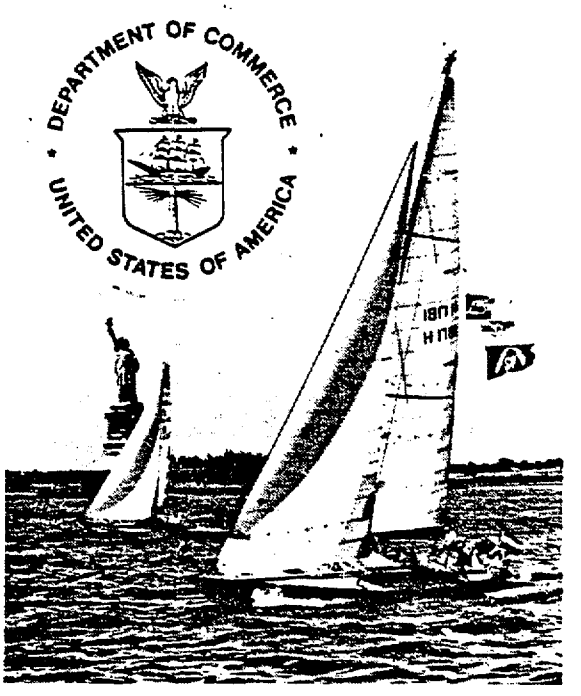
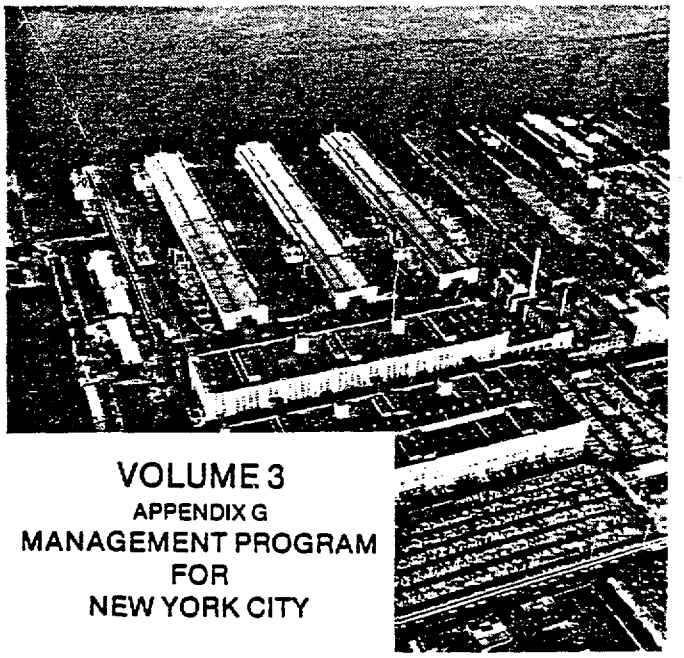
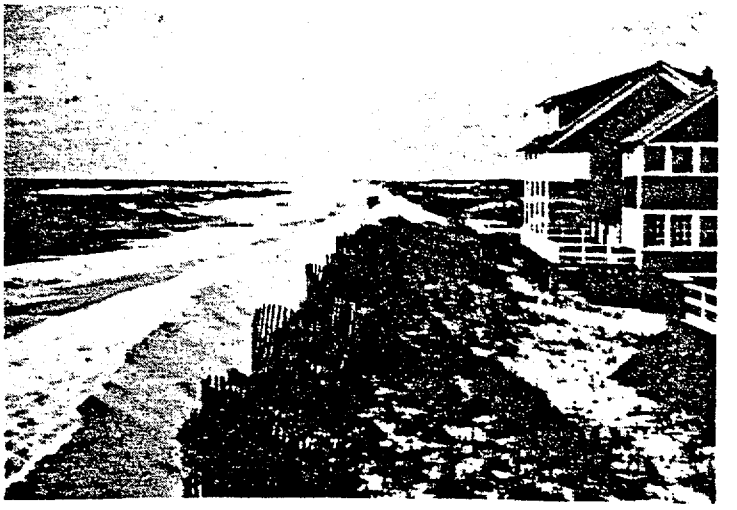
State Of New York Coastal Management Program and Final Environmental Impact Statement

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of Coastal Zone Management





VOLUME 3
APPENDIX G
MANAGEMENT PROGRAM
FOR
NEW YORK CITY



VOLUME 3

APPENDIX G

NEW YORK STATE COASTAL MANAGEMENT PROGRAM

NEW YORK CITY

WATERFRONT REVITALIZATION PROGRAM

AUGUST 1982

Note to Readers

This volume of the New York State Coastal Management Program contains the Local Waterfront Revitalization Program for New York City which is presently undergoing review pursuant to Section 197-a of the City's Charter. This local program was included in Part II, Section 10 of Volume I in the Draft Environmental Impact Statement on the State's Coastal Management Program.

The City's Waterfront Revitalization Program, which is to be included as a component of the federally approved New York State Coastal Management Program, must be formally adopted by New York City and approved by the Secretary of State. Based upon the review conducted by the Department of State, the Secretary has made a preliminary determination that New York City's Waterfront Revitalization Program, as contained in this volume of the Final Environmental Impact Statement, is approvable pursuant to the provisions of Article 42 of the Executive Law.

Therefore, if the City's Waterfront Revitalization Program is adopted by New York City on or before September 30, 1982, it will be included as part of the State's Coastal Management Program which is expected to receive formal approval from the U.S. Department of Commerce by that date. If the City's waterfront program is formally adopted by New York City after September 30, 1982, it will be considered as an amendment to the State's Coastal Management Program. The City's Program will not, however, be subject to additional review by the State or the U.S. Department of Commerce unless substantial changes are made, since all the required processes to consider this local program as an amendment have been met in the EIS process.

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CHAPTER I: INTRODUCTION

Throughout New York's history, its waterfront has been key to the City's growth and prosperity. The City's extensive shoreline, including fourteen bays, five rivers, two straits, and its large sound make it by far one of the best natural deep-water harbors in the world, with the potential for limitless recreational opportunities for residents and visitors alike. At one time, the fate of New York and its waterfront were inseparable: as the port grew, the City grew. In fact, by the middle of the 19th century, the port of New York was the nation's premier port; and by the end of the century, the City was the nation's leading city.

Over the past 50 years, however, a number of forces have significantly altered the relationship of City to shoreline. Yet, in most instances, the City's waterfront policies have failed to reflect the changed realities, despite the fact that they are as dramatic as the following:

- The core of the City replaced the waterfront as the provider of new jobs.

  As the City's economy shifted from a manufacturing to a service base, the focus on economic growth and development shifted inland to the midtown area. Since 1948, 282 major office buildings have been constructed adding 144 million square feet of space. By 1970, the number of jobs in midtown Manhattan had grown to 1.3 million.

- Changes in the cargo shipping industry resulted in a massive shift of maritime activities from traditional waterfront locations.

  Of the 4.8 million waterfront "hirings"* in the Port of New York in 1958, 73 percent took place on New York City piers. Manhattan alone accounted for 37 percent of all hirings. By 1978, New York City's share had fallen to 50 percent of the Port's two million hirings that year, with New Jersey piers accounting for the other 50 percent. The impact of this shift is most visible on the west side of Manhattan where, of the 36 piers owned by the City, 18 lie unused -- many in dilapidated or burnt-out condition -- and only one of the 18 still occupied is used for maritime purposes.

- Construction of a modern highway system and bridge and tunnel network severely limited water access.

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* Employment figures for dock workers are measured in hirings. Each hiring represents one 9-hour day, worked by one longshoreman.

At the turn of the century, the Brooklyn Bridge was the only major bridge traversing a New York waterway. Today, 24 major bridges span the City's waterways, and four tunnels carry vehicular traffic beneath the City's two major rivers. Their miles of access roads and the 67 miles of modern highways -- some elevated, some at grade, some depressed -- now line nearly 30 percent of the City's waterfront.

- Expansion of public waterfront parks and beaches outpaced the City's capacity and ability to maintain them.

  In 1933, New York City had only one mile of public beach. Today, there are over 14 miles of public beach and some 60 public waterfront parks. Together they cover a total of 84 miles of shoreline or 40 percent of the City's waterfront. Based on the acreage devoted to these uses, experts estimate that the City should be investing about $100 million annually to properly maintain its parkland and recreational facilities. In fiscal year 1981, only $60 million was available for capital investment in parks.

- The least desirable activities were assigned to the waterfront.

  In 1928, nearly 40 percent of the City's waterfront was undeveloped. Today, less than five percent remains undeveloped. Since 1928, the City's two major airports were constructed; together they cover 11 miles of waterfront. In addition, 11 steam turbine and nine gas turbine electric generating plants were built at waterfront locations; 12 water pollution control plants (with two under construction), nine refuse landfills, ten marine transfer stations, and four incinerators were developed along the shoreline.

- The City abused nature's capacity to cleanse itself and did not respect the function of land in its natural state.

  Many irreplaceable natural resources abounded in New York City at the turn of the century. Many have been destroyed and others damaged irreversibly. Through design, accident, and ignorance our waters have been polluted and our landscape desecrated. A vastly increased per capita use of goods and services and mismanagement of the waste they leave has severely degraded the urban environment.

Despite these major changes, the City's waterfront policies remained locked in the old realities. Costly mistakes were made. In the mid-sixties, when the Port Authority of New York and New Jersey was adapting its facilities to containerization (the modern shipping technology of moving cargo in large containers), the City's Department of Ports and Terminals continued to invest in break-bulk piers (the traditional shipping technology which required little back-up space for storing containers) along the Manhattan waterfront: $34 million was spent on the Chelsea piers, $11 million for Pier 76, and $7.3 million for Pier 36. Since they were completed in 1968, the Chelsea piers were

used for maritime purposes for only a short time and now stand vacant and vandalized. Pier 76 is a parking lot for cars impounded by the police, and Pier 36 stands vacant.

Major opportunities were lost. As maritime uses along the waterfront declined, there was great resistance to replacing them with permanent, new uses. The City pursued a policy that allowed only the least desirable, low-grade uses on the shoreline. Consequently, abandoned piers were converted to parking lots and storage facilities of every kind. Only in a few instances was the City's downgrading of pier uses halted, and then only with extraordinary effort. For example, it took the developer of the River Cafe -- a highly successful waterfront restaurant located beneath the Brooklyn Bridge -- 13 years to get the necessary permits and approvals from the City's bureaucracy, even though the pier was not being used.

The City's waterfront was taken for granted. An unwillingness to challenge traditional ways of thinking pervaded key decisions. The waterfront suffered serious neglect, to the point where an observer approaching many parts of it today would not think of it as the nation's leading port.

A new set of circumstances exists today, however, that is forcing the City to reexamine its relationship to the waterfront. Two positive forces are the Federal Coastal Zone Management Program and the New York State Waterfront Revitalizaton Program, both programs designed to improve management of the area immediately surrounding the land/water interface.

New York State has been involved in the program and has now completed a draft Coastal Management program. It is designed to achieve a balance between the need to protect the State's valuable coastal management resources and the necessity for continued development in the coastal area.

New York City has also seized the opportunity provided by the Act to reexamine its waterfront policy and developed a Waterfront Revitalization Program in support of the State program. It is the first program designed to address urban waterfront problems providing the framework for future policy direction for the City's waterfront.

The results of the planning phase led to the Waterfront Revitalization Program as detailed in this report. The Program identifies the critical problems of the New York City waterfront. The problems, however, were well known; anyone with long and concerned interests on this subject would have no trouble identifying them. But to propose solutions which balance the use, conservation and preservation of the waterfront area in order to optimize man's use through the long-term future, became a formidable task. The program contained herein lays the foundation to arrest and roll back the mistakes that have been made

in the past and provides the framework to manage waterfront resources in the public interest.

This report sets forth New York City's Waterfront Revitalization Program in response to the New York State Waterfront Revitalization and Coastal Resources Act. The report is organized to demonstrate Federal and State approvability. Chapter I provides a background and introduction to New York City's Waterfront Revitalization Program. Chapter II contains a description of the waterfront area, Chapter III contains the proposed organizational structure and means for implementing the program. Chapter IV contains New York City Program policies and techniques to further implementation of New York State policies, and Chapter V contains the proposed Special Revitalization Areas. Two appendices are also included. Appendix A includes the major statutory and regulatory provisons for program implementation. Appendix B discusses revising the New York City Zoning Resolution and Building Code to incorporate waterfront revitalization guidelines.

THE NEW YORK CITY LOCAL WATERFRONT REVITALIZATION PROGRAM

New York City has also seized the opportunity provided by the Coastal Zone Management (CZM) Act to reexamine its waterfront policy. In June 1978, the New York City Department of City Planning published the New York City Regional Element of the New York State Coastal Zone Management Plan. For the purposes of program preparation, New York State divided its waterfront into five regions: New York City, Nassau-Suffolk, the St. Lawrence River - Eastern Lake Ontario area, the Hudson River Valley and the Great Lakes West region. Regional reports were prepared by subcontractors and the State and were used in the preparation of the New York State Coastal Management Program. Many of the recommendations included in the regional elements on policies, boundaries, and implementation techniques have been incorporated into the State Program. Other data are advisory in nature but will be used to guide the development of local programs. Subsequently, New York State offered local governments the option of submitting a Waterfront Revitalization Program for approval. The approval would be based upon consistency with New York State's program and a showing of technical capability to carry out the local program. Once a locality's program is approved, it would be eligible for a share of the funds made available, subject to Congressional Appropriations, to the State, to administer the program and the Federal consistency provision of the CZM Act applicable to Federal actions would be in effect. In addition, activities of State agencies would have to be consistent with the approved local program.

It should be noted, that implementation of many of the recommendations included herein are dependent upon receipt of adequate funds as is the case with any new program. Since it is impossible to predict levels of future authorizations and in the interest of presenting a comprehensive picture of management needs, the assumption was made that adequate funds would be forthcoming.

CHAPTER II: BOUNDARIES

INTRODUCTION

The primary purpose in defining a waterfront area boundary is to assist waterfront residents and property owners, resource users and governmental entities in understanding the geographic scope of the revitalization program and to assist them in determining whether, where and how they are affected by the program.

Application of Federal regulations offered as broad guidelines for areas with diverse environmental, social and economic characteristics proved extremely complicated.

Planning and management of the often wasted waterfront resources within New York City required a special sensitivity to a range of community issues.

Typical delineation criteria emanated from concern over preservation of rural areas and intrinsic natural areas. The criteria were modified to include the area where jurisdictional overlaps and existing zoning ordinances are in conflict with sound environmental management practices. Modifications will be required as a consequence of program approval.

In other words, the New York City boundary is defined by manageable natural features, the specific person-water interface along the waterfront and the existing governmental jurisdiction which includes the waterfront. Recognition has also been given to the content and interplay of physical, biological, social, psychological, and economic values concerning use of the waterfront area and that they are not static.

The boundary defining the waterfront area in New York City extends seaward to the pierhead line or property line, whichever extends furthest seaward, and landward to the upland limit of remaining natural resources and selected Special Revitalization Areas.

The New York City Waterfront Area boundaries are coterminous with the State boundaries. A map of these boundaries is on file with the Secretary of State. This chapter of the New York City Waterfront Revitalization Program (WRP) reviews the status of Waterfront Area Boundary determinants, provides a description of the area, and discusses the relationship between the New York City and New York State Boundaries.

BOUNDARY DELINEATION

The New York City Waterfront Area extends landward from the pierhead line or property line, whichever extends furthest seaward, to the upland limit of the following natural features, vital man-made features, or selected Special Revitalization Areas:

- Flood Plains
- Steep Slopes
- High Water Table/Shallow Soils
- Significant Flora and Fauna
- Scenic Vistas
- Historic and Archeological Sites
- Parks and Beaches
- Tidal Wetlands
- Freshwater Wetlands
- Unique Flora and Fauna
- Special Revitalization Areas
  - . Areas of Particular Waterfront Significance
  - . Erosion/Floor Hazard Areas
  - . Shorefront Access Areas
  - . Special Zoning Districts

or:

- 300' landward of the Mean High Tide Line in areas devoid of those natural or vital features or Special Revitalization Areas listed above and characterized as <u>developed</u>.

- Landward to the first major man-made physical barrier in areas devoid of those natural or vital features or Special Revitalization Areas listed above and characterized as <u>undeveloped</u>.

After following the above guidelines, the area was adjusted landward to the nearest legally mapped street as set forth in the Sectional Maps of New York City, City of New York, New York City Planning Commission, January 1975.

Exceptions

The Rockaway Peninsula, west from the Queens/Nassau borderline, Broad Channel and City Island are included in their entirety in this zone since only a narrow area running through their central spine would be excluded if the rules above were strictly followed.

NOTE: Tidal and Freshwater Wetlands, historic structures and sites on the National Register of Historic Places, State parks and existing and potential power plant sites have been designated Statewide Generic Geographic Areas of Particular Concern. Therefore, the New York City Waterfront Area Boundary was adjusted to insure their inclusion.

FUTURE CHANGES

The boundary determinants for the Waterfront Revitalization Act have been established. Changes in the delineations may occur in the future based on variations to specific delineation criteria as described below. It is our opinion that few boundary changes will occur since the preliminary data were conservatively interpreted. However, the boundary is not intended or expected to remain static during the implementation phase of the program. Changes can be effected at any time by the New York State Secretary of State, as prescribed by rule or regulation.

Status of New York City Waterfront Area Boundary Determinants

Flood Plains:

Flood plains information has been mapped by the Federal Insurance Administration of the Department of Housing and Urban Development to aid localities in implementing the Federal Flood Insurance Program. These data, the 100-year floor level datum, as revised through negotiations with New York City, were adopted for the purposes of the Waterfront Revitalization Program (WRP). These maps are being refined which may necessitate boundary adjustments.

Steep Slopes:

New York City Department of City Planning has mapped steep slopes, slopes with a gradient greater than 15%, from the most accurate available topographic data for New York City. Information was gleaned from 1965-66 U.S. Geologic Survey Quadrangle topographic separations.

There is a serious dearth of current, accurate data defining existing topography. As part of the refinement of the Flood Hazard Area maps, the New York State Department of Environmental Conservation and the Federal Flood Insurance Administration will produce topographic maps at two-foot contours, but only within the area covered by the Federal Flood Insurance Program. These and other data will be used to verify the steep slope maps in the future.

It has become apparent that the type of soils data necessary to establish accepted erosion and sedimentation control techniques and to establish standards for temporary erosion control devices in construction areas was not available for New York City.

Gathering of baseline data necessary to develop these controls is a major function of soil scientists in the Soil Conservation Service,

U.S. Department of Agriculture. These data include soil wetness, overflow hazards, hardpans, tight layers, erodibility, clay layers that crack when dry and swell when wet, the hazard of slippage on slopes and the classification of soils according to a national classification system.

The first step in becoming eligible for this service is to be designated a Soil and Water Conservation District. New York City is the only major urban area in the country without such a district. To be designated a district involves a minor modification of the State enabling legislation to specify who in New York City shall act as the county legislative body in designating the district.

It is highly recommended that New York City be designated a Soil Conservation District to immediately take advantage of the assistance available from the Soil Conservation Service of the U.S. Department of Agriculture.

High Water Table/Shallow Soils:

An extensive investigation of available data necessary to map areas of high water table/shallow soils and to develop management strategies was undertaken by Department of City Planning. Data exists within the New York City Department of General Services, Division of Public Structures in the form of boring logs developed for individual public housing, sewer, highway, and other projects. The conversion of these data to overlays of high water table/shallow soils consistent with the WRP mapping system is possible, but was not within funding or manpower capabilities available during the development phase of the New York Waterfront Revitalization Program.

Significant Flora and Fauna:

Maps outlining various wildlife habitats throughout New York City have been developed by the New York State Department of Environmental Conservation. These maps identify the location of the different wildlife habitats indigenous to these areas.

The maps are preliminary and will require verification through field checking.

Scenic Vistas:

The Department of City Planning conducted an aesthetic survey of the waterfront area of New York City which yielded a list and evaluation of viewsheds of significance. During this process, a methodology was selected to further refine these results. This effort will continue during future program years.

Historic and Archeological Sites:

All sites and districts designated or being considered for designation by the New York City Landmarks Preservation Commission, including landmarks, interior landmarks, scenic landmarks, historic districts and linear features (bridges, parkways), were mapped. After mapping, the boundaries of the waterfront area were adjusted to include those areas specifically related to the waterfront.

Sites included on the National Historic Register, designated as generic New York State Special Management Areas, were included in a similar fashion.

Extensive research was done to gather information on sites of archeological significance. However, specific site boundaries were unavailable.

Parks and Beaches:

Parks and beach maps have been completed, showing both existing and proposed sites.

Tidal Wetlands:

The New York State Department of Environmental Conservation has mapped tidal wetlands pursuant to the Tidal Wetlands Act, New York Environmental Conservation Law, Article 25 (1973).

These data were adopted for the purposes of the Waterfront Revitalization Program.

Freshwater Wetlands:

The New York State Department of Environmental Conservation has developed preliminary maps of freshwater wetlands and is in the process of field checking these results pursuant to the Freshwater Wetlands Act, New York Environmental Conservation Law, Article 24 (1975).

These data, when finalized, will be adopted for the purposes of the Waterfront Revitalization Program.

Unique Flora and Fauna:

The Department of City Planning has undertaken an extensive effort to develop an identification system for flora and fauna which relates the

concepts, nomenclature and the accepted practices of the biological disciplines to those of planners, designers and engineers who help determine land uses, and to the routine activities and capabilities of the operating agencies responsible for planning and management. Respecting these requirements, the unique flora identification system developed for the Waterfront Revitalization Program has three stages:

Stage 1: Collection, assessment and integration of existing reports on flora for New York City.

Stage 2: Development of criteria for identification of flora unique to an urban environment.

Stage 3: Development of techniques and guidelines for integrating flora into planning land uses and their management.

A consistent, comprehensive inventory of flora and fauna in New York City does not exist. Therefore, a list of species found in the City was developed from many reports written over many years by different authors. Although the data sources are not consistent, the material appears valid.

To correlate field reports, the Department of City Planning developed an integration system which facilitates use of flora in land use planning management. This entails mapping of locations of various species after an updated ground verification and matching of field reports against lists of species presented in laws and regulations and criteria of uniqueness.

The updated species mapping will be used to verify the preliminary Significant Flora and Fauna (Fish and Wildlife Habitat) maps produced by the New York State Department of Environmental Conservation, while the location of species protected by various laws and/or meeting uniqueness criteria of Stage 2 will be mapped as locations of unique flora and fauna.

Special Revitalization Areas:

- Areas of Particular Waterfront Significance .

  Twelve areas were given preliminary designations during the planning phase of the Waterfront Revitalization Program. After intra-city and State review, this list was reduced to the following:

  . Bronx - Bronx River Valley
  . Brooklyn - Spring Creek
  . Manhattan - Southwest Waterfront
  . Queens - Eastern North Shore
  - South Shore
  - Northwest Waterfront

. Staten Island - South Richmond Natural Drainage Basins Area
- Fresh kills/Richmond Creek Drainage Basin
- Raritan Bay
. City-wide - East River/Upper Bay

Revitalization plans for six of these areas have been preliminarily drafted. The remaining designated areas will be addressed in the near future.

- Critical Erosion Areas

Department of City Planning has identified critically eroding areas within selected study areas of the New York City waterfront area, both natural and physical. Recommendations are made regarding mitigation proposals and for future planning efforts (see Chapter V - Special Revitalization Areas - Critical Erosion Areas). This work will be integrated with the proposed Statewide erosion hazard area planning process.

- Shorefront Access Areas

Department of City Planning has identified shorefront access problem areas in the New York waterfront area. Prototypical study areas were chosen and studied in-depth. Recommendations are offered for resolution of existing problems and future planning requirements are discussed (see Chapter V - Special Revitalization Areas.

This work will be integrated with the proposed Waterfront Revitalization Shorefront Access Planning Process.

- Special Zoning Districts

Because of their proximity to the waterfront or the direct or indirect impact of their special provisions on the New York City waterfront land/water interface, the following Special Zoning Districts were identified as waterfront area boundary determinants:

. The Special Battery Park City District
. The Special Scenic View District
. The Riverdale Special Natural Area District
. The Special Staten Island Natural Area District
. The Special South Richmond Development District
. The Special Sheepshead Bay District
. The Special South Street Seaport District

Figure 6

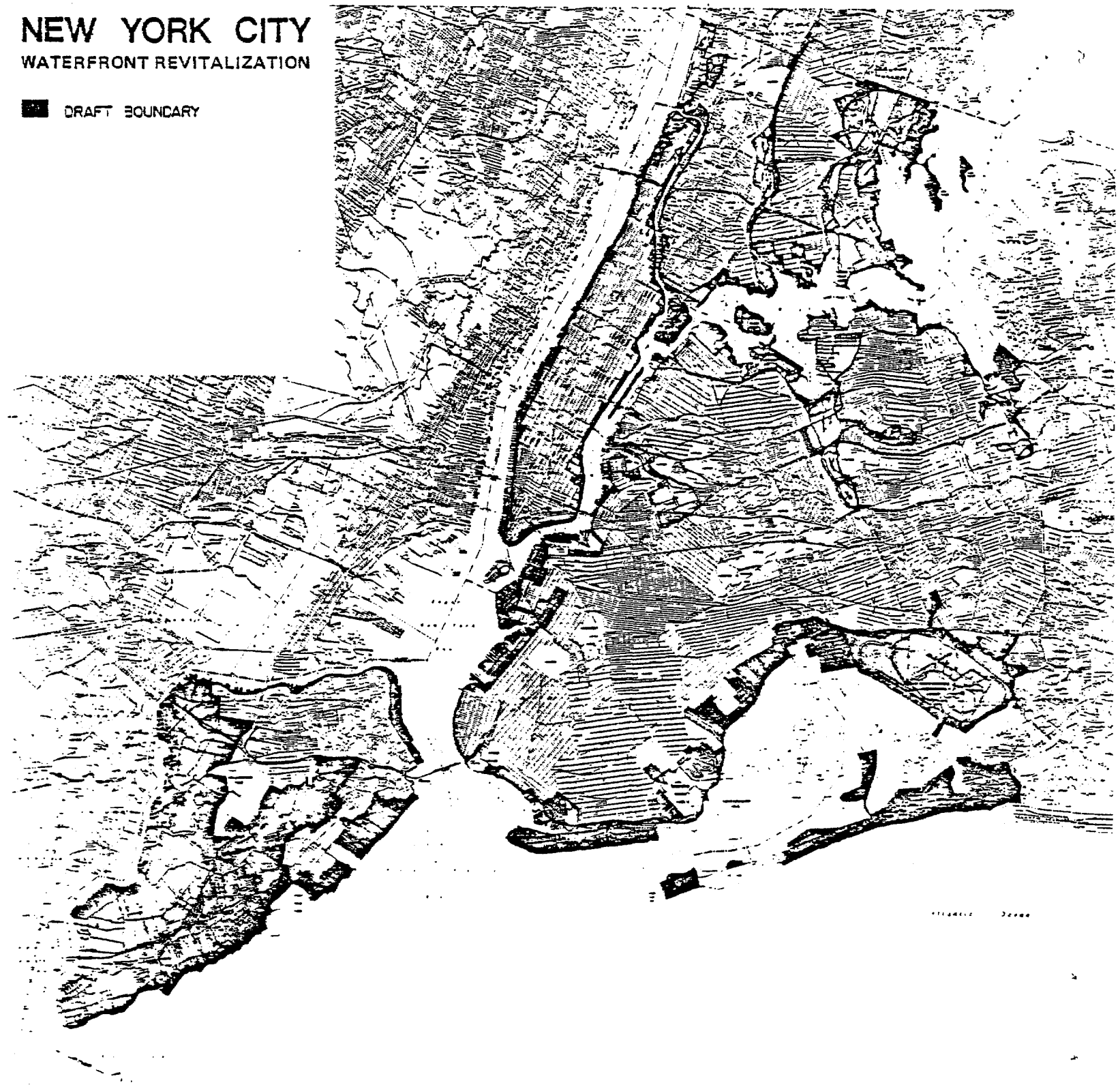
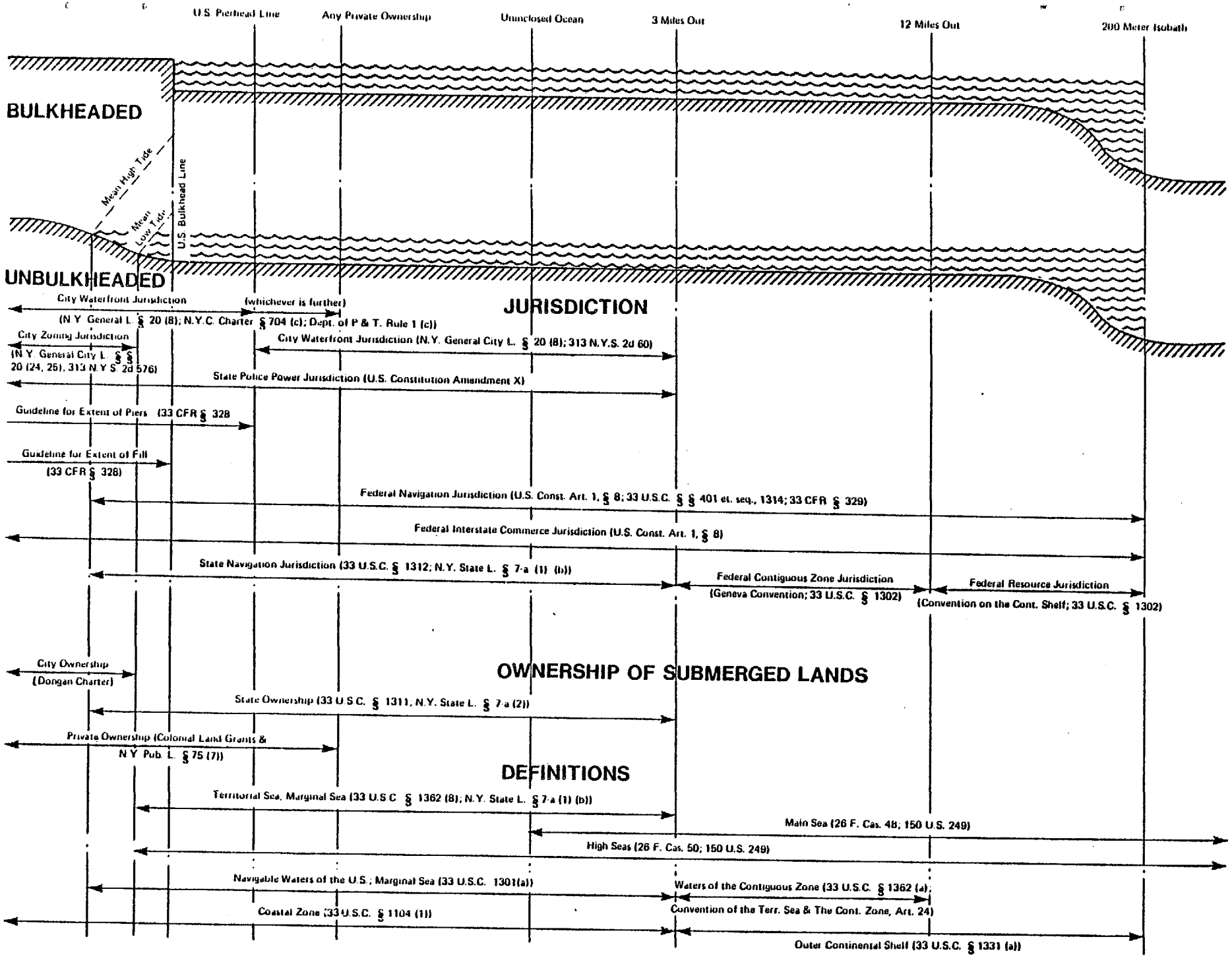


Figure 7


U.S. Pierhead Line
Any Private Ownership
Unenclosed Ocean
3 Miles Out
12 Miles Out
200 Meter Isobath
BULKHEADED
Mean High Tide
Mean Low Tide
U.S. Bulkhead Line
UNBULKHEADED
JURISDICTION
City Waterfront Jurisdiction (whichever is further)
(N.Y. General L. § 20 (8); N.Y.C. Charter § 704 (c); Dept. of P & T. Rule 1 (c))
City Zoning Jurisdiction
(N.Y. General City L. §§ 20 (24, 25), 313 N.Y.S. 2d 576)
City Waterfront Jurisdiction (N.Y. General City L. § 20 (8); 313 N.Y.S. 2d 60)
State Police Power Jurisdiction (U.S. Constitution Amendment X)
Guideline for Extent of Piers (33 CFR § 328
Guideline for Extent of Fill
(33 CFR § 328)
Federal Navigation Jurisdiction (U.S. Const. Art. 1, § 8; 33 U.S.C. § § 401 et. seq., 1314; 33 CFR § 329)
Federal Interstate Commerce Jurisdiction (U.S. Const. Art. 1, § 8)
State Navigation Jurisdiction (33 U.S.C. § 1312; N.Y. State L. § 7-a (1) (b))
Federal Contiguous Zone Jurisdiction
(Geneva Convention; 33 U.S.C. § 1302)
Federal Resource Jurisdiction
(Convention on the Cont. Shelf; 33 U.S.C. § 1302)
OWNERSHIP OF SUBMERGED LANDS
City Ownership
(Dongan Charter)
State Ownership (33 U.S.C. § 1311, N.Y. State L. § 7-a (2))
Private Ownership (Colonial Land Grants &
N.Y. Pub. L. § 75 (7))
DEFINITIONS
Territorial Sea, Marginal Sea (33 U.S.C. § 1362 (8); N.Y. State L. § 7-a (1) (b))
Main Sea (26 F. Cas. 48; 150 U.S. 249)
High Seas (26 F. Cas. 50; 150 U.S. 249)
Navigable Waters of the U.S.; Marginal Sea (33 U.S.C. 1301(a))
Waters of the Contiguous Zone (33 U.S.C. § 1362 (a);
Convention of the Terr. Sea & The Cont. Zone, Art. 24)
Coastal Zone (33 U.S.C. § 1104 (1))
Outer Continental Shelf (33 U.S.C. § 1331 (a))
WATERFRONT JURISDICTION

CHAPTER III: ORGANIZATION & IMPLEMENTATION

INTRODUCTION

This section describes the proposed means for long-term management and maintenance of waterfront development and activities, pursuant to the New York City Waterfront Revitalization Program. Management will be the responsibility of the City Planning Commission, as the City Coastal Commission, and the Department of City Planning. This commitment is solidified through the process of the City Charter, Section 197-a, which is the approval process for the WRP in New York City. Upon approval of the 197-a plan, the WRP -- its policies, special areas, etc. -- will become a part of the City's "comprehensive plan" for zoning and land use purposes.

The relationship of New York City's Waterfront Revitalization Program (WRP) to waterfront planning and decision making is a product of two factors that had to be taken into account in order for the program to be effective and acceptable on the Federal, State and local level.

The first factor is that management of the city's waterfront area is spread out over all three levels of government (see Waterfront Jurisdiction chart).

Federal controls have their basis in Article I, Section 8 of the Constitution of the United States, which gives Congress the power to regulate foreign and interstate commerce. A large number of Federal statutes and regulations have been promulgated governing the navigable waters of the U.S.; these authorities play a key role in waterfront revitalization.

New York State derives its power to enact controls over the coastal area from the police power reserved to the States, the power to enact controls for the good of the State, and its power to regulate intrastate commerce. Most of the State controls which affect the coastal area are codified in the New York State Environmental Conservation, Transportation, Navigation, Public Service, and Energy Laws and the new Waterfront Revitalization and Coastal Resources Act.

The City of New York is empowered to adopt land use regulations pursuant to the New York State General City law. Many of the City's controls are contained in its Zoning Resolution, administered by the Department of City Planning, the Board of Standards and Appeals and the Board of Estimate. Other land use regulations are assigned to other city agencies. A total of eight Boards and Commissions, four elective bodies and twelve Mayoral line agencies, most significantly the Departments of Ports and Terminals, Sanitation and Environmental

Protection, possess authority to control or influence land use in the waterfront area. Thus, not only is power dispersed among the three levels of government, but also distributed within each level.

The second factor in shaping the program for New York City's waterfront area was the City's financial condition. New York City was, and is, in no position to add additional delay or expense to much needed economic development. Indeed, a priority of the City is to simplify and speed economic development, provided that development is environmentally sound. Thus, a new permit or other form of new administrative approval was not desirable as a means of implementing the WRP.

The response of City waterfront planners to these factors was to design a program which relied to the maximum extent possible on existing land and water use controls to achieve improved and coordinated waterfront area management. The program policies are described in Chapter IV. The basic strategy of the City is to insure that waterfront concerns and policies are incorporated in existing public decision-making processes. These waterfront concerns and policies will be addressed in two approaches: (1) through advocacy, incentive, and encouragement; and (2) through coordination, protection, and consistency. These approaches are further described through specific management techniques in the Related Local Program Requirements section below.

The major legal authorities cited below are contained in Appendix A.

CITY PLANNING COMMISSION AS CITY COASTAL COMMISSION

To insure a viable framework for the implementation and administration of the WRP more than twelve alternative organizational structures were developed.

Five of these proposals were retained for further analysis:

- the existing organizational structure;
- the City Planning Commission as a City Coastal Commission;
- the Waterfront Management Advisory Board as a coordinating council;
- a new City Coastal Commission; and
- a new Department of Land and Water use.

These alternatives, discussed fully in the Draft New York City Regional Element published in June, 1978 were analyzed in terms of Federal, State, and local program requirements as well as additional evaluation criteria, including legislative feasiblity, political acceptability and program effectiveness. After careful consideration and review of numerous comments, the alternative of the City Planning Commission, as a City Coastal Commission, was chosen as the best means

of satisfying the above discussed concerns.

The City Planning Commission consists of a Chairman and six members. Each member is appointed by the Mayor for a term of eight years. The Chairman serves at the pleasure of the Mayor. The major responsibilities of the agency include the review of applications respecting the use, development or improvement of real property subject to City regulations (ULURP); the promulgation of zoning regulations; the review of applications for variances to the Zoning Resolution filed with the Board of Standards and Appeals; and the issuance of an annual Capital Needs Statement.

The Chairman of the City Planning Commission serves as the Director of the Department of City Planning. The Department serves as staff to the Commission in all matters under the Commission's jurisdiction; advises and assists the Mayor and other City agencies in regard to physical planning and public improvement aspects of all matters related to the development of the City; provides professional and technical assistance to community planning boards; and conducts studies and collects data on an ongoing basis to serve as the basis for planning recommendations. The Department is also a co-lead agency for City Environmental Quality Review (CEQR), pursuant to the State Environmental Quality Review Act.

The WRP will be implemented upon the approval of the 197-a plan through the exercise of the above listed powers and responsibilities as more fully described below.

