disposal facilities, and support and undertake experimental programs of research and development to determine the most efficient, sanitary, and economical ways of collecting, disposing of, and utilizing solid wastes.

(10) Federal Water Pollution Control Act (Clean Water Act Amendments of 1977; 33 U.S.C 1251)

All projects requiring Federal permits (Section 404) for the discharge of dredged or fill material into State waters or wetlands also require a State Water Quality Certification pursuant to Section 401. The purpose of this certification is to ensure that all such activities are consistent with the applicable New Jersey Water Quality Standards and management policies.

Pursuant to section 404 of the act, the U.S. Army Corps of Engineers (USACE) has authority to control the discharge of fill into lakes, ponds, rivers and streams and their associated wetlands. The USACE regulates those waters which are used to transport interstate or foreign commerce shoreward of their ordinary high water mark. The USACE has retained regulatory authority over those wetlands that are partially or entirely located within 1,000 feet of the ordinary high water mark or mean tide of all water bodies which are subject to tidal flow.

(11) Federal Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*)

Section 307 of the Act requires that all Federal projects, or non-Federal projects which require a federal permit, receive a determination of consistency with the State Coastal Zone Management Program. In New Jersey, these consistency determinations are evaluated pursuant to the Rules on Coastal Zone Management (N.J.A.C. 7:7E-1.1 *et seq.*) and are usually incorporated into the Waterfront Development or CAFRA permit(s) issued for a project.

Note: the above brief descriptions are not intended to be inclusive of all activities which may require permits from the Department. For additional information on the permits required for proposed projects refer to the NJDEP publication "Permits, Licenses, Approvals & Certificates" (June 1995), consult the regulations for each regulatory program, and contact the Department's Office of Pollution Prevention and Permit Coordination (Phone: 609-984-0857) or the Land Use Regulation Program (Phone: 609-292-0600).