



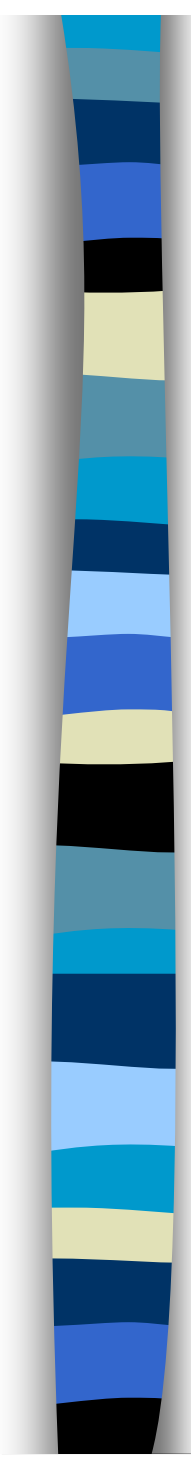
Presentation: Flood Hazard Area Control Act Rules for Municipal Construction Officials

NJ Department of Environmental Protection
Division of Land Use Regulation

Presentation materials are available at
www.nj.gov/dca/divisions/codes/

June 8, 2012

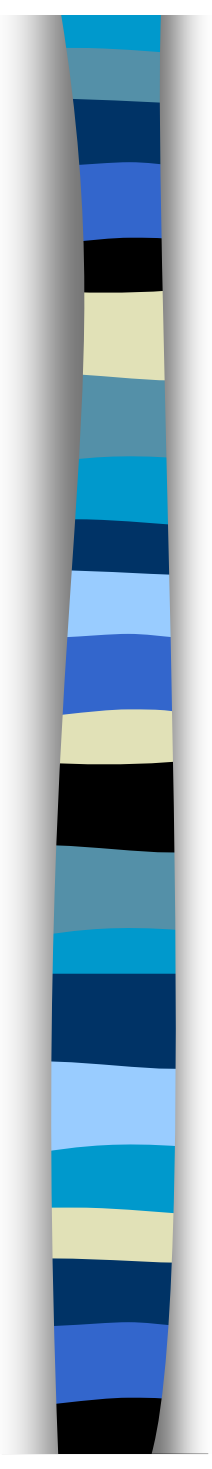
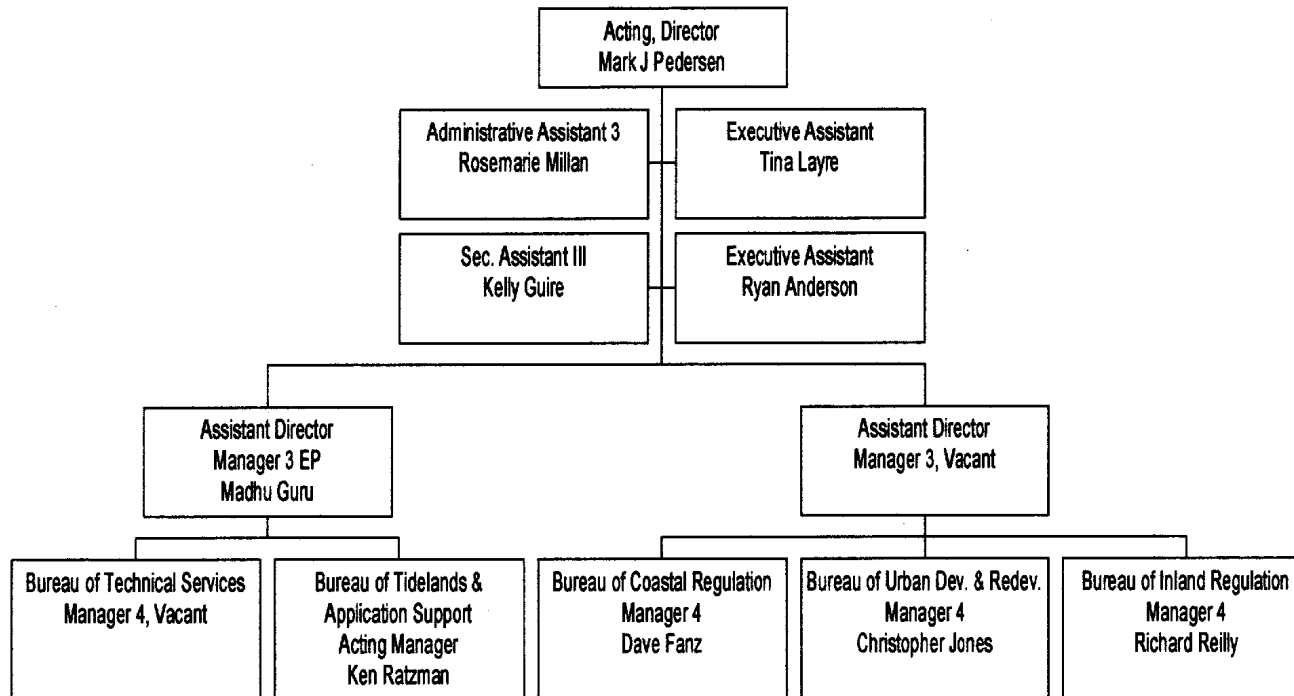




**STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
FLOOD HAZARD AREA CONTROL ACT RULES
JUNE 8, 2012**

- 8:30 A.M. **Introduction – Richard Langbein**
- Agenda
 - Organizational Overview
 - Statutes, Regulations, and Jurisdiction
- 9:00 A.M. **Technical Support Call Center – Priya Sundaram**
- Overview with Contact Phone numbers
 - Permit Extension Act
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You may download a copy of the Flood Hazard Area Control Act rules by
accessing the following link:
<http://www.state.nj.us/dep/landuse/7-13.pdf>





Statewide Statutes & Administrative Codes

- Freshwater Wetlands Protection Act (N.J.S.A. 13:9B)
- Freshwater Wetlands Protection Act Rules (N.J.A.C. 7:7A)
- **Flood Hazard Area Control Act (N.J.S.A. 58:16A-50)**
- **Flood Hazard Area Control Act Rules (N.J.A.C. 7:13)**
- Water Pollution Control Act (N.J.S.A. 58:10A)
- Surface Water Quality Standards (N.J.A.C. 7:9B)
- Stormwater Management Rules (N.J.A.C. 7:8)
- Ninety Day Construction Law (N.J.S.A. 13:1D-29)
- Ninety Day Construction Permit Rules (N.J.A.C.7:1C-1)



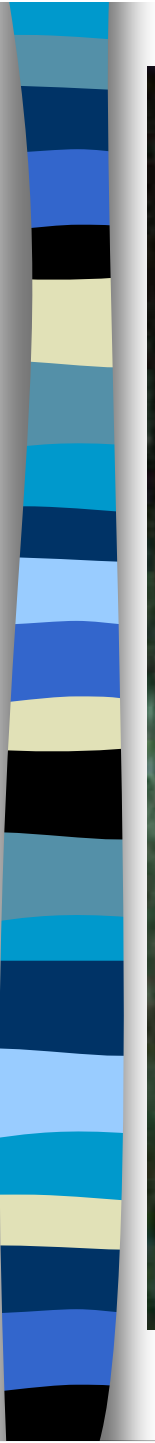
Coastal Area Statutes & Codes

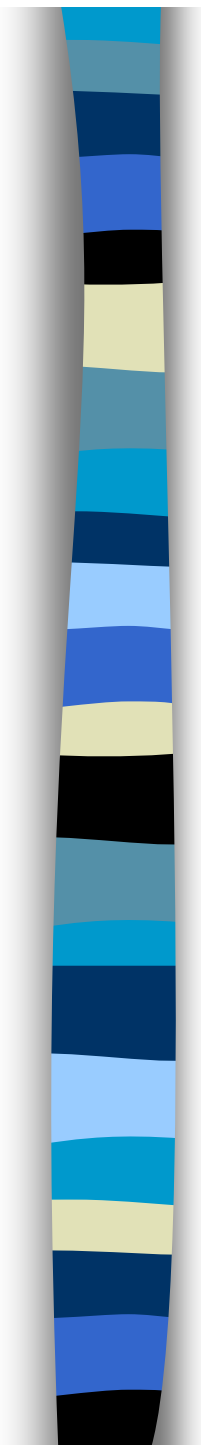
- Waterfront Development Law (N.J.S.A 12:5-3)
- Wetlands Act of 1970 (N.J.S.A. 13:9A-1)
- Coastal Area Facility Review Act (N.J.S.A. 13:19-1)
- Federal Consistency With Approved CZM Programs(15 U.S.C. 930)
- Coastal Permit Program Rules (N.J.A.C. 7:7-1)
- Coastal Zone Management Rules (N.J.A.C. 7:7E-1)
- Tidelands Act (N.J.S.A. 12:3)