RELATED LOCAL PROGRAM REQUIREMENTS

Land Use Review

Since 1976, applications for major land use actions, identified below, by individuals, groups, businesses and governmental agencies have been subject to the formal review process known as the Uniform Land Use Review Procedure (ULURP), pursuant to Section 197-c of the City Charter.

Specific actions subject to ULURP include the following:

ZONING MAP. Amendment to the Zoning Map, pursuant to Charter Sections 200 and 201;

CITY MAP. Changes in the City Map pursuant to Charter Section 199;

SPECIAL PERMITS. Approval of special permits by the City Planning Commission pursuant to the Zoning Resolution, pursuant to Charter Section 200 and 201;

SITES FOR CAPITAL PROJECTS. Selection of sites for capital projects, pursuant to Charter Section 227;

FRANCHISES AND REVOCABLE CONSENTS. Granting of franchises and revocable consents involving residential, industrial, commercial, transportation or community facility projects, pursuant to Charter Chapter 14;

HOUSING AND URBAN RENEWAL PROJECTS. Approval of housing or urban renewal plans and projects, pursuant to State, City or Federal law.

LANDFILLS. Approvals of sanitory or waterfront landfills, pursuant to applicable Charter provisions or other provisions of law; and

SALE OF CITY PROPERTY. Approval of the sale, lease, other than the lease of office space, exchange, or other disposition of real property to the City and of the real property of the city, and the proposed acquisition, sale or lease of land under water pursuant to Section 67, Section 1603, Chapter 15, and other applicable provisions of law.

Applications for items covered by ULURP are first submitted to the Department of City Planning. Prior to the submission of an application, the Department of City Planning often assumes an advocate's role by assisting applicants in the preparation of proposals to be submitted under ULURP. This stage is called ULURP precertification. The staff will, if available, use Coastal Zone Management 306 funding, and any other appropriate funding, for technical assistance to encourage appropriate waterfront development.

Once the application is ready for the approval process, the Department notifies the affected Community Board(s) of receipt of an application. The City Planning Commission as the City Coastal Commission certifies that an application is complete and ready to be forwarded to Community Boards when it finds that all information necessary for adequate evaluation of the proposal has been furnished by the applicant and concerned City agencies. Within 60 days after it has received the certified application, the Community Board must hold a public hearing and adopt a recommendation, which it forwards to the City Planning Commission. The City Planning Commission, as the City Coastal Commission, must hold a public hearing and approve, approve with modifications, or disapprove the application and forward a recommendation to the Board of Estimate. The Commission's recommendation is contained in a report which describes the proposal, any comments received on the proposal, and the factors considered in reaching a decision. In reviewing each application, the Commission considers all relevant planning and legal criteria. The Board of Estimate has 60 days from receipt of the Commission's report to hold a public hearing and act on the proposal. The Board of Estimate may

approve, disapprove, or modify the proposal, but may not go beyond the scope of the certification. Once the Board of Estimate's decision is made, other permitting agencies are bound to act in accordance with that approval. If substantial modifications are necessary after the Board of Estimate's aproval, those modifications must go through the ULURP process again.

Implementation of the WRP in the ULURP process will take place through City Planning Commission, as the City Coastal Commission, determination of the consistency of a proposal with the WRP. Where waterfront issues are raised, the Commission will address these issues in its report. Implementation of the WRP will insure that the policies and concerns of the WRP become one of the criteria upon which the Commission reviews an application. For example, zoning must be in accordance with a "well-considered plan" (New York General City Law, Section 20 (25)). The WRP will become one part of the City's overall plan to be considered in zoning matters. The Department of City Planning will advise the Commission and the Community Boards on WRP matters and, during the pre-certification process, insure that applicants are aware of the WRP.

Zoning Regulations

While the designation of zoning districts (zoning map changes) is subject to ULURP, the adoption of zoning regulations (text) is subject to a slightly different procedure. In this instance, the City Planning Commission has an even stronger role.

Upon its own initiative, or upon application, the Commission may adopt a resolution approving new or amended zoning regulations. Following notice and public hearing, the resolution is forwarded to the Board of Estimate. The Board must act on the resolution within 60 days of its receipt or the proposed zoning regulations become effective. As in ULURP, the Board of Estimate may approve, disapprove or modify the proposal, but may not go beyond the scope of what the Commission approved.

Most proposed zoning text is initiated by the City Planning Commission. The adoption of new zoning to achieve waterfront objectives of encouraging appropriate waterfront proposals and protecting valuable coastal resources is an important means to augment existing enforcement measures of the WRP. As stated above, all zoning must be in accordance with a "well-considered plan." The WRP will constitute a part of that plan as a result of 197-a.

Review of Variances

The Board of Standards and Appeals(BSA), pursuant to Chapter 27 of the Charter and other provisions of law, may grant variances to the Zoning

Resolution. The City Planning Commission is a party in interest to BSA actions and is permitted to argue cases before the Board "if, in the judgement of the City Planning Commission, the granting of relief requested in such application would violate the requirements of the Zoning Resolution relating to the granting of variances."

There are five basic findings the BSA must make pursuant to Zoning Resolution Section 72-21 in order to grant a variance. One of these findings is that the variance will not alter the "essential character" of the neighborhood. Upon implementation, the WRP provisions relating to an area will become a determinant in neighborhood character. The City Planning Commission, acting as the City Coastal Commission, in appearing before the BSA, will oppose variances which are not consistent with the WRP as a result of the approval of the 197-a plan. The Department of City Planning screens BSA applications and recommends opposition to the Commission, which may appeal adverse BSA decisions to the Board of Estimate. The Department will also provide technical assistance to the Board on waterfront issues.

City Environmental Quality Review

Pursuant to the State Environmental Quality Review Act (SEQR) and Mayoral Executive Order No. 91 (City Environmental Quality Review or "CEQR"), discretionary actions of City agencies are reviewed for significant impacts on the environment before a final decision to approve the action is made. The co-lead agencies for this review are the Department of City Planning and the Department of Environmental Protection. City Planning reviews for possible social, economic and land use impacts and Environmental Protection reviews for possible air, noise and water impacts.

The City Planning Commission, as the City Coastal Commission, will not act on an application under ULURP nor promulgate a zoning regulation until CEQR review is compeleted. Similarly, the Board of Standards and Appeals will not render a decisison on an application for a variance until CEQR procedures have been complied with.

If the proposed action or development is found likely not to result in any significant impacts by the co-lead agencies, a "negative declaration" is issued and the review and approval of the action may proceed. If significant impacts are likely, but may be mitigated through conditions, a "conditional negative declaration", in which the applicant agrees to perform certain conditions, is issued and review and approval of the action may proceed. If significant impacts are likely, and conditional negative declaration is not appropriate, an environmental impact statement must be prepared. This statement must disclose the possible adverse impacts, discuss mitigating measures and describe alternatives to the proposed action. The statement becomes part of the record which must be considered by the administrative

agency in reaching its decision on an action and the agency must find that reasonable mitigating measures are being taken and that the proposed action is preferable to other alternatives.

Upon implementation of the WRP, the provisions of the WRP will become relevant to the criteria for significant impacts on the environment used by the Department of City Planning in performing its role as CEQR co-lead agency. For example, some of the significant effect criteria used for review includes: the creation of a material conflict with a community's existing plans or goals as officially approved or adopted; the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources, or of existing community or neighborhood character; and a substantial change in the use of intensity or use of land or other natural resources or in their capacity to support existing uses. Inconsistency with the WRP, as factored into these criteria, may result in conditions being attached to proposed actions or in the preparation of environmental impact statements addressing waterfront issues.

Capital Needs Statement

The City Planning Commission is mandated by Section 214 of the City Charter to issue an annual statement on the capital needs and priorities of the City of New York. Recent statements have stressed the need to rebuild the City's infrastructure and to reorient capital spending priorities from expansion of the captial plant to maintenance of existing facilities. Demographic, economic, environmental and social factors are considered, and the 1981 Statement contained a section on waterfront redevelopment. Issues identified for the decade of the 1980's include "meeting the waterfront goals of the Coastal Zone Management Plan."

Implementation of the WRP in the City will serve as a focus for capital needs waterfront planning efforts during the next decade. Through the Capital Needs Statement, the City Coastal Commission takes an advocate role in the priorities of capital spending. Support to Congressional Appropriations, Coastal Zone Management 306 funding, and any other appropriate funding, will be used to promote the goals and policies of the Waterfront Revitalization Program.

The Department of City Planning has been responsible for the initiation of the local program throughout the program development process. Under contract with the New York State Department of State,

the Department of City Planning has received section 305 development grants and section 308 Coastal Energy Impact Program grants.

Comprehensive planning is one of the primary tools in achieving waterfront management program objectives. These objectives include both the use of waterfront resources and the protection of valuable waterfront resources. The local program is the result, in part, of planning for the resolution of identified issues. Implementation of the program continues by the Department of City Planning acting as staff for the City Coastal Commission. The WRP is implemented by the Commission and the Commission's staff as they develop and review land use or development within the waterfront area for consistency with the WRP.

With this procedure for guiding waterfront development in place and coordinated with existing review procedures, the text of the City Zoning Resolution and Building Code will be revised as necessary to further reflect waterfront revitalization policies, guidelines and standards (see Appendix B). These changes would become an amendment to New York City's Waterfront Revitalization Program, pursuant to NYCRR Title 19, Part 601.

It should be noted that the NYC WRP will not apply to those actions for which a final Environmental Impact Statement has been prepared and filed or for which a determination has been made, with conditions or otherwise, that the action will not have a significant effect on the environment pursuant to the City Environmental Quality Review (CEQR) requirements and NYCRR Title 6, Part 617 (SEQR) prior to the effective date of the program. In New York City this means public improvements to be contructed pursuant to the official map, an official drainage plan, a site selection, an urban renewal plan, or a large-scale development plan adopted prior to the effective date of the WRP and any action which has been certified under the New York City Uniform Land Use Review Procedures prior to the effective date of the NYC WRP. Any major modifications that occur to the above type of actions which occur after the effective date of the program will, however, be subject to review under the City's WRP.

In addition, implementation of New York City's WRP is dependent upon receipt of adequate funding, as determined by the City Coastal Commission.

CHAPTER IV: WATERFRONT POLICIES

INTRODUCTION

Every State Coastal Management Program must include policies upon which decisions pursuant to the program will be based. They must be articulated clearly to provide an understanding of the program to those who will be affected. The policies must provide a clear sense of direction for decision-makers and they must be of an enforceable nature to insure implementation of and adherence to the management program.

In addition, a local Waterfront Revitalization Program adds specificity to the applicable New York State Coastal Management Program policies. It can apply to the entire coastal area of the local government and must contain adequate authority for implementing, administering, and enforcing the program. This chapter demonstrates how the program fulfills these requirements.

The New York State Department of State, in developing the New York State Coastal Management Program identified coastal-related issues crucial to the revitalization, preservation and enhancement of the State's diverse shoreline. The issues, which included promoting waterfront revitalization; promoting water dependent uses; protecting fish and wildlife habitats; protecting and enhancing scenic areas; protecting and enhancing historic areas; protecting farmlands; protecting and enhancing small harbors; enhancing and protecting public access; providing solid and useful data and information on coastal resources and activities to decision makers; and coping with erosion and flooding hazards were examined in relationship to the coast's assets, problems and needs. Statewide program policies were then developed on the basis of the examination.

New York City performed a similar analysis. To adequately address a number of issues, additional policies for New York City were developed.

Discussion of protecting farmlands is not applicable to the New York City waterfront area and is, therefore, not included in this report. A solid waste issue is added because of the immediate necessity to solve problems associated with the disposal of solid wastes within the waterfront area and its associated potential impacts to the City's economic and environmental base.

New York City Program policies were developed during initial phases of the Waterfront Revitalization Program. As information was interchanged with New York State and revisions made as suggested by Federal, State and City agencies and the public, certain City policies developed to detail State policies. Many State policies evolved to be

sufficient for New York City's use. The State has grouped these policies into three categories: policies designed to promote the use of coastal resources, policies dealing with resources identified as being in need of protection, and policies which address major activities with affects on coastal resources. This explanation can be found in Part II, Section 6 of this document.

An ISSUE DISCUSSION section presents a synopsis of current conditions within the New York City waterfront area and an identification of problems the revitalizaton program is designed to resolve.

A PROGRAM POLICIES section explains each policy and the means of implementation. The State policies are listed 1-44, and the New York City Policies which lend specificity to those numbered State policies are listed A-L. The Federal Consistency Provision of the Coastal Zone Management Act and/or the State Consistency Provision of the Waterfront Revitalization and Coastal Resources Act apply to all policies. However, where recommendations are set forth, consistency would only apply if those recommendations were adopted by the Federal or State agency indicated.

ISSUES

The issue discussion below summarizes the analysis of current conditions in the waterfront area and identifies the problems which this program is designed to resolve. The issues have been broken down under the following headings: Development, Fish and Wildlife, Flooding and Erosion, Public Access, Recreation Resources, Scenic Quality, Energy Development, Water Resources, Air Quality, and Solid Waste Disposal.

DEVELOPMENT

Underutilization and Water Dependent Uses

Much of New York City's waterfront has been developed. A wide spectrum of land uses or activities such as housing, transportation, commerce, recreational boating, beaches, parks, maritime shipping, shipbuilding and manufacturing are accommodated along the shoreline. Demand for waterfront sites for various uses has fluctuated with changing economic and social conditions and has spurred renewal and redevelopment activities. In recent years, for example, demand for housing, particularly in and near Manhattan has resulted in the development of Waterside and Battery Park City, and a primarily housing proposal for Manhattan's East River waterfront south of Waterside.

As with other economic sectors, waterfront activities have felt the negative impact of recent regional economic trends. Shifts of population and industry to other regions of the country have affected all the northeast ports. New York City was hard hit by the recession of the early 1970's. Private sector employment fell 16 percent between 1969 and 1977, and the unemployment rate rose over 6 points between 1970 and 1977. In addition, city government has been cut back because of the municipal fiscal crisis. With the general decline in business activity, shifting of a significant portion of general cargo to containerports concentrated in the New Jersey part of the Port District, reduction of bulk cargo shipments, and decline in activity of industrial firms which receive or ship material and products by water, a significant amount of waterfront land and facilities have fallen into disuse or have been converted to accommodate uses not dependent on direct waterfront access. Local economic stagnation has limited private and public ability to develop and implement plans for reusing abandoned areas of the waterfront.

Suitable waterfront area must be maintained to accommodate potential expansion of maritime and related industrial activities. Underutilized and vacant areas of the developed waterfront which have traditionally housed maritime and related activities could provide opportunities and distinct advantages for expansion, infill development and redevelopment for maritime and water-dependent industrial uses.

The existence of Federal channels and anchorages, deep natural water depths and waterfront infrastructure enhance the potential for infill development and expansion as well as redevelopment at minimum expense to the developer and the public. Greater utilization of existing publicly funded infrastructure and public land avoids the cost of new infrastructure and channels and reduced groundbreaking to operation time of development.

A realistic assessment of future siting requirements for uses dependent on a waterfront location for their existence must be made. Emphasis must be placed on recycling areas with existing infrastructure.

Well over seven thousand vessels call at the Port of New York every year. Most are container, bulk cargo or tanker vessels. Of 11 leading ports in the nation, the Port of New York continues to have the largest volume of vessel traffic, but total number of vessel calls and the Port District's share of cargo volume handled are slowly declining.

In 1976, over 179 million short tons of commodities were shipped to, from, or within the Port District, nearly three-quarters of which were crude or refined petroleum products. Petroleum products are shipped to the port in large oceangoing tankers and transferred to barges for delivery or movement within the Port. Other bulk cargo passing through the port includes: sand, gravel, and crushed rock, metallic ores, nonmetallic minerals and some food grains. Sand, gravel, and crushed

rock quarried and used locally by the construction industry are transported primarily by barges which can use relatively shallow channels. Waste and scrap transport includes barging solid wastes from marine transfer terminals and incinerators to landfill sites. The other two major categories of commodities are general cargo and miscellaneous freight, including bulk items and raw materials. General cargo includes commodities such as domestic and foreign food and manufactured goods, etc., which are transported in break bulk vessels or containerships.

While Port district tonnage has increased decade by decade, the Port's competitive position has declined.

Consolidated Statement of Waterborne Commerce
of the Port of New York*
(Short Tons)

Year	Total Traffic
1930	120,395,645
1940	129,712,186
1950	144,943,558
1960	153,198,620
1970	174,008,108

*Source: Waterborne Commerce of the United States, Calendar Year 1975. Part I, Waterways and Harbors, Atlantic Coast, U.S. Army Corps of Engineers, 1976.

Although the Port no longer handles the largest volume of cargo in the nation, its cargo dollar value is still the highest. It is difficult to project future cargo flows at the Port District although past trends suggest volume will continue to increase in the foreseeable future. Changes in bulk cargo and other categories will depend on many variables, including: possible construction of a deepwater port, extraction of offshore oil deposits, and further technological advances in containerized cargo handling.

Containerized cargo is the most rapidly growing sector of the general cargo shipping market. In 1970, 39 percent of Port District foreign and domestic general cargo was containerized. The percentage increased to about 51 percent by 1974. By 1976, approximately 13,328,000 tons of

general cargo in foreign trade, 78 percent of total cargo in this category, was containerized. The containerized portion of general cargo handled at the Port District will probably continue to grow as worldwide containerport development continues.

Terminal operations to support containerizaton requires large back up areas for storing and marshalling containers. Immediate and direct access to both highways and rail facilities is virtually a necessity. As the older, intensely developed port areas in the City at best were difficult to convert to meet containerization requirements, new container terminals were built in Staten Island and New Jersey. This has resulted in a reduction or termination of shipping activities at much of the City's break bulk terminals.

Among the vessels calling at the Port District in 1977, 249 were passenger ships. Passenger traffic, ranging from oceangoing cruises to lunch hour sightseeing excursions, is another economic activity on the waterfront. The hub of trans-oceanic and cruise passenger traffic is the Consolidated Passenger Lines Terminal on Manhattan's West Side, a nine-berth facility completed in 1974. Because of the long-term decline in oceanborne passenger traffic attributable to passenger preference for air transport, existing facilities are underutilized and would be able to accommodate any increased traffic resulting from current promotional efforts.

Recreational boating in the City has also declined in recent years, as has the number of marinas. Some older operations closed because of inadequate rates of return. Land and capital-intensive marinas are high risk businesses in light of the regional recession's impact on recreational boating in recent years and the population decline experienced here. At City Island in the Bronx, sport and pleasure craft are built and required in waterfront locations. Backup and support industries such as sailmaking are also found adjacent to the City Island boat yards.

Commercial fishing, once a major economic activity, has been banned in the Hudson River for certain species which contain unsafe levels of toxic materials. Commercial and charter boats continue to operate out of Sheepshead Bay, Coney Island and City Island. Because of anticipated increases in the ocean-fishing harvest off the Outer Continental Shelf (OCS), certain related commercial activities, such as fish processing, may expand in the City.

Shipbuilding, ship and boat repair yards and marine service firms utilize land along deepwater channels of the Brooklyn waterfront. With worldwide demand for most types of ocean-going vessels at low levels, shipbuilding activities are anticipated to continue at modest levels at best.

Rehabilitation and Maintenance of Piers, Docks, Wharves and Bulkheads

Upgrading or removal of the City's aging piers, docks, wharves and bulkheads is necessary to respond to changing technologies of waterborne transport and initiation of redevelopment projects.

The New York Harbor Collection and Removal of Drift Project, a cooperative Federal-local waterfront cleanup program, is a major commitment to the cleanup and rehabilitation of the waterfront. The project envisions the repair or removal of deteriorated waterfront structures and the removal of rotting vessel hulks that generate floating debris. In addition to abating drift damage to recreational, harbor and other small craft, the project offers the prospect of land reuse, as well as aesthetic and environmental enhancement.

Unlike the Corps' Federal channel maintenance program, which is funded from the annual operating budget, the New York Harbor Collection and Removal of Drift Project requires specific congressional authorization and appropriations. Under the program's current authorization, the cost share for structural removal is two-thirds Federal and one-third local. Local costs are shared equally by state and local interests. The cost of repair of useable and productive structures is totally the responsibility of local interests.

Taking into consideration the severe fiscal restraints facing the City, the local cost sharing provisions for structure removal is particularly burdensome. The State of New Jersey has recognized the importance of this effort by financing the entire local share with State bond monies.

In light of the importance of New York Harbor as a National, State and regional resource, the City recommends that the Federal or State government assume the non-federal costs of the project. (Refer to the Flooding and Erosion issue section of this Chapter for a program policy addressing this subject.)

Channelization

Vessels, tankers and general cargo ships entering the Port are becoming larger. Existing channel limitations can impede the safe and expeditious movement of these vessels and pose the threat of vessel groundings. In addition, increased costs are incurred from large vessels laying at anchor for berthing or high tide. Inadequate channels result in more frequent lighterage activity, and as transfer operations increase, so does the risk of oil and other pollutant spillage. These problems point up the need for timely initiation of new projects and modification to existing channels where needed.

Federal involvement in channel development is derived from the Constitution and responsibility for navigation improvements has been specifically delegated to the Army Corps of Engineers. Today virtually all of the channels circumscribing the City's waterfront are established and maintained by the Corps of Engineers as an arm of the Federal government. The Corps of Engineers' role as prescribed by Federal rules and regulations is one of response to need for action initiated by local interested parties. The Corps' response to requests for a new project or project modification is involved and quite lengthy. The time between local request and final action is frequently five years or longer.

Permit Procedures

Obtaining government approval to develop in the New York coastal region can sometimes be a difficult task. Applicants may face a long list of government approvals (e.g., permits, certifications, licenses, special permits, revocable consents, reviews, etc.). In addition, these applications must receive approval from several levels of government, including State, substate and local administrations. While such permit requirements may prove burdensome to large developers, they may be an almost insurmountable obstacle to the small developer who has limited financial and legal resources.

As a result of this vast permit system, it is altogether possible that necessary and appropriate development in the New York coastal region simply does not occur. In addition, the public sector also suffers from the time and money expended on governmental reviews for proposals that do not meet or are unable to complete the review procedures. Permit procedures must be responsive to the need for expeditiously reviewing development proposals.

Rail Freight Facilities

The Port of New York and New Jersey must compete with greater intensity for its trade. Full rail freight service is a necessary component of this effort, fostering healthy competition between rail and truck transport and broadening the transshipment alternatives and services available to shippers.

Over the past two decades rail freight service has deteriorated appreciably in the City. To revitalize the rail system, the New York State Department of Transportation has formulated and is implementing a full freight access program, financed primarily by State Rail Bond funds. As a result of this program, there is now overland rail access to the Brooklyn waterfront, clearance restrictions on the Hudson Division into the Bronx have been removed, and plans have been developed for a modern intermodal terminal and a new rail link in the South Bronx.

On the local level, the City of New York has created an Office of Rail Freight Development within the Office of the Mayor to formulate overall City policy and to coordinate the implementation of capital improvements with respect to rail freight. Through this Office, the City has acquired the former 65th Street Yard in Brooklyn and is developing a modern classification and intermodal yard to serve the waterfront. All of these activities will help foster healthy competition between rail and truck transportation modes and will bolster the City's economic development efforts.

FISH AND WILDLIFE

The abundant fish and wildlife found in New York's coastal areas, particularly its estuaries, have long been recognized as important food resources and for their recreational and commercial value. As an indicator of their direct value to the State, the economic benefits derived in 1976 from commerical and sport utilization of New York's marine fisheries were estimated to be $87.8 million and $222.5 million.

Fish and wildlife resources also provide a less direct but equally important social benefit in that they function as indicators of the quality of man's environment. The decline of certain species (often the rarer species) is frequently an early symptom of environmental stress and degradation.

Finally, living coastal resources are important in terms of their own intrinsic ecological value. Diversity of flora and fauna provides stability to an ecosystem. In addition, these living resources contribute to the productivity of coastal environments through their conversion of energy and recycling of materials.

Hence, the basic goal of fish and wildlife management programs is to protect, manage, and develop these resources so that they sustain their capacity to continue providing these economic, social, and ecological benefits.

In New York, a category of habitats which have suffered the greatest losses are freshwater and tidal wetlands. Until 1973, draining and filling of wetlands for development purposes was largely unregulated. Wetlands also provided convenient, inexpensive sites for disposal of dredge spoils. Such practices resulted in the loss of breeding, nesting and feeding grounds for reptiles, amphibians, mammals, shorebirds and waterfowl, as well as the loss of spawning and nursery areas for fish, shellfish and crustaceans. Many of the wetland areas around the highly developed waterfront sections have been drained and filled.

Relatively few areas in New York City have natural systems which are not impacted by human activity. Therefore, there are few areas where the management of flora and fauna can begin with the wholesale exclusion of such activities. These areas, namely, tidal and freshwater wetlands, have been identified (freshwater wetland inventories are underway) as part of a Statewide effort to preserve specific ecosystems of prime value. Federal and State laws also protect specific endangered species. However, no further effort has been expended to develop a management system for flora and fauna in an urban environ such as New York City.

The New York City coastal zone has undeveloped areas which will remain so, partially developed areas which will continue to develop, previously developed areas in various states of decay and abandonment, which are likely to be redeveloped and fully developed areas which are not likely to change. The flora and fauna present in these various areas, rather than being mature associations of plants and animals, tend to be at various stages of ecosystem succession and remnants of horticultural plantings. These associations are predictable, natural to the conditions in which they are found, inter-related in their dynamics and able to successfully continue their life cycles.

In many cases, conditions created by prior development can be made to relate more closely to the natural coastal environment. The conditions created as a result of new development do not have to be detrimental to a natural system. A major goal of the New York City Waterfront Revitalization Program is recovering and strengthening of the natural systems which are present or should be present.

With New York being a coastal estuarine city, the management of estuarine systems near navigation channels and tidal wetlands is a major challenge for a an urban coastal zone program. The activities of humans - dredging, dumping, release of treated waters, harvest of particular organisms, etc. - should be treated as being integral with the natural system and guided so it is not damaging, but a positive stimulant to the estuarine ecosystem.

At the individual species level, the problem is one of developing an adequate data base and monitoring system. Although laws have been passed by New York State calling for lists of endangered species of flora and fauna, no identification (mapping) of existing valuable and endangered species has been attempted for New York City until very recently under the auspices of the Coastal Management Program. As described in greater detail in Chapter 2, much will be required to verify these preliminary maps and apply criteria specific to the New York City region.

Individual species in New York City cannot be maintained by prohibiting human activity. There will always be a need to integrate adjacent activities into the dynamics of the natural system. In other words,

the management and maintenance of particular species involves the establishment or conservation of environments for those species. Environments must allow for the successful completion of a particular life cycle which will normally involve a variety of other plants and animals.

Habitat Protection

Valuable fish and wildlife species cannot be protected and maintained without preserving their habitats. A habitat is an area where there exists a unique combination of resources (food, shelter, living space, etc.) and environmental conditions (temperature, climate, salinity, etc.) which animals need for their survival. When man destroys a vital resource or alters an environmental condition beyond an organism's range of tolerance, he destroys the habitat.

Certain habitats, such as breeding grounds, nursery areas, and migratory routes, are special areas where fish and wildlife populations tend to congregate during various stages of their life cycle. Such areas must be identified and afforded special protection, since their loss would create a greater threat to the survival of a population than would the loss of areas where the organisms were less densely distributed.

Toxic Substances and Other Pollutants

In New York, a critical problem is the contamination of fish, wildlife and their habitats with toxic substances, in particular Polychlorinated biphenyls (PCBs), mirex, dioxin and heavy metals (mercury and cadmium). These compounds enter the environment from industrial and municipal discharges, atmospheric fallout and leachate from landfills.

The more conventional pollution problems created by combined overflows, failing septic systems, urban stormwater runoff, oil spills, discharge of vessel wastes and solid wastes, which have adverse effects on fish, shellfish, wildlife and their habitats, are common in major metropolitan areas like New York City.

Recreational Use of Fish and Wildlife Resources

Throughout most of New York's coastal area, inadequate public access constraints present hunting and fishing activities. Highways and railroads located along the coastline severely limit physical access to the marshes and estuaries which support valuable fish and game populations. Substantial efforts have been made to improve access to these resources through acquisition programs, and construction of boat

ramps, and dock facilities. However, increasing cost of land and construction material and decreasing amounts of available public funding will limit future efforts to meet increasing demands for public access.

Commercial Fisheries Development

For years, New York's commercial fishing industry has been in a state of decline. New York City, once a prominent fishing port, is used today as a home port by only one commercial fishing vessel. However, a tremendous opportunity for expanding the State's commercial fishing industry was created with the passage of the Federal Fishery Conservation Management Act of 1976.

The Fishery Conservation and Management Act of 1976 (Pub. L 94-265; 16 U.S.C. 1801 et. seq.) created fishery management zones within the 200 mile limit. Federal control is exercised through a permit and quota system. As a result of the act, fishing operations of foreign fleets have declined in U.S. coastal waters, and domestic quota allocations have increased for certain species. The U.S. State Department with the advisement of the Department of Commerce administers and regulates the quota system. The National Marine Fisheries and the U.S. Coast Guard are the enforcement agencies.

This law provides U.S. fisherman priority rights to harvest the millions of tons of fish previously being caught by foreign fishing fleets. To realize this development potential, New York must make adjustments in the harvesting, processing and marketing sectors of its fishing industry. Inadequate channel access, and the limited availability of docking, unloading and processing facilities presently impede the growth of offshore deepwater fisheries. An insufficient number of boat ramps, inadequate catch transfer sites, and lack of shellfish processing and gear storage facilities limit development of the near-shore fisheries.

New York City has the opportunity to attract and develop a new fishery industry because of the extension of U.S. jurisdiction over fishery management to the 200 mile limit, and because of a growing world market for fish and fish products. The development of a new offshore fisheries industry is being supported by the Federal government. The industry will require deep-draft ports for the larger vessels being constructed. New York Harbor is the only location in New York State with deepwater access. New seafood processing plants will be required to convert the fish formerly exploited by foreign fleets into foods for domestic and export markets. The 1980 waterfront study, "Fisheries Development Opportunities for New York," funded by CZM recommends that the City encourage The Port Authority of New York and New Jersey to develop Erie Basin in Brooklyn as a major seafood complex.

Ship repair and chandlering facilities will be required to serve the fleet. Some shipbuilding or conversion of existing vessels may also occur; Federal government subsidy programs will affect the level of shipbuilding conversion activity.

The potential economic benefits to the City from the capture of the new offshore fisheries industry are substantial. In the past, coastal fishery landings in New York State (estimated at 34 million pounds) were only 4% of the total catch in coastal waters of New York (within a 200-mile limit). The remaining 96% of the catch was taken by foreign fishing fleets. A large part of this catch is now potentially available to domestic fishermen. The 4% of total catch (34 million pounds) sold for an estimated $32.1 million at dockside (or $67.4 million at wholesale and $87.6 million at retail). These figures only give an order-of-magnitude to potential sales.

FLOODING AND EROSION

The New York City shoreline is a valuable natural resource exploited for economic, recreational and environmental purposes. The continued productive use of the coastline is endangered because of gaps in the planning and management of coastal areas subject to destructive natural forces.

Most of the City shoreline has been altered by dredging, filling, bulkheading and other construction activities. Unwise development practices caused removal of vegetative cover, destruction of dunes, obliteration of wetlands, and, frequently, dense development of low-lying areas. As a result, many shorefront areas devoid of natural buffers are subject to the adverse effects of coastal hazards.

Storm induced winds, waves and tidal surges subject unprotected shores to severe shorefront erosion and upland flooding along the Atlantic and Long Island Sound coasts. In addition, beachfront along these coastal reaches shows net loss due to the gradual erosion of beach materials by longshore currents. Natural sources of these materials are often inadequate to ensure stable shorelines.

Public and private property in low-lying coastal areas is threatened by erosion and flood hazards. Coastal communities often experience substantial property damage and sometimes even loss of life. Public beaches and navigable inlets supporting boating, swimming and other activities are adversely impacted by the loss of shorefront recreation space and the sedimentation of navigation channels.

Erosion also takes place along reaches which have been bulkheaded, riprapped or otherwise developed to support maritime activities. The Waterfront Revitalization Program defines this type of erosion as

structural erosion which is the deterioration of physically developed shorelines as opposed to shorelines in a natural state.

Wave-wash from passing ships, tides, currents, as well as more severe storm-induced forces contribute to the deterioration of waterfront structures along the various waterways comprising New York Harbor. As they erode, the structures become sources of drift, make navigation hazardous, and degrade water quality and aesthetic values. The presence of dilapidated structures inhibits waterfront redevelopment efforts.

The magnitude and scope of beach erosion, structural erosion and coastal flood hazards have necessitated joint action involving Federal/State assistance. Federal/State sponsored beach erosion/hurricane protection programs offer substantial financial and technical assistance that would otherwise be far beyond the means of local government. Therefore, to achieve effective management, Federal/State programs must be responsive to local needs and concerns. Problems associated with Federal/State sponsored projects include:

- Massive structural flood protection plans often have irreversible effects on the environment and other coastal values, such as: coastal aesthetics, scenic views, and shorefront access. Mitigation techniques require the commitment of large sums of public funds. Guidelines for the implementation and design of structural projects should reflect the need to manage fragile coastal resources for the public good. Non-structural responses need to be examined in providing flood protection before costly structural devices are considered.

- Erosion control projects have not addressed problems along privately-owned shores where there is a public interest. Federal/State projects have been aimed primarily at mitigating erosion along public beachfront. The limited scope of these projects deprives eligible privately-owned shores of adequate protection and the public of their enjoyment. Consideration of these interests should be given in the development of erosion control plans.

- The loss of valuable public beachfront along much of the south shore of Long Island, Brooklyn, Queens and eastern Staten Island is a chronic problem. Beach restoration projects must ensure the long term beneficial use of these shores for public recreation, but only after public benefits have been weighed against long term financial and environmental considerations.

- Federal programs do little to assist in the mitigation of erosion along privately owned shores where there is no public interest. Technical assistance to individuals, in general, is limited to available data. As a result, no effort has been made

to coordinate private erosion control efforts. Piecemeal erosion control planning simply leads to transferring the problem from one section of the shoreline to the next.

- Federal planning and assistance in the mitigation of structural erosion is limited to the removal of deteriorated waterfront structures. The congressionally authorized Drift Removal Project for New York Harbor offers financial assistance to demolish structures. Repair, maintenance and development of alternate use plans remains the responsibility of local interests. Repair costs, however, are often greater than removal costs for individual structures.

Given the fiscal condition of local governments, the financial burden of tackling these problems inhibits the productive use and redevelopment of the urban waterfront for traditional and alternative uses.

Because of the enormous cost of erosion control projects, Federal and State participation are virtually mandatory. However, initiation of Corps of Engineers' involvement is a complicated procedure.

Local interests must petition their representatives in Congress either directly or through local governments. The Senator or Congressman then requests the appropriate Congressional Committee to direct the Corps of Engineers to investigate. During the investigation, which includes comprehensive surveys and feasibility studies, public hearings are held.

The Corps' findings and recommendations are transmitted to the Secretary of the Army, who eventually turns them over to Congress. The final decision lies with the Congressional or Senatorial Committee on Public Works. Following Congressional approval, Congress must appropriate the necessary funds.

PUBLIC ACCESS

The enjoyment and general benefit of the waterfront is considered to be a public right to be shared by all of the City residents. The availability of physical and visual access to the shore is a crucial determinant affecting the beneficial use of coastal resources. However, past ownership and development patterns, conflicting waterfront activities, transportation deficiencies, and inadequate or undeveloped recreational facilities limit shorefront access in New York City.

Public Areas

Publicly owned shorefront open space is the most significant

recreational resource in the City. Public beaches at Coney Island, the Rockaways, eastern Staten Island (including Gateway properties) and Orchard Beach in the Bronx, satisfy the recreational needs of millions of New Yorkers each year. Natural areas such as fish and wildlife habitats and tidal wetlands along relatively undisturbed shores in Jamaica Bay, Raritan Bay, and Little Neck Bay provide a special opportunity to enjoy unique natural settings. Existing waterfront parks as well as other publicly owned underused or undeveloped shorefront provide an opportunity for shorefront access to communities otherwise deprived of waterfront views and recreation.

Many potential recreation areas are undeveloped, poorly maintained or otherwise unfit for public use. Landfill sites, other undeveloped mapped public parks, underused waterfront structures such as piers, unimproved mapped streets, public places, and other vacant waterfront sites are untapped recreational resources. The development, rehabilitation and maintenance of these facilities would significantly contribute to the City's ability to fulfill the recreational needs of its residents. Access to such sites will be a critical element determining their use and defining their role in the overall regional recreational picture. Inadequate transportation to existing recreation areas limits the users of many public facilities. Many of the most valuable recreational resources are far from population centers. Beaches especially, tend to be located in areas that are relatively lightly developed. In general, autos are the major mode of transport to these coastal areas. Mass transit is usually oriented toward central business districts. The result has been the underutilization of public facilities where adequate public transportation has not been provided, and the denial of recreational opportunity to City residents who rely on public transit.

Private Areas

Private residential and commercial/industrial waterfront uses frequently isolate inland areas from the shore. Such development forms an edge or barrier limiting both physical and visual access. The scale and orientation of structures can effectively eliminate view corridors and prevent pedestrian passage, benefiting only adjacent waterfront users.

Improved shorefront access frequently conflicts with existing uses, activities and natural functions occuring at the shore. Along industrially developed waterfront, increased pedestrian use of available open space conflicts with traffic patterns and other aspects associated with incompatible adjacent uses. Such conditions endanger pedestrian safety, interfere with truck traffic circulation and hamper recreational facilities, could disrupt adjacent residential uses by causing traffic congestion and associated noise and air impacts and degrade recreational quality by the overuse of facilities.

Shorefront Access Areas (305 planning phase)

During the planning phase of Waterfront Revitalization Program, the Department of City Planning investigated sites needing access improvements. The planning process included a methodology for identifying shorefront areas appropriate for improved access and a tabulation of the nature of access issues for 33 areas (see Chapter V: Special Revitalization Areas).

RECREATION RESOURCES

The park system of New York City is composed of 24,610 acres which include 1400 parcels of land, from vest pocket parks and park strips linking highways to massive citywide parks, like Central Park in Manhattan. Park facilities include 225 neighborhood parks (from 0 to 3 acres)*, scattered throughout the five boroughs, 154 community district parks (from 3 to 10 acres), 45 multi-community parks (from 10 to 20 acres) and 26 citywide parks (20 acres and over). Outdoor recreation space covers 12% of the total City land area. By borough, Staten Island has 22%, Queens 27%, Manhattan 11%, Brooklyn 16%, and the Bronx 24% of the total citywide park acreage.

Many of these recreation areas are located within the waterfront area or take their character from a waterfront location. Shorefront parkland totals approximately 10,275 acres, 41% of all park acreage, well distributed throughout the five boroughs. There are approximately 3500 acres along the Bronx Coast, 2000 acres along Brooklyn, 1330 acres along Manhattan (including the 396 acre Randall's Island), 2145 acres along Queens and 1300 acres along Staten Island.

Public waterfront areas range from small esplanades and playgrounds of less than one acre to the 2,117 acre Pelham Bay Park along Eastchester and Pelham Bays on the northeastern shore of the Bronx, which is a major regional facility. The ten largest shorefront parks comprise approximately 5,965 acres or more than half of shorefront public space. They provide City residents with the opportunity for diverse active and passive recreational activities, including picnicking, baseball, basketball, bocci, bicycling, swimming, promenading, fishing and viewing the impressive City shoreline.

To improve recreation opportunities for City residents, beach frontage can be expanded with shorefront promenades and sitting, fishing, boating and picnic areas that are easily accessible to the public.

Future plans include developing access to the waterfront along the North Shore of Queens (at Powell's Cove, Little Bay and at Udall's Cove on the Queens-Nassau border). Implementation of these plans will

* Parks are classified by size.

require some acquisition of private property. Access improvements are also planned for the Bronx River.

Despite the extensive park system, many problems exist and many future opportunities may be lost unless swift management action is undertaken accompanied by fiscal relief. The greatest challenges are preservation of parkland from further physical deterioration; provision of additional access to underutilized areas especially for the elderly, handicapped and immobile inner-city poor; development of mapped parkland now vacant, littered and unusable (without any added City maintenance burden); and, in some cases, limiting access to prevent environmental degradation.

Preservation

Physical deterioration of City waterfront parks has impacted use and enjoyment of recreational facilities. Over the past ten years, operation and maintenance funds have declined and demand for open space and recreation has grown. Age, overuse, vandalism and outdated facility designs have contributed to the deterioration. Adequate, ongoing maintenance programs are necessary to meet community needs.

Both capital and expense budget funds allocated to the park system are inadequate, reflecting higher priorities for economic recovery, transportation , health, welfare and other public needs. Citywide budget cuts have restricted acquisition and expansion as well as rehabilitation of parks. The resulting impact on park maintenance is more severe when inflation and increased energy and labor costs are considered.

Budgetary gaps are not met by State and Federal recreation programs. Many of America's urban recreation areas have become maintenance problems. Such facilities are an essential part of urban life and financing is crucial if they are not to be abandoned to vandals or made useless by overuse. The development of a program to provide funds and technical assistance to local park systems for maintenance and operating functions is strongly encouraged by New York City.

Access

Inadequate access opportunities to existing facilities due to physical obstructions, poor roadway design and limited mobility of user groups prevent the full use of City parks and open spaces.

Mass transit coverage and scheduling to coastal recreational areas provides only limited relief. Mass transit focuses on workday service to downtown business districts, rather than weekend access to the marine perphery. Where intermodal transfers are available, increased

transit fare has made recreational travel for low income families, families without automobiles, the elderly, the young and the handicapped almost prohibitively expensive. The few beach areas with relatively good mass transit access such as Coney Island, are seriously overcrowded during summer months. Partial solutions to these problems have been proposed in the past. For example, the Special South Richmond Development District has extensive pedestrian and bicycle rights-of-way separated from vehicular routes, but this and other open space network plans lack implementation funds.

The Special Revitalization Areas section of this report discusses the identification of waterfront areas with access problems and the approach to their resolution. Please refer to that section.

Development

Maintenance, preservation and access problems should be resolved before additional park areas are acquired. However, some communities, especially high density areas, are inadequately served, lack open space, recreational facilities and special programs for the elderly, handicapped and young. In many cases, potential for waterfront open space development exists near these neighborhoods. For example, Soundview Penninsula in the Bronx along the East River waterfront, has great potential for multiple recreational activities and facilities. Development plans, based on community need, include the designation of natural areas in the northern section of this peninsula with provision for passive recreation; playing fields, bicycle paths and fishing docks are planned for the southern section.

The New York City Waterfront Revitalization Program will support the development of areas such as this which exhibit unbalanced supply/demand ratios in conjunction with available unused open space.

Two other issues are closely associated with recreational resources - overuse and water quality. Issues/policies and implementation techniques designed to resolve problems associated with those issues are included in the Public Access and Water Quality sections of this chapter.

SCENIC QUALITY

The New York City coastline offers numerous and diverse visual experiences along both man-made and natural shores. The Manhattan skyline, the entrance to New York Harbor and the Narrows are a few of the sweeping views created or completed by man's activity. Smaller scale urban settings having cultural/historical significance are also of scenic value. The Special South Street Seaport District and the

Fulton Ferry Historic District preserve linkages to New York's maritime heritage by maintaining and stimulating re-creation of their historic character. Containerports and other maritime facilities provide an added dimension to the urban shorescape with their complexity and dynamic forms.

More natural coastal settings are also abundant in the City. Many miles of natural and artificial beaches offer traditional coastal views. Public bathing beaches at Coney Island and Rockaway have artificially expanded foreshores which give large numbers of seasonal visitors access to views of the Atlantic Ocean.

Waterfront views can enhance neighborhood quality, shorefront recreation facilities, and other waterfront activities compatable with pedestrian access.

Other coastal areas such as Gateway National Recreation properties in Rockaway, Jamaica Bay and on Staten Island (as well as city-owned and private shorefront) exhibit natural coastal formats and vegetation. In many cases, artificially placed features such as the backshore dunes north of Great Kills on Staten Island are of high visual quality. Among the rarest of all coastal resources in New York City are undisturbed tidal wetlands and wildlife habitats. These areas have been altered by man's activity but have adapted and remain viable areas of natural activity with unique scenic value.

Enhanced scenic quality in the coastal zone can have a beneficial effect on coastal recreation, shorefront commercial activity, and adjacent neighborhood quality. Recreational activities at beaches and waterfront parks can be made more attractive and enjoyable. Commercial activities at amusement areas, beach concessions and marinas will increase in value if their facilities are cleaner, safer, more accessible facilities. Residential communities along densely developed urban shores and more lightly developed reaches, such as the Rockaways, will benefit psychologically from a more aesthetically pleasing environment.

Deterioration Of Scenic Quality

Coastal visual quality in New York City, however, is often deteriorated, inaccessible, obstructed, threatened by the lack of consideration for scenic values in planning waterfront development, or otherwise blighted by out of scale or disharmonious development.

Deteriorated waterfront property and degraded water quality detract from the scenic quality of waterfront recreational, residential pedestrian and commercial activities in the following ways:

- water pollution, including floating debris, makes fishing, swimming, boating, as well as commercial shipping, unattractive, unsafe and unhealthy;

- poorly maintained and abandoned waterfront structures contribute to floating debris and the blighted appearance of the urban shorescape, resulting in lost opportunity for public access and waterfront redevelopment;

- beach erosion results in the loss of valuable scenic and recreational open space, as well as the endangerment of upland development and natural areas;

- poorly maintained public parks discourage public use of available shorefront open space which represents the primary resource for public shorefront visual access;

- overcrowded public parks detract from the enjoyment of shorefront recreational facilities and endanger and degrade the available natural and scenic resources;

- undeveloped coastal landfill sites are eyesores that sometimes block coastal views since they are usually extended to great heights. The noise, odor and appearance of active sites have negative impacts on any adjacent use; and

- poorly managed wetlands often become unauthorized dumping grounds filled with vermin and pests, obnoxious odors and sights.

Consequently, the opportunity for the enjoyment of coastal scenic resources is lost or significantly limited.

The coastline in general, is often inaccessible to inland populations effectively isolating them from coastal views. Public spaces are not readily available along large reaches of privately owned or developed waterfront. Water-dependent activities such as shipping, energy production and storage facilities, as well as other industrial uses that require waterfront sites, further prohibit access to scenic views.

Maritime uses such as passenger terminals, containerports and commercial fishing can attract the interest of the public, provide passive recreational opportunity and enhance the scenic quality. Vacant and underused public waterfront structures are ignored as resources for physical or visual access. Abandoned piers, marginal streets and other city-owned property can provide the public with adequate space to experience and enjoy waterfront views.

Waterfront views are often degraded or obstructed by haphazard development. Residential development, transportation facilities (highways, bridges, etc.), energy production and storage facilities, etc. frequently are not in harmony with coastal environs.

Management of Scenic Resources

Many of the City's outstanding scenic views and other scenic resources are adequately protected. Existing regulatory mechanisms for the protection of scenic quality are in the City's Building Code and Zoning Resolution which regulate permissible uses and the designation of special districts. These mechanisms include provisions for performance standards, height and bulk regulations and the transfer of development rights. While these protective measures are substantial, they have not been applied to all of the City's scenic resources.

ENERGY DEVELOPMENT

Energy facilities have located in the New York City waterfront area because of their large scale water requirements for cooling and proximity to fuel supply and proximity to market areas. These combined factors create a relative "waterfront dependence" that varies significantly by type of facility. Power plants, for example, which receive fuel by barge or tanker and which use large quantities of water for cooling are dependent upon a waterfront location. Petroleum storage tank farms derive an economic advantage by being sited close to power plants.

The dependence on and attraction of energy facilties to the coast is evident in New York City, where the majority of power plants, petroleum terminals, tank farms, and gas storage and processing facilities locate. The waterfront area of New York City has 10 electrical generating plants, at least 53 bulk oil storage terminals with over 500 petroleum tanks as well as liquefied natural gas (LNG) tanks and facilities. This siting arrangement plays a vital role in the supply, distribution and production of energy within New York.

Impacts

Energy facilities may adversely impact the waterfront in several important ways:

- Electrical generating facilities discharge thermal and chemical pollutants into adjacent waterways. The power plants located along New York's waterfront all use once-through cooling systems which raise temperatures of the immediate receiving waters from 16^{o}F to 20^{o}F resulting in reduced levels of dissolved oxygen and decreased marine organisms and species diversity.

- Petroleum terminals, tank farms, and pipelines exhibit chronic seepage and spillage. Petroleum delivered to utilities to generate electricity, provide heating oil and meet transportation needs, comes into the City mostly by tanker and/or barge. Because of the limited depths of channels in New York Harbor (up to 45 feet), only small tankers, up to 40,000-50,000 deadweight tons (DWT) can proceed to piers to unload. Larger oil tankers in the 70,000 DWT size (small compared to the more economic Very Large Crude Carriers (VLCC) of 100,000-500,000 DWT) have to "lighter" their loads outside the harbor. In reducing their load by transfer to barges they often spill oil which pollutes the waters.

Energy wastes are another potential polluter of the waters. For example, if coal burning is approved as an alternative and/or supplement to oil burning in the future, byproducts of coal and refuse-burning will have to be disposed of at sea or on land.

- Power plants, whether fueled by oil or coal or refuse-derived fuel, also affect air quality by emission of gases such as sulfur and nitrogen dioxides. Tanks storing lighter oils such as gasoline and aviation fuels emit hydrocarbons in the process of "breathing".

- Power plants and LNG facilities have large land requirements for buffering and safety reasons. Such land preempts waterfrontage and reduces public access. Energy facilties may also present adverse aesthetic impacts if plants are not properly sited, clustered, buffered and/or maintained.

These combined impacts can significantly alter the air, water and aesthetic quality of adjacent coastal uses and also impair upland locations.

The degree to which these impacts affect the waterfront is amplified by the energy supply and demand patterns of New York City, which imports all of its primary energy resources and generates an enormous demand for electric power. Compared to the country as a whole, New Yorkers are quite energy conservative. In 1979 they used 180 million British thermal units of energy per capita versus 346 million nationwide (one gallon of heating oil generates 138,000 BTUs). While well below the national average in per capita consumption, there is a concentrated demand for over 7,500 MW of power within a 317 square mile area which severely impacts the supply environment, in this case, the waterfront.

Following are issues related to facility types common to the City's waterfront:

Electric Generating Facilities

All electric generating stations in New York City are located within or adjacent to the waterfront (see Con Edison Power Plants map). Consolidated Edison (Con Edison) owns and operates ten power plants in the city having a capacity of 5300 megawatts. The steam turbine generating plants are "once-through" cooled with attendant large water requirements. Con Edison transports some oil within the boroughs by pipeline. It also receives some oil at its Arthur Kill plant by a pipeline from New Jersey. These pipelines lend reliability to operations against the event of strikes or inclement weather which might otherwise threaten deliveries by tanker or barge. Con Edison has proposed switching from the burning of oil to coal at its Arthur Kill and Ravenswood plants.

The use of refuse-derived fuel has been proposed by the Department of Sanitation, which has to dispose of 20,000 to 22,000 tons of refuse daily and is running out of space. The Department has proposed the building of ten plants handling about 3,000 tons per day over a ten year period. It is reviewing proposals for the first such plant to be constructed at the former Brooklyn Navy Yard. Power derived from the plant in the form of steam would be fed into a nearby Con Edison plant. Both the Port Authority of New York and New Jersey and the Power Authority of New York have expressed interest in building similar plants in the Bronx and elsewhere. Like conventional oil and coal facilities, resource recovery plants will have air impacts which fall under the jurisdiction of the Clean Air Act. The adverse impacts from existing generating plants have been significantly reduced and controlled by Federal, State and local environmental programs in recent years.

Air Quality

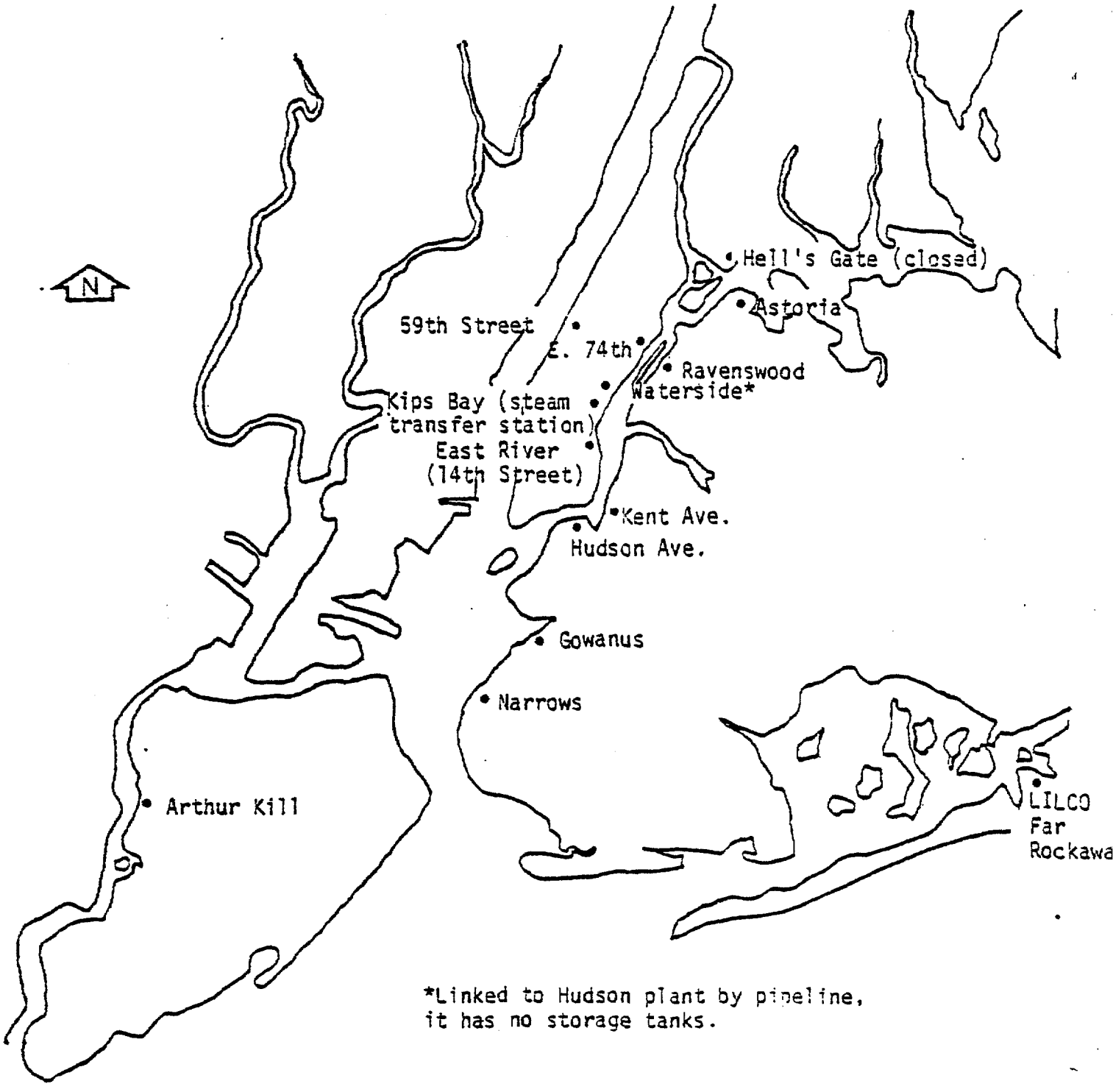
All Consolidated Edison plants must be in compliance with applicable Federal, State and local air pollution control regulations. They must also meet New York City's stricter air pollution control code. (As a preliminary to switching to coal, the utility obtained a variance to test-burn oil having a sulfur content the equivalent of coal. The impacts of burning the higher sulfur fuel during 1980 and 1981 proved inconclusive. The utility has received permission from the City's Department of Environmental Protection and the State Department of Environmental Conservation to continue with the test burn under a variance of the air code which has to be renewed at six monthly intervals.

Water Quality

Energy facilities which take in or discharge water for cooling and

Figure 8

CONSOLIDATED EDISON POWER PLANTS IN NEW YORK CITY



processing require State Pollution Discharge Elimination System (SPDES) (402) permits. These set limits on the amount of emissions permitted to be discharged and are issued by the New York State Department of Environmental Conservation.

Petroleum Terminals and Storage Facilities:

Oil arrives in New York City by pipelines carrying the fuel from the Gulf Coast (see Oil Company Pipeline Routes map). The heavier more viscous grades arrive exclusively by tanker. Fuel delivered by tanker is delivered to some 44 storage terminals from where it is taken to market by trucks. The City has 16.2 million barrels of storage capacity along the waterfront (see Bulk Oil Storage Facilities map and legend). This represents about 18 percent of the capacity in the harbor which New York shares with New Jersey. A study funded by the Coastal Energy Impact Program and released in November 1981 indicated that petroleum handling impacts the City's waterways in several ways. Oil spills are generated, for example, during the transfer of oil from tanker or barge to dockside and again when oil is transferred from tank to truck at the loading racks. Oil spills also threaten aged storage tanks which may spring a leak at the weak point of a tank wall or bottom. The study found, however, that waste oil -- that which is spilled during transfer operations -- poses the greatest threat. The amount spilled is out of proportion to the amount of overall petroleum handled.

The study recommended regular monitoring of oil facilities and decommissioning of old tanks to mitigate some of these impacts. Spills are, however, a potential threat as long as oil is handled. Their severity will depend on the location and the type of oil spilled. Disposal of collected spilled oil in landfills may also pose impacts over time.

Air Quality - Hydrocarbon Emmissions

The air pollution effects of petroleum terminals and storage facilities result from hydrocarbon emmissions when light fuels such as gasoline and jet fuel are exposed to air during transfer or spillage. Vapor recovery controls and floating roofs for storage tanks are some of the ways in which emissions can be reduced.

Visual Blight

Storage facilities, when located adjacent to inland residential and recreational uses obstruct waterfront views.

Figure 9

OIL COMPANY PIPELINE ROUTES

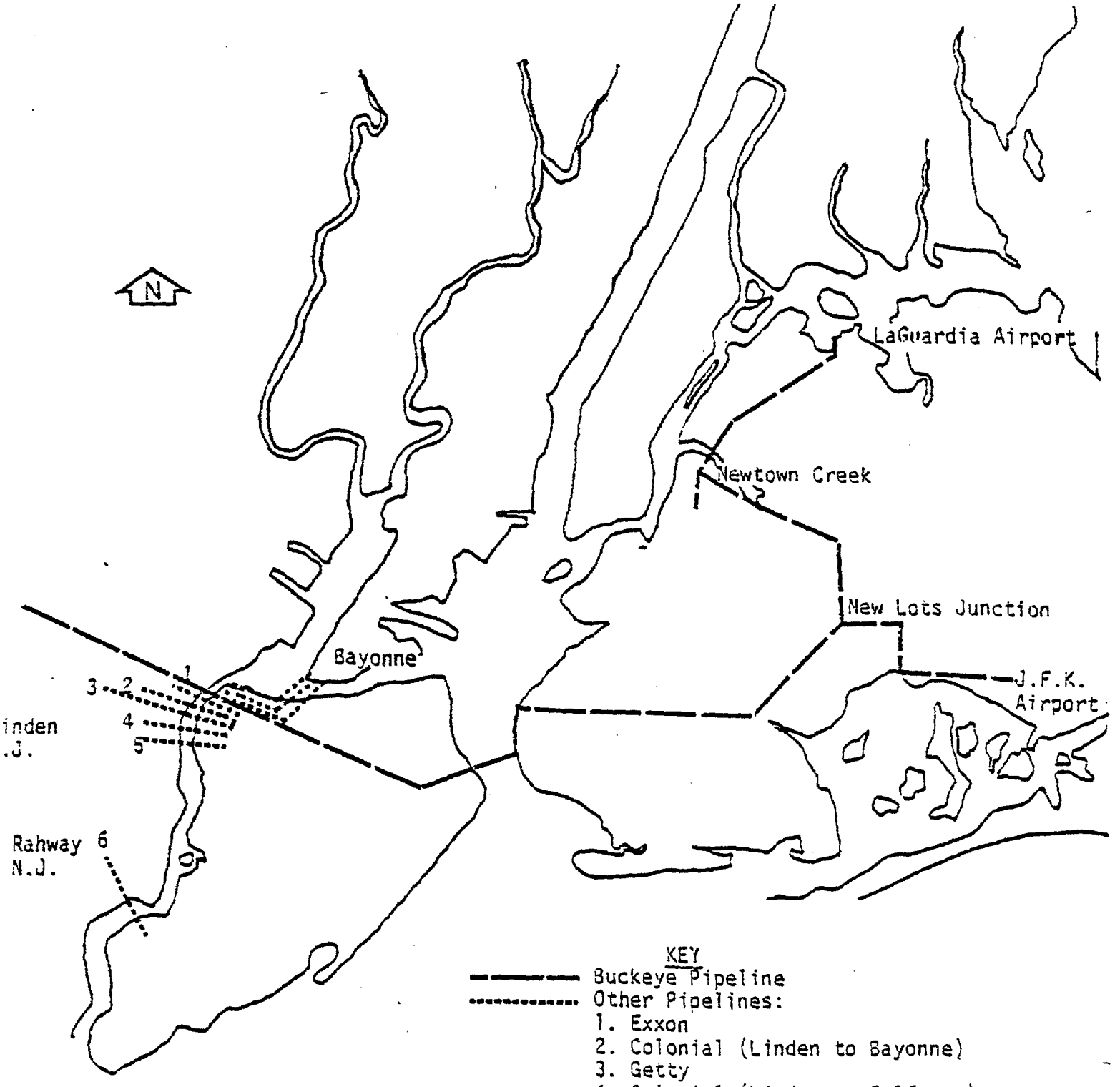


Figure 10

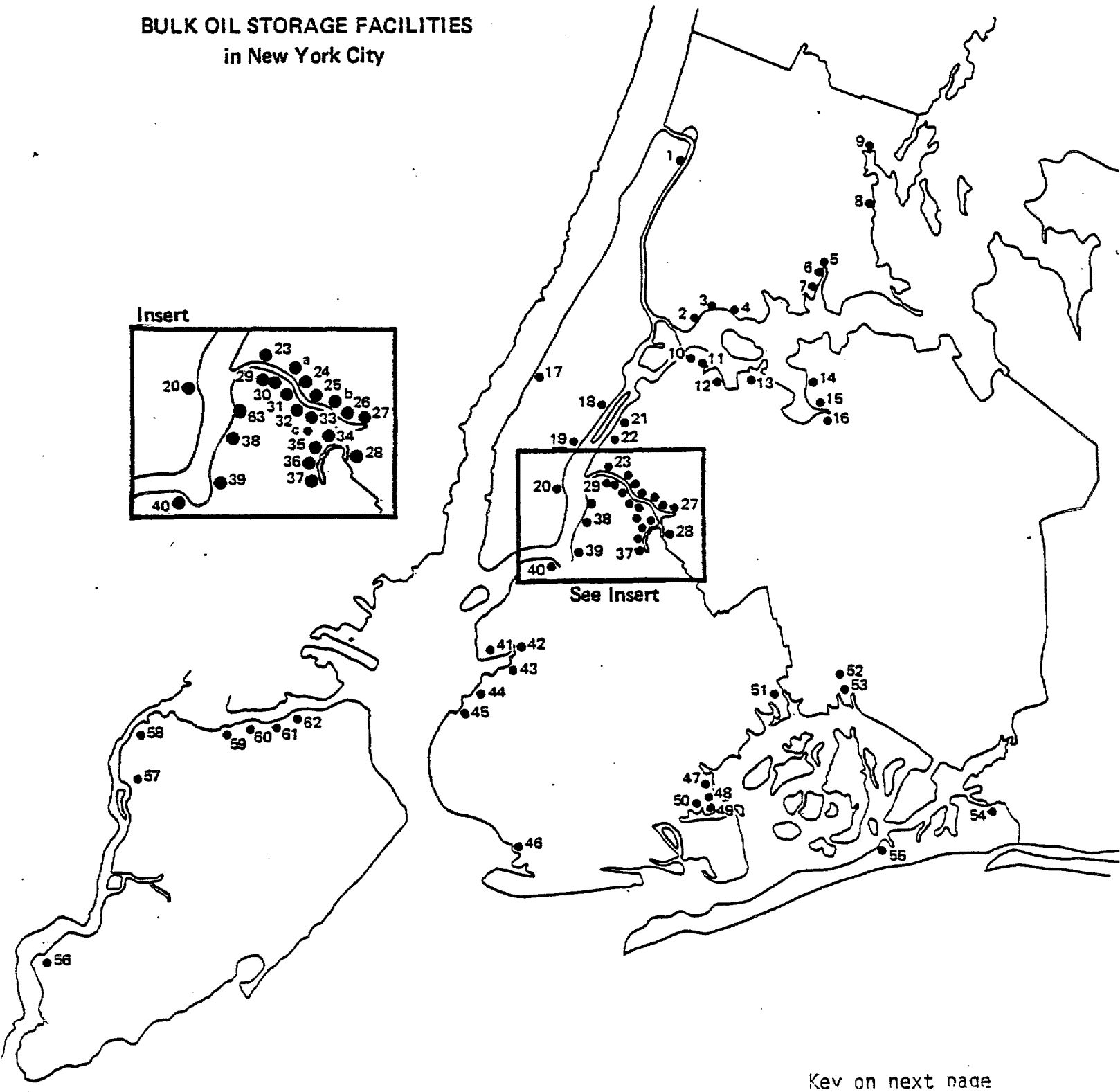

BULK OIL STORAGE FACILITIES
in New York City
Insert
See Insert
Key on next page

Figure 11

HARLEM RIVER
1. Belcher (2197:47)

EAST RIVER (Bronx)
2. Metropolitan (2597:225)
3. Cibro (2575:39)
4. Texaco (2771)

WESTCHESTER CREEK
5. Schildwachter (3939:250)
6. Hess (3838:250)
7. Cibro (3837:1 & 3836:1)

HUTCHINSON RIVER
8. Co-op City (5141:440)
9. Mt. Vernon Energy Terminal (4974:1)

EAST RIVER
10. Con Edison Astoria (850:1)*
11. Power Authority of State of New York (850:1)*
12. Greater New York Terminal (814:27)

FLUSHING BAY
13. Port Authority-La Guardia (926)

FLUSHING CREEK
14. Skaggs Walsh, formerly Sunrise Oil (4222:1 & 4223:10)
15. Bandolene (4398:26, 4399 & 4400)**
16. Metropolitan (4693)

HUDSON RIVER
17. Con Edison (1106:1)

EAST RIVER (Manhattan & Queens)
18. Con Edison, 73rd St. (1486:1 & 1487:15)
19. Con Edison, Waterside (945:33)
20. Con Edison, 14th St. (988:1)
21. Con Edison, Ravenswood (357:17)
22. Royal Petroleum (477:24)

NEWTOWN CREEK (Queens Side)
23. Ditmas (38:1 & 16)
24. Prolerized Sciabau Neu (294:360)
25. Getty Oil (294)
26. Quanta Resources Corp. formerly Hudson Oil (312:69)
27. Phelps Dodge (2520)
28. Exxon (2611:35)

NEWTOWN CREEK (Brooklyn Side)
29. Shell (2491:1)
30. Exxon (2491; 2515
31. Metropolitan (2517:14)
32. Mobil (2515:13; 2612:1)
33. Amoco (2612:15)
34. Gulf Oil (2927:123; 2928:1)
35. Calleia (2927)
36. Cibro (2942:48 & 49)
37. Bandolene (2942:101)

EAST RIVER (Brooklyn)
63. Paragon (2277; 2887; 2590)
38. NEPCO (2361:1)
39. Con Edison-Kent Avenue (2023:10)
40. Con Edison-Hudson Avenue (6:1)
41. Patchogue (623:62 & 624:1)

GOWANUS CANAL
42. Bayside Fuel (431:17)
43. Cibro (480:1 & 483:11)

EAST RIVER
44. Con Edison, Gowanus (653:3)
45. Con Edison, Narrows (803:150)

GRAVESEND BAY
46. Paragon Oil (6491:293)

MILL BASIN
47. Metropolitan (8470:143 & 1064)
48. Sunmark Industries (8470:130)
49. A.R. Fuel (847)
50. Mobil (6491:293)

JAMAICA BAY
51. Starrett City (4452:85)
52. Jamaica Bay Fuel (14260)
53. Port Authority-J.F. Kennedy Airport (1426)
54. Tepco
55. Long Island Lighting Company (15,670:125)

ARTHUR KILL
56. Fort Mobil (7247:1)
57. Gulfport (1717; 1760; 1835)
58. Proctor and Gamble (1338:1)

KILL VAN KULL
59. Sipco (1107:31)
60. Riche Fuel (185:187)
61. Quinlan (254 & 256)
62. Taverna

OTHER FACILITIES:
a. Buckeye Pipeline (surge tanks) (294:312)
b. Barrow Oil Terminal-pending application (312)
c. Brooklyn Union Gas Facilities

* Facilities are located on same block and lot
** Bandolene took over from Premium, November 1980

Liquid Natural Gas (LNG)

LNG is natural gas that has been liquefied by supercooling to a temperature of -259° and is stored in cryogenic refrigerated tanks. New York City has two such plants: one operated by Brooklyn Union Gas is in Greenpoint, Brooklyn fronting Newtown Creek and the other operated by Consolidated Edison is adjacent to its Astoria generating station in Queens. They serve as peak shaving plants, supplementing the demand for energy during extreme climatic conditions when for example, air conditioners are turned up during a heat wave or thermostats raised during a cold spell. A third LNG plant in Rossville Staten Island was completed in 1973 but never operated due to permit approval problems. The facility is owned by the Energy Terminal Services Corporation, (ETSC) a subsidiary of the New Jersey Public Service Gas and Electric Company. ETSC is still trying to bring the plant into operation.

The concern regarding LNG facilities in Rossville relates to public safety. ETSC's application has been modified in the years since it submitted its original application, which was based on imported LNG being tankered into Rossville. The new project would bring in gas by pipeline and function as a peak shaving facility.

WATER RESOURCES

General Harbor Conditions

Efforts to clean up the harbor and its tributary streams deal with many pollution sources, domestic sewage being the largest single factor. Industrial discharges, regulated by national and state permit systems, is next in significance. Overflows from combined sewers are an unusually large problem exacerbated by continuous discharge of raw sewage at poorly maintained regulator sites. Street runoff, material deposited in sewer lines between storms, and industrial wastes are significant sources. Other major sources include oil spilled from ships and at oil storage areas, benthic deposits and dredged materials, non-profit sources such as landfill leachates, thermal discharges, floatable materials and pollutants such as PCBs transported by river currents from outside the City boundaries.

As a result of these discharges, water quality in some parts of New York Harbor and adjacent waterways fails to meet New York State standards. Often, bathing water standards are not met in the areas where swimming is desired. High total coliform levels have caused the closing of Coney Island, Staten Island, Bronx and Jamaica Bay beaches in the past. Floatables and drift materials are nuisances which directly affect boating and shoreline aesthetics, causing considerable damage to pleasure craft.

Improving the quality of discharges to area waterways would raise dissolved oxygen concentrations and lower coliform bacterial levels. While shellfish and finfish populations would benefit, the value of resident species would continue to be limited by the presence of toxic chemicals and metals. Bottom sediments will continue to leach these materials into the harbor waters for some time, posing a long-term problem for fishermen of the region. The proposed industrial pretreatment program will take many years to be effective, and will only succeed with the cooperation of upstream and adjacent communities in New York and New Jersey.

There is ample data on summertime values of conventional New York Harbor water quality parameters such as biochemical oxygen demand (BOD), suspended solids, and dissolved oxygen from surveys by the New York City Department of Environmental Protection, the Interstate Sanitation Commission and others. As a result, the local water quality plan has emphasized solutions to these problems. There is little data on parameters such as heavy metals, toxics, chlorine residuals, and algae concentration during rainfall periods or other seasons of the year. Future studies will be directed toward understanding and solving these potential problems.

The cost of achieving water quality goals will require extensive funding support at all levels of government during the next two decades. New York City has arranged financing for a significant portion of wastewater treatment facility expansions, construction and other capital needs. With the construction grant program underway and industrial regulatory controls initiated, it is expected that most municipal treatment plants will be providing secondary treatment within 5 to 10 years and the major sources of industrial pollution will be abated.

The burden of operation and maintenance costs will remain a primary responsibility for City financing. Annual costs as well as financing of the City share of capital construction are projected to be within the capabilities of City revenues.

Municipal Discharges

Effluents from municipal wastewater treatment plants and raw discharges due to bypassing at incomplete facilities have been major sources of pollution in New York. In areas of the harbor where these discharges are large and hydrologic conditions prevent efficient dispersion, swimming and shellfishing are periodically or permanently prohibited for health reasons. Sedimentation and depressed dissolved oxygen levels also result. In New York City, most of the municipal sewage flows will be treated in secondary sewage treatment plants constructed with funds available under the Federal Water Pollution control Act and state bond acts approved in 1965 and 1972. The New

York City share, 12.5% for new construction and upgrading, is available in part as a result of credits for construction programs undertaken without Federal and State aid.

After World War II, the City inaugurated a program of plant improvements, including repairs, rehabilitation, upgrading, and in some cases expansion. Complete upgrading to step aeration, a form of secondary treatment, is expected within the next few years at nine of the City's fourteen treatment plants. As a result of a consent decree between New York City and the U.S. Environmental Protection Agency (USEPA), the Red Hook and North River, the two plants now under construction, will be completed by 1986.

The following table shows the amount of BOD and suspended solids in the treated discharges of the New York City region in 1975 and those projected for the year 2000. It is assumed that all plants will be upgraded to provide 85% BOD and suspended solids removal as required by USEPA. The relatively high figures for 1975 reflect the fact that there is no treatment for Red Hook and North River service areas.

NEW YORK CITY WATER POLLUTION CONTROL PLANT DISCHARGES

Year	Flows MGD	BOD 1,000 #/Day	Suspended Solids 1,000 #/Day
1975	1,536	925	998
2000	1,674	252	251

Combined Sewer Overflows and Urban Runoff

Correcting problems related to combined sewer overflows (CSOs) is of major importance in the effort to upgrade water quality in New York City. CSOs are a bypass system for combined sewer pipes. When it rains heavily, a part of the greatly increased volume is automatically discharged to waterways without any treatment. Although somewhat diluted, this raw sewage is an obvious polluter.

In densely urbanized areas, storm runoff picks up contaminants from industrial sites, streets (settled air pollutants, litter, etc.) and other areas where debris accumulates or erosion occurs. Street runoff can, in some instances, be a more noxious pollutant than a raw sewage because of the wide variety of contaminants it contains.

A complete solution to the problem of combined sewer overflows is extremely expensive since it involves major alteration of the sewer system or treatment plants capable of handling large volumes of water on an intermittent basis. In addition, urban runoff in a highly developed area such as New York City is not easily modified through land management approaches without significant impact on the existing economic base. Solutions to CSO and storm water problems are more applicable for small areas or drainage basins where adjacent waterways are easily influenced. Concentrated efforts should be on abating or treating discharges in waterways which need good water quality for particular uses such as bathing.

Industrial Discharges

Industrial contaminants enter the habor as point discharges, indirect discharges into the municipal system, and non-point runoff and spills. Some water quality problems only occur periodically such as the occasional spills of oil and other hazardous substances during transport or transfer operations. Problems resulting from cooling operations in various manufacturing and power generating processes cause secondary impacts by lowering dissolved oxygen and disrupting the natural environment through biological effects on certain aquatic species.

Water quality sampling has shown that there is a pervasive toxics problem in New York Harbor. Findings include the following results: (See Table, TOXIC PROBLEM AREAS.)

Polychlorinated biphenyls (PCBs) have been found to occur in significant quantities in harbor sediments. The tissues of non-resident finfish also contain PCBs indicating bioconcentration of PCBs in regions outside New York City. With the exception of recently discovered polybrominated biphenyls (PBBs) in the Arthur Kill area, the few organic compounds for which data exist appear to be concentrated in harbor sediments from which there is constant leaching or resuspension, rather than new sources.

Mercury, lead, copper and zinc accumulate in potentially toxic concentrations throughout the harbor and affect the productivity of local finfish and shellfish populations. In addition, nickel concentrations are high in the Hudson, East and Harlem Rivers and in the Lower, Raritan and Sandy Hook Bays. Bioconcentration of arsenic and mercury in the tissue of commercially important finfish of the Lower Bay is also a potential public health hazard and reflects recent discoveries of high levels of mercury leaching from the Meadowlands in New Jersey.

Oil occurs in high concentrations in the sediments of the Arthur Kill and the East River. Four of the ten tributary streams sampled during

the New York City 208 Study (Coney Island Creek, Gowanus Canal, Bergen Basin and Mill Creek) also contain high oil concentrations in their sediments.

During the summer, chlorine exceeds safe levels for shellfish throughout the harbor and may be toxic to finfish in Jamaica Bay, the Arthur Kill and Newark Bay.

Development and implementation of strategies to control problem heavy metals is dependent on the ability of New York City to carry out a comprehensive industrial waste survey. The extent of pretreatment for heavy metals will depend on the quantity and concentration of effluent discharged by an industry and the economic applicability of process modification or treatment. Even with pretreatment strategies, existing heavy metal concentrations in the harbor can only decrease gradually as they slowly leach from bottom sediments. Problems associated with PCB's, metals and oil in sediments are expected to continue unless significant progress is made in reducing industrial effluents and accidental spillage.