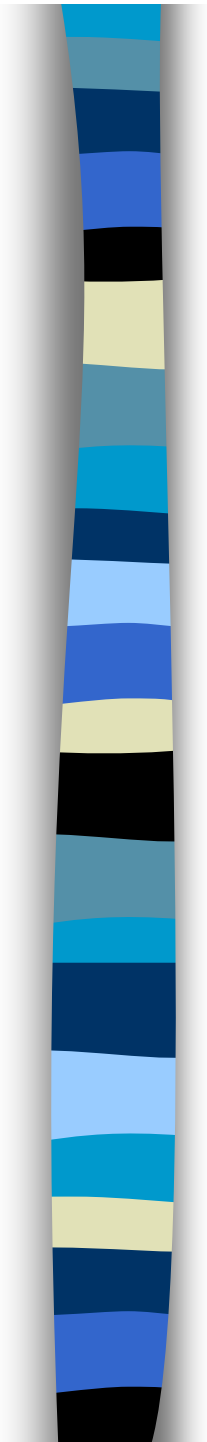


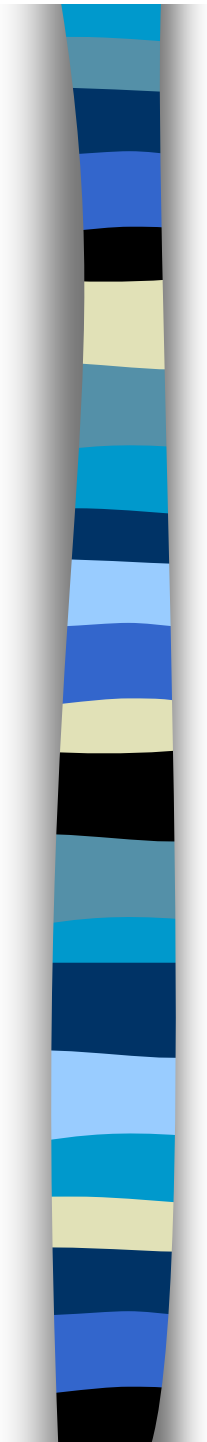
Highlands Region Statute and Code, and Pinelands Act

- Highlands Water Protection and Planning Act
(N.J.S.A. 13:20-1)
- Highlands Water Protection and Planning Act
Rules (N.J.A.C. 7:38)
- Pinelands Protection Act (N.J.S.A. 13:18A-1)





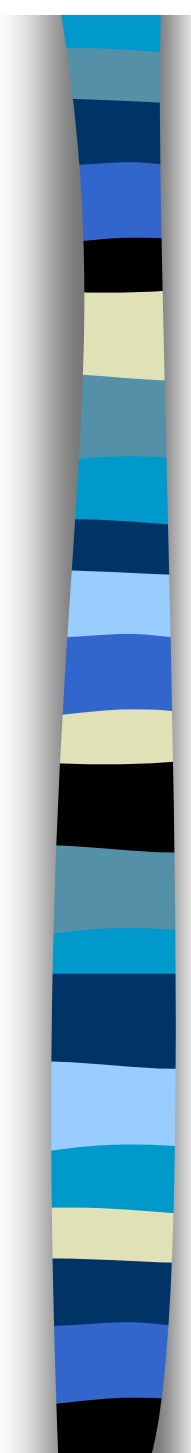






Terms and Definitions

- All terms are defined at (and used from) the Rules and Laws used by LU, as shown on the previous slides
- Example: “Reconstruct” vs. “Substantial Improvement”



"Reconstruct" means to patch, mend, replace, rebuild and/or restore a lawfully existing structure to a usable condition after decay or damage has occurred, in which greater than 50 percent of the structure is replaced and/or the size, shape or location of the structure is altered. For habitable buildings, the percentage of replacement shall be determined by comparing the cost of the reconstruction to the replacement value of the building. For all other structures, the percentage of replacement shall be determined by comparing the area of the structure being reconstructed to the total area of the structure.