Residual Wastes And Debris

Some environmental protection activities on the waterfront may, ironically, have negative impacts on water quality as a result of disposal practices of dredge residual wastes, solid waste collection and municipal waste treatment.

Treatment of raw sewage produces sludge, some of which contains toxic substances and other pollutants. Approximately 500 of 700 dry tons of sewage sludge produced daily in the New York-New Jersey metropolitan area are dumped at sea. Nearly 40% of the quantity is produced at New York City municipal treatment plants and barged to the New York Bight Apex for disposal. With the upgrading of City treatment plants to secondary treatment levels, it is estimated that daily sludge production will increase to more than 770 dry tons. Currently the City disposes of sewage sludge at a dump site 12 miles offshore. EPA is reviewing whether the City should be required to relocate the dump site to a site 106 miles out and beyond the continental shelf. The results of this question should help to provide information on the long-term effects of ocean dumping on ocean water quality.

Refuse consisting of household, commercial, institutional and industrial wastes, street sweepings, and construction and demolition wastes are deposited at landfill sites. About 76% of the refuse material used for landfill is biodegradable, but during the process of decomposition, toxics leach into and pollute adjacent surface and ground waters. Over 17,000 tons of solid waste are deposited daily within the coastal area. Total City refuse is expected to increase at a rate of about 1.5% per year and present landfill areas will reach their capacities within the next decade. (See Solid Waste Issues in this chapter.)

Table 3

TOXIC PROBLEMS AREAS
(Summers, June through September 1974 to 1976)

Parameters	Hudson River	Long Island Sound	East and Harlem Rivers	Upper Bay	Arthur Kill, Kill Van Kull, Newark Bay	Lower Raritan Sandy Hook Bays	Jamaica Bay
Heavy Metals*	Levels considered hazardous to the marine environment exceeded in 90% of the time for copper and mercury and 60% of the time for lead and zinc.						
	30% of nickel values exceed hazardous levels		50% of nickel values exceed hazardous levels			36% of nickel values exceed hazardous levels	
Toxics* (Oil, chlorine, PCBs)	High PCB levels in spawning areas for anadromous fish		Oils in water occasionally at toxic levels for estaurine fish and shellfish; fish resources banned for human consumption because of PCBs	Oils in water occasionaly at toxic levels for estaurine fish and shellfish	Chlorine levels toxic to shellfish and finfish; oils in water occasionally at toxic levels for estaurine fish and shellfish; also high PCB levels	Chlorine levels toxic to shellfish are occasionally exeeded	Chlorine levels toxic to shellfish fish and finfish; water oils occasionally at toxic levels for estaurine fish and finfish

Dredge spoil is another type of residual waste which presents disposal problems. Dredging is undertaken to maintain and cut new shipping channels, and to provide sand for beach nourishment. The activity enhances waterfront uses by facilitating navigation and providing beachfill. It also improves water quality by promoting tidal flushing in certain inlets. Negative impacts associated with dredging include disruption of benthic organisms and temporary turbidity at the dredge sites and contamination of disposal sites by dredge spoil.

The bottom sediment which is dredged often contains heavy metals (zinc, mercury, and lead), petroleum residues, and carbonaceous materials. This material has been dumped at a site within the New York Bight, approximately seven miles off the Sandy Hook Lighthouse. Negative environmental impacts and possible lack of additional capacity at the current "Mud Dump" make alternate methods of disposal a serious issue. Although dredging is presently controlled by a State permit program, a careful selection of possible disposal sites and criteria to reduce adverse impacts of contaminated harbor sediments has not been fully developed. Formulating an immediate solution to this problem is imperative because of the probable adverse economic impacts to the City's economic base.

Classifications and Standards

New York State, New Jersey and the Interstate Sanitation Commission have classified waters of the New York region according to "best usage." The three sets of classifications and standards differ in detail. All are directed toward the exclusion or reduction of pollutants harmful to public health and welfare, marine life and aesthetics.

Present New York State classifications for waters of the New York City region and surrounding waters are shown in Table, NEW YORK STATE STANDARD. They include four "best usages": Shellfishing, Bathing, Fishing and Fish Survival (better defined as "fish transit").

The New York City 208 Plan recommends that present State standards and classifications be reviewed and that after wastewater treatment plant improvements are completed, the upgrading of Fish Survival waters to Fishing waters be considered.

The 208 project also suggests that the fecal coliform limitations accompanying the total coliform limitations in the present New York State standard be revised to bring them into better correlation with total coliform standards.

NEW YORK STATE STANDARDS

Classification	DO Minimum	Total Coliform
Shellfishing (SA)	5.0	70
Bathing (SB)	5.0	2,400
Fishing (I)	4.0	*
Fish Survival (SD)	3.0	*

*No coliform standard.

Equally important from the standpoint of shellfishing, finfishing, and marine life are standards limiting toxic substances and heavy metals such as arsenic, copper, lead, mercury, nickel, zinc and PCBs. The USEPA has established guidelines for all direct discharges to the waterways and is formulating pretreatment standards for industries and discharges to the municipal sewer system which are expected to be more stringent than present New York City standards. New York State standards for other parameters such as pH, temperature, dissolved solids, turbidity, color, taste, odor and suspended solids, although not frequently monitored, are generally met throughout the harbor and contiguous waters. Discharges of oil and floating substances, although illegal, are frequent sources of complaint. A more comprehensive program of compliance monitoring could alleviate many of these problems.

Implementation

New York City water quality concerns are listed under appropriate New York State policies in the following section. This format was chosen to reflect the fact that all recommendations are results of the New York City 208 Areawide Waste Treatment Management Planning Program, which remains to be negotiated between the City and State and approved by the U.S. Environmental Protection Agency.

Once this cycle is complete, New York City and State recommendations will be compatible and implementable as specified in the plan itself.

Management and implementation recommendations include:

- Designate the New York City Department of Environmental Protection (DEP) as the 208 management agency, responsible for implementation of the Plan in the City.

- Evaluate the needs of the City Environmental Quality Review (CEQR) process Citywide to ensure adequate City staff and administration.

- Continue coordination between the DEP and other City departments, especially the Department of Sanitation.

- Retain all wastewater management responsibilities for the City sewerage system within the DEP.

- Review the user charge system for water and sewer services.

- Determine the annual costs of the wastewater treatment system to facilitate a review of user charges.

- Examine and prescribe alternative accounting methods for the revenues from the City sewerage system, as mandated by the City Charter.

- Broaden the role of the Interstate Sanitation Commission in regional water quality management, contingent upon including local representation (USEPA, Tri-State Regional Planning Commission, designated 208 Agencies, and Citizens) on the Commission.

Changes in the draft 208 Plan, either in technical information or policy realms, may necessitate changes in this report in order to meet the requirements of Subsection 307(f) of the Coastal Zone Management Act which states that the requirements established pursuant to the Federal Water Pollution Control Act of 1972 as amended must be incorporated into the State's Coastal Management Program.

Upon approval of the 208 Program, the City Coastal commission will be responsible for regulating the location, modification, or construction of wastewater facilities on the basis of their potential water quality impact through review of the Department of Environmental Protection plans. The WRP Plan is not expected to have a substantial direct effect on over-all water quality, although the increased protection of natural resources and greater shorefront accessibility resulting from the program may help to offset the costs of improving area water quality.

In addition, Federal Coastal Zone Management Act (306) funds and other appropriate funding may be used to assist with recommended technical feasibility studies and implementation strategies, where appropriate.

Please refer to the next section for specified water quality recommendations keyed to State policies.

SOLID WASTE DISPOSAL

This issue does not appear as a separate issue in the New York State Coastal Management Program. It is discussed separately in this report because of its associated adverse impacts on the coastal area and economy of New York City. All program policies are designed to add specificity to New York State Policy 39.

The disposal of various types of solid wastes generated in New York City continues to be a critical issue, both city-wide and particularly in the coastal area. About 22,000 tons/day of refuse, comprised of household, commercial, nonhazardous manufacturing, and institutional wastes and street sweepings; approximately 2,000 tons/day of construction and demolition waste; about 200 dry tons/day of sludge (digested solids from sewage treatment plants); and, an unknown amount of hazardous wastes require disposal.

The primary means of disposal are landfilling, incineration and ocean disposal. Landfilling and ocean disposal cause particular problems within the New York coastal area and are, therefore, addressed below.

Landfilling

Of all disposal methods, landfilling has been used most extensively because of its low cost, the lack of economical alternatives and the lack of information about its short and long term negative impacts. A significant portion of the City's coastal shoreline and wetlands have been permanently altered by this disposal practice. Since the early 1930's, over 38 landfill sites having a combined area of about 5,500 acres have been completed. The composition of materials disposed of at these sites were not well monitored but generally included the entire spectrum of solid wastes.

Presently, the City operates five landfills having a total area of about 3,500 acres, all of which are located in the coastal area. There are no operating landfills in the Bronx or Manhattan. Two in Brooklyn (Pennsylvania Avenue and Fountain Avenue), one in Queens (Edgemere) and one in Staten Island (Muldoon Avenue) are truck-fed. Fresh Kills in Staten Island is barge fed from 9 marine transfer stations located in the other four boroughs.

Edgemere and Fresh Kills are the City's oldest landfills. Operations started in the late 1930's and late 1940's respectively and are expected to continue through the 1980's.

Pennsylvania Avenue and Fountain Avenue landfills are within Gateway National Recreation Area boundaries. According to a memorandum of understanding signed by the National Park Service of the U.S. Department of Interior and the City of New York, all landfilling must be terminated at Pennsylvania Avenue and at Fountain Avenue by 1985. The sites would then be turned over to Gateway for development as part of the entire recreation area.

Table 4

SOLID WASTE DISPOSAL FACILITIES (Landfills)

Name	Location	Areas in Acres	Amount Received* Tons/Day	Type of Waste	Expected Completion Date	Comments
Fountain Ave.	Brooklyn	297	9,000	Refuse Incinerator residues, Constr./Demol., &	1985	Completion date is set by M.O.U. between U.S.
Pennsylvania Ave.	Brooklyn	110	Inactive	Constr./Demol: Waste	1985	Same as above.
Edgemere	Queens	173	600	Refuse, Constr./ Demol.	-	Completion is not yet fixed.
Mouldon Ave.	Staten Island	60	1,200	Refuse, Constr./ Demol.	-	Same as above.
Fresh Kills	Staten Island	2,900	10,200	Refuse, Incinerator Residues.	-	Completion date is not yet fixed but, it may have to be extended well beyond 1985.
Total			15,768			

*Amounts received based upon average daily tonnage in January 1979.

Two sets of regulations have recently been promulgated covering the operation of solid waste management facilities: New York State Department of Environmental Conservation Part 360 regulations pursuant to Article 27, Title 5 of the N.Y.S. Environmental Conservation Law; and U.S. Environmental Protection Administration Solid Waste Management Criteria required by the Resource Conservation and Recovery Act of 1976.

Part 360 is designed to regulate the design, construction and operation of all solid waste management facilities and requires filing of a yearly permit application. In the case of landfills, detailed engineering information is required including topography, refuse and sub-soil compositions, leachate, hydrology, and conformance with other environmental laws. In addition, a determination of the future use these extensive areas should have is required.

The Waterfront Revitalization Program recognizes the importance of implementing a well thought out end-use site plan and development program for each landfill. The prototype for such a plan was developed for the Pennsylvania Avenue landfill in Brooklyn (see From Landfill to Park: An Experiment In Construction Waste Management At The Pennsylvania Avenue Landfill Site. New York Department of City Planning, 1974/NYC DCP 21-74). A site plan was developed which integrates maximum future recreational options with landfilling operations. The result has been a much better site design at very little cost.

The New York City Resource Recovery Task Force has completed a comprehensive solid waste management plan which assumed that existing landfills are nearly at their end and focused almost exclusively on finding the best available disposal technologies that recover energy and marketable materials from the solid waste stream. It recommended 11 new resource recovery plants throughout the City to handle all refuse generated here. If implemented as planned, this strategy would greatly reduce the future need for extensive landfill operations, but not eliminate the need entirely since residue/fly ash by-products and construction demolition wastes will still need to be landfilled.

The Resource Recovery Plan is now being updated. The Department of Sanitation has launched a program to bring modern reliable resource recovery plants on line as quickly as possible. The first two resource recovery plants that are in final stages of planning are expected to provide workable solutions to the City's waste disposal problem as well as provide a partial solution to the City's energy problem.

The first is a 3,000 ton per day Resource Recovery Facility in the former Brooklyn Navy Yard (Brooklyn). The Department of Sanitation has selected a resource recovery firm who will design, construct and operate the facility. It is scheduled to be completed and operative by 1987 at an estimated capital cost of $226.0 million. The steam produced by this facility will be sold to Con Edison.

The second resource recovery project is being negotiated with the Power Authority of the State of New York (PASNY) for Hunts Point in the Bronx. PASNY will design, build and operate a 1,700 ton per day facility to generate electricity from refuse. The Department of Sanitation expects to finalize negotiations with the Power Authority in 1982.

A third resource recovery project involves exploring the utilization of methane gas from existing landfills. For example, at Fresh Kills (Staten Island) a private firm - Getty Synthetic Fuel Corporation is constructing a methane gas recovery plant. It is expected to open by the middle of 1982. The Department of Sanitation has also concluded negotiations for building a methane recovery plant at Pelham Bay Landfill in the Bronx.

In the interim, New York City is developing an operational plan for Fresh Kill Landfill, which will include a strategy to accommodate waste disposal need of New York City until Resource Recovery facilities are on line. This operation plan will also upgrade the Fresh Kill site to meet all applicable environmental requirements. The final plan is expected to be completed by early 1983.

A number of factors will contribute to an increase in the amount of refuse and construction/demolition wastes to be disposed within City limits by landfill:

- strict enforcement of Federal air quality standards and New York City Local Law #14 will add an estimated 1,505 tons per day of refuse from the closing of on-site building incinerators;

- the State of New Jersey is expected to prohibit New York and other out-of-State private carters from using its landfills. This will increase daily tonnage from 22,000 tons per day to 25,000 tons per day by 1985; and

- the implementation of major City projects, such as Westway, the Convention Center and the Third City Water Tunnel may increase the construction/demolition wasteload.

The discussion above illustrates the fact that New York City has a critical need to determine optimum capacities for existing landfill sites; there may very well be a need to locate new sites; and, even given immediate implementation of a resource recovery scheme, landfill space will always be needed, if not for the large quantities of generated refuse, then most definitely for the other valueless components (for example, residue from resource recovery facilities) of the solid waste stream.

In addition, to ensure compliance with Waterfront Revitalization goals and objectives and ameliorate existing problems associated with solid waste disposal, the problem of illegal dumping must be resolved.

An estimated 270 tons per day of construction/demolition waste, about 1% of the total solid waste generated in New York City, collected by private cartmen is sold as "clean fill" or illegally dumped in vacant lots, marginal streets or unprotected parks and open spaces. Many private citizens, unaware of the damage caused by this practice also discard refuse illegally.

The New York City Council has recently amended the City Administrative Code (section 755(2)-7.2) increasing the civil penalties (fines, empoundment of vehicles, etc.) and offering an award to anyone providing information that leads to an illegal dumping conviction. The effectiveness of the stricter penalties is not yet known but other preventive measures must be introduced to be effective over the long term, particularily those that attack the problem on a wider front than regulation and enforcement.

Ocean Disposal: Sludge

About 200 dry tons/day of sludge is generated in New York City. When existing wastewater treatment plants are upgraded and construction completed on two new plants (Red Hook and North River), the rate of sludge production is expected to increase to 500-600 dry tons/day.

Ocean Disposal: Dredge Spoils

Historically, New York Harbor has served as a thoroughfare for a significant portion of the nation's waterborne commerce (approximately 12%, over 200 million tons). The harbor is not a naturally deep port. Natural depth averages approximately 18 ft., while channels have approved project depths of 45 feet. Consequently, a network of navigation channels must be continually dredged (from 8 to 10 million cubic yards per year) to accomodate increasingly larger and deeper draft vessels.

Of the eight to ten million cubic yards of material dredged from New York Harbor channels each year, approximately 90 percent has been disposed of at the ocean site commonly known as the "mud dump". An additional two to four million cubic yards per year from private sources have also been disposed of at this site under U.S. Corps of Engineers permits.

The U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency have issued regulations governing disposal of dredged materials pursuant to the Federal Water Pollution Control Act of 1972 as amended, the Marine Protection Research and Sanctuaries Act of 1972 and the Rivers and Harbor Act of 1899.

The adverse environmental consequences of disposing dredged material are being cited by a number of environmental organizations as compelling reasons for a ban on ocean disposal. A number of suits have been filed against the Corps, charging laxity in its procedure for issuing dredging permits.

In addition, as discussed under landfilling above, land disposal within New York City is a limited option when discussing a sizable increase in volumes. The land requirements for disposal of 10 million cubic yards per year are enormous. The economic consequences of a ban on dredging operations in New York Harbor would be disastrous, to the City, region and nation.

The U.S. Corps of Engineers is currently developing a comprehensive environmental report that will discuss, in detail, all feasible methods of dredged material disposal. It will include a review of the environmental, social and economic consequences of each alternative and will be used by the New York District Engineer to decide the course of action to take in regard to the applications for dredged material disposal.

This planning process and forthcoming recommendations must be closely reviewed by the Waterfront Revitalization Program for consistency with program policies, in particular, the balancing of economic and environmental concerns. The Waterfront Revitalization Program may also perform an independent analysis of this problem in conjunction with relevant and public port interests in order to adequately assess recommended alternatives.

AIR QUALITY

On a typical day in New York City, approximately 660,000 vehicles of all types and about 4 million pedestrians use the 200 miles of streets in the Manhattan Central Business District (CBD). A myriad of buses, trucks, autos, cabs and bicycles crowd in the nation's slowest traffic. Air pollution problems are associated with congestion of this magnitude.

All of the State's coastal areas are affected by Federal, State, and City policies to abate and prevent air pollution. The Coastal Management Programs must be coordinated to ensure that each can be effectively utilized to support mutually desirable objectives. New York State's air pollution regulatory programs can be enlisted to achieve coastal management objectives such as protection of habitats or scenic areas. New York City, through its Department of Environmental Protection, have set some of the more stringent air quality standards of any metropolitan area in the country by implementing Local Law 49. At the same time, these programs could conflict with some coastal management objectives such as those related to economic development.

Major air quality management concerns in the coastal area, as elsewhere, are grouped into four general categories: the attainment and maintenance of National Ambient Air Quality Standards as proposed in the State Implementation Plan; protection of clean air areas from significant deterioration; air pollution control problems in rural areas; and control of toxic discharges into the air.

Attainment and Maintenance Of National Air Quality Standards

Under the Federal Clean Air Act, National Ambient Air Quality Standards have been established for seven pollutants. Recent amendments to the Act (1977) require that the compliance status of all areas of the country be determined for five of the seven pollutants. The Act further requires that all areas not in compliance with these pollutant standards be brought into compliance by the end of 1982 or, in special cases, by the end of 1987. The act also requires states to prepare "State Implementation Plans" which detail the mechanisms that will be utilized to attain the standards by the statutory date.

A revision to the State plan has been developed dealing primarily with the transportation control planning element for the New York Metropolitan Air Quality Area. Particular emphasis is placed on solving the problem areas for carbon monoxide and ozone in the congested CBD areas of Manhattan. Revision documents addressing the mass transit improvement requirements of the Clean Air Act and the stationary source control element of the State Implementation Plan will be released in the near future.

The current revision includes many recommendations in complete accord with the New York City Waterfront Revitalization Program. Highlights are offered below.

- The need to reach and maintain air quality goals, should be balanced with land use policies and development controls which sustain the economic development of New York City as one of the world's major urban commercial centers.

- Environmental review procedures will be used to review future land use development and the traffic activity generated. These reviews include the National Environmental Policy Act, the State Quality Review, the City Quality Review and the Uniform Land Use Review Procedure. Also, New York City's Local Law 49, the Air Pollution Control Code, sets standards for controlling the emissions levels of harmful substances such as soot, gases, fumes, odors, products of combustion and incomplete combustion from fuel burning equipment. As part of these processes, major traffic generating projects such as new office buildings and large parking facilities are reviewed for their air quality impacts.

- Replace truck trips with rail for all or part of the movement by increasing rail clearances to allow for trailer-on-flat-car service and improving rail connections to New York City port facilities. To enumerate on these actions, New York State has sponsored an Intermodal Rail Freight Study. This study has indicated the desirability of bringing new intermodal services to the New York City region; and as a result, New York State is spending $8 million for clearance improvements and site preparation to allow trailer-on-flat-car service to High Bridge in the Bronx. These clearance improvements are an initial step in the New York State Department of Transportation program to modernize, expand, and integrate the rail freight system in the New York City region. Through the Intermodal Study, the desirability of further clearance improvements has been affirmed, and New York State will provide a full clearance link between High Bridge and Oak Point Yard. This link will remove clearance restrictions that currently preclude intermodal equipment to enter New York City. Costs of this project are estimated at between 56 to 72 million dollars. In addition, construction of an intermodal yard at the Harlem River Yard is proposed in two stages costing a total of about 25 million dollars. Funds will be sought from Federal, State, local and Port Authority of New York and New Jersey sources. An Environmental Impact Statement has been prepared to discuss impacts which includes the access restrictions along 1.7 miles of the waterfront.

Protection Of Clean Air Areas From Significant Deterioration

The 1977 amendments to the Clean Air Act require a State to protect "clean air areas" from significant deterioration through regulations that classify the entire State into one of three land area classifications based upon allowable deterioration of air quality. This program can be supportive of the overall coastal management environmental goal to preserve, protect, enhance, or restore natural resources. At the present time, all of New York State is classified "Class II" which allows for moderate increases in air pollution. After obtaining agreement from the affected local governments and the

State Legislature, the Governor may redesignate areas as either Class I, where minimal increases in air pollution are allowed, or Class III where substantial increases in air pollution are allowed. The difficulty in obtaining and coordinating all of the approvals and the fact that the quality of air in most coastal locations is too near the established standards to allow full utilization of the increment permissible under Class II indicate that there will be few, if any, redesignations to Class III. Similarly, it is unlikely that there will be any redesignations of areas of the State to Class I, since the State air pollution source review system, other State development review programs, and local land use regulations are more suitable for preserving undeveloped areas than the Prevention of Significant Deterioration program.

PROGRAM POLICIES

This section explains each policy and either lists New York City program policies or indicates that statewide program policies are sufficient to address New York City problems. If New York State policies sufficiently address New York City problems, an explanation is provided that describes how the WRP and the New York State policy are connected. State agencies and programs which may affect the policies are listed with each policy.

An implementation of statewide policies section follows which lists each policy developed by New York State and identifies New York City implementation mechanisms, the relevant city agency (authority) responsible for its implementation. It also details the role of the City Coastal Commission in implementation and enforcement. A discussion of the problem the policy is designed to address and the role of Federal and State agencies in implementing the policy is discussed at length in the New York State Coastal Management Program report, and is therefore only summarized in this City document. State policies are numbered 1 through 44.

If separate New York City policies are listed, each is followed by a brief restatement of the problem it is designed to address, and the New York State Policy it makes more specific is identified. The Federal Consistency Provision of the Coastal Zone Management Act and/or the State Consistency Provision of the Waterfront Revitalization and Coastal Resources Act apply to all policies. However, where recommendations rather than policies are set forth, consistency would only apply if those recommendations were adopted by the Federal or State agency indicated. There is an Implementation Section that details the Federal, State, and City Actions (authorities and programs) which will be involved in implementing the policy. New York City refers to and concurs with the lists in Tables 1 and 2 as those agencies, activities, and projects likely to directly affect the New York City's Waterfront Revitalization Program. The Implementation Section also details the role of the City Coastal Commission in implementing and enforcing the policy. New York City policies are listed by letters A through L.

POLICY 1: RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDERUTILIZED WATERFRONT AREAS FOR COMMERCIAL, INDUSTRIAL, CULTURAL, RECREATIONAL AND OTHER COMPATIBLE USES.

Explanation of Policy

Actions of governmental agencies can further the objectives of this policy. The transfer and purchase of property, the proposed construction of public buildings, a highway or park, or providing tax incentives to businesses are governmental actions which can assist in a waterfront revitalization effort. Uses requiring a location on the shoreline must be given priority in any redevelopment effort.

Revitalization of once dynamic waterfront areas is one of the most effective means of encouraging economic growth in the State, without consuming valuable open space outside of these waterfront areas, and/or fragile coastal areas. As explained in Policy 5, one reason for revitalizing previously active waterfront areas is that the costs for providing basic services to such areas is frequently less than providing new services to areas not previously developed.

New York City Implementation

Numerous New York City agencies have jurisdiction over waterfront development. To address this overlap and provide for consistent review of proposals, New York City has developed a local Waterfront Revitalization Program including a uniform set of policies and plans which will guide and in part promote reutilization and redevelopment of waterfront areas.

Development and funding proposals incorporated in citywide plans, subject to the Uniform Land Use Review Procedures or included in an application to the Board of Standards and Appeals for a variance or special permit will be reviewed for consistency with this policy by the City Coastal Commission.

NEW YORK CITY POLICY A: IMPROVE URBAN SHORELINES BY MAINTAINING, REMOVING OR RECYCLING WATERFRONT STRUCTURES (PIERS, DOCKS, WHARVES, ETC.) IN ACCORDANCE WITH WATERFRONT DEVELOPMENT POLICIES AND PLANS. IDENTIFY ALTERNATIVE USES FOR UNDERUTILIZED WATERFRONT STRUCTURES.

In New York City, physically developed but underused waterfront structures represent a significant public resource endangered by erosion. The public benefits of activities and developments

associated with the removal or recycling of waterfront structures can outweigh other costs. Efforts to rehabilitate the City's waterfront must be consistent with economic and recreational needs, to assure the most productive use of these assets.

Implementation

Federal Actions:

The U.S. Army Corps of Engineers is authorized by Congress to remove the sources of drift in the waterways of New York City in accordance with the New York Harbor Drift Removal Project authorized by section 91 of the Water Resources Development Act of 1974 (Pub L. 93-251), as amended by section 116 of the Water Resource Development Act of 1976.

State Actions:

The New York State Department of Environmental Conservation is authorized to participate in federally authorized projects as stated in New York Unconsolidated Law Chapter 770.

The Coastal Erosion Hazard Areas Act, Environmental Conservation Law (Article 34) contains a provision that, within coastal hazard areas, consideration be given to both public benefits and long range adverse effects of proposed activities and developments which use public funds.

Local Actions:

The New York City Department of Ports and Terminals, Department of Parks and Recreation and Department of Transportation are enpowered to maintain waterfront property (New York City Charter Section 704; New York City Administrative Code Section 532-6.0; New York City Charter Section 2603.c and Section 2603.d).

The City of New York, in its capital budget, allocated local cost-sharing funds to support the Harbor Drift Removal Program. Recommendations for this funding are made in the Capital Needs Statement of the City Planning Commission, acting as the City Coastal Commission for waterfront projects and planning.

Rehabilitation of the urban waterfront is an enormous problem beyond the means of State and local governments. As with beach erosion and hurricane projects, direct federal action must be taken to revitalize the developed city waterfront. While the above-mentioned Drift Removal Project aids in addressing the need for removal of damaged waterfront structures, it falls short of a comprehensive solution of maintaining waterfront structures affected by structural erosion.

It is recommmended that the Harbor Drift Removal Program be modified to include funding for rehabilitation of structures identified as appropriate for alternate uses. The City Coastal Commission may utilize CZM Act implementation funds to assess the technical feasibility of alternate uses for existing structures.

POLICY 2: FACILITATE THE SITING OF WATER DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.

Explanation of Policy

Waterfront space suitable for development is limited. Although demand for a specific piece of property will vary with economic and social conditions, on both a citywide and statewide basis, long-term expectations are for increased demand for waterfront property.

Traditional market forces and local land use controls do not by themselves insure that uses which require waterfront sites will in fact, have access to coastal waters. Government, through its funding and review actions, can discourage the location of non-water dependent uses on coastal sites suitable for water dependent uses.

In addition to water dependent uses, uses which are enhanced by a waterfront location should be encouraged to locate along the shore, though not at the expense of water dependent uses. If there is no immediate demand for a water dependent use in a given area but a future demand is reasonably foreseeable, temporary non-water dependent uses should be considered preferable to a non-water dependent use which envolves an irreversible, or nearly irreversible commitment of land.

New York City Implementation

The New York City Zoning Resolution currently contains provisions which aid implementation of this policy. To preserve manufacturing areas for industrial growth and expansion, three manufacturing zoning districts (M1, M2, and M3) were created. Water-dependent uses have traditionally located in these areas to provide services to the shipping industry. Retail and commercial uses are also permitted in manufacturing districts.

A C3 (commercial) district is also specifically designed to provide locational priority for boating and fishing uses. Typical development includes marinas, boat repair shops and public or private beaches.

A purpose of the Zoning Resolution Special City Island District is to "promote and strengthen the unique character of the Special City Island district for nautical and waterfront activities by limiting permitted uses to those which complement and enhance the existing character of the Special District."

The City Coastal Commission will review development and funding proposals incorporated in citywide plans, subject to the Uniform Land Use Review Procedures or included in an application to the Board of Standards and Appeals for a variance or special permit for consistency with this policy.

NEW YORK CITY POLICY B: IMPROVE CHANNELS AS NECESSARY TO MAINTAIN AND STIMULATE ECONOMIC DEVELOPOMENT.

Explanation of Policy

The process by which Federal projects are implemented is time consuming. Often a period of five years or more passes between the time that a proposal is brought to the Corps of Engineers and the proposal is authorized by Congress and work is begun. It is essential therefore to anticipate, at the earliest possible date, waterfront land use activity triggering the need to modify existing Federal projects or establish new projects.

This policy adds specificity to New York State Policy 2. It identifies the need to develop or modify Federal waterways on a timely basis and where needed to support water dependent uses.

Implementation

Federal Actions:

Pursuant to the Rivers and Harbors Act of 1899, as amended (33 USC 540 et. seq) jurisdiction for Federal investigations and improvement of rivers, harbors and other waterways lies with the U.S. Army Corps of Engineers. Investigations are conducted by the Board of Engineers and findings are submitted to the Public Works Committees of the Houses of Congress. Congressional authorization and appropriation of funds is then required for project initiation.

Local Actions:

Local interests must request the initiation of an investigation by the U.S. Army Corps of Engineers. Government bodies with the authority to

insure local cooperation in implementing projects is required. Pursuant to its wide-ranging power to regulate waterfront property and certain waterfront structures, the New York City Department of Ports and Terminals acts as the lead agency in New York City to insure the required local cooperation.

The Department of City Planning will periodically assess the current and anticipated navigation needs of waterborne commerce in New York Harbor.

POLICY 3: PROMOTE THE DEVELOPMENT AND USE OF THE STATE'S MAJOR PORTS AS CENTERS OF COMMERCE AND INDUSTRY, EMPHASIZING THE SITING, WITHIN PORT AREAS, OF LAND USE AND DEVELOPMENT WHICH IS NECESSARY TO, OR IN SUPPORT OF, THE WATERBORNE TRANSPORTATION OF CARGO AND PEOPLE.
THE STATE'S MAJOR PORTS ARE THE PORTS OF ALBANY, BUFFALO, NEW YORK, OGDENSBURG, AND OSWEGO.

Explanation of Policy

The aim of this policy is to focus efforts on direct and positive actions to support the major port agencies, the New York City Department of Ports and Terminals and the Port Authority of New York and New Jersey, in order to promote their continued and increased vitality. Three other development policies, discussed in this section, have significant implications for port development, namely: water dependency, concentration of development, and the expediting of permit reviews.

If an action is proposed for a site within or abutting a major port, or if there is a reasonable expectation that a proposed action elsewhere would have an impact on a major port, then the following guidelines shall be used:

1. In assessing proposed projects within or abutting a major port, the overriding consideration is the maintenance and enhancement of port activity which will have precedence over other, non-port related activities.

2. Dredging to maintain the economic viability of major ports will be regarded as an action of regional or statewide public benefit if: a need is shown for maintaining or improving the established alignment, width, and depth of existing channels; and, it can be demonstrated that environmental impacts will be minimized.

3. Landfill projects in the near-shore areas will be regarded as an acceptable activity within major port areas, provided adverse environmental impacts are minimized and a strong economic justification is demonstrated.

4. If non-port related activities within a major port are proposed to be located in or near to the port, these uses shall be sited so as not to interfere with normal port operations.

5. When not already restricted by existing laws or convenants, and when there is no regional or statewide public benefit to doing otherwise, surplus public land or facilities within or adjacent to a major port shall be offered for sale, in the first instance, to the appropriate port agencies.

6. In the programming of capital projects for port areas, highest priority will be given to projects that promote the development and use of the port. However, in determining such priorities, consideration must also be given to non-port related interests within or near the ports that have demonstrated critical capital programming needs.

7. No buildings, piers, wharves, or vessels shall be abandoned or otherwise left unused by a public agency or sold without provisions for maintenance in sound condition or for environmentally acceptable demolition or removal.

8. Proposals for the development of new major ports will be assessed in terms of the anticipated impacts on: a) existing New York State major ports; b) existing modes of transportation; and c) the surrounding land uses and overall neighborhood character of the area in which the proposed port is to be located.

9. Port development shall provide opportunities for public access insofar as these opportunities do not interfere with the day-to-day operations of the port and the port agency and its tenants do not incur unreasonable costs.

New York City Implementation

The New York City Department of Ports and Terminals has a number of discrete responsibilities with regard to waterfront commerce and industry: it plans through the modification of the City's waterfront plans; it manages City-owned waterfront commerce property; it develops City-owned waterfront property; it regulates all waterfront commerce development and use; and, it promotes New York Harbor as a center of commerce and industry. Those actions of the Department which are subject to review by the City Coastal Commission will be reviewed for consistency with this policy.

The Port Authority of New York and New Jersey was created to promote the Port of New York District, which covers an area between a 20 and 30 mile radius from the Statue of Liberty. The Authority is a public corporation, created by a compact between the States of New York and New Jersey, and empowered to purchase, construct, lease, and operate any terminal or transportation facility within the Port District.

The Port Authority is probably the largest entity involved in developing and operating marine terminals and related facilities in the Port of New York. On the New York side of the harbor the Port Authority owns and operates the Brooklyn-Port Authority Piers and operates the passenger ship terminal and the Red Hook container terminal. To ensure effective interface between the Port Authority and State and local waterfront revitalization programs the Port Authority's development plans and activities within coastal boundaries will be subject to review by the Secretary of State and the City Coastal Commission.

The port system of the New York City coastal region is a component of the 1,500 square mile Port District of New York encompassing 17 counties and 234 municipalities in New York and New Jersey. Individual ports within this area compete for similar market areas, many public and private entities are involved in the development and/or operation of facilities; and local, statewide and regional forecasters use varying methods of determining capacities, freight forecasting, cargo flows, etc. Within such a context it is difficult for a municipality to assess the cargo handling capacity of port facilities, predict locational requirements or insure the development of needed, economically efficient and environmentally responsive port facilities.

Therefore, it is recommended that a New York Port District regional port study be undertaken to provide baseline data to assist in identifying the long-term needs of the port industry and effectively interface the land use policy of the City with the City's port policy. Federal Coastal Management funds may be used to support such a study. The New York City Department of Ports and Terminals would be the appropriate agency to undertake such a task in cooperation with other municipalities in the New York Port District. Appropriate Federal and State agencies may support a study of this nature, because of the regional importance of the port and because of study of this type has never been done.

POLICY 4: STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH A UNIQUE IDENTITY.

Explanation of Policy

This policy recognizes that the traditional activities occurring in and around numerous smaller harbors throughout the State's coastal area contribute much to the economic strength and attractiveness of these harbor communities. Thus, efforts of State agencies shall center on promoting such desirable activities as recreational and commercial fishing, ferry services, marinas, historic preservation, cultural pursuits, and other compatible activities which have made smaller harbor areas appealing as tourist destinations and as commercial and residential areas. Particular consideration will be given to the visual appeal and social benefits of smaller harbors which, in turn, can make significant contributions to the State's tourism industry.

The following guidelines shall be used:

1. The action shall give priority to those traditional and/or desired uses which are dependent on or enhanced by a location adjacent to the water.

2. The action will enhance or not detract from or adversely effect existing traditional and/or desired anticipated uses.

3. The action shall not be out of character with, nor lead to development which would be out of character with, existing development in terms of the area's scale, intensity of use, and architectural style.

4. The action must not cause a site to deteriorate, e.g., a structure shall not be subject to vandalism and/or structural decline.

5. The action will not adversely affect the existing economic base of the community, e.g., waterfront development designed to promote residential development might be inappropriate in a harbor area where the economy is dependent upon tourism and commercial fishing.

6. The action will not detract from views of the water and smaller harbor area, particularly where the visual quality of the area is an important component of the area's appeal and identity.

New York City Implementation

Special district zoning, the most widely used affirmative zoning technique in New York City will be an effective means of implementing this policy. This technique permits special areas, with their unique characteristics, to flourish rather than be overwhelmed by standard development.

Special zoning districts have been established to achieve specific planning and urban design objectives in limited areas. Two existing special zoning districts, the Special City Island District and the Special Sheepshead Bay District were established to maintain certain characteristics related to waterfront land use and activities. The establishment of the Special Sheepshead Bay District was, among other purposes, intended "to promote and strengthen the unique character of the Special Sheepshead Bay District area as a prime location for waterfront related commercial and recreational development..." A principal purpose of the Special City Island District is "to promote and strengthen the unique character of the district for nautical and waterfront activities..." The City Coastal Commission will continue to enforce these special provisions in the unique harbor areas of the City.

POLICY 5: ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES AND FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE.

Explanation of Policy

By its construction, taxing, funding and regulatory powers, government has become a dominant force in shaping the course of development. Through these government actions, large scale development in the coastal area will be encouraged to locate within, contiguous to, or in close proximity to, existing areas of concentrated development where infrastructure and public services are adequate, where topography, geology, and other environmental conditions are suitable for and able to accommodate development, and where development will not have significant adverse effects on the achievement of other coastal policies.

The above policy is intended to accomplish the following:

- strengthen existing residential, industrial, and commercial centers;
- foster an orderly pattern of growth where outward expansion is occurring;
- increase the productivity of existing public services and moderate the need to provide new public services in outlying areas;
- preserve open space in sufficient amounts and where desirable;
- foster energy conservation by encouraging proximity between home, work, and leisure activities.

New York City Implementation

The New York City Zoning Resolution currently provides the means to channel growth within New York City to appropriate areas, thereby implementing this policy. For example, growth in less dense areas of the City is governed by Special Zoning Districts designed to limit density and preserve natural features (Special Natural Area District). Another is designed to systematically guide development of predominantly vacant land in southern Staten Island to maintain densities and insure that new development is compatible with existing communities (Special South Richmond Development District). Such water-dependent uses as shipping and shipbuilding and repairs are designated uses in M3 zoning districts which are often located along the waterfront.

The City Planning Commission, as the City Coastal Commission, will continue to administer provisions of the Zoning Resolution in accordance with this policy. In addition, the City Coastal Commission will review development and funding proposals incorporated in citywide plans, subject to the Uniform Land Use Review Procedures or included in an application to the Board of Standards and Appeals for a variance or special permit for consistency with this policy.

POLICY 6: EXPEDITE EXISTING PERMIT PROCEDURES IN ORDER TO FACILITATE THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE LOCATIONS

Explanation of Policy

For appropriate types of development activities and in areas suitable for such development, New York City as a participant in the Waterfront Revitalization Program, will to the maximum extent practicable, coordinate and synchronize existing permit procedures and regulatory programs, as long as the integrity of the regulations objectives is not jeopardized.

New York City Implementation

A City Coastal Commission will act as a coordinating body to facilitate the streamlining of permitting procedures in the New York City Coastal Zone by, for example, reducing overlapping permitting requirements and coordinating review by all agencies involved in waterfront project review. The Department of City Planning as the staff of the City Coastal Commission will be responsible for coordinating project reviews among involved City agencies.

POLICY 7: SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS WILL BE PROTECTED AND PRESERVED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.

Explanation of Policy

Land and water uses or development shall not be undertaken if such actions destroy or significantly impair the viability of an area designated a significant coastal fish and wildlife habitat. When the action causes the elimination of a vital resource (e.g., food, shelter, living space) or a change in environmental conditions (e.g., temperature, substrate, salinity) beyond the tolerance range of an organism, then the action would be considered to "significantly impair" the habitat. Indicators of a significantly impaired habitat include but are not limited to: reduced carrying capacity, changes in community structure (food chain relationships, species diversity), reduced productivity and/or increased incidence of disease and mortality.

New York City Implementation

The New York City Zoning Resolution currently includes provisions which implement this policy. Pursuant to Article X of the Resolution, Special Natural Area Districts were established in which development can occur only upon the issuance of an authorization or a special permit by the New York Planning Commission. The purpose of the district, among others, is to preserve natural features by limiting modifications in topography and by preserving plant and marine life.

Special Natural Area Districts have been mapped in the greenbelt area of Staten Island and in Riverdale (Bronx). These areas are endowed with steep slopes, rock outcrops, creeks and a variety of botanic environments. After field checking, identified State fish and wildlife areas may be added to the Special Natural Area Districts section of the Zoning Resolution, where appropriate.

Another example is the Special South Richmond Development District established to systematically guide development of predominantly vacant land in the southern half of Staten Island. The District mandates tree preservation, planting requirements, topography change controls and the restriction of construction within designated open space.

The City Planning Commission, as the City Coastal Commission, will continue to administer the Zoning Resolution in conformance with this policy.

POLICY 8: PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIOACCUMULATE IN THE FOODCHAIN OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECT ON THOSE RESOURCES.

Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically hazardous waste is defined in Environmental Conservation Law [Section 27-0901(3)] as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitate reversible illness; or (2) poses a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or otherwise managed. "A list of hazardous wastes (NYCRR Part 366) will be adopted by DEC within 6 months after EPA formally adopts its list.

New York City Implementation

The New York City Department of Health enforces the New York City Health Code. Enforcement of the Health Code involves the Department in housing and institutional inspections and gives it wide licensing and permit authority to prevent the introduction of toxic substances and other pollutants into valuable habitats. Proposed private sewage disposal systems; the alteration or construction of sewage disposal systems which discharge wastes into the City's waterways; the siting, construction and alteration of bathing establishments and beaches; sewer connections; and septic tank constructions are also regulated by the Department.

The City Environmental Quality Review or Executive Order 91, implemented by the Department of City Planning and Department of Environmental Protection, considers the impact of development on the environment as it affects the removal or destruction of large quantities of vegetation or fauna. The Department of Health is routinely consulted as the expert on hazardous waste matters during the CEQR review process. Adherence to this policy by the Department of Health will, therefore, be assured through this review process.

POLICY 9: EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCKS AND DEVELOPING NEW RESOURCES.

Explanation of Policy

The New York State Department of Environmental Conservation is authorized to manage the State's fish and wildlife resources. Any efforts to increase recreational use of fish and wildlife, whether through private or public sector initiatives, must be done in accordance with existing state law and in keeping with sound resource management considerations. Such considerations include: biology of the species, carrying capacity of the habitat, public demand, costs, and available technology.

New York City Implementation

The New York City Zoning Resolution currently includes provisions which are used to provide access to public lands. For example, the Special South Richmond Development District restricts construction within a designated open space (which is a defined network of landscaped open space with paths and green areas to be preserved) in order to provide access to waterfront areas. The City Planning Commission, while administering the Zoning Resolution also utilizes restrictive declarations to require that certain amenities, such as access to public lands, be a part of appropriate development proposals.

The Commission, as the City Coastal Commission, will continue to utilize these techniques to ensure implementation of this policy.

The City Environmental Quality Review, or Executive Order 91, implemented by the Department of City Planning and Department of Environmental Protection, considers the impact of development on the environment as it affects the removal or destruction of large quantities of vegetation or fauna.

Also, the New York City Department of Ports and Terminals has the authority to manage the wharf and waterfront property owned or possessed by the City. It may also grant a one-year terminable use permit to use any of the City's wharf property. The Department's policy is to require provisions for public access to and along the waterfront when appropriate.

POLICY 10: FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH AND CRUSTACEAN RESOURCES IN THE COASTAL AREAS BY ENCOURAGING THE CONSTRUCTION OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES, INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS, MAINTAINING ADEQUATE STOCKS AND EXPANDING AGRICULTURE FACILITIES.

Explanation of Policy

Commercial fishery development activities must occur within the context of sound fishery management principals developed and enforced within the State's waters by the New York State Department of Environmental Conservation and the Regional Fishery Management plans developed by the Regional Fishery Management Councils within the Fishery Conservation Zone.

New York City Implementation

The New York City Department of City Planning, when identifying sites suitable for the location of Outer Continental Shelf oil and gas support facilities, determined that infrastructure requirements for commercial fisheries facilities were similar. Six sites were identified which are suitable for locating or co-locating either industry: the Brooklyn Navy Yard, the Northeast Marine Terminal, the Brooklyn Army Terminal, and Erie Basin in Brooklyn; St. George and Stapleton in Staten Island. Of these sites, the 1980 waterfront study funded by CZM, supports the development of Erie Basin in Brooklyn as the most viable choice in terms of physical characteristics and overall construction costs. The study suggests that a staged development of Erie Basin would be the most cost-effective approach because the project would expand with the growth of the fishing industry.

This work will be utilized by the New York City Planning Commission, as the City Coastal Commission, to identify and reserve waterfront locations to accommodate uses such as fish processing plants, per New York State Executive Law, Article 40.

POLICY 11: BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND THE ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.

Explanation of Policy

On coastal lands identified as coastal erosion hazard areas, buildings and similar structures shall be set back from the shoreline a distance sufficient to minimize damage from erosion unless no reasonable prudent alternative site is available as in the case of piers, docks and other structures necessary to gain access to coastal waters to be able to function.

New York City Implementation

Refer to New York City Policies C, D, and E below. Those policies add specificity to NYS Policy 11 by addressing erosion protection of

private shores and the commitment of technical assistance to private property owners.

In addition, the Department of City Planning has received Coastal Zone Management planning (305) funds to identify, in cooperation with the New York State Department of Enviromental Conservation, critical erosion hazard and structural erosion areas in New York City. This information will be used to develop and implement an erosion hazard area ordinance as required by Environmental Conservation Law, Article 34.

This law provides for the identification of areas that are subject to critical erosion and for regulation of new development to prevent significant damage in the future.

Where no erosion protection structures have been built, the guidelines would:

- require new development to be set back from the shore sufficiently to prevent damage from erosion over at least a 30 year period;

- insure that new development does not unreasonably increase the severity of erosion to other lands because of alteration of land areas that provide erosion protection; and,

- require land restoration or stabilization activities to be used, as may be necessary, when new development occurs, to make sure that damages resulting from the erosion of other lands are minimized.

Where erosion protection structures are required, the above would not apply, but the guidelines would contain criteria for the design of structures so that they would have a reasonable probability of controlling erosion for a period of at least thirty years, and of not increasing erosion on other lands.

The City Coastal Commission will work with New York State to develop reasonable rules and regulations for the City's waterfront areas and thereafter assume administration of this program within the City.

The City Environment Quality Review (CEQR) process requires all actions subject to the City's Uniform Land Use Review Procedure (ULURP) to be investigated for a determination of significance regarding adverse environmental impacts, (Executive Order 91).

CEQR criteria states that:

> "Any action may have a significant effect on the environment if it can... lead to...A substantial adverse change in erosion or flooding...[or] The creation of a hazard to human health or safety." (Executive Order 91, Section 6)

This process, therefore, will be used by the City Coastal Commission to reinforce the objectives of the Erosion Hazard Area Ordinance during the review of proposals.

NEW YORK CITY POLICY C: PROVIDE SHOREFRONT PROTECTION AGAINST COASTAL EROSION HAZARDS WHERE THERE IS PUBLIC BENEFIT AND PUBLIC USE ALONG NON-PUBLIC SHORES.

Public access and use has been assured along much of New York City's shorefront, especially in southeastern Staten Island. While much of these areas are not publicly owned, public benefit is derived from their use. Their protection should be assured for future generations.

This policy adds specificity to Policies 11 and 16 by providing erosion protection and by identifying a particular public resource endangered by erosion. Local implementation is detailed below.

Implementation

Federal Actions:

As outlined under Policy 1, the Army Corps of Engineers is authorized by Congress to design and construct erosion control projects. Regulations developed by the Corps of Engineers recognize the value of mitigating the effects of erosion where there is a public interest or benefit. However, priority has been given to public areas to such a degree that a project has never been initiated for other than publicly owned areas.

State Actions:

The Department of Environmental Conservation has the authority to participate in federally authorized projects. In addition, the State's Coastal Erosion Hazard Areas Act, Environmental Conservation

Law (Article 34) provides for the identification, mapping and designation of coastal erosion hazard areas by the State in cooperation with local governments. Further, this state act contains a provision that, within identified coastal erosion hazard areas, consideration is to be given to both the public benefits and long range adverse effects of proposed activities which use public funds.

Local Actions:

The City Coastal Commission will develop a local erosion hazard area ordinance as required by Environmental Conservation Law, Article 34. This work will include the identification of private shores used for the benefit of the public. At such time as this policy would become enforceable at the City level and amended to the State program, consistency provisions would apply.

NEW YORK CITY POLICY D: PROVIDE TECHNICAL ASSISTANCE FOR THE IDENTIFICATION AND EVALUATION OF EROSION PROBLEMS, AS WELL AS THE DEVELOPMENT OF EROSION CONTROL PLANS ALONG PRIVATELY-OWNED ERODING SHORES.

Existing Federal and State programs for erosion control do not provide funding for mitigation of problems along private shorefront. Consequently, little effort has been made to assist private efforts to provide erosion control protection for private structures. Neglecting these problems or allowing privately designed mitigation measures frequently has adverse impacts on adjacent shores and public property.

This policy also adds specificity to State Policies 11 and 16 since it addresses erosion protection for private property which may impact other sites. It also identifies a practice which adversely affects resources of public benefit. Local implementation is detailed below.

Implementation

State Actions:

New York State Environmental Conservation Law, Article 34 provides that erosion protection structures shall have a "reasonable probability" of controlling long term erosion on the site.

Local Actions:

The City Coastal Commission, using Federal Coastal Zone Management Act funds, may provide technical assistance to private property owners to identify erosion problems, develop mitigation measures and assess or monitor impacts of proposed projects.

NEW YORK CITY POLICY E: IMPLEMENT PUBLIC AND PRIVATE STRUCTURAL FLOOD AND EROSION CONTROL PROJECTS ONLY WHEN:

- PUBLIC ECONOMIC AND ENVIRONMENTAL BENEFITS EXCEED PUBLIC ECONOMIC AND ENVIRONMENTAL COSTS;
- NON-STRUCTURAL SOLUTIONS ARE PROVEN TO BE INEFFECTIVE OR COST PROHIBITIVE;
- PROJECTS ARE COMPATIBLE WITH OTHER COASTAL MANAGEMENT GOALS AND OBJECTIVES, INCLUDING AESTHETICS, ACCESS AND RECREATION;
- ADVERSE ENVIRONMENTAL IMPACTS ARE MINIMIZED;
- NATURAL PROTECTIVE FEATURES ARE NOT IMPAIRED; AND,
- ADJACENT (DOWNDRIFT) SHORELINES ARE NOT ADVERSELY AFFECTED.

In New York City, funding for publicly sponsored projects and the range of acceptable protection measures is limited while the potential for environmental degradation and damage to public and private property is great. Much of the City's coastal areas lie in flood plains yet are heavily developed.

In most cases, structural protection measures are necessary to protect existing property from storm related damages.

This policy adds specificity to State Policies 11, 12, 13, 14, 15, 16, and 17 by identifying potential problems associated with structural flood control projects. These state policies address the siting of activities and developments in hazard areas.

Structures are sited to minimize damage caused by erosion, so that:

- Adverse effects are minimized on natural protective features (Policy 12);
- There will be no measureable increase in erosion nor flooding at other locations (Policy 14):
- Public benefits exceed other costs (Policy 16); and
- Non-structural measures are used whenever possible (Policy 17). Implementation will be as detailed below.

Implementation

Federal Actions:

It is the policy of the U.S. Army Corps of Engineers to undertake projects to prevent erosion and flooding of coastal areas when such

projects best serve the public interest, (33 U.S.C. Section 282). The U.S. Army Corps of Engineer is authorized by Congress to study and construct flood control projects that are structurally feasible and economically justified, where project costs exceed $1,000,000 (33 U.S.C. Section 541). Small flood control projects are authorized by section 205 of the Flood Control Act of 1948, 33 U.S.C. Section 701-s, where project costs do not exceed $1,000,000.

State Actions:

The New York State Department of Environmental Conservation is authorized to participate in federally authorized projects as provided in Article 16 of the State Environmental Conservation Law.

The Coastal Erosion Hazard Areas Act, Environmental Conservation Law (Article 34) outlines standards and criteria for the promulgation of regulations which will require that activities and development will have minimal adverse effects on natural protective features, that erosion of other lands do not measurably increase, and that public benefits and long range adverse effects of development are considered.

The State Environmental Quality Review Act requires a disclosure and minimizing of adverse environmental impacts.

The Waterfront Revitalization and Coastal Resources Act, Executive Law (Article 42), Section 912(5) states in part that it is public policy "to minimize damage to natural resource and property from flooding and erosion [through the] use of non-structural measures whenever possible."

Local Actions:

Municipalities are authorized to participate with the State in Federal flood control projects (Environmental Conservation Law-Article 16).

Because of the enormous cost of erosion control projects, Federal and State participation are virtually mandatory. However, initiation of Corps of Engineers involvement is a complicated procedure.

In order to help streamline the procedure it is recommended that a petition to investigate by the Secretary of State or the City Coastal Commission be sufficient to trigger a Corps of Engineer investigation.

In addition the City Coastal Commission will be developing and implementing an erosion hazard area ordinance consistent with Environmental Conservation Law, Article 34, which requires standards and criteria for flood control projects as listed above.

The City's Environmental Quality Review process (Executive Order 91) stipulates that consideration be given to changes in flooding and erosion and to human health or safety for proposed projects.

POLICY 12: ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE THEIR ADVERSE EFFECTS UPON NATURAL FEATURES WHICH PROTECT AGAINST FLOODING AND EROSION.

Explanation of Policy

Beaches, dunes, barrier islands and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life, resulting from flooding and erosion. Their excavation, or improperly designed structures, inadequate site planning, or other similar actions, which fail to recognize their fragile nature and high protective values, lead to weakening or destruction of those landforms. Activities or development in, or in proximity to, natural protective features will be permitted only if it can be demonstrated that all responsible means have been taken to mitigate their adverse effects upon those landforms.

New York City Implementation

Refer to New York City Policy E which outlines criteria under which structural flood control projects (a specific type of activity) will be reviewed by the City Coastal Commission.

The City Coastal Commission will be developing an erosion hazard ordinance as required by Environmental Conservation Law, Article 34 which outlines standards and criteria for the promulgation of regulations which will require that activities or developments will have minimal adverse effects on natural protective features.

The City Environmental Qaulity Review (CEQR) criteria stipulate that a project may have a significant effect on the environment if it leads to:

> "A substantial adverse change to erosion or flooding,.... The removal or destruction of large quantities of vegetation [which acts as a natural flood and erosion buffer or] the creation of a hazard to human health or safety."
> (Executive Order 91, Section 6)

POLICY 13: THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.

Explanation of Policy

Erosion protection structures are widely used throughout the coastal areas. However, because of improper design, construction and maintenance standards, many fail to give the protection which they were presumed to provide. As a result, development is sited in areas where it is subject to damage or loss due to erosion. This policy will ensure the reduction of such damage or loss.

New York City Implementation

Refer to New York City Policy G. This policy adds specificity to Policy 13 requiring continuous maintenance of public beaches.

In addition New York City Policy D provides for technical assistance for individuals in addressing erosion control problems.

POLICY 14: ACTIVITIES AND DEVELOPMENT INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASUREABLE INCREASE IN EROSION NOR FLOODING AT THE SITE OF SUCH ACTIVITIES NOR DEVELOPMENT AT OTHER LOCATIONS.

Explanation of Policy

Erosion and flooding are processes which occur naturally. However, by his actions, man can increase the severity and adverse effects of those processes, causing damage to, or loss of property, and endangering human lives. Those actions include: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices, thereby causing run-off and the erosion and weakening of shorelands; the placing of structures in identified floodways so that the base flood level is increased causing damage in otherwise hazard-free areas.

New York City Implementation

Refer to New York City Policy E which specifies that erosion control structures can only be constructed if they do not adversely affect adjacent shorelines. Further, the Department of City Planning will be developing an erosion hazard area ordinance which will be in conformance with the State's Environmental Conservation Law, Article 34. This law provides for minimum standards and criteria that are to be used to condition or modify a proposal, which include regulation of activities or developments, including the placement of erosion protection structures so there will be no measureable increase in erosion to the development site or at other locations.

The City Environmental Quality Review (CEQR) criteria stipulate that a proposal may have a significant effect on the environment if it creates "a substantial adverse change to erosion or flooding," (Executive Order 91, Section 6).

POLICY 15: MINING, EXCAVATION, OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL COASTAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LANDS.

Explanation of Policy

Coastal processes including the movement of beach materials by water, and any mining or excavation in nearshore or offshore waters which change the supply and net flow of such materials can deprive shorelands of their natural regenerative powers. Such mining and excavation should be accomplished in a manner so as not to cause a reduction of supply, and thus an increase of erosion, to such shorelands.

New York City Implementation

The New York City Department of Ports and Terminals is authorized to issue permits for dredging, mining and excavation along the shore. When dredging is essential for beach nourishment, navigation, flow control, pollutant removal, water-dependent uses, etc., consideration will be given to the possible adverse effects on environmental resources.

Adherence to this policy by the Department of Ports and Terminals will be assured by the City Coastal Commission's review of dredging requests not regulated by as-of-right provisions in the City Zoning Resolution.

In addition, as indicated for other policies above, the City Environmental Quality Review (CEQR) process requires consideration of actions which may have a significant effect on the environment if they lead to a substantial change in erosion or flooding, (Executive Order 91, Section 6).

POLICY 16: PUBLIC FUNDS SHALL BE EXPENDED FOR ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION CONTROL STRUCTURES, ONLY WHERE THE PUBLIC BENEFITS CLEARLY OUTWEIGH THEIR LONG TERM MONETARY AND OTHER COSTS INCLUDING THEIR POTENTIAL FOR INCREASING EROSION AND THEIR ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

Explanation of Policy

Public funds are used for a variety of purposes on the shorelines. This policy recognizes the public need for the protection of human life, existing investment in development or new development which requires a location in proximity to the coastal area or in adjacent waters. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benfits and long-term costs prior to expending public funds.

New York City Implementation

Refer to City Policies A, C, D, E, and G. Those policies add specificity to Policy 16 by the following:

- identifying particular public resources endangered by erosion where public benefits are likely to outweigh other costs (Policies A and C);
- addressing erosion protection on private property which can impact public lands (Policies C and D);
- Allowing structural flood control projects only when public benefits exceed public economic and environmental costs (Policy E); and,
- providing for improvements to urban shorelands which represent a significant public resource (Policy G).

In addition, the City will be developing and implementing an erosion hazard ordinance which will conform to the Environmental Conservation Law, Article 34.

This Law allows for proposed activities and development where public funds are utilized when the public benefits clearly outweigh long range adverse effects.

POLICY 17: NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION SHALL BE USED WHENEVER POSSIBLE.

Explanation of Policy

This policy recognizes both the potential adverse impacts of flooding and erosion upon development and upon natural protective features in the coastal area, as well as the costs of protection against those hazards which structural measures entail.

New York City Implementation

Refer to City Policy E. This policy allows structural flood control projects when non-structural solutions are proven to be ineffective or cost prohibitive.

POLICY 18: TO SAFEGUARD THE VITAL INTEREST OF THE STATE OF NEW YORK AND OF ITS CITIZENS IN THE WATERS AND OTHER VALUABLE RESOURCES OF THE STATE'S COASTAL AREA, ALL PRACTICABLE STEPS SHALL BE TAKEN TO ENSURE THAT SUCH INTERESTS ARE ACCORDED FULL CONSIDERATION IN THE DELIBERATIONS, DECISIONS AND ACTIONS OF STATE AND FEDERAL BODIES WITH AUTHORITY OVER THOSE WATERS AND RESOURCES.

Explanation of Policy

The State of New York is concerned that such deliberations, decisions and actions, and resultant programs or projects, may be undertaken in a manner which will impair significantly the value and use of those waters and resources and frustrate the State's achievement of the purposes of those safeguards which it has established to protect them.

New York City Implementation

The City Coastal Commission, through ULURP, CEQR, the Zoning Resolution, and the Capital Needs Statement will review planning efforts, applications, and development for the safety and welfare of New York City citizens and for its waterfront.

POLICY 19: PROTECT, MAINTAIN AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED RECREATION RESOURCES.

Explanation of Policy

This policy calls for achieving balance among the following factors: the level of access to a resource or facility, the capacity of a resource or facility, and the protection of natural resources.

Priority will be given to improving physical access to existing and potential coastal recreation sites and to increasing the ability of urban residents to get to coastal recreation areas by improved public transportation. Facilities and resources given priority for improved access are public beaches, boating facilities, fishing areas and waterfront parks. The Waterfront Revitalization Program will encourage mixed use areas and multiple use of facilities to improve access.

The following guidelines* will be used in determining the consistency of a proposed action with this policy:

1. The existing access from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibilty of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless such actions are demonstrated to be of overriding regional or statewide public benefit, or in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access.

2. Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:

   The level of access to be provided should be in accord with estimated public access needs.

   The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource of facility.

3. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

*Guideline terms are explained in the New York State Coastal Zone Management Document, Public Access Section.

4. In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

New York City Implementation

The New York City Zoning Resolution currently includes provisions which implement this policy at the City level. For example, the Special Battery Park City District, created to govern a large waterfront development in Lower Manhattan, includes requirements to maintain visual corridors, to develop pooled open spaces and a circulation system for pedestrians and vehicles. The Special Sheepshead Bay District was devised to protect that neighborhood's unique waterfront recreation and commercial character by restricting uses and requiring shorefront access. Planned Unit Developments are also encouraged by granting bonuses for a well-designed site plan, provision of community facilities, recreation space and shorefront access. The Special Scenic View District protects and prevents the obstruction of outstanding scenic views. Also, the City Coastal Commission, concurrent with any zoning change, may require a restrictive declaration which mandates the provision of amenities, such as shorefront access, be provided as part of the development. The City Planning Commmission, as the City Coastal Commission, will continue to utilize these techniques to ensure implementation of this policy.

Also, the New York City Department of Ports and Terminals has the authority to manage the wharf and waterfront property owned or possessed by the City and may lease or grant a one-year terminable use permit to use any of the City's wharf property. It may include requirements to provide public access as a condition of lease approvals. The New York City Department of Parks and Recreation has the authority to acquire and manage areas and facilities for the recreation of the public. It also regulates the use of and determines the curb and surface construction of all streets and avenues lying within any park, square or public place or within a distance of 350 feet from the outer boundaries thereof. The New York City Department of Transportation is responsible for developing and coordinating all transportation planning for the City.

New York City agency plans and actions regarding shorefront access will undergo ULURP review by the City Coastal Commission to ensure adherence to this policy. Federal Coastal Zone Management Act (306)

funds may also be used, if available and where appropriate, to implement agency actions which conform to this policy and the specific recommendations included in the Shorefront Access Areas section of Chapter V of this report.

POLICY 20: ACCESS TO THE PUBLICLY OWNED FORESHORE OR WATER'S EDGE, AND TO THE PUBLICLY OWNED LANDS IMMEDIATELY ADJACENT TO THESE AREAS SHALL BE PROVIDED, AND IT SHALL BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. TO ENSURE THAT SUCH LANDS REMAIN AVAILABLE FOR PUBLIC USE, THEY WILL BE RETAINED IN PUBLIC OWNERSHIP.

Explanation of Policy

In coastal areas where there are little or no recreation facilities providing specific water-related recreational activities, access to the publicly-owned lands of the coast at large should be provided for numerous activities and pursuits which require only minimal facilities for their enjoyment. Such access would provide for walking along a beach or a city waterfront or to vantage points from which to view the seashore. Similar activities requiring access would include bicycling, birdwatching, photography, nature study, beachcombing, and fishing.

The following guidelines, explained in more detail in Part II, Section 6 of this document, will be used:

1. Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrated to be of overriding regional or statewide public benefit, or in the latter case, estimates of future use of these lands and waters are too low to justify maintaining or providing increased access.

2. Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new public land use or development except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

3. State-owned coastal lands or waters, including underwater lands, may be sold, leased, or otherwise conveyed to persons for private use only when such action is (a) demonstrated to be of overriding regional or statewide public benefit and there is no reasonable means of providing public access; or (b) the lands or waters are contiguous to property owned by the person requesting sale, lease, or conveyance and can continue to be used in such a manner as to retain reasonable public access; or (c) the lands and waters are proposed to be used in such a manner as to retain reasonable public access.

4. The State will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.

5. In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined urban area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

6. Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:

   -The level of access to be provided should be in accord with estimated public access needs. If not, the proposed access to be provided shall be deemed inconsistent with the policy.

   -The level of access to be provided shall not cause a degree of use which would exceed the physical capability of the coastal lands or waters. If this were determined to be the case, the proposed access to be provided shall be deemed inconsistent with the policy.

New York City Implementation

Same as Policy 19 above.

POLICY 21: WATER DEPENDENT AND WATER ENHANCED RECREATION WILL BE ENCOURAGED AND FACILITATED, AND WILL BE GIVEN PRIORITY OVER NON WATER RELATED USES ALONG THE COAST.

Explanation of Policy

Water-related recreation includes such obviously water-dependent activities as boating, swimming, and fishing as well as certain activities which are enhanced by a coastal location and increase the general public's access to the coast such as pedestrian and bicycle trails, picnic areas, scenic overlooks and passive recreation areas that take advantage of coastal scenery.

Provided the development of water-related recreation is consistent with the preservation and enhancement of such important coastal resources as fish and wildlife habitat, aesthetically significant areas, historic and cultural resources, agriculture and significant mineral and fossil deposits, and provided demand exists, all practical effort to increase water related recreation development will be undertaken and such uses shall have a higher priority than any non coastal dependent uses, including non water-related recreation uses. Determining a priority among coastal dependent uses will require a case by case analysis.

Among priority areas for increasing water-related recreation opportunities are those areas where access to the recreation opportunities of the coast can be provided by new or existing public transportation services and those areas where the use of the shore is severely restricted by highways, railroads, industry, or other forms of existing intensive land use for development.

The siting or design of new public development in a manner which would result in a barrier to the recreational use of a major portion of the waterfront should be avoided as much as practicable.

New York City Implementation

The New York City Department of Ports and Terminals has the authority to manage the wharf and waterfront property (out to the U.S. Pierhead Line) owned or possessed by the City, New York City Charter Section 704 (b) (1977).

It may lease or grant a one-year terminable use permit to use any of the City's wharf property; New York City Charter Section 704 (g), 704(h) (1977).

The New York City Department of Parks and Recreation has the authority to acquire and manage areas and facilities for the recreation of the public; New York City Charter Section 533.b.1. (1977).

The City Coastal Commission may use Federal Coastal Zone Management (Section 306) funds or other appropriate funding to identify water-dependent uses (such as marinas) and determine where demand is greatest. Subsequently, City property leasing and acquisition activities by the Departments of Ports and Terminals and Parks and Recreation undergo review by the City Planning Commission. If not incorporated into the provisions of the City Zoning Resolution, these actions will require approval by the City Coastal Commission.

The New York City Zoning Resolution, developed to insure compatibility of adjacent uses, currently includes provisions which implement this policy at the City level.

In addition, the City Planning Commission, as the City Coastal Commission, may adopt a resolution approving new or amended zoning regulations. Since most proposed zoning text is initiated by the City Planning Commission, the adoption of new zoning to facilitate water-related uses along the coast is an important means to implement this policy.

The New York City Coastal Commission, through the Uniform Land Use Review Procedure, will consider the increase of water-related uses along the coast in its decision to approve, modify, or disapprove any proposal or application.

Similarly, the New York City Planning Commission, as the New York City Coastal Commission, may oppose variances to the Zoning Resolution before the Board of Standards and Appeals if, in their judgement, the granting of relief requested in such application is not in accordance with this policy.

The 1981 Capital Needs Statement of the New York City Planning Commission helps implement this policy at the City level. The Commission states that "Opening up the City's vast waterfront to public recreational uses has been a recent City priority" and recommends that the " creation of waterfront recreational areas should continue to be encouraged." The Commission, as the City Coastal Commission, will continue to use the Capital Needs Statement to implement this policy.

NEW YORK CITY POLICY F: PRIORITY SHALL BE GIVEN TO THE DEVELOPMENT OF MAPPED PARKLANDS AND APPROPRIATE OPEN SPACE WHERE THE OPPORTUNITY EXISTS TO MEET THE RECREATIONAL NEEDS OF:

-IMMOBILE USER GROUPS; AND
-COMMUNITIES WITHOUT ADEQUATE WATERFRONT PARK SPACE AND/OR FACILITIES.

Mapped parklands and vacant waterfront areas have a great potential to meet recreational needs of city residents who rarely enjoy water-related activities. Special groups of concern include the elderly, handicapped, female head-of-households and others who live in high density, low-income commmunities which lack open space, social or recreational programs and waterfront access. All acquisitions should involve non-city maintenance if at all possible.

This policy, developed to address these concerns, adds specificity to New York State Policy 21. Local implementation will be as detailed below.

The City recommends that Gateway National Recreation Area give priority to these concerns.

Implementation

State Action:

The New York State Parks and Recreation Law (NYSPRL) Section 3.094 authorizes park acquisition and development by the New York State Office of Parks and Recreation. Creation of a statewide plan for a system of urban cultural parks by this office is mandated by Section 3.21 of the NYSPRL and Section 3.15 authorizes the development of a Statewide Comprehensive Recreation Plan. All plans and actions pursuant to this law should incorporate this policy criteria.

New York City Actions:

The New York City Department of Parks and Recreation is authorized by Section 533 of the City Charter to propose land acquisition as part of the City park system. Acquisition activities have been minimal due to fiscal constraints. However, adherence to this policy when acquisitions occur will be assured through review of the Department's acquisitions by the City Planning Commission, acting as the City Coastal Commission.

When adequate Urban Cultural Parks funding becomes available, New York City will coordinate with the New York State Office of Parks and Recreation in developing a management plan for New York City Urban Cultural Parks.

In the 1981 Capital Needs Statement, the New York City Planning Commission, as the City Coastal Commission, recommends that "the City must move to develop a policy addressing vacant land and open space needs, an issue of special importance to redeveloping neighborhoods." The Commission recognizes the need to "provide some opportunity for altering and adding to the existing park system." However, it is recommended that "acquisition should be accomplished without any added City maintenance burden. This can be accomplished by providing another source of maintenance and operation, as with the proposed arrangements for Westway, Riverwalk, and Battery Park City, which the developers or the State will maintain. The addition of natural areas in the outer reaches of the City, which would require minimal maintenance, should also be considered."

NEW YORK CITY POLICY G: MAINTAIN AND PROTECT NEW YORK CITY BEACHES TO THE FULLEST EXTENT POSSIBLE.

In New York City, public beaches are the most significant seasonal recreational resource (especially those located in the Rockaways, Coney Island and Staten Island). Chronic beach erosion causes significant damage and results in the loss of public recreational benefits. Only continuous efforts addressing this problem will assure uninterrupted public use.

This policy adds specificity to New York State Policy 21 by insuring that water dependent recreation will be encouraged and facilitated, and adds specificity to New York State Policy 16 by identifying a particular public resource endangered by erosion. In addition this policy implements Policy 13 which requires that erosion control structures, including the renourishment of beaches, be built or maintained to control erosion over a 30-year period, by providing continuous maintenance for erosion control devices which protect public beaches. Local implementation is as detailed below.

The City recommends that the U.S. Army Corps of Engineers maintains and protects New York City's beaches to the extent possible pursuant to Section 103 of the Rivers and Harbors Act of 1962, 33 U.S.C. Section 426 (g) (where project costs do not exceed $1,000,000).

Implementation

State Actions:

The New York State Department of Environmental Conservation is authorized to participate in federally authorized projects as stated in New York Unconsolidated Laws Section 1301 et. seq. and Section 1531 et. seq.

The Coastal Erosion Hazard Areas Act, Environmental Conservation Law (Article 34) contains a provision that, within identified coastal erosion hazard areas, consideration is to be given to both the public benefits and long range adverse effects of proposed activities which use public funds.

New York City Actions:

The New York State Unconsolidated Laws cited above also authorized municipalities to participate in Federal projects. ULURP review of proposed projects by the City Coastal Commission will ensure local compliance with this policy. In addition, City implementation of a coastal erosion hazard ordinance in conformance with the State's Environmental Conservation Law (Article 34) will provide consideration of public benefits versus long range effects of activities such as beach maintenance. The City will be able to develop beach maintenance and protection proposals when coastal erosion hazard area maps are completed.

The New York City Department of Parks and Recreation authorities are set forth in Section 533 of the City Charter. It has the power to manage and care for all parks, to prepare plans for a City park system, acquire, construct and improve facilities for public recreation and to manage all real property which is used for the establishment of parks. As mentioned above, these are hampered by fiscal constraints.

The New York City Planning Commission will help implement this policy through the Capital Needs Statement. For example, in the 1981 Capital Needs Statement, the Commission recommends that funds be "requested to continue the ongoing rehabilitation of beaches and boardwalks at Coney Island, Rockaway Beach, and Orchard Beach."

POLICY 22: DEVELOPMENT WHEN LOCATED ADJACENT TO THE SHORE WILL PROVIDE FOR WATER-RELATED RECREATION ACTIVITIES WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES, AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.

Explanation of Policy

Many large-scale developments present practical opportunities for providing recreation facilities as an additional use of the site or facility. Therefore whenever large-scale developments are located adjacent to the shore they should to the fullest extent permitted by existing law provide for some form of water-related recreation use unless there are compelling reasons why any form of such recreation

would not be compatible with the development, or a reasonable demand for public use cannot be foreseen.

Whenever a proposed development would be consistent with WRP policies and the development could, through the provision of recreation and other multiple uses, significantly increase public use of the shore, then such development should be encouraged to locate adjacent to the shore (this situation would generally only apply within the more developed portions of urban areas).

New York City Implementation

The New York City Department of Parks and Recreation has the authority to acquire areas and facilities for the recreation of the public; New York City Charter Section 533.b.1.(1977). Adherence to this policy by the Department of Parks and Recreation will be assured through review of the Department's acquisitions by the City Coastal Commission.

Also, the New York City Zoning Resolution currently includes provisions which implement this policy at the City level. The New York City Planning Commission reviews all plans for the development, growth, and improvement of the City and its boroughs and community districts initiated by the Mayor, Borough Boards, or Community Boards, New York City Charter Section 197-c, b. It has the authority to issue special permits in certain Special Zoning Districts, to allow the transfer of development rights from historic landmarks, and to initiate changes in the New York City Zoning Resolution.

The New York City Coastal Commission, through the Uniform Land Use Review Procedure, will consider the provision of water-related recreation activities in waterfront developments when making its decision to approve, modify, or disapprove any proposal or application.

The Commission also utilizes restrictive declarations, when appropriate, to require that certain amenities be provided as a part of development proposals.

In the 1981 Capital Needs Statement, the Commission recommends City support for large-scale developments which provide water-related recreation activities. For example, it states that "the proposal to create a public recreation and performance area along the waterfront in Battery Park City offers a special opportunity to expand public use of the waterfront."

The Commission, as the City Coastal Commission, will continue to use these techniques to ensure implementation of this policy.

POLICY 23: PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHEOLOGY OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.

Explanation of Policy

Among the most valuable of the State's man-made resources are those structures or areas which are of historic, archeological, or cultural significance. The protection of these structures must involve a recognition of their importance by all agencies and the ability to identify and describe them. Protection must include concern not just with specific sites but with areas of significance, and with the area around specific sites. Protection is not to be continued as a passive mandate but must include active efforts when appropriate to restore or revitalize through adaptive reuse. While the program is concerned with the preservation of all such resources within the coastal boundary, it will actively promote the preservation of historic and cultural resources which have a coastal relationship.

New York City Implementation

The New York City Landmarks Preservation Commission has the authority to regulate and establish landmarks, landmark sites, interior landmarks, scenic landmarks, and historic districts. Therefore, this policy is presently implemented in New York City. However, demolition of landmark properties or applications to demolish involve more complex procedures and occasionally lead to the loss of valuable coastal related historic resources. For example, if a building has been determined to be a hazard to health and safety by the Department of Buildings the landmarks law is preempted and demolition is mandated by the Department of Buildings. The owner is then required to demolish the structure. If the building is in hazardous condition but recoverable, the Commission may request the Department of Buildings to seal the building rather than demolish it. If a private owner of landmark property is not making a reasonable return on it (6 percent), and wishes to demolish the building, the Commission seeks to develop a plan which will create a satisfactory return on the building, using tax abatement or tax remission if necessary to do so. If creation of a reasonable return is not possible, the City must find an alternate buyer for the property or the City must acquire the property or an appropriate interest in it. If the City fails to do so within a specified time, the Commission must grant the demolition permit.

Implementation funds may be utilized to prevent the loss of such structures and to aid in their rehabilitation.

The Department of City Planning, as a co-lead agency for City Environmental Quality Review (CEQR) will review discretionary actions

for possible social, economic and land use impacts. As set forth in Mayoral Executive Order No. 91, City Environmental Quality Review, Section 6, (a) (5) Determination of significant effect; criteria, "An action may have a significant effect on the environment if it can reasonably be expected to lead to... the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character."

The City Planning Commission, as the City Coastal commission, will not act on an application under ULURP nor promulgate a zoning regulation until CEQR review is completed. Similarly, the Board of Standards and Appeals will not render a decision on an application for a variance until CEQR procedures have been complied with. Therefore, if the City Environmental Quality Review results in the preparation of an environmental impact statement, this statement becomes part of the record which must be considered by the administrative agency in reaching its decision on an action. Impacts to historic or archeological resources would be fully disclosed and considered.

NEW YORK CITY POLICY H: INSURE ONGOING MAINTENANCE OF ALL WATERFRONT PARKS AND BEACHES TO PROMOTE FULL USE OF SECURE, CLEAN AREAS WITH FULLY OPERABLE FACILITIES.

New York City waterfront parks and outdoor recreational facilities are inadequately maintained; many are in dire need of rehabilitation. While operation and maintenance funds have declined, demands for secure and well maintained parks have grown. A solution to this problem is beyond the funding capabilities of local government.

There are no state policies included in the Coastal Management Plan which address the issue of operation and maintenance. Consistency of Federal and State agency actions, therefore, can only be encouraged. However, the policy can be enforced at the City level by priority utilization of certain non-categorial Federal funds and direct City agency actions as outlined below.

Implementation

Federal Actions:

Park management authorities at the Federal level are held by the U.S. Department of the Interior, National Park Service which may provide assistance to states and localities for the planning and development

of public park facilities. Funds, as mentioned earlier, cannot be used for operation and maintenance. The City Waterfront Revitalization Program strongly endorses the involvement of the Federal and State governments to provide the minimal amount of Federal funding to local park systems for maintenance and operation functions, as suggested in the draft National Urban Recreation Study. Other federal programs provide funds, administered by appropriate city agencies, which can be utilized for operation, maintenance and rehabilitation of recreation areas. Examples include:

-Non-categorial general revenue sharing funds pursuant to the State and Local Assistance Amendments of 1976, P.L. 94-488;

-Funds provided by the Community Development Block Grant Program of the Community Development Act of 1974 (42 U.S.C. Section 5301).

Funding levels of these programs should be increased and earmarked where possible for preservation.

State Actions:

At the State level, authority is held by the New York State Office of Parks and Recreation as detailed in the New York State Parks and Recreation Law (PRL). The Office of Parks and Recreation has, in the past, provided special work training programs, such as Young Adult Conservation Corps Programs (which was eliminated in March, 1982) to aid in recreational maintenance and operations. However, direct financial aid in the operation and maintenance of existing New York City parks has been accomplished only several times by transferring surplus city (in-rem) property to the state park system. The vehicle for accomplishing this task is the Statewide Comprehensive Recreation Plan (SCRP) which contains an evaluation procedure to guide allocation of State and Federal funds and a planning process to evaluate future recreation and open space needs of the State. Section 309 of the New York State PRL authorizes park acquisition and development consistent with this plan.

The decision to transfer a given surplus parcel is a difficult one. Each site must be studied individually with consideration given to state policies regarding access, closing hours, maintenance commitments, etc. and the possibility of future policy changes.

Section 3.21 of New York State PRL establishes the Urban Cultural Parks Program which requires the New York State Office of Parks and Recreation to undertake a survey and formulate a plan for a statewide system of urban cultural parks. Once again, aid in operation and maintenance of existing City parks can only be accomplished through a land exchange to the state park system.

It is recommended that existing statutes be amended to allow funding of operation and maintenance of City parks of statewide significance.

New York City Actions

The New York City Department of Parks and Recreation authorities are set forth in Section 533 of the City Charter. It has the power to manage and care for all parks, to prepare plans for a City park system, acquire, construct and improve facilities for public recreation and to manage all real property which is used for the establishment of parks. As mentioned above, these are hampered by fiscal constraints.

Adherence to this policy by the Department of Parks and Recreation will be assured through ULURP review of the Department's acquisitions by the City Coastal Commission.

When adequate Urban Cultural Parks funding becomes available, New York City will coordinate with the New York State Office of Parks and Recreation in developing a management plan for New York City Urban Cultural Parks.

The 1981 Capital Needs Statement of the New York City Planning Commission helps to implement this policy at the City level. In addressing the need for rehabilitation of waterfront parks and recreational facilities, the Commission states that a capital program continues an effort to rehabilitate heavily-used regional facilities which....are in need of a major overhaul." These funds are to be allocated for "rehabilitation of community and local facilities," "repairs to stadiums, golf courses, and marinas" and "rehabilitation of beaches and boardwalks at Coney Island, Rockaway Beach, and Orchard Beach."

In addressing the issue of operation and maintenance, the Commission recommends that "additions should be made to the Department of Parks and Recreation's staff,...to reduce the impact of the proposed termination of the CETA program" and that "the Department should take measures to improve productivity via training and via other management initiatives." Currently, the City Department of Parks and Recreation has taken steps toward rebuilding agency staff through tax levy positions in an attempt to offset CETA losses.

The encouragement of Federal and State actions to facilitate implementation of this policy at the City level is stressed in the 1981 Capital Needs Statement in which, "the Commission urges that rechanneled Federal funds be allocated fairly to the Department of Parks," and recommends that "the role of the State in providing for park and recreation services within the City should be expanded." The Commission states that "the greatest need is assistance for

rehabilitating, maintaining, and operating the existing park system" and that Federal funds are "also needed in areas of new development, where the City is unable alone to provide for the appropriate expansion and maintenance of the park system."

City waterfront parks will be considered for designation as State Geographic Areas of Particular Concern in the future with appropriate amendments to the State Coastal Management Program.

POLICY 24: PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE.

Explanation of Policy

When considering a proposed action, agencies shall first determine whether the action could affect a scenic resource of statewide significance. An action must not substantially hinder achievement of this policy if the action is not of significant regional or statewide public benefit. The policy can be enforced by applying siting and design guidelines. If an action benefits a region or the state significantly, it must to minimize the degradation of the specified scenic resource, set a precedent for the establishment of a waterfront development and coastal resources policy and remain the only option for action possible, even though the action would hinder the achievement of this policy.

New York City Implementation

The New York City Zoning Resolution currently includes provisions to prevent the impairment of its scenic resources. For example, the Special Natural Area District was established to preserve geologic and topographic features having ecological, conservation and scenic qualities by mandating review of all new developments and site alterations on primarily vacant land.

In addition, many other specal permits administered by New York City Planning Commission have statutory scenic criteria for their issuance. Zoning Resolution regulations on the size, location, and design of advertising and business signs also have scenic considerations. For example, the Zoning Resolution, at Sections 22-34, 32-661 and 42-531 prohibits moving or stationary advertising signs on vessels plying New York City waterways that are within view of an arterial highway.

The New York City Coastal Commission, through the Uniform Land Use Review Procedure, will consider the scenic resources in waterfront development when making its decision to approve, modify, or disapprove the proposal or application.

These controls are enforced pursuant to Section 645(b) of the New York Charter, by the Department of Buildings throughout the City except for on the waterfront under the jurisdiction of the Department of Ports and Terminals. The Department of Ports and Terminals, pursuant to Section 704(d) and 704(f) of the City Chapter, enforces these controls with respect to waterfront commerce structures.

POLICY 25: PROTECT, RESTORE AND ENHANCE THE NATURAL AND MAN-MADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.

Explanation of Policy

When considering a proposed action, reasonable steps shall be taken to ensure that the action would be undertaken so as to protect, restore or enhance the overall scenic quality of the coastal area. The effects of activities which would impair the scenic quality of the general coastal area would not be considered as serious as the effects of the same activities for significant scenic areas. As in the previous policy, siting and design guidelines serve to enforce this policy. Emphasis may be placed on the removal of elements which degrade and the addition of elements which enhance the coastal area's scenic quality.

New York City Implementation

Much of the New York City Zoning Resolution is concerned with scenic quality. Many special permits administered by the New York City Planning Commission, for example, the Special South Richmond Development District which requires tree preservation, height limits and restriction of construction within designated open space, have statutory scenic criteria for their issuance. The City Planning Commission is responsible for planning relating to orderly growth and improvement and future development of the City. It is also empowered, while administering the Zoning Resolution, to require restrictive decalarations which place conditions on the future use of land, including scenic considerations.

The Special Scenic View District is designed to prevent obstruction of outstanding scenic views as seen from existing points of visual access such as a public park, esplanade or mapped public place. Such a district has been approved for the area west of the Brooklyn Heights promenade in order to protect the waterfront view of the Lower Manhattan skyline, Governor's Island, the Statue of Liberty and the Brooklyn Bridge. The Special Battery Park City District, created to govern a large developement in an area close to the business core of

Lower Manhattan, establishes regulations which reflect vertical separation of land uses and provision of visual corridors allowing a view of the waterfront from upland areas.

The City Planning Commission also has the authority to conduct planning relating to the orderly growth and improvement and future development of the City. It may also require restrictive declarations which place conditions on the future use of land, including aesthetic consideration.

The City Planning Commission, as the City Coastal Commission will continue to utilize these techniques to ensure implementation of this policy.

Zoning Resolution provisions will continue to be enforced by the Department of Buildings throughout the City except for on the waterfront where enforcement is under the jurisdiction of the Department of Ports and Terminals.

POLICY 26: CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA.

Not applicable to New York City.

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 FACILITY'S NEED FOR A SHOREFRONT LOCATION.

Explanation of Policy:

The supply and distribution of energy is regarded by the Federal government as having "a greater than local interest" and State and Federal permits are usually needed by public utilities (especially with respect to gas facilities and pipelines). State legislation (Articles VII and VIII pertaining to transmission and steam plant generation) contain provisions to determine compatibility of these facilities with the environment and their necessity to be sited along the waterfront.

New York City Implementation

The need for energy facilities are set forth in the State Energy Master Plan (SEMP) which calls for its updating every two years. In as much as SEMP provides for public participation, New York City, through its Energy Office and other agencies (such as the Department

of Planning and Department of Environmental Protection) will continue as it did in 1979 and early 1982 to provide input to the plan.

The siting procedures in Articles VII and VIII of the Public Service Law mandate that public hearings be held prior to the granting of Certificate of Environmental Compatibility and Public Need by the New York Public Service Commission and the New York State Board of Electric Generating Siting and the Environment. New York City through its Energy Office and other agencies including the Department of City Planning will continue to invoke this tool to express its views.

City Environmental Quality Review Act (CEQR) (Executive Order #91) is the means to implement the State Environmental Quality Review Act (ECL Sec. 8-0113). As with SEQR, an environmental impact statement is required under CEQR for large-scale facilities, such as petroleum, LNG, SNG, and resource recovery facilities. This will allow an early weighing of social, economic and environmental issues. Specifically, it will ensure that waterfront policies are considered, alternate inland locations for certain energy facilities are given consideration, and mitigation measures appropriately addressed.

Interstate transmission facilities, such as gas and petroleum pipelines, coal slurry pipelines and electric transmission lines associated with hydroelectric facilities, are regulated by Federal agencies. Through State and Federal consistency provisions, such facilities will be sited in a manner that is consistent with the New York City Waterfront Revitalization Program.

Under the New York City Air Pollution Control Code, sulfur dioxide emmissions from coal burned in large utility boilers may not exceed 200 parts per million (ppm) which is equivalent to approximately 0.4 pounds of sulfur for each million British Thermal Units of heat energy input. This local law essentially bans coal burning in the City, unless it is revised. It is currently being reviewed by the Department of Environmental Protection and the City Energy Office.

NEW YORK CITY POLICY I: SITING OF LIQUIFIED AND SUBSTITUTE NATURAL GAS FACILITIES, INCLUDING THOSE ASSOCIATED WITH THE TANKERING OF SUCH GAS, SHALL TAKE INTO CONSIDERATION STATE AND NATIONAL ENERGY NEEDS, PUBLIC SAFETY CONCERNS AND THE NECESSITY FOR A SHOREFRONT LOCATION.

Explanation of Policy:

The problems of safety involved in locating LNG facilities in metropolitan areas have not been adequately resolved. Additional

studies may be needed to determine if locating an LNG facility along New York City's waterways serviced by LNG tankers would create a public saftety hazard.

New York City Implementation:

The New York City Fire Department has the authority, pursuant to Section 489 of the City Charter, to regulate the storage, transportation and use of combustibles, chemicals, inflammable or other dangerous substances. Pursuant to this authority, Section C19-12.0 of City Administrative Code requires a permit from the Department for such activities and uses.

The City Coastal Commission, through ULURP, will review such proposals to promote and protect public health and safety. For example, the Zoning Resolution Manufacturing District Regulations states that one of its general goals is, "To protect adjacent residential and commercial areas, and to protect the labor force in other establishments engaged in less offensive types of manufacturing and related activities, by restricting those manufacturing activities which involve danger of fire, explosions, toxic and noxious matter, radiation and other hazards, or create offensive noise, vibration, smoke and other particulate matter, odorous matter, heat, humidity, glare, and other objectionable influences, to those limited areas which are apropriate therefore" (Section 41-00, (d).

Adherence to this policy will be assured by ULURP review of such applications by the City Coastal Commission.

POLICY 28: ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.

Not applicable to New York City.

POLICY 29: ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF (OCS) AND IN OTHER WATER BODIES AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.

Explanation of Policy:

Oil exploration has been taking place in the Atlantic Ocean, north and south of New York State, since 1978 when Exxon spudded the first well in the Baltimore Canyon. As of December 1981, twenty three out of

twenty eight wells drilled came up dry. The remainder showed gas, but in insufficent quantities for commercial production. In the event of an oil or gas find, some of this fuel could be landed in New York or routed along New York waterways. A 1977 Department of City Planning study funded by Section 305 of the Coastal Zone Management Act indicated that a successful oil find could add 150 tanker trips along the Ambrose-Nantucket sea lane. The study also identified sites for an offshore support base, which included the former Brooklyn Navy Yard as the most likely candidate.

New York City Implementation

The New York City Department of Ports and Terminals has jurisdiction over the wharf and waterfront property owned by the City and jurisdiction over waterfront property, waterfront commerce, navigation structures on waterfront property up to the marginal streets. The Department has authority to regulate this property; to enforce the New York Labor Law, the City Zoning Resolution, the City Building Code and all applicable laws with respect to waterfront commerce and/or navigation structures on such property; and to regulate dredging and filling.

The New York City Zoning Resolution currently contains provisions for guiding the location of onshore support facilities of the Outer Continental Shelf oil and gas industry.

The New York City Department of City Planning has been funded, as participants in the CZM planning process and as grantees of the Coastal Energy Impact Program, to provide information and technical assistance to New York State regarding the Federal offshore leasing process and its probable impacts on New York City.

The City Coastal Commission will utilize Federal Coastal Zone Management Act (306) funds, if available or Coastal Energy Impact Program funds, whichever is appropriate, to perpetuate coordination between the City and State; and to prepare, as allowed under the Outer Continental Shelf Lands Act Amendments of 1978, recommendations concerning proposed lease sales or development and production plans for transmittal by the Mayor to the Secretary of the Interior.

POLICY 30: MUNICIPAL, INDUSTRIAL AND COMMERICAL DISCHARGE OF POLLUTANTS, INCLUDING, BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE WATER QUALITY STANDARDS.

Explanation of Policy

Municipal, industrial and commerical discharges include not only

"end-of-the-pipe" discharges into surface and groundwater but also plant site runoff, leaching spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching waterways.

New York City Implementation

New York City 208 Plan recommendations regarding pollutant discharges include:

- Complete construction of the foundation for the Red Hook Pollution Control Plant (WPCP), and design the North River and Red Hook plants for secondary treatment while seeking Federal legislative relief from full secondary treatment requirements at both plants.

- Upgrade the Coney Island and Owls Head Water Pollution Control Plants from modified aeration to secondary treatment.

- Rehabilitate the Newtown Creek Water Pollution Control Plant, retaining modified aeration.

- Provide staffing for the operation and maintenance of the new North River and Red Hook WPCP's and additional staffing for the upgraded Coney Island and Owls Head WPCP's contingent upon City finances, continued State aid, and Federal funding.

- Disinfect all sewage treatment plant discharges to the Harbor during the summer to permit bathing in classified waters and discontinue year-round disinfection unless required to protect shellfishing.

- Prepare 208 Continuing Planning or 201 Facilities Planning studies of: a) less than full secondary treatment during the cold weather months at all treatment plants and year-round at the new North River and Red Hook WPCP's; b) the need for dechlorination or alternative methods for disinfection of sewage plant effluents in areas of high chlorine residuals; and c) alternatives to improve the removal of BOD and suspended solids at City WPCP's.

- Amend existing Federal water pollution laws to permit less than full secondary treatment of municipal wastewater if the discharge is to well-mixed estuarine/marine waters and all water quality standards and uses are met.

- Rehabilitate regulators along the waterfront and in tributaries, assure adequate regulator maintenance, and seek State and Federal support if additional funding is required.

- Conduct 201 Facilities Planning studies of regulator systems and propose integrated improvements.

- Continue recent City improvements in sewer maintenance and integrate sewer rehabilitation/modernization as well as new construction into 208 Continuing Planning.

- Conduct a Harbor-wide 201 Facilities Planning study of heavy metals, cholorine related compounds and PCB's (polychlorinated biphenyls) to determine sources, effects on marine life, and problem areas, contingent upon regional support.

- Amend existing City regulations to permit control of industrial wastes discharged to the sewer system, consistent with water quality maintenance and standards in the Harbor.

- Conduct a City-wide 201 Facilities Study to identify all sources of heavy metals and toxic substances (industrial and other) in the sewer system (combined, sanitary, and storm), including a list of regulated industries, based upon the City definition of "normal sewage" and "industrial wastes", as amended.

- Develop a pretreatment program for heavy metals and toxic substances discharged to the City sewer system, consistent with water quality maintenance and standards in the Harbor and considering influent standards, water treatment modifications, residential/commercial product controls, and building code revisions.

In addition, the City Environmental Quality Review process requires a determination of any significant adverse changes to water quality, (Executive Order No. 91, Section 6), which will ensure conformance to Federal and State water quality standards. Further, the City's "Capital Needs and Priorities" Statement (1981) indicates Commission support for continued funding for water pollution control.

POLICY 31: STATE COASTAL AREA POLICIES AND MANAGEMENT OBJECTIVES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVER-BURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.

Explanation of Policy

The State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These

classifications and standards are reviewable at least every three years for possible revision or amendment. Management objectives of Local Waterfront Revitalization Plans and State coastal management policies shall be factored into the review process for coastal waters. Waters not meeting State standards and which would not be expected to meet these standards even after applying "best practicable treatment" to effluent discharges are classified as "water quality limiting". Those segments meeting stream standards or areas expected to meet them after application of "best practicable treatment" are classified as "effluent limiting", and all new waste discharges must receive "best practicable treatment". However, along stream segments classified as "water quality limiting", waste treatment beyond "best practicable treatment" would be required, and costs of applying such additional treatment may be prohibitive for new development.

New York City Implementation

New York City 208 Plan recommendations regarding standards and classifications include:

- Review the State water quality standards for New York Harbor, particularly the fecal coliform standards for bathing and the toxic standards for marine life.

- Consider the reclassification of Fish Survival waters (Class SD) in New York Harbor to Fishing water (Class I), after the completion of wastewater treatment plant improvements.

In addition, the New York City Department of City Planning, as a participating agency in the 208 Water Quality Management Program and as the grant agency in developing the Waterfront Revitalization Program has utilized technical and land use data generated in 208 Task Reports to make land use recommendations within the coastal area. The Department will continue to recognize water quality as a positive or negative factor in development decisions to reflect Waterfront Revitalization policies.

POLICY 32: ENCOURAGE THE USE OF ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IN SMALLER COMMUNITIES WHERE THE COST OF CONVENTIONAL FACILITIES ARE UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING TAX BASE OF THESE COMMUNITIES.

Explanation of Policy

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving

clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost-effective in smaller less densely population communities and for which conventional facilities are too expensive. Areas of New York City where this occurs are Northern and Southern Queens and Southern Staten Island.

New York City Implementation

New York City 208 Plan recommendations regarding the study and implementation of innovative approaches for water quality improvement and waste disposal include:

- Prepare 201 Facilities Planning Studies for the City tributaries identified as having significant water quality problems and study the remaining tributaries under 208 Continuing Planning. These studies should consider other tributary improvements in addition to wastewater treatment, such as CSO controls, dredging, dike modification, flushing tunnel reactivation, and land use controls.

Specific water quality improvement recommendations are also included in the Waterfront Revitalization work. For example, the redesign of a drainage plan to prevent the destruction of valuable natural watercourses in southern Staten Island.

Federal Coastal Zone Management Act (306) funds, if available, may be used by the City Coastal Commission to participate in tributary studies with the designated 208 Agency and to assist in the implementation of alternative or innovative sanitary waste disposal systems in appropriate locations.

In addition, the City's "Capital Needs and Priorities" Statement (1981) states that the "Commission also supports the continuation of tributary studies."

POLICY 33: BEST MANAGEMENT PRACTICES WILL BE USED TO ENSURE THE CONTROL OF STORMWATER RUNOFF AND COMBINED SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.

Explanation of Policy

Structural approaches to controlling stormwater runoff (construction of retention basins) and combined sewer overflows (e.g., replacement of a combined system with separate sanitary and stormwater collection systems) are presently economically not feasible. Until affordable technology is developed, nonstructural approaches (e.g., improved street cleaning, reduced use of road salt) will be encouraged.

New York City Implementation

New York City 208 Plan recommendations regarding the control of storm runoff and combined sewer overflows include:

- Advance a 201 Facilities Planning Study of CSO (combined sewer overflow) control facilities along Jamaica Bay to improve bathing water quality, in conjunction with beach use studies and Gateway National Park plans. Institution of 201 Design/Construction phases should be contingent upon the results of these studies, plans and financial arrangements.

- Advance a 201 Facilities Planning Study of CSO controls for Eastchester Bay, in conjunction with beach use studies. Institution of 201 Design/Construction phases should be contingent upon the results of these studies and financial arrangements.

- Advance a 201 Facilities Planning Study of diversion, relocation, or other alternatives for CSO problems in specific tributaries; and along the Upper East River, in conjunction with beach use studies. Institution of 201 Design/Construction phases should be contingent upon the results of the studies and financial arrangements.

In addition, the Uniform Land Use Review Procedure, and the CEQR process, provides an implementing mechanism for ensuring that storm water runoff and sewer overflows are investigated. Any adverse change in drainage and water quality induced by private or public proposals must be considered and evaluated per CEQR regulations, (Executive Order No. 91, Section 6).

POLICY 34: DISCHARGE OF WASTE MATERIAL INTO COASTAL WATERS FROM VESSELS UNDER THE STATE'S JURISDICTION WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS AND WATER SUPPLY AREAS.

Explanation of Policy

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the state's waters is prohibited. Specific effluent standards for marine toilets have been promulgated by the Department of Environmental Conservation (6 NYCRR, Part 657). Priority will be given to the enforcement of these regulations in the areas such as shellfish beds and other significant habitats, beaches and public water supply intakes, which need protection from contamination by vessel wastes.

New York City Implementation

Implementation of this policy by the New York State Department of Environmental Conservation pursuant to the New York State Navigation Law, Section 33-c is sufficient to protect the coastal area of New York City. This law prohibits the discharge of sewage, garbage, rubbish and other solid and liquid materials from all watercraft and marinas into the State's waters.

POLICY 35: DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, AESTHETIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS AND WETLANDS.

Explanation of Policy

Dredging often proves to be essential for waterfront revitalization and development, maintaining navigation channels at sufficient depths, pollutant removal and meeting other coastal management needs.

Such dredging projects, however, may adversely affect water quality, fish and wildlife habitats, wetlands and other important coastal resources. These adverse effects can be minimized through careful design and timing of the dredging operation and proper siting of the dredge spoil disposal site. Dredging permits will be granted after it has been satisfactorily demonstrated that these anticipated adverse effects have been reduced to a level considered acceptable by permitting agencies.

New York City Implementation

The New York City Department of Ports and Terminals has the authority to approve, through a permitting process, dredging proposals along the waterfront of New York City.

However, the problem for New York City is one of disposing of dredged materials in an environmentally acceptable and economically feasible manner. Between 8 and 10 million cubic yards of dredged material is removed each year while the Corps of Engineers routinely maintains the shipping channels in New York Harbor. Up to now approximately 90 percent has been disposed of at the ocean site commonly known as the "mud dump". An additonal two to four million cubic yards per year from private sources have also been disposed of at this site under U.S. Corps of Engineers permits.

Environmental challenges to rules and regulations governing the disposal of dredged materials and the failure of bio-assay tests, required to determine the quality of spoils before dumping is allowed, has led to a number of studies to determine an alternatives to ocean dumping. Most of these alternatives involve land disposal, a method that would have tremendous impact on the City's waterfront and the economy of the Port of New York.

Because of its potential impact, this disposal problem is treated separately in the Solid Waste issue section in Chapter IV.

POLICY 36: ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS: ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEANUP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGES WILL BE REQUIRED WHEN THESE SPILLS OCCUR.

Explanation of Policy

See New York State Coastal Policy 39 for definition of hazardous materials.

New York City Implementation

Implementation of this policy will be addressed as discussed under New York State Coastal Policy 39.

POLICY 37: BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS AND ERODED SOILS INTO COASTAL WATERS.

Explanation of Policy

Best Management Practices used to reduce non-point sources of pollution could include but are not limited to encouraging organic farming and pest management principals, soil erosion control practices, and surface drainage control techniques.

New York City Implementation

208 Plan studies conclude that nutrient concentrations, primarily nitrogen, will increase very slightly in the Harbor waters after 1985 because of other plan recommendations which will increase wastewater flows. The potential for algal bloom would remain, but an "unknown factor" prevents massive summer algal blooms in the Harbor.

The study also concluded that mitigation measures would not be effective unless all non-point sources are treated or controlled for nitrogen removal, a massive undertaking.

The 208 Plan, therefore, recommended the following:

- Develop a Harbor-wide water quality monitoring program, based upon federal, state and regional resources, emphasizing toxic substances (heavy metal, PCB's, chlorine) and nutrient parameters(Biochemical Oxygen Demand, dissolved oxygen, pH, temperature, salinity, and coliforms).

- Require major waterfront construction projects, such as new highways and landfilling, to assess non-point water quality impacts and monitor, if necessary, under existing Federal and State permit programs.

  Such a requirement can be enforced through the CEQR regulations or ULURP process which allow development only upon mitigation of adverse environmental impacts.

POLICY 38: THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUNDWATER SUPPLIES WILL BE CONSERVED AND PROTECTED PARTICULARLY WHERE SUCH WATERS CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.

Explanation of Policy

Groundwater is used as a potable water supply in the southeastern part of Queens (60 million gallons per day servicing 500,000 persons). The quality of this water is continually deteriorating because of the impact of nitrates, primarily from sewage, and chlorides, primarily from salt water intrusion.

Groundwater is also used for industrial cooling in parts of Brooklyn and Queens. The quality of water in these areas has deteriorated to such an extent that Federal and State potable water standards are not met.

New York City Implementation

The New York City 208 Plan makes the following recommendations:

- Encourage the State and the U.S. Geological Survey to study groundwater resources throughout the City and monitor the groundwater in Brooklyn and Queens, especially the Jamaica Water Supply wells.

- Provide a regional mechanism for stabilizing potable (drinkable) groundwater use in Jamaica, Queens and Nassau County, including monitoring and pollutant modeling.

- Encourage the City, in conjunction with the State, to study potential potable water problems in the City watersheds and reservoirs under 208 Continuing Planning and existing Federal water legislation.

Any major project request which will adversely impact ground water supplies will be modified through the CEQR and ULURP procedures.

306 CZM funds may be used to support technical feasibility analyses conducted per the above recommendations.

POLICY 39: THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT ARGRICULTURAL LANDS AND SCENIC RESOURCES.

Explanation of Policy

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

New York City Implementation

The New York City 208 Plan includes the following recommendations regarding the disposal of solid wastes:

- Integrate into 208 Continuing Planning the leachate survey program for sanitary landfills being developed by the Department of Sanitation.

- Continue the ocean dumping of sewage sludge but consider the effects of dumping at a 12 mile site versus a potential 106 mile site to permit the development of locally proven, cost-effective solutions.

The disposal of solid waste (residential, industrial and commercial wastes; demolition and construction debris; sludges from air, water pollution control, or resource recovery facilities; and dredge spoils) is an issue of major concern in New York City. Land disposal sites are quickly reaching capacities while the search for alternative disposal methods is encountering environmental and/or economic roadlocks.

Therefore, the New York City Waterfront Revitalization Program includes the following solid waste policies. All policies are designed to add specificity to New York State Policy 39 above.

NEW YORK CITY POLICY J: ADOPT END-USE PLANS FOR LANDFILL AREAS WHICH SPECIFY THE FOLLOWING:

- FINAL CAPACITY
- FINAL CONTOURS
- LEACHATE, EROSION AND GAS CONTROL SYSTEMS
- RE-VEGETATION STRATEGIES
- INTERIM REVIEW SCHEDULES

In New York City all landfill sites, except the ones in Staten Island are scheduled to close by the mid-1980s. All these active landfill areas lack approved end-use plans that fix ultimate capacities, delineate final contours and appropriate land-use; or outline measures to abate the adverse effects of gaseous emissions, leachate discharge into surrounding waters and erosion.

It may be necessary to locate new landfill areas or reactivate old landfill sites to dispose of valueless components (i.e., residue from recource recovery facilities) of the solid waste stream.

IMPLEMENTATION

Federal Actions:

The U.S. Environmental Protection Agency assists states in the development of solid waste disposal plans and dispenses Federal aid for planning and implementation consistent with Federal standards pursuant to Section 6941 of the Resource Conservation and Recovery Act, 42 U.S.C. & 6901. It has also promulgated rules and regulations governing the ocean disposal of various solid and liquid wastes. The U.S. Army Corps of Engineers issues permits to regulate the ocean disposal of various liquid and solid wastes.

State Actions:

The New York State Department of Environmental Conservation is responsible for development of a statewide comprehensive solid waste management plan, which gives approval prior to construction and operation of a solid waste management facility and provides financial aid to localities pursuant to Section 27-0507 of the New York Environmental Conservation Law.

New York City Actions:

The New York City Department of Sanitation has the authority to issue permits for the use of land as dumps pursuant to Sections 755(5) - 2.0 and 755(5) - 3.0 of the New York City Administrative Code.

It also is cooperating with Federal and State agencies to develop plans in compliance with promulgated rules and regulations. The Department of Sanitation has awarded a consultant contract to develop an operational plan pursuant to Part 360 of the State Environmental Conservation Law.

The Department of Sanitation's plan will be subject to consistency review by the City Coastal Commission to insure compliance with this policy. In addition, Federal Coastal Zone Management Act (306) funds may be used to assist in performing studies to determine future use plans for these sites.

NEW YORK CITY POLICY K: CURTAIL ILLEGAL DUMPING THROUGHOUT THE COASTAL ZONE AND RESTORE AREAS SCARRED BY THIS PRACTICE.

Explanation of Policy

Illegal dumping continues to degrade neighborhoods, scar parklands, destroy remaining natural resources and add to the cost of upgrading such areas.

This policy adds specificity to New York State Water Quality Policy 39. However, its enforceability depends on completion of an illegal dumping curtailment plan.

Implementation

New York City Actions:

The New York City Department of Sanitation, has the authority to issue fines for illegal dumping pursuant to section 755(2)-7.1 of the New York City Administrative Code, however, the practice continues due to the difficulty encountered in enforcement.

Federal Coastal Zone Management Act (306) funds may be used by the City Coastal Commission, in cooperation with the Department of Sanitation, to develop a strategy to curtail this practice and/or to hire enforcement personnel. Those areas which have attracted this practice and contain vital natural resources will be identified and considered for restoration.

NEW YORK CITY POLICY L: ENCOURAGE ENERGY DEVELOPMENT FROM WASTE AND WASTE LANDFILLS

Explanation of Policy

The City of New York is committed to the national goal of independence from foreign imported oil for energy use. The City's 1977 Comprehensive Solid Waste Management Report, developed with Federal and State assistance, entails ways of refuse disposal with provisions for recovery of materials and energy resources. This policy of recovering or producing energy from waste is in line with the national objective of energy independence.

IMPLEMENTATION

Federal Actions:

The U.S. Environmental Protection Agency assists states in the development of solid waste disposal plans and dispenses Federal aid for planning and implementation consistent with Federal standards pursuant to Section 6941 of the Resource Conservation and Recovery Act, 42 U.S.C. & 6901.

State Actions:

The New York State Department of Environmental Conservation is responsible for development of a statewide comprehensive solid waste management plan, gives approval prior to construction and operation of a solid waste management facility and provides financial aid to localities pursuant to Section 27-0507 of the New York Environmental Conservation Law.

City Actions

The Department of Sanitation is mandated by City Charter to dispose of City waste. The resource recovery technology method of disposing waste allows energy production as well. The Department has produced a resource recovery plan and has a current application to construct a facility pursuant to that plan. Adherence to this policy will be assured through review of this and future applications pursuant to ULURP and CEQR.

POLICY 40: EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND WILL CONFORM TO STATE WATER QUALITY STANDARDS.

Explanation of Policy

The State Board of Electrical Generation Siting and the Environment must consider a number of factors when reviewing a proposed site for facility construction. One of these factors is the facility "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, public health, the public enjoyment of the receiving waters." The effects of thermal discharges on water quality and aquatic organisms will be considered by the Board when evaluating an application to construct a new steam electric generating facility.

New York City Implementation.

Implementation of this policy through Article VII and VIII of the New York State Environmental Conservation law is sufficient to protect the coastal area of New York City. This Law authorizes the establishment of standards for thermal discharges into State waters.

POLICY 41: LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED

Explanation of Policy

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation. Coordination of the coastal management and air pollution programs will focus on ensuring the required consistency. Mutual program review will concentrate on identification of the effect of each program upon the other. Any adjustments that are required will reflect the primacy of National Ambient Air Quality Standards.

To the extent possible, the State Implementation Plan will be consistent with coastal land and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

New York City Implementation

In New York City, the Department of Environmental Protection and the Department of Buildings have responsibility to safeguard clean air. The Department of Environmental Protection (DEP) has the authority to set standards for the regulation of all emissions into the open air pursuant to Section 1403 of the City Charter. Also, this section gives the Commissioner of DEP the authority to enforce all rules and regulations pertaining to air pollution control. The Department of Buildings (DOB) enforces those sections of the Zoning Resolution which pertain to performance standards for air pollution emissions. These standards are applied to certain manufacturing and commercial uses. Both DEP and DOB have the authority to issue permits prior to the installation of certain control equipment. In addition to the two agencies discussed above the New York City Environmental Control Board acts as a judicial body with respect to violation of the Air Pollution Control Code and the Department of City Planning participates with DEP and the New York State Department of Environmental Conservation in developing and revising air quality management plans.

The City Coastal Commission will perform continuing reviews of developing plans and strategies and consider proposed air quality requirements during implementation of the Local WRP Program, especially with respect to use determinations and designation of areas for special management attention.

POLICY 42: COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE PREVENTION OF SIGNIFICANT DETERIORATION REGULATIONS OF THE FEDERAL CLEAN AIR ACT.

Explanation of Policy

The policies of the State and local coastal management programs concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

New York City Implementation

The City Coastal Commission will provide the various responsible agencies mentioned under Policy 1 with recommendations for proposed significant deterioration land classification designations based upon the New York City WRP.

POLICY 43: LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.

Explanation of Policy

The New York Coastal Management Program incorporates the State's policies on acid rain. As such, the Coastal Management Program will assist in the State's efforts to control acid rain. Conversely, these efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

New York City Implementation

The City Coastal commission will perform continuing reviews of developing plans and strategies concerning acid rain control and will make recommendations on proposed plans to various responsible agencies mentioned under Policy 41.

POLICY 44: PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.

Explanation of Policy

Tidal wetlands include the following ecological zones: coastal fresh marsh; intertidal marsh; coastal shoals; bars and flats; littoral zone; high marsh or salt meadow; and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and simi-aquatic vegetation and other wetlands so defined in the New York State Freshwater Wetlands Act and the New York State Protection of Waters Act.

The benefits derived from the preservation of tidal and freshwater wetlands include but are not limited to:

- habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains;
- erosion, flood and storm control;
- natural pollution treatment;
- groundwater protection;
- recreational opportunities;
- educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed areas.

New York City Implementation

The enforcement of New York State Tidal and Freshwater Wetland Statutes by the New York State Department of Environmental Conservation is sufficient to implement this policy at the City level. Adherence to this policy is aided when, pursuant to the City Environmental Quality Review (CEQR), Mayoral Executive Order No. 91, discretionary actions of City agencies are reviewed for determination of significant effect. This review would include criteria such as "the removal or destruction of large quantities of vegetation..." (Section 6(a)(2). This review is made before a final decision to approve an action can be made by the City Planning Commission in the ULURP process.

CHAPTER V: SPECIAL REVITALIZATION AREAS

INTRODUCTION

The area within the waterfront boundary, as discussed earlier, is the area where land uses and activities will be regulated to protect life and property from natural hazards, to restore and conserve valuable natural and man-made resources or to preserve critical habitats. Within this zone, where uses and activities will be subject to some degree of management, there are a number of specific areas where natural or manmade features, environmental processes, or existing and potential economic and recreational opportunities merit further protection, preservation or enhancement. The New York City Waterfront Revitalization Program identifies Erosion/Flood Hazard Areas, Shorefront Access Areas and Areas of Particular Waterfront Significance, and selected existing Special Zoning Districts as Special Revitalization Areas.

Erosion/Flood Hazard areas, Shorefront Access Areas and Areas of Particular Waterfront Significance are discussed further in the following sections of this chapter. Details of selected existing Special Zoning Districts can be found in the New York City Zoning Resolution. The existing Special Zoning Districts selected to further implementation of the New York City WR Program include: The Special Battery Park City District, created to govern a large development in the business core of Lower Manhattan by requiring visual corridors, views of the water from upland areas and pooled open spaces; The Special Scenic View District, intended to prevent obstruction of outstanding scenic views as seen from a public park, esplanade or mapped public place by not allowing buildings or structures to penetrate a scenic view plane; The Special Natural Area Districts, designed to preserve natural features in Staten Island and Bronx by reviewing all new developments and site alterations; The Special South Richmond Development District, established to systematically guide development of vacant land in southern Staten Island by mandating tree preservation, planting and maintenance of open space networks; The Special Sheepshead Bay District, devised to encourage develpment that will strengthen and protect the neighborhood's unique waterfront and recreation character by establishing special density and height limits and requiring sitting areas, kiosk and cafes; and, The Special South Street Seaport District, enacted to preserve and restore the Seaport's historic building by allowing transfer of development rights. The Special City Island District was enacted to promote the nautical and waterfront uses of City Island in a compatible way with the existing community.

These Special Districts all clearly contain provisions in complete accord with Waterfront Revitalization goals and objectives and are used as tools to implement certain WR policies (please refer to Chapter IV - Waterfront Policies). The City Coastal Commission will aid in administering the special provisions within these areas.

Erosion/Flood Hazard Special Management Areas

Federal regulations covering shoreline erosion/mitigation planning, developed in response to the Coastal Zone Management Act Amendments of 1976, require "A planning process for (A) Assessing the effects of shoreline erosion (however caused), and (B) Studying and evaluating ways to control, or lessen the impact of such erosion."

In order to meet these requirements, New York State has articulated Program Policies and demonstrated how existing State laws may be used for their implementation. In addition, it has developed a new program which provides for the identification, mapping and designation of waterfront erosion hazard areas in cooperation with local governments. The legislation requires local governments to adopt minimum standards and criteria for the siting and building of structures and for land use and development within erosion hazard areas.

The Flooding and Erosion issue and some of the New York City Policies section of Chapter IV, details how the City Coastal Commission will implement the new State Erosion Hazard Legislation. That chapter identifies a unique form of erosion in urban areas, structural erosion.

This section of the New York City WRP Program addresses those reaches (linear sections of shorefront) which have been studied in detail by the U.S. Army Corps of Engineers. Much of the New York Harbor has active proposals to mitigate flooding and erosion and to remove decaying structures and floating debris.

Coastal hazards occur along two distinct shorelines. First, exposed shorelines along the Lower New York Bay facing the Atlantic Ocean and Western Long Island Sound are eroded and flooded by winds, waves and storms. The U.S. Army Corps of Engineers[1] has identified four reaches where these hazards are serious:

1 National Shoreline Study; U.S. Army Corps of Engineers, 1972

Reach 1 - STATEN ISLAND - Fort Wadsworth to Arthur Kill
Reach 2 - CONEY ISLAND - Rockaway Inlet to Norton Point
Reach 3 - THE ROCKAWAYS - East Rockaway Inlet to Rockaway Inlet
Reach 4 - WESTERN LONG ISLAND SOUND - Eastern Bronx Shore and Nearby Islands

Second, physically built-up shores along the numerous bays, inlets and rivers of New York Harbor are subject to both natural and man-induced forces which erode waterfront structures, a problem studied by the Army Corps of Engineers.[2] Work is nearly complete on Reach A and Reach B is now in the planning and engineering stages to remove waterfront structures along the shoreline:

Reach A - MANHATTAN - East River, Battery Park to East 96th Street
Reach B - STATEN ISLAND - St. George to the Verrazano Narrows Bridge

Shorefront Access Areas

Coastal Zone Management Act rules and regulations encourage the development of a single coordinated statewide access planning process.

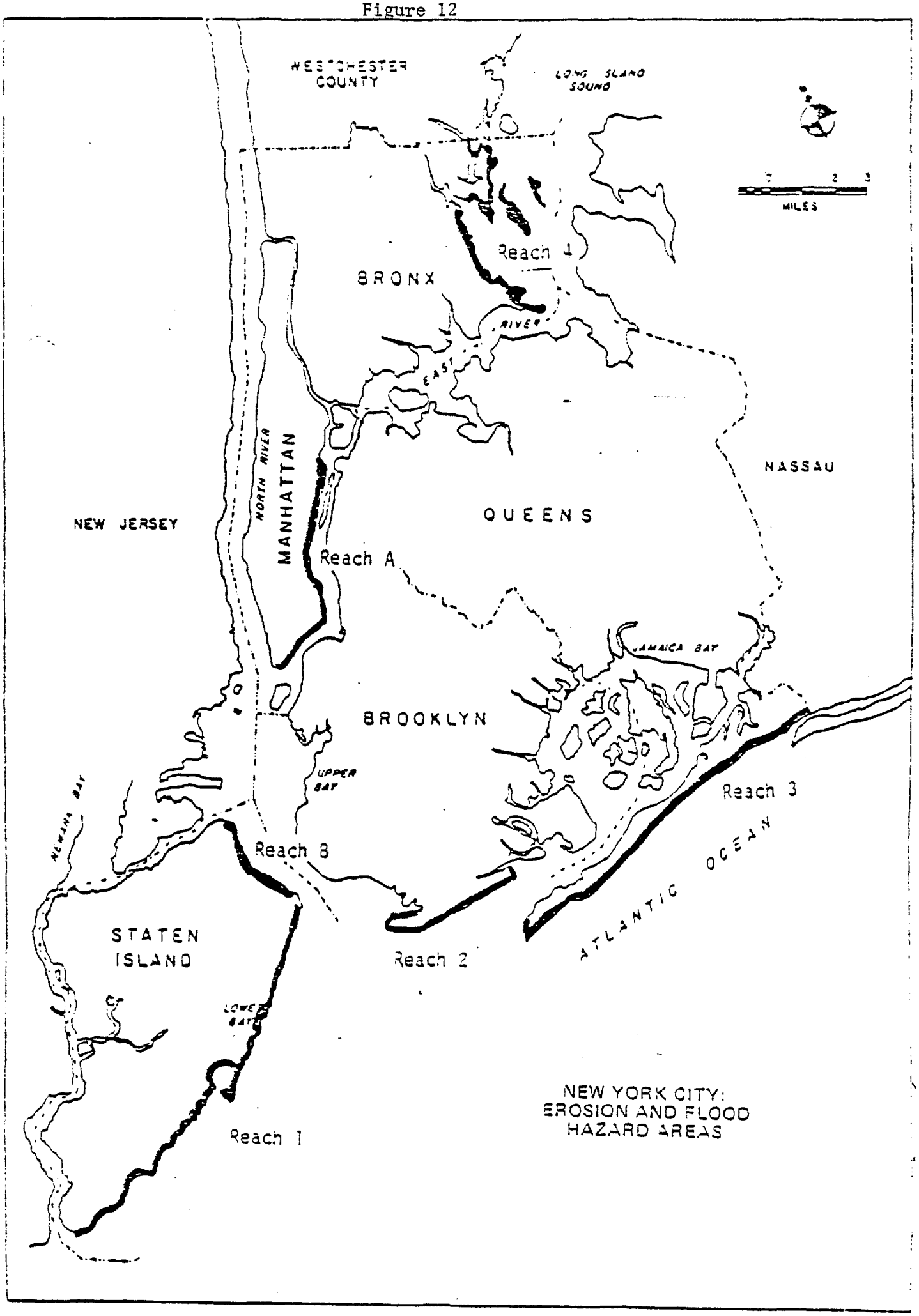
The New York State Coastal Management Program explains that the statewide process "... utilizes, in part, various methodologies and inventories already developed by ... state and local agencies and the lists of specific sites needing access improvements."

Presented below is the work completed by the Department of City Planning during the development (305) phase of the Waterfront Revitalization Program. It includes a methodology for identifying shorefront areas appropriate for improved access and a tabulation of the nature of access issues for thirty-three (33) areas.

Planning during the development (305) phase also included site specific studies for three areas - Fulton Ferry, in Brooklyn, Soundview Pennisula, in the Bronx, and the Northeastern Shore of Queens; the detailed plans resulting from these studies may be incorporated at a later date as amendments to the New York City WR Program.

2 "Survey Report on Review of Project, New York Harbor Collection and Removal of Drifts"; U.S. Army Corps of Engineers, 1974.

Figure 12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LONG ISLAND SOUND
MILES
Reach 4
BRONX
EAST RIVER
NASSAU
NORTH RIVER
MANHATTAN
NEW JERSEY
QUEENS
Reach A
JAMAICA BAY
BROOKLYN
UPPER BAY
Reach 3
Reach B
ATLANTIC OCEAN
STATEN ISLAND
Reach 2
Reach 1
NEW YORK CITY:
EROSION AND FLOOD
HAZARD AREAS

Federal Coastal Zone Management Act (306) funds and other appropriate funding may, if available, be used to complete the remaining site specific studies and to implement recommendations in accordance with the statewide access planning process.

Identification Methodology

The entire New York City waterfront area has been examined with regard to need, potential, and demand for shorefront access relating to:

1) the inaccessibility of waterfront recreation areas, views or open space;
2) the absence of available waterfront or upland open space;
3) conflicts generated by expanding shorefront access; and
4) opportunity for shorefront recreation.

Sources for data leading to the identification of areas showing shorefront access needs were:

- previous studies and reports done by the Department of City Planning;

- City and State agencies involved in the planning and development of the waterfront for activities compatible with public shorefront access;

- experts associated with public agencies and civic groups; (These include: New York City Department of Parks and Recreation, New York City Parks Council, New York State Sea Grant, New York State Office of Parks and Recreation, various New York City Community Planning Boards and civic associations.)and,

- inventories of existing recreational facilities.

Shorefront Access Areas are listed in Table I in relationship to the type of access involved (physical, visual, transportation) and general nature of the access issue. In addition, all City parks and other City-owned waterfront property are generically designated. Additional sites may be identified during the implementation phase of the program.

Shorefront Access Areas are also designated in Table I according to their basis of selection in order to provide an historical perspective on how the study originated. These sites have been selected based on a proposed plan, policy or WRP identification: either a proposal was requested by a commmunity board which suggested a study should be made of the designated area; or a plan regarding the specific shorefront access area was drawn up by the New York City Department of Planning;

SHOREFRONT ACCESS:

TABLE 1

Bronx Sites	Basis for Selection: Proposal, Plan, Policy	Basis for Selection: WRP Identification	Type of Access: Transportation	Type of Access: Visual	Type of Access: Physical (Pedestrian)	Nature of Access Issue: Inadequate Access to waterfront open space	Nature of Access Issue: Need for waterfront open space	Nature of Access Issue: Opportunity for view/access corridors or waterfront open space	Nature of Access Issue: Inadequate Public Transportation	Nature of Access Issue: Conflicting waterfront activities	Nature of Access Issue: Potential for disruption of natural features	Nature of Access Issue: Existing transportation impacts such as traffic congestion and parking problems.	Nature of Access Issue: Lack of upland open space
Bronx River	x			x	x	x	x	x		x			
City Island	x		x									x	
Ferry Point Park		x	x					x	x				
Pelham Bay Park		x						x	x		x		
Soundview Peninsula	x	x	x	x	x	x		x	x				
Riverdale Natural Area	x				x	x							

SHOREFRONT ACCESS:

TABLE 1

Brooklyn Sites	Basis for Selection		Type of Access			Nature of Access Issue									
	Proposal, Plan, Policy	WRP Identification	Transportation	Visual	Physical (Pedestrian)	Inadequate Access to waterfront open space	Need for waterfront open space	Opportunity for view/ access corridors or water front open space	Inadequate Public Transportation	Conflicting waterfront activities	Potential for disruption of natural features	Existing transportation impacts such as traffic congestion and parking problems.	Lack of upland open space
Spring Creek	x		x		x		x	x			x		
Paerdegat Basin		x		x	x		x	x					
Sheepshead Bay		x	x						x			x	
Coney Island Beach		x	x		x	x			x				
Dreier-Offerman Park	x		x		x	x		x					
Red Hook		x			x	x	x	x		x			
Fulton Ferry	x				x	x	x	x		x			x
Northern Brooklyn Waterfront	x				x		x	x		x			x

SHOREFRONT ACCESS:

TABLE 1

Manhattan Sites	Basis for Selection: Proposal, Plan, Policy	Basis for Selection: WRP Identification	Type of Access: Transportation	Type of Access: Visual	Type of Access: Physical (Pedestrian)	Nature of Access Issue: Inadequate Access to waterfront open space	Nature of Access Issue: Need for waterfront open space	Nature of Access Issue: Opportunity for view/ access corridors or water front open space	Nature of Access Issue: Inadequate Public Transportation	Nature of Access Issue: Conflicting waterfront activities	Nature of Access Issue: Potential for disruption of natural features	Nature of Access Issue: Existing transportation impacts such as traffic congestion and parking problems.	Nature of Access Issue: Lack of upland open space
Manhattan Landing	x			x	x	x		x					
Battery Park City	x			x	x	x		x					x
Greenwich Street	x				x	x							
Westway	x				x	x	x	x					
Penn Yards	x				x	x		x					
North River WPC	x				x	x	x						
Randall's Island		x	x		x	x	x		x				x
East River Waterfront		x			x	x		x					

SHOREFRONT ACCESS:

TABLE 1

Queens Sites	Basis for Selection: Proposal, Plan, Policy	Basis for Selection: WRP Identification	Type of Access: Transportation	Type of Access: Visual	Type of Access: Physical (Pedestrian)	Nature of Access Issue: Inadequate Access to waterfront open space	Need for waterfront open space	Opportunity for view/ access corridors or water-front open space	Inadequate Public Transportation	Conflicting waterfront activities	Potential for disruption of natural features	Existing transportation impacts such as traffic congestion and parking problems.	Lack of upland open space
North East Shore	x			x	x			x			x		
Flushing Meadow Park		x	x						x			x	
Northwest/East River Shore		x		x	x		x			x			
Edgemere Landfill		x			x			x					
Arverne	x				x			x					

SHOREFRONT ACCESS:

TABLE 1

Staten Island Sites	Basis for Selection		Type of Access			Nature of Access Issue							
	Proposal, Plan, Policy	WRP Identification	Transportation	Visual	Physical (Pedestrian)	Inadequate Access to waterfront open space	Need for waterfront open space	Opportunity for view/ access corridors or water front open space	Inadequate Public Transportation	Conflicting waterfront activities	Potential for disruption of natural features	Existing transportation impacts such as traffic congestion and parking problems.
Sailor Snug Harbor		x	x		x			x	x			
St. George Ferry Terminal	x				x	x						
Alice Austen Esplanade		x			x	x						
Richmond Natural Area	x				x						x	
South Richmond	x				x		x	x				

or a policy regarding the shorefront access area was previously identified in the New York City Zoning Resolution. WRP identification indicates that the investigation of the site took place during the CZM planning period (305) and that previously, no proposal, plan or policy had been established.

Each of the identified sites presents a unique case exhibiting different problems and requiring varied solutions. This necessitates site specific studies which must include the following elements:

- community characteristics (population, housing, open space, etc.), recent trends, and future development plans;
- an identification and evaluation of the current modes of access to the shore;
- an identification of specific shorefront access problems based on the above investigations; and,
- recommended actions necessary to mitigate these problems.

Areas of Particular Waterfront Significance

A site specific resource and management studies of a limited number of areas with unique, scarce or sensitive resources (natural or man-made) where the general policies of the Waterfront Revitalization plan do not meet specific area needs were undertaken. For example, a study might promote preservation, reclamation, restoration, public access to the shorefront and/or economic development. These areas are called Areas of Particular Waterfront Significance (APWS).

Management plans for New York City APWSs address site specific, as opposed to waterfront areawide problems. The selection process included identifying candidate areas through review of the data and determinants used to map the waterfront area boundaries as well as federal, state and city programs applicable to specific areas and conditions in the area. City agencies and departments, New York City Department of City Planning Borough Offices and neighborhood and interest groups offered nominations.

Potential sites were reviewed in terms of present uses and conditions, proposed uses and projected changes which could alter the site and adjacent areas. They were then grouped according to representative categories listed in Coastal Zone Management Act regulations. The categories are:

- areas of significant natural habitats or character;
- areas of historical significance or cultural value;
- areas of existing or potential scenic value;

- areas of high natural productivity or habitats essential for living resources;
- areas of substantial recreational value or opportunity;
- areas of water-dependent developments and facilities;
- areas of geological or topographic significance to industrial or commercial development.
- areas of urban concentration where shoreline utilization and water uses are highly competitive;
  - areas of significant hazard or damage if developed (or already developed) due to storms, slides, floods, erosion, settlement, dreainage or inadequate sewer systems;
  - areas to protect, maintain or replenish coastal lands or resources or areas in need of shoreline protection; and,
  - areas of value for scientific research and academic study.

Once grouped, the potential sites within each category were evaluated for significance relative to the other potential sites based on additional criteria addressing specific urban concerns. These additional criteria are:

- sites with unique problems or scarce qualities.
- sites suited for intense use or development;
- sites vulnerable to impacts from developments and exhibiting an immediacy of need for protection;
- sites with conflicting isssues of concern requiring protection beyond existing plans and management strategies.

Evaluation of over 50 initial nominations resulted in the selection of twelve areas that were proposed for designation as APWS's and submitted to the New York State Department of State's Coastal Management Unit:

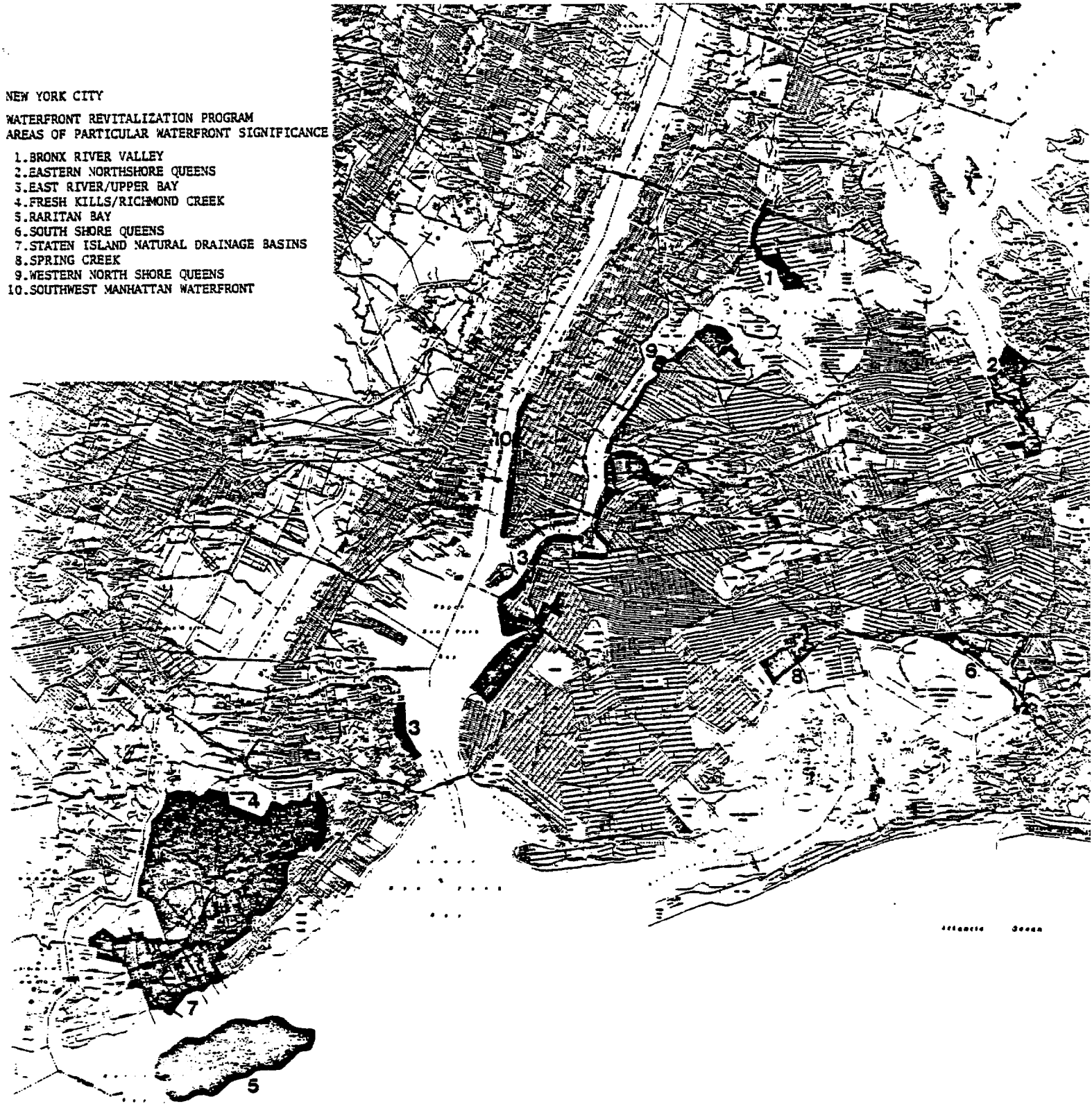
The State then selected ten areas it considered of statewide importance. These areas are: Bronx - Bronx River Valley, Brooklyn - Spring Creek, Manhattan - Southwest Waterfront Area, Queens - Eastern North Shore, South Shore, and Northwest Waterfront, Staten Island - South Richmond Natural Drainage Basin Area, Fresh Kills/Richmond Creek Drainage Basin and Raritan Bay, and City-wide - East River/Upper Bay.

NEW YORK CITY

WATERFRONT REVITALIZATION PROGRAM
AREAS OF PARTICULAR WATERFRONT SIGNIFICANCE

1. BRONX RIVER VALLEY
2. EASTERN NORTHSHORE QUEENS
3. EAST RIVER/UPPER BAY
4. FRESH KILLS/RICHMOND CREEK
5. RARITAN BAY

Areas of Particular Waterfront Significance



6. SOUTH SHORE QUEENS
7. STATEN ISLAND NATURAL DRAINAGE BASINS
8. SPRING CREEK
9. WESTERN NORTH SHORE QUEENS
10. SOUTHWEST MANHATTAN WATERFRONT

The City Coastal Commission will develop management plans for each of these areas. Six plans have been preliminarily drafted to date. They will be submitted for approval as program amendments at a later date.

Community Participation

In the continued planning and implementation these areas, the local government will work with all interests which may be affected by the program's implementation. The Waterfront Revitalization Program will be a detailed program based on extensive dialogue and cooperation among all affected interests of the community and all levels of government. All local authorities will be utilized to enforce the achievement of the community's waterfront needs.

Each plan amendment will undergo review by appropriate City agencies and local community boards through the Uniform Land Use Review Process.

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▶ 3 043 n-us-ny ¶
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▶ 6 090 ǂb ¶
▶ 7 049 NO@M ¶
▶ 8 110 2 National Ocean Survey. ǂb Office of Coastal Zone Management. ¶
▶ 9 245 10 Final environmental impact statement and the New York Coastal Management Program / ǂc prepared by Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, Department of Commerce and New York Department of State. ¶

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OLUC ti "STATE OF NEW YORK COASTAL MANAGEMENT PROGRAM... Record 1 of 3
HELD BY NO@ - 9 OTHER HOLDINGS

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APPENDIX A: MAJOR STATUTORY AND REGULATORY PROVISIONS

1. Power and Responsibility of Department of City Planning -- Charter Section 191.

2. Power and Responsibility of City Planning Commission -- Charter Section 192.

3. Uniform Land Use Review Procedure -- Charter Section 197-c.

4. Zoning Reglations -- Charter Section 200

5. Findings for Board of Standards and Appeals Variances -- Zoning Resolution Section 72-21.

6. City Environmental Quality Review -- Executive Order No. 91.

7. Capital Needs Statement -- Charter Section 214.

8. 197-a Plans -- Charter Section 197-a.

1. Power and Responsibility of Department of City Planning -- Charter Section 191.

§ 191. Department and director of city planning. a. There shall be a department of city planning, the head of which shall be the director of city planning. He shall be chairman and a member of the city planning commission.

b. The director of city planning shall:

1. Advise and assist the mayor, the board of estimate and the council in regard to the physical planning and public improvement aspects of all matters related to the development of the city.

2. Provide staff assistance to the city planning commission in all matters under its jurisdiction.

3. Be the custodian of the city map and record thereof all changes legally authorized.

4. Conduct continuous studies and collect statistical and other data to serve as the basis for planning recommendations.

5. Provide community boards with such staff assistance and other professional and technical assistance as may be necessary to permit such boards to perform their planning duties and responsibilities under this chapter.

6. Perform such other functions as are assigned to him by the mayor or other provisions of law.

c. The department shall employ such planning experts, engineers, architects and other officers and employees as may be required to perform its duties, within the appropriation therefor. *(Amended by Local Law 1969, No. 39; vote of the electors, Nov. 4, 1975)*

2. Power and Responsibility of City Planning Commission -- Charter Section 192.

§ 192. City planning commission. a. There shall be a city planning commission to consist of the chairman and six members to be appointed by the mayor. The appointments shall be made so that there is at least one resident of each borough on the commission. Except as otherwise provided in section one hundred ninety-one, no member shall hold any other city office. Members other than the chairman shall be appointed for a term of eight years. In case of a vacancy in the office of a member other than that of the chairman, the mayor shall appoint a member to serve for the remainder of the unexpired term.

b. One of the members other than the chairman shall be designated by the mayor as vice-chairman and shall serve as such at the pleasure of the mayor. The vice-chairman shall possess the powers and perform the duties of the chairman when the chairman is absent or while a vacancy exists in the office of chairman, and shall at such times serve as director of city planning. *(Amended by vote of the electors, Nov. 4, 1975)*

3. Uniform Land Use Review Procedure -- Charter Section 197-c.

§ 197-c. Uniform land use review procedure. a. Except as otherwise provided in this charter, proposals and applications by any person or agency respecting the use, development or improvement of real property subject to city regulation shall be reviewed pursuant to a uniform review procedure. Such procedure shall apply to changes, approvals, contracts, consents, permits, and authorizations respecting:

(1) The city map pursuant to section one hundred ninety-eight;

(2) Map of a subdivision or platting of land into streets, avenues or public places pursuant to section two hundred two;

(3) Designations of zoning districts under the zoning resolution, including conversion from one land use to another land use;

(4) Special permits pursuant to the zoning resolution;

(5) Site selection for capital projects pursuant to section two hundred twenty-seven;

(6) Franchises and revocable consents involving residential, industrial, commercial or community facility projects pursuant to chapter fourteen;

(7) Improvements in real property the costs of which are payable other than by the city pursuant to section two hundred twenty-nine;

(8) Housing and urban renewal plans and projects pursuant to city, state and federal housing laws;

(9) Land-fills pursuant to chapter fifty-six and other applicable provisions of law;

(10) Sale, lease, other than the lease of office space, exchange, or other disposition of real property to the city and of the real property of the city, and the proposed acquisition, sale or lease of land under water pursuant to section sixty-seven, section sixteen hundred three, chapter fifteen, and other applicable provisions of law; and,

(11) Such other matters involving the use, development or improvement of property as are specified by the board of estimate upon recommendation of the city planning commission.

b. Each proposal or application shall be filed with the department of city planning, which shall forward a copy within five days to the community board for the community district in which the land is located, and to the respective borough board, if the proposal or application involves land located in two or more community districts.

c. Each community board shall (1) notify the public of the proposal or application in a manner specified by the city planning commission pursuant to subsection g of this section, (2) conduct a public hearing, and (3) prepare and submit a written recommendation directly to the city planning commission not later than sixty days after receipt of the proposal or application.

d. A copy of a recommendation by a community board pursuant to subsection c of this section that involves land located within two or more community districts shall also be filed with the borough board within the same time period specified in subsection c of this section. Not later than thirty days after the filing, the borough board may hold a public hearing on any such recommendation and submit a written recommendation to the city planning commission.

e. Not later than sixty days after the filing of any recommendation with it, the city planning commission shall approve, modify, or disapprove the proposal or application and shall file its decision with the board of estimate. The city planning commission shall conduct a public hearing on any proposal or application on which a hearing was not held by a community board or borough board. The commission may waive a public hearing if a community board or borough board held a public hearing after adequate notice. Prior to taking any action pursuant to this subsection on a matter involving the siting of a capital project, the sale, lease, exchange or other disposition of real property, a franchise or a revocable consent, the city planning commission shall obtain a report from the office of management and budget, the department of real estate, or the bureau of franchises, as appropriate. Any action of the city planning commission which modifies or disapproves a recommendation of a community board or borough board shall be accompanied by a written explanation of its reasons for such action.

f. The city planning commission shall file copies of its decision or recommendation with the board of estimate, together with copies of any recommendation of a community board or borough board. Within sixty days of such filing, the board of estimate shall hold a public hearing on the matter and take final action by a majority vote unless otherwise specified in this charter.

g. The city planning commission, after notice and a public hearing, shall establish and publish not later than June first, nineteen hundred seventy-six, guidelines, minimum standards, and procedural requirements for community boards, borough boards and the commission in the exercise of their duties and responsibilities pursuant to this section.

h. If a community board, borough board, or the city planning commission fails to act within the time limits for review pursuant to subsections c, d and e of this section, the proposal or application is referred to the next level of review. If the board of estimate fails to act within the time limit specified in subsection f of this section, any prior decision of the city planning commission is final.

i. Notice of any hearing on a proposal or application by the city planning commission or board of estimate shall be published in the City Record at least ten days immediately prior to the date of the hearing, and a copy of the notice shall be mailed to all community boards or borough boards affected by the proposal or application. *(Adopted by vote of the electors, Nov. 4, 1975)*

4. Zoning Regulations -- Charter Section 200

§ 200. Zoning regulations. Except for changes in the designation of zoning districts and the issuance of special permits under the zoning resolution which are subject to the uniform review procedure pursuant to section one hundred ninety-seven-c and to subsection four of this section, any existing resolution or regulation of the board of estimate or of the city planning commission to regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, to regulate density of population or to regulate and restrict the locations of trades and industries and location of buildings designed for specific uses or creating districts for any such purpose, including any such regulation which provides that the board of standards and appeals may determine and vary the application of such resolutions or regulations in harmony with their general purpose and intent and in accordance with general or specific rules contained in such regulations, may be amended, repealed or added to only in the following manner:

1. The city planning commission may upon its own initiative at any time, or upon application as provided in section two hundred one, adopt a resolution for any such purpose subject to the limitations provided by law. Before adopting any such resolution, the commission shall notify any community board or borough board affected by the resolution and shall afford persons interested an opportunity to be heard at a time and place to be specified in a notice of hearing to be published in the City Record for the ten days of publication of the City Record immediately prior thereto setting forth in general terms the nature of the proposed resolution and a statement of the place at which the entire resolution may be examined. Any such resolution shall be filed with the secretary of the board of estimate within five days from the day of its adoption.

2. Approval, disapproval or modification by the board of estimate of a recommendation by the commission for a change in the zoning resolution must occur within sixty days from the date of filing of the recommendation of the commission with the board. In case the board shall fail to act on such affirmative resolution within such period of sixty days, such change shall be deemed approved and effective on the sixty-first day after the date of filing unless a protest of owners of affected property shall have been filed in accordance with the provisions of subdivision three. Any resolution for a zoning change which the mayor shall have certified to the planning commission as necessary, and which has been disapproved by the commission, may be adopted by the board of estimate by a three-fourths vote and, after notice to the parties affected, a public hearing. The foregoing limitation of sixty days shall be inapplicable to such an adoption and the change shall become effective at a time fixed by the board of estimate.

3. In case a protest against a proposed resolution shall have been presented to the secretary of the board of estimate within thirty days from the date of such filing, duly signed and acknowledged by the owners of twenty per centum or more of the area of:

(1) the land included in changes proposed in such proposed resolution, or

(2) the land immediately adjacent extending one hundred feet therefrom, or

(3) the land, if any, directly opposite thereto extending one hundred feet from the street frontage of such opposite land, such resolution shall not be effective after the filing of such protest unless approved by the board of estimate, either in the form in which it was filed or as modified by the board, by a three-fourths vote of the board within one hundred eighty days after the filing of said resolution with the secretary of the board of estimate. The effective date of such resolution, if so approved, shall be the date of such approval. A protest duly filed as herein provided may be withdrawn at any time within sixty days from the date of the filing of such resolution.

(4) Whenever the city planning commission has not recommended approval of a proposed change in the designation of a zoning district or the issuance of a special permit under the zoning resolution or has failed to act on such a matter with the time specified in section one hundred ninety-seven-c, the board of estimate by a three-fourths vote may approve such change or the issuance of such permit only if the mayor shall have certified to the city planning commission that such change or issuance is necessary. *(Amended by vote of the electors, Nov. 4, 1975)*

5. Findings for Board of Standards and Appeals Variances -- Zoning Resolution Section 72-21.

Findings Required for Variances

When in the course of enforcement of this resolution, any officer from whom an appeal may be taken under the provisions of Section 72-11 (General Provisions) has applied or interpreted a provision of this resolution, and there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such provision, the Board may, in accordance with the requirements set forth in this Section, vary or modify the provision so that the spirit of the law shall be observed, public safety secured, and substantial justice done.

Where it is alleged that there are practical difficulties or unnecessary hardship, the Board may grant a variance in the application of the provisions of this resolution in the specific case, provided that as a condition to the grant of any such variance, the Board shall make each and every one of the following findings:

(a) That there are unique physical conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the particular *zoning lot*; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardship arise in complying strictly with the *use or bulk* provisions of the resolution; and that the alleged practical difficulties or unnecessary hardship are not due to circumstances created generally by the strict application of such provisions in the neighborhood or district in which the *zoning lot* is located.

(b) That because of such physical conditions there is no reasonable possibility that the *development* of the *zoning lot* in strict conformity with the provisions of this resolution will bring a reasonable return, and that the grant of a variance is therefore necessary to enable the owner to realize a reasonable return from such *zoning lot*. This finding shall not be required for the granting of a variance to a non-profit organization.

(c) That the variance, if granted, will not alter the essential character of the neighborhood or district in which the *zoning lot* is located; will not substantially impair the appropriate use or development of adjacent property; and will not be detrimental to the public welfare.

(d) That the practical difficulties or unnecessary hardship claimed as a ground for a variance have not been created by the owner or by a predecessor in title. Where all other required findings are made, the purchase of a *zoning lot* subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.

(e) That within the intent and purposes of this resolution the variance, if granted, is the minimum variance necessary to afford relief; and to this end, the Board may permit a lesser variance than that applied for.

It shall be a further requirement that the decision or determination of the Board shall set forth each required finding in each specific grant of a variance, and in each denial thereof which of the required findings have not been satisfied. In any such case, each finding shall be supported by substantial evidence or other data considered by the Board in reaching its decision, including the personal knowledge of or inspection by the members of the Board. Reports of other City agencies made as a result of inquiry by the Board shall not be considered hearsay, but may be considered by the Board as if the data therein contained were secured by personal inspection.

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 91

AUGUST 24, 1977

CITY ENVIRONMENTAL QUALITY REVIEW

WHEREAS, the improvement of our urban environment is critically important to the overall welfare of the people of the City; and

WHEREAS, the development and growth of the City can and should be reconciled with the improvement of our urban environment; and

WHEREAS, it is the continuing policy of the City that environmental, social and economic factors be considered before governmental approval is given to proposed activities that may significantly affect our urban environment; and

WHEREAS, subdivision (3) of section 8-0113 of Article 8 of the New York State Environmental Conservation Law (State Environmental Quality Review Act, or "SEQRA") and the regulations promulgated thereunder (6 NYCRR 617) authorizes local governments to adopt rules, procedures, criteria and guidelines for incorporating environmental quality review procedures into existing planning and decision making processes; and

WHEREAS, the procedures formulated in this Executive Order are intended to be integrated into existing agency procedures, including the Uniform Land Use Review Procedure contained in section 197-c of Chapter 8 of the City Charter, in order to avoid delay and to encourage a one-stop review process; and

WHEREAS, section 8-0117 of SEQRA, as amended, provides that only actions or classes of actions identified by the State Department of Environmental Conservation as likely to require preparation of an environmental impact statement shall be subject to this Executive Order until September 1, 1978, after which date non-exempt actions will be fully subject to this Executive Order; and

WHEREAS, the implementation of SEQRA in the City by this Executive Order will accomplish the purposes for which Executive Order No. 87 of October 18, 1973 ("Environmental Review of Major Projects") was promulgated and will continue the policy established therein.

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, Executive Order No. 87 of October 18, 1973 is, in accordance with the provisions of sections 16 and 18 hereunder, hereby replaced by this Executive Order as follows:

Section 1. Definitions

As used herein, the following terms shall have the indicated meanings unless noted otherwise:

(a) Action means any activity of an agency, other than an exempt action enumerated in section 4 of this Executive Order, including but not limited to the following:

(1) non-ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;

(2) non-ministerial decisions on funding activities such as the proposing, approval or disapproval of contracts, grants, subsidies, loans, tax abatements or exemptions or other forms of direct or indirect financial assistance, other than expense budget funding activities;

(3) planning activities such as site selection for other activities and the proposing, approval or disapproval of master or long range plans, zoning or other land use maps, ordinances or regulations, development plans or other plans designed to provide a program for future activities;

(4) policy making activities such as the making, modification or establishment of rules, regulations, procedures, policies and guidelines;

(5) non-ministerial decisions on licensing activities, such as the proposing, approval or disapproval of a lease, permit, license, certificate or other entitlement for use or permission to act.

(b) Applicant means any person required to file an application pursuant to this Executive Order.

(c) Agency means any agency, administration, department, board, commission, council, governing body or any other governmental entity of the City of New York, unless otherwise specifically referred to as a state or federal agency.

(d) Conditional negative declaration means a written statement prepared by the lead agencies after conducting an environmental analysis of an action and accepted by the applicant in writing, which announces that the lead agencies have determined that the action will not have a significant effect on the environment if the action is modified in accordance with conditions or alternatives designed to avoid adverse environmental impacts.

(e) DEC means the New York State Department of Environmental Conservation.

(f) Environment means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

(g) Environmental analysis means the lead agencies' evaluation of the short and long term, primary and secondary environmental effects of an action, with particular attention to the same areas of environmental impacts as would be contained in an EIS. It is the means by which the lead agencies determine whether an action under consideration may or will not have a significant effect on the environment.

(h) Environmental assessment form means a written form completed by the lead agencies, designed to assist their evaluation of actions to determine whether an action under consideration may or will not have a significant effect on the environment.

(i) Environmental impact statement (EIS) means a written document prepared in accordance with sections 8, 9, 11 and 13 of this Executive Order. An EIS may either be in a draft or a final form.

(j) Environmental report means a report to be submitted to the lead agencies by a non-agency applicant when the lead agencies prepare or cause to be prepared a draft EIS for an action involving such an applicant. An environmental report shall contain an analysis of the environmental factors specified in section 9 of this Executive Order as they relate to the applicant's proposed action and such other information as may be necessary for compliance with this Executive Order, including the preparation of an EIS.

(k) Lead agencies means the Department of Environmental Protection

and the Department of City Planning of the City of New York, as designated by the Mayor pursuant to section 617.4 of Part 617 of Volume 6 of the New York Code of Rules and Regulations, for the purpose of implementing the provisions of Article 8 of the Environmental Conservation Law (SEQRA) in the City of New York, by order dated December 23, 1976.

(l) Ministerial action means an action performed upon a given state of facts in a prescribed manner imposed by law without the exercise of any judgment or discretion as to the propriety of the action, although such law may require, in some degree, a construction of its language or intent.

(m) Negative declaration means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.

(n) Notice of determination means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS.

(o) NYCRR means the New York Code of Rules and Regulations.

(p) Person means an agency, individual, corporation, governmental entity, partnership, association, trustee or other legal entity.

(q) Project data statement means a written submission to the lead agencies by an applicant on a form prescribed by the lead agencies, which provides an identification of and information relating to the environmental impacts of a proposed action. The project data statement is designed to assist the lead agencies in their evaluation of

an action to determine whether an action under consideration may or will not have significant effect on the environment.

(r) SEQRA means the State Environmental Quality Review Act (Article 8 of the New York State Environmental Conservation Law).

(s) Typically associated environmental effect means changes in one or more natural resources which usually occur because of impacts on other such resources as a result of natural interrelationships or cycles.

(t) ULURP means the Uniform Land Use Review Procedure (section 197-c of Chapter 8 of the New York City Charter).

§ 2. General rule

No final decision to carry out or approve any action which may have a significant effect on the environment shall be made by any agency until there has been full compliance with the provisions of this Executive Order.

§ 3. Actions involving federal or state participation

(a) If an action under consideration by any agency may involve a "major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969," then the following procedures shall apply:

(1) in the case of an action for which there has been duly prepared both a draft EIS and a final EIS, no agency shall have an obligation to prepare an EIS or to make findings pursuant to section 12 of this Executive Order.

(2) in the case of an action for which there has been prepared a Negative Declaration or other written threshold determination that the action will not require a federal impact statement

under the National Environmental Policy Act of 1969, the lead agencies shall determine whether or not the action may have a significant effect on the environment pursuant to this Executive Order, and the action shall be fully subject to the same.

(b) If an action under consideration by any agency may involve any state action which may have a significant effect on the environment under SEQRA, pursuant to which a state agency is required to comply with the procedures specified in 6 NYCRR 617, then the determination as to whether the state agency or the lead agencies shall be responsible for the environmental review shall be made on the basis of the following criteria:

(1) the agency to first act on the proposed action;

(2) a determination of which agency has the greatest responsibility for supervising or approving the action as a whole;

(3) a determination of which agency has more general governmental powers as compared to single or limited powers or purposes;

(4) a determination of which agency has the greatest capability for providing the most thorough environmental assessment of the action;

(5) a determination of whether the anticipated impacts of the action being considered are primarily of statewide, regional or local concern, e.g., if such impacts are primarily of local concern, the lead agencies shall conduct the environmental review.

If this determination cannot be made within 30 days of the filing of an application, the Commissioner of DEC shall be requested, in writing, to make such determination.

§ 4. Exempt actions

The following actions shall not be subject to the provisions of this Executive Order:

(a) projects or activities classified as Type I pursuant to section 15 of this Executive Order directly undertaken or funded by an agency prior to June 1, 1977 except that if such action is sought to be modified after June 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;

(1) such actions include, but are not limited to, those actions defined in sections 1(a)(1),(2),(3) and (4) of this Executive Order;

(2) an action shall be deemed to be undertaken at the point that:

(i) the agency is irreversibly bound or committed to the ultimate completion of a specifically designed activity or project; or

(ii) in the case of construction activities, a contract for substantial construction has been entered into or if a continuous program of on-site construction or modification has been engaged in; or

(iii) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or

(iv) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.

(b) projects or activities classified as Type I pursuant to section 15 of this Executive Order approved by an agency prior to September 1, 1977 except that if such action is sought to be modified after September 1, 1977, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to the requirements of this Executive Order;

(1) such actions include, but are not limited to, those actions defined in sections 1(a)(2) and (5) of this Executive Order;

(2) an action shall be deemed to be approved at the point that:

(i) the agency gives final approval for the issuance to an applicant of a discretionary contract, grant, subsidy, loan or other form of financial assistance; or

(ii) the agency gives final approval for the issuance to an applicant of a discretionary lease, permit, licence, certificate or other entitlement for use or permission to act; or

(iii) in the case of an action involving federal or state participation, a draft EIS has been prepared pursuant to the National Environmental Policy Act of 1969 or SEQRA, respectively.

(c) projects or activities not otherwise classified as Type I pursuant to section 15 of this Executive Order directly undertaken, funded or approved by an agency prior to September 1, 1978 except that if such action is sought to be modified after September 1, 1978, which modification may have a significant adverse effect on the environment, then such modification shall be an action fully subject to

the requirements of this Executive Order;

(1) such actions include, but are not limited to, those actions defined in section 1(a) of this Executive Order;

(2) an action shall be deemed to be undertaken as provided in subsections (a)(2) and (b)(2) of this section, as applicable.

(d) enforcement or criminal proceedings or the exercise of prosecutorial discretion in determining whether or not to institute such proceedings;

(e) ministerial actions, which shall appear on a list compiled, certified and made available for public inspection by the lead agencies, except as provided in section 15, Type I, of this Executive Order, relating to critical areas and historic resources;

(f) maintenance or repair involving no substantial changes in existing structures or facilities;

(g) actions subject to the provisions requiring a certificate of environmental compatibility and public need in Articles 7 and 8 of the Public Service Law;

(h) actions which are immediately necessary on a limited emergency basis for the protection or preservation of life, health, property or natural resources; and

(i) actions of the Legislature of the State of New York or of any court.

§ 5. Determination of significant effect; applications

(a) Each agency shall ascertain whether an application need be filed pursuant to this section, employing lists of actions, classified as either exempt, Type I or Type II pursuant to sections 4 and 15 of this Executive Order, respectively, which lists shall be certified by the lead agencies.

(b) The applicant initiating the proposed action, other than an exempt or Type II action pursuant to sections 4 and 15 of this Executive Order, shall file an application with the lead agencies, which application shall include a Project Data Statement and such other documents and additional information as the lead agencies may require to conduct an environmental analysis to determine whether the action may or will not have a significant effect on the environment. Where possible existing City applications shall be modified to incorporate this procedure and a one-stop review process developed;

(1) within 20 calendar days of receipt of the application, or of a determination pursuant to section 3(b) of this Executive Order, if applicable, the lead agencies shall notify the applicant, in writing, whether the application is complete or whether additional information is required;

(2) when all required information has been received, the lead agencies shall notify the applicant, in writing, that the application is complete.

(c) Each application shall include an identification of those agencies, including federal and state agencies, which to the best knowledge of the applicant, have jurisdiction by law over the action or any portion thereof.

(d) Where appropriate, the application documents may include a concise statement or reasons why, in the judgment of the applicant, the proposed action is one which will not require the preparation of an EIS pursuant to this Executive Order.

(e) Initiating applicants shall consider the environmental impacts of proposed actions and alternatives at the earliest possible point in their planning processes, and shall develop wherever possible, measures to mitigate or avoid adverse environmental impacts. A statement discussing such considerations, alternatives and mitigating measures shall be included in the application documents.

(f) Nothing in this section shall be deemed to prohibit an applicant from submitting a preliminary application in the early stages of a project or activity for review and comment by the lead agencies.

§ 6. Determination of significant effect; criteria

(a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:

(1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;

(2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;

(3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;

(4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;

(5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;

(6) a major change in the use of either the quantity or type of energy;

(7) the creation of a hazard to human health or safety;

(8) a substantial change in the use of intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to section 13 of this Executive Order;

(9) the creation of a material demand for other actions which would result in one of the above consequences;

(10) changes in two or more elements of the environment, no one of which is substantial, but when taken together result in a material change in the environment.

(b) For the purpose of determining whether an action will cause one of the foregoing consequences, the action shall be deemed to include other contemporaneous or subsequent actions which are included in any long-range comprehensive integrated plan of which the action under consideration is a part, which are likely to be undertaken as a result thereof, or which are dependent thereon. The significance of a likely consequence (i.e. whether it is material, substantial, large, important, etc.) should be assessed in connection with its setting, its probability of occurring, its duration, its irreversibility, its controllability, its geographic scope and its magnitude (i.e. degree

of change or its absolute size). Section 15 of this Executive Order refers to lists of actions which are likely to have a significant effect on the environment and contains lists of actions found not to have a significant effect on the environment.

§ 7. Determination of significant effect; notification

(a) The lead agencies shall determine within 15 calendar days following notification of completion of the application pursuant to section 5(a) of this Executive Order whether the proposed action may have a significant effect on the environment;

(1) in making their determination, the lead agencies shall employ the Environmental Assessment Form, apply the criteria contained in section 6 and consider the lists of actions contained in section 15 of this Executive Order;

(2) the lead agencies may consult with, and shall receive the cooperation of any other agency before making their determination pursuant to this subsection.

(b) The lead agencies shall provide written notification to the applicant immediately upon determination of whether the action may or will not have a significant effect on the environment. Such determination shall be in one of the following forms:

(1) Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to sections 4 and 15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information:

(i) an action identifying number;

(ii) a brief description of the action;

(iii) the proposed location of the action;

(iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment;

(v) a statement setting forth the reasons supporting the lead agencies' determination.

(2) Conditional Negative Declaration. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to sections 4 and 15 of this Executive Order, respectively, and that the action will not have a significant effect on the environment if the applicant modifies its proposed action in accordance with conditions or alternatives designed to avoid adverse environmental impacts, they shall issue a Conditional Negative Declaration which shall contain the following information (in addition to the information required for a Negative Declaration pursuant to paragraph (1) of this subsection):

(i) a list of the conditions, modifications or alternatives to the proposed action which supports the determination;

(ii) the signature of the applicant or its authorized representative, accepting the conditions, modifications or alternatives to the proposed action;

(iii) a statement that if such conditions, modifications or alternatives are not fully incorporated into the proposed action, such Conditional Negative Declaration shall become null and void. In such event, a Notice of Determination shall be immediately issued pursuant to paragraph (3) of this subsection.

(3) Notice of Determination. If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to sections 4 and 15 of this Executive Order, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information:

(i) an action identifying number;

(ii) a brief description of the action;

(iii) the proposed location of the action;

(iv) a brief description of the possible significant effects on the environment of the action;

(v) a request that the applicant prepare or cause to be prepared, at its option, a draft EIS in accordance with sections 8 and 9 of this Executive Order.

(c) The lead agencies shall make available for public inspection the Negative Declaration, Conditional Negative Declaration or the Notice of Determination, as the case may be, and circulate copies of the same to the applicant, the regional director of DEC, the commissioner of DEC, the appropriate Community Planning Board(s), the City Clerk, and all other agencies, including federal and state agencies, which may be involved in the proposed action.

§ 8. Draft environmental impact statements; responsibility for preparation

(a) Non-agency applicants:

(1) after receipt of a Notice of Determination pursuant to section 7(c)(3) of this Executive Order, a non-agency applicant shall notify the lead agencies in writing as to whether it will

exercise its option to prepare or cause to be prepared a draft EIS, and as to whom it has designated to prepare the draft EIS, provided that no person so designated shall have an investment or employment interest in the ultimate realization of the proposed action;

(2) the lead agencies may prepare or cause to be prepared a draft EIS for an action involving a non-agency applicant. In such event, the applicant shall provide, upon request, an environmental report to assist the lead agencies in preparing or causing to be prepared the draft EIS and such other information as may be necessary. All agencies shall fully cooperate with the lead agencies in all matters relating to the preparation of the draft EIS.

(3) if the non-agency applicant does not exercise its option to prepare or cause to be prepared a draft EIS, and the lead agencies do not prepare or cause to be prepared such draft EIS, then the proposed action and review thereof shall terminate.

(b) Agency applicants:

(1) when an action which may have a significant effect on the environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS. However, preparation of the draft EIS may be coordinated through the lead agencies.

(2) all agencies, whether or not they may be involved in the proposed action, shall fully cooperate with the lead agencies and the applicant agency in all matters relating to the coordination of the preparation of the draft EIS.

(c) Notwithstanding the provisions contained in subsections (a) and (b) of this section, when a draft EIS is prepared, the lead agencies shall make their own independent judgment of the scope, contents and adequacy of such draft EIS.

§ 9. Environmental impact statements; content

(a) Environmental impact statements should be clearly written in a brief and concise manner capable of being read and understood by the public. Within the framework presented in subsection (d) of this section, such statements should deal only with the specific significant environmental impacts which can be reasonably anticipated. They should not contain more detail than is appropriate considering the nature and magnitude of the proposed action and the significance of its potential impacts.

(b) All draft and final EIS's shall be preceded by a cover sheet stating:

(1) whether it is a draft or a final;

(2) the name or other descriptive title of the action;

(3) the location of the action;

(4) the name and address of the lead agencies and the name and telephone number of a person at the lead agencies to be contacted for further information;

(5) identification of individuals or organizations which prepared any portion of the statement; and

(6) the date of its completion.

(c) If a draft or final EIS exceeds ten pages in length, it shall have a table of contents following the cover sheet.

(d) The body of all draft and final EIS's shall at least contain

the following:

(1) a description of the proposed action and its environmental setting;

(2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typical associated environmental effects;

(3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;

(4) a discussion of the social and economic impacts of the proposed action;

(5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;

(6) an identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(7) a description of mitigation measures proposed to minimize adverse environmental impacts;

(8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;

(9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;

(10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and

(11) (forthe final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant's response to such comments.

(e) An EIS may incorporate by reference all or portions of other documents which contain information relevant to the statement. The referenced documents shall be made available to the public in the same places where copies of the statement are made available. When a statement uses incorporation by reference, the referenced document shall be briefly described and its date of preparation provided.

§ 10. Draft environmental impact statements; procedures

(a) Notice of Completion. Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in paragraphs (1), (2) and (3) of this subsection. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure ("ULURP"), the City Planning Commission shall not certify an application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subsection.

(1) Contents of Notice of Completion. All Notices of Completion shall contain the following:

(i) an action identifying number;

(ii) a brief description of the action;

(iii) the location of the action and its potential impacts and effects; and

(iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than

10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.

(2) Circulating Notice of Completion. All Notices of Completion shall be circulated to the following:

(i) all other agencies, including federal and state agencies, involved in the proposed action;

(ii) all persons who have requested it;

(iii) the editor of the State Bulletin;

(iv) the State clearinghouse;

(v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

(3) Filing Notice of Completion. All Notices of Completion shall be filed with and made available for public inspection by the following:

(i) the Commissioner of DEC;

(ii) the regional director of DEC;

(iii) the agency applicant, where applicable;

(iv) the appropriate Community Planning Board(s);

(v) the City Clerk;

(vi) the lead agencies.

(b) Filing and availability of draft EIS. All draft EIS's shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to subsection (a)(3) of this section.

(c) Public hearings on draft EIS.

(1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.

(2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subsection (b) of this section, except where a different hearing date is required as appropriate under another law or regulation.

(3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the Notice of Completion is circulated and filed pursuant to subsection (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.

(4) Where a proposed action is simultaneously subject to ULURP, a public hearing conducted by the appropriate community or borough board and/or the City Planning Commission pursuant to ULURP shall satisfy the hearing requirement of this section. Where more than one hearing is conducted by the aforementioned bodies, whichever hearing last occurs shall be deemed the hearing for purposes of this Executive Order.

§ 11. Final environmental impact statements; procedures

(a) Except as provided in paragraph (1) of this subsection, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing

(1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect

on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and circulate a Negative Declaration as prescribed in section 7 of this Executive Order.

(2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in the light of further review by the lead agencies, comments received and the record of the public hearing.

(b) immediately upon the completion of a final EIS, the lead agencies shall prepare, file, circulate and make available for public inspection a Notice of Completion of a final EIS in the manner specified in section 10(a) of this Executive Order, provided, however, that the Notice shall not contain the statement described in paragraph (1)(iv) of such section.

(c) Immediately upon completion of a final EIS, copies shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to section 10(b) of this Executive Order.

§ 12. Agency decision making

(a) No final decision to carry out or approve an action which may have a significant effect on the environment shall be made until after the filing and consideration of a final EIS.

(1) Except as provided in paragraph (2) of this subsection where a final decision whether or not to carry out or approve an action is required by law to be made by any agency, such decision shall be made within 30 calendar days of the filing of a final EIS.

(2) Where a proposed action is simultaneously subject to ULURP, the final decision whether or not to carry out or approve the

action shall be made by the Board of Estimate within 60 calendar days of the filing of the final EIS.

(b) When an agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written decision:

(1) consistent with social, economic and other essential considerations of state and city policy, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects to the maximum extent possible, including the effects disclosed in the relevant environmental impact statement;

(2) consistent with social, economic and other essential considerations of state and city policy, all practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

(c) For public information purposes, a copy of the Decision shall be filed in the same manner as the draft EIS pursuant to section 10(b) of this Executive Order.

§ 13. Programmatic environmental impact statements

(a) Whenever possible, agencies shall identify programs or categories of actions, particularly projects or plans which are wide in scope or implemented over a long time frame, which would most appropriately serve as the subject of a single EIS. Broad program statements, master or area wide statements, or statements for comprehensive plans are often appropriate to assess the environmental effects of the following:

(1) a number of separate actions in a given geographic area;

(2) a chain of contemplated actions;

(3) separate actions having generic or common impacts;

(4) programs or plans having wide application or restricting the range of future alternative policies or projects.

(b) No further EIS's need be prepared for actions which are included in a programmatic EIS prepared pursuant to subsection (a) of this section. However:

(1) a programmatic EIS shall be amended or supplemented to reflect impacts which are not addressed or adequately analyzed in the EIS as originally prepared; and

(2) actions which significantly modify a plan or program which has been the subject of an EIS shall require a supplementary EIS;

(3) programmatic EIS's requiring amendment and actions requiring supplementary EIS's pursuant to this subsection shall be processed in full compliance with the requirements of this Executive Order.

§ 14. Rules and regulations

The lead agencies shall promulgate such rules, regulations, guidelines, forms and additional procedures as may be necessary to implement this Executive Order.

§ 15. Lists of actions

TYPE I

Type I actions enumerated in section 617.12 of 6 NYCRR 617 are likely to, but will not necessarily, require the preparation of an EIS because they will in almost every instance significantly affect the environment. However, ministerial actions never require the preparation of an EIS except where such actions may directly affect a critical area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of section 617.12. In

addition, for the purpose of defining paragraph (2) of said subdivision and section, the following thresholds shall apply:

(a) relating to public institutions:

(1) new correction or detention centers with an inmate capacity of at least 200 inmates;

(2) new sanitation facilities, including:

(i) incinerators of at least 250 tons/day capacity;

(ii) garages with a capacity of more than 50 vehicles;

(iii) marine transfer stations;

(3) new hospital or health related facilities containing at least 100,000 sq. ft. of floor area;

(4) new schools with seating capacity of at least 1500 seats;

(5) any new community or public facility not otherwise specified herein, containing at least 100,000 sq. ft. of floor area, or the expansion of an existing facility by more than 50 percent of size or capacity, where the total size of the expanded facility exceeds 100,000 sq. ft. of floor area.

(b) relating to major office centers: any new office structure which has a minimum of 200,000 sq. ft. of floor area and exceeds permitted floor area under existing zoning by more than 20 percent, or the expansion of an existing facility by more than 50 percent of floor area, where the total size of the expanded facility exceeds 240,000 sq. ft. of floor area.

TYPE II

(a) Type II actions will never require the preparation of an EIS because they are determined not to have a significant effect on the environment, except where such actions may directly affect a critical

area or an historic resource enumerated in paragraphs (22) and (23), respectively, of subdivision (a) of section 617.12 of 6 NYCRR 617.

(b) Pursuant to SEQRA, as amended, a list of Type II actions shall be promulgated prior to July 1, 1978, to become effective on September 1, 1978.

§ 16. Related orders; repeal

(a) Executive Order No. 87 of October 18, 1973 shall remain in effect prior to the effective dates of this Executive Order pursuant to Article 8 of the Environmental Conservation Law.

(b) In the event of the repeal of Article 8 of the Environmental Conservation Law, Executive Order No. 87 of October 18, 1973 shall replace this Executive Order.

§ 17. Evaluation of effectiveness

The lead agencies shall conduct a public hearing, not later than June 1, 1979, for the purpose of evaluating the effectiveness of this Executive Order in implementing the State Environmental Quality Review Act, and its impact on the City's physical and economic development process.

§ 18. Effective date

This Executive Order shall take effect immediately.

ABRAHAM D. BEAME
M A Y O R

7. Capital Needs Statement -- Charter Section 214

§ 214. Departmental estimates for capital projects. a. On such date as the mayor may direct, but not later than the fifteenth day of December, the head of each agency shall submit to the mayor, the board of estimate, the council, the city planning commission, and the department of city planning a detailed estimate of all capital projects pending or which he believes should be undertaken within the ensuing fiscal year and the three succeeding fiscal years. The estimates shall be known as departmental estimates for capital projects and shall be in such form and contain such information as may be required by the mayor. Copies of departmental estimates shall be forwarded to each community board and borough board. Agencies shall consult with the community boards in the preparation of the estimates.

b. Not later than the first day of February, each community board shall (1) hold a public hearing on the departmental estimates with respect to the capital needs and priorities of the community district, and (2) submit a statement of its budget priorities and capital improvement needs for the ensuing fiscal year and the three succeeding fiscal years to the mayor, board of estimate, council, city planning commission, department of city planning, and the respective borough board.

c. Not later than the tenth day of February, each borough board shall submit a comprehensive statement of the budget priorities and needs of the borough for the fiscal year and three succeeding years to the mayor, board of estimate, council, city planning commission, and department of city planning.

d. Not later than the first day of March, the city planning commission shall submit to the mayor, board of estimate, and council a report containing a statement of the city's capital needs and priorities, including recommended dollar allocations for general categories of programs and an explanation of recommended priorities among such categories of programs and their likely impact on the orderly growth and development of the city. *(Formerly § 213. Amended by Local Law 1963, No. 30; amended and renumbered by vote of the electors, Nov. 4, 1975; Local Law 1977, No. 12)*

8. 197a Plans -- Charter Section 197a.

§ 197-a. **Plans.** a. The city planning commission shall be responsible for the conduct of planning relating to the orderly growth and improvement and future development of the city, including adequate and appropriate resources for the housing, business, industry, transportation, distribution, recreation, comfort, convenience, health and welfare of its population. Plans for the development, growth, and improvement of the city and of its boroughs and community districts may be initiated by (1) the mayor, (2) the city planning commission, (3) a borough board with respect to land located within two or more community districts, or (4) a community board with respect to land located within a community district. A community board or borough board that initiates any such plan shall conduct a public hearing on it and submit a written recommendation to the city planning commission. Plans initiated by the mayor or the city planning commission shall be referred to the affected community board or borough board for review and recommendation after public hearing. The mayor or the city planning commission, respectively, shall establish the procedures and schedule for review by community boards and borough boards and for public hearings on any plans initiated by them which involve matters of city-wide concern.

b. The city planning commission shall review any plan initiated pursuant to subsection a of this section, hold a public hearing on it and recommend to the board of estimate approval or disapproval of the plan. The board of estimate shall hold a public hearing, and thereafter by a three-fourths vote may override any action of the city planning commission which disapproved a plan. If the city planning commission has approved a plan, the board of estimate may take final action on it by majority vote. Copies of approved plans shall be filed with the city clerk, the department of city planning, the borough president, and the borough board and community boards affected. *(Adopted by vote of the electors, Nov. 4, 1975)*

APPENDIX B: FUTURE APPROACHES

Introduction

It was stated in Chapter V that while there exist many areas of conflicting interests and overlapping authorities and controls, there are no significant governmental objectives or functional areas that are not at work in the complex system which has evolved over the years to manage the New York City Waterfront area. In short, regulatory gaps are almost non-existent; the major problem is institutional and regulatory overlap.

The primary land use management tool of New York City, the City Zoning Resolution must be revised to remove conflicts, incorporate Waterfront Management guidelines, policies and standards and to streamline the development process where appropriate.

This appendix summarizes some standards and guidelines which will be followed to adjust the City Zoning Resolution within the boundaries of the New York City Waterfront Area and outlines the existing or additional authorities required to implement such a system. If approved, these changes will become amendments to the New York City Waterfront Revitalization Program.

Flood Plains

Standards:

New York City, as of July, 1975, became a participant in the National Flood Insurance Program. The program, administered by the U.S. Department of Housing and Urban Development's Federal Insurance Administration (FIA), pursuant to 42 U.S.C. Section 401, enables persons to purchase insurance against losses from physical damage to or loss real or personal property caused by floods.

Maps developed by FIA the purposes of this program identify areas within which flood protection measures must be undertaken for all new construction or substanial improvements existing structures (i.e., additions, major renovations, etc.).

These flood protection measures, basically construction standards, were added by Local Law No. 13 (1975) to the New York City Building Code and are enforced by the New York City Department of Buildings.

The more significant aspects of these regulations are:

- all new residential and institutional buildings must be built with the lowest residential floor at or above elevation + 8.6 U.S datum (approximately + 6.0± on the local borough datum). For two-family or larger residential building, all levels below this datum are limited to non-residential areas (i.e., garage, cellar, utility room, etc.) and must be flood proofed;

- non-residential buildings can have floor area below the +8.6 elevation provided the space is flood proofed; and,

- within special flood hazard areas and below the regulatory flood datum, materials, designs and construction of structural elements must conform with Reference Standard RS 4-5, Flood Proofing Regulations published by the Office of the Chief of Engineers, U.S. Army, Washington, D.C. dated June 1972, Sections 210.1 through 210.4, Table I, Chapters 3, 4, 5, 6, 7, 8, 13 and 14. Please refer to that document for details along with the New York City Building Code, New York City Administrative Code Section C26-409.2, et. seq.

It should be noted that all property owners in New York City are now eligible for subsized flood insurance due the passage of Local Law 13. Property owners are able to obtain this insurance without being required to make any physical changes to existing structures or property no matter what the present condition of these structures or to what elevations they were built. Property owners whose property are not in flood-prone areas but are subjected to flooding during and after heavy rainfall for any reason, e.g., inadequate sewers, are also eligible. Property owners in flood-prone areas applying for mortgage or other loans from banks or other lending institutions are now required to obtain flood insurance as a condition for receiving the loan. While this is a requirement for Federally assisted mortgage loans, it has been extended by the banks to include all loans.

Authorities:

Existing performance standards in the City Building Code, New York City Administrative Code Section C26-400.1 et. seq., that were added by Local Law No. 13 (1975) so that the City could participate in the National Flood Insurance Program are adequate to prevent major flood damage to newly constructed buildings in New York City's flood plains. Performance standards related to environmental protection of sensitive features within flood plains, in contrast to the protection of structures, will be developed.

Steep Slopes

Standards:

Construction guidelines applicable to new developments that would result in structures able to minimize the hazards to both the new development and the environment associated with steep slopes will be developed by the New York Department of City Planning. Such construction guidelines will be applicable to new developments or significant site alterations and will result in structures able to minimize the hazards to both the new development or site alteration and the environment. However, steep slope hazards are dependent on soil type and condition, information not inventoried on a city-wide basis. This information can be obtained, as mentioned in Chapter 2, by designation of the City as a Soil Conservation District and assistance from the U.S. Soil Conservation Service. After this information is gathered for the City, a developer will be required to design and locate his building in accordance with the performance standards pertaining to those soil conditions on his site. In addition, all steep slopes in New York City waterfront area that have scenic value will be identified and development or site alteration only allowed if the proposed action does not destroy the aesthetic value of site topography.

Authorities:

Two different additional authorities are needed for steep areas: one, to protect future developments from the hazards of locating on steep slopes, e.g., erosion and mudslides; and two, to preserve areas of steep slopes for their aesthetic value.

Construction standards to protect newly constructed buildings from the hazards associated with steep slopes will be authorized by new provisions in the City Building Code and the Zoning Resolution. This authority, like other controls in the City Building Code will be enforced by the Department or Ports and Terminals for waterfront commerce structures, New York City Charter Section 704 (1977), and the Department of Buildings for all other structures, New York City Charter Section 643 (1977), through these Departments' issuance of building permits and certificates of occupancy.

Preservation of steep slopes for scenic value will be authorized by a new zoning control patterned after the steep slope preservation provisions in the Special South Richmond Development District, New York City Zoning Resolution Section 107-00 et. seq. This authority will be enforced by the Departments of Buildings, and Ports and Terminals through their issuance of building permits and certificates of occupancy.

High Water Table/Shallow Soils

Standards:

The New York City Department of City Planning has been investigating construction standards to protect both newly constructed buildings from hazards associated with areas of high water table or shallow soils and to protect groundwater in such areas.

AUTHORITIES:

Construction standards to protect newly constructed buildings from the hazards associated with areas of a high water table or shallow soils and to protect the groundwater in such areas will be authorized by new provisions in the City Building Code. This authority, like other controls in the City Building Code, will be enforced as now by the Department of Ports and Terminals for waterfront commerce structures, New York City Charter Section 704 (1977), and the Department of Buildings for all other structures, New York City Charter Section 643 (1977), through the issuance of building permits and certificates of occupancy.

Significant Flora and Fauna Areas

Standards:

As discussed in Chapter 2 (significant flora and fauna and unique flora and fauna sections) the New York City Department of City Planning has undertaken an extensive effort to develop a data base and criteria to identify significant flora and fauna. Areas for preservation of existing habitats, areas where new ecosystems should be created and areas where new fish or wildlife species should be introduced to an existing natural habitat will be designated.

Standards and criteria regarding the maintenance of plants and animals on these sites in the appropriate density and variety to maintain a viable habitat by assuring the reproductive cycles of the desired species, and by assuring food sources throughout the entire food cycle for the desired species are also under investigation.

Preliminary work indicates the standards to be applied to land use and development in management areas should be based on the following elements:

- the use, operation or development should not be a source of poisons, toxins or contamination of the animal/plant system. These toxins, poisons or contaminants are to be identified from existing health and hazard codes, and from knowledge of compounds which are known to affect the food chain and specific organisms comprising the system in the area;

- the use, operation or development should not create potentially disastrous conditions which can destroy or eliminate the plant and animal system for the area without well developed plans, designs or procedures as to how to prevent such disasters or arrest their damage.

- top soil of the area around the use, development and operation shall not be destroyed, buried, eroded or eliminated. Where possible, existing soil shall be improved in quality or extent;

- drainage from development, use or operations shall not create water runoff which will erode, cause fluctuations in either water quality or quantity which are destructive to the plant and animal system for the immediate surrounding area or subsequent areas through which it passes;

- the development, use or operation should serve to extend and improve the plant and animal association designated for the area;

- an area planting requirement should be established which may be met at alternative locations removed from the development site - these requirements would establish the desired mixture of species and the quantities of each to be established and maintained;

- the development; use or operation should serve to protect, establish or extend the nesting and feeding habitat for the animal population being managed;

- animal circulation should not be unduly restricted by siting or construction detail or timing of operations; and,

- the introduction of or reduction of animals into the area as a result of the development use or operation should be clarified as to numbers and types so as to not upset the plant/animal balance found or anticipated for the area.

Authorities:

Coastal Management proposed land or water uses (i.e., those activities that tend to impact flora or fauna) in the waterfront area will be required to be designed in conformance with performance standards regarding the maintenance of plants and animals on the site in the appropriate density and variety to maintain a viable habitat by assuring the reproductive cycles of the desired species, and by assuring food sources throughout the entire food cycle for the desired species. This additional authority will be added to the City Zoning Resolution as a voluntary requirement.

This authority will be enforced by the Departments of Buildings and Ports and Terminals through their issuance of building permits and certificates of occupancy.

Scenic Vistas

Standards:

The New York City Department of City Planning has been investigating standards and criteria to preserve scenic vistas for their aesthetic value.

Authorities:

Preservation of scenic vistas for their aesthetic value will be authorized by a new zoning control patterned after the preservation of visual corridors in the Special Battery Park City District and the Special Manhattan Landing District, New York City Zoning Resolution Section 84-00 et. seq. and 98-00 et. seq.

This authority will be enforced by the Departments of Buildings and Ports and Terminals through their issuance of building permits and certificates of occupancy.

Historic and Archeological Sites

Standards:

There are extensive existing controls at the City level regarding landmarks vested in the New York City Landmarks Preservation Commission (LPC). The Commission's functions include the designation of landmarks, landmark sites, historic districts, interior landmarks and scenic landmarks, and the protection of designated landmarks and buildings within historic districts through the regulation of construction, alterations or demolition thereon. Regulation takes the form of requiring LPC permits prior to demolition or alteration of historic properties. These regulations are described in brief below.

In alteration work, three types of certificates are used: Certificate of No Effect on Protected Architectural Features; Certificate of Appropriateness; and Permit for Minor Work. If changes are to be made only to the interior of a historic structure, and do not affect the exterior, a Certificate of No Effect is issued immediately. Alterations and structural changes to the exterior requiring a Certificate of Appropriateness must be given a public hearing, after which the Commission may approve or deny the application or approve it subject to designated changes. Signs which must be filed with the Department of Buildings fall into this category. In addition, the

Commission is required to provide advisory reports on projects affecting city-owned property.

Demolition of landmark properties or applications to demolish involve more complex procedures. If a building has been determined to be a hazard to health and safety by the Department of Buildings, the landmarks law is preempted, and the demolition is mandated by the Department of Buildings. The owner is then required to demolish the structure. If the building is in hazardous condition but recoverable, the Commission may request the Department of Buildings to seal the building rather than demolish it. If a private owner of a landmark property is not making a reasonable return on it, and wishes to demolish the building, the Committee seeks to develop a plan which will create a satisfactory return on the building, using tax abatement or tax remission, if necessary, to do so. If creation of a reasonable return is not possible, the City must find an alternative buyer for the property or the City must acquire it or an appropriate interest in it. If the City fails to do so within the specified time, the Commission must grant the demolition permit.

Landmark and historic district owners are also charged with an affirmative duty to keep their property in good repair, New York City Administrative Code Section 20710.0. Violations are subject to fines and/or imprisonment.

The New York City Department of City Planning is also investigating development of construction guidelines applicable to future development that would result in structures which would preserve existing archeological resources, either in situ or in recorded form. This work may be added as an amendment to the WRP in the future.

Authorities:

Additional authority in historic sites is unnecessary given the existing authority.

Performance standards to achieve management objectives at archeological sites will be authorized by new provisions in the City Building Code and the Zoning Resolution. This authority will be enforced by the Department of Ports and Terminals for waterfront commerce structures, New York City Charter Section 704 (1977), and the Department of Buildings for all other structures, New York City Charter Section 643 (1977), through the Department's issuance of building permits and certificates of occupancy.

Parks and Beaches

Standards:

Existing rules and regulations pertaining to the management of parks and beaches, administered by the New York City Department of Parks and Recreation are sufficient to meet Waterfront Revitalization goals and objectives. Highlights of those regulations are given below.

Prohibited Uses: Included are discharging household refuse in litter receptacles; intentionally disturbing or attempting to disturb any animal life in park waters; allowing any animal to discharge urine or fecal matter in any park; commercial advertising; commercial fishing; parking in undesignated areas, etc.

Regulated Uses: Included are holding of meetings; holding organized and supervised activities; selling or leasing of anything whatsoever; of animals; building of fires; camping, etc.

For a complete listing, refer to rules and regulations promulgated pursuant to Section 533(s) (9) of the New York City Charter.

Authorities:

Additional authority within the City's waterfront parks and beaches is unnecessary given existing authority held by the City Department of Parks and Recreation.

Tidal Wetlands

Standards:

Existing use guidelines and development restrictions promulgated by the New York State Department of Environmental Conservation pursuant to the New York Environmental Conservation Law, Article 25 regulate land use within these areas and within 150 feet (in NYC) surrounding them. Regulation takes the form of requiring notification letters and permits prior to construction.

For a complete description and listing of definitions, use guidelines and development restrictions, see Tidal Wetlands - Land Use Regulations, Part 661 (Statutory authority: Environmental Conservation Law Section 1-0101, 3,0301 and 25-0302), State of New York - Department of Environmental Conservation.

Authorities:

Additional authority within tidal wetlands, and 150 feet from a tidal wetland, in New York City is unnecessary given existing authority held

by the New York State Department of Environmental Conservation (DEC) pursuant to the Tidal Wetlands Act, New York Environmental Conservation Law. However, New York Waterfront Revitalization Program will request that delegation of authority to administer this act be transferred to the City Coastal Commission. This will require amending the State Tidal Wetlands Act and development of an additional City authority embodied in the Zoning Resolution. Refer to Freshwater Wetlands in this section.

Freshwater Wetlands

Standards:

Draft use guidelines and development restrictions have been developed by the New York State Department of Environmental Conservation pursuant to the New York Environmental Conservation Law, Article 24 similar to those above for tidal wetlands. Until these regulations are adopted and final maps are drawn designating freshwater wetlands areas, land uses are subject to interim rules and regulations enforced through an interim permitting procedure.

Any person wishing to alter the state of any freshwater wetland having a surface area of twelve and four-tenths acres or more, or of one having a smaller surface area which has been determined to be of "unusual local importance", or any of the adjacent areas (100' surrounding these water bodies in NYC) must obtain this interim permit.

A permit is issued if actions are consistent with the policies of the Freshwater Wetlands Act. As mentioned, this discretionary review will end upon filing of the final maps and adoption of rules and regulations.

The New York City Department of City Planning as staff to the City Coastal Commission is working closely with the New York State Department of Environmental Conservation to complete the freshwater wetlands mapping effort in New York City and is proposing to assume administration of this program, under the proposed organizational structure.

Authorities:

Additional authority to achieve Waterfront Revitalization Program goals and objectives within freshwater wetlands, or within 100 feet thereof, in New York City is unnecessary given existing authority held by the New York State Department of Environmental Conservation (DEC) pursuant to the Freshwater Wetlands Act.

However, since future amendments of the Waterfront Revitalization Program in New York City may involve delegation of this existing State Coastal Management authority to the City, an option included in the existing statute, an additional City authority is necessary. This will be accomplished by a new zoning authority. All waterfront area land or water uses in the area falling within the jurisdiction of the Freshwater Wetlands Act will be required to be in accord with the new zoning regulations. Regulated activities will include but not be limited to: draining, dredging or excavation; the removal of soil, mud, shells or gravel; dumping or filling or the depositing of fill of any kind; the erecting of any structure or the construction of any road; the placing of any obstacle; and any activity causing any form of pollution which impairs the function or benefits of the wetland area. The depositing or removal of products connected with recreational or commercial fishing and activities related to public health are among exempt activities. A building permit will be granted only if the proposed land or water use is consistent with the DEC freshwater wetland land use regulations, as well as provisions of the Zoning Resolution and the Building Code. The control will be enforced by the Departments of Buildings and Ports and Terminals through their issuance of building permits and certificates of occupancy.

Unique Flora and Fauna

Standards:

The New York City Department of City Planning has undertaken an extensive flora and fauna identification effort (See Chapter 2, NYC Waterfront Revitalization Boundaries and Significant Flora and Fauna in this chapter).

This work will be completed and amended into the program.