Jurisdictional Determinations

- JD's are available for CAFRA, Waterfront Development, Coastal Wetlands & Flood Hazard
- Letter's of Interpretation are the "JD" for Freshwater Wetlands and Transition Areas
- Applicability Determinations for the Highlands Preservation Area are available.



“Coastal Zone” Jurisdiction

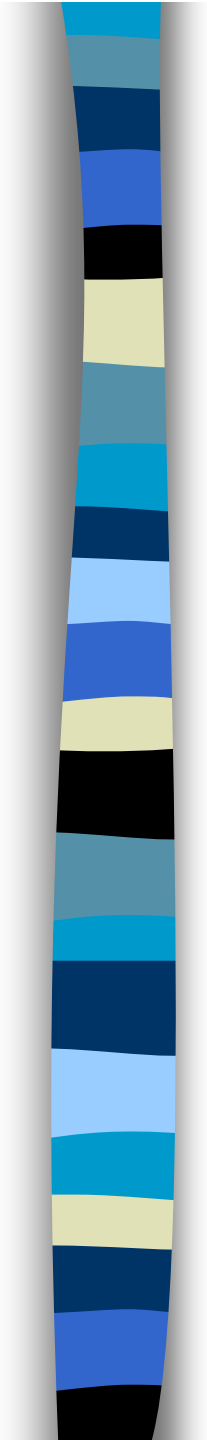
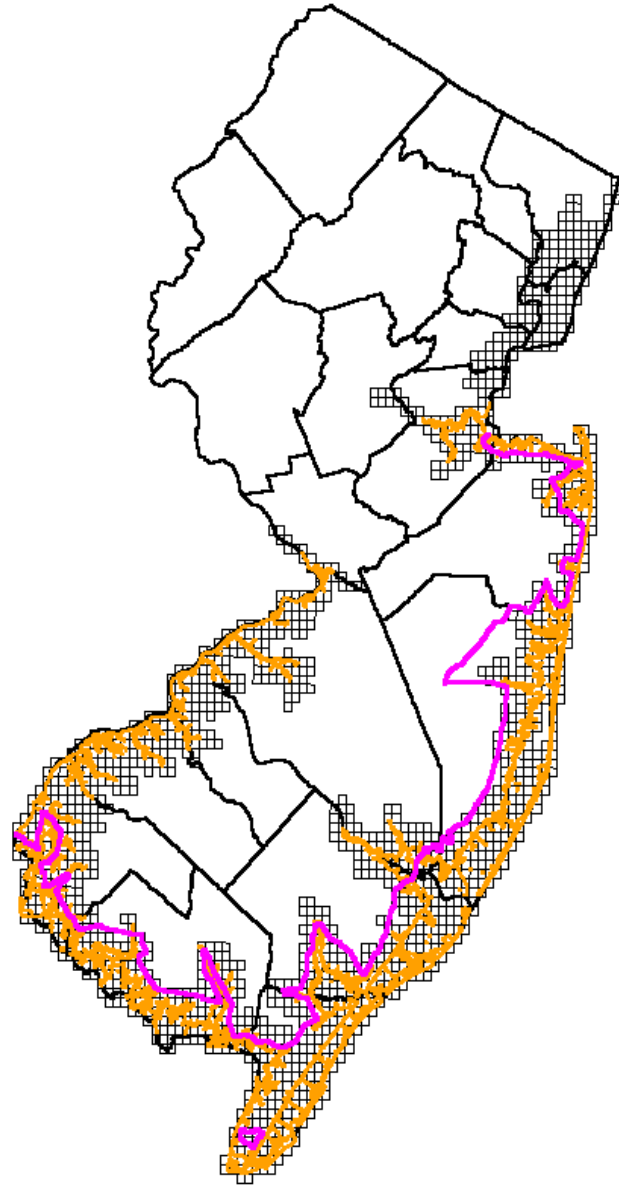
- Coastal Area defined in the Coastal Area Facility Review Act (CAFRA), N.J.S.A. 13:19-1
- Coastal Waters (any tidal water in NJ) and all lands there under (WFD)
- All lands (outside the CAFRA boundary) extending from the mean-high water line of a tidal water body to no more than 500 feet (Upland WFD)
- All areas containing tidal wetlands
- Hackensack Meadowlands District



CAFRA Jurisdiction

- Defined as a Boundary

CAFRA / Tidelands / Coastal Wetland Boundary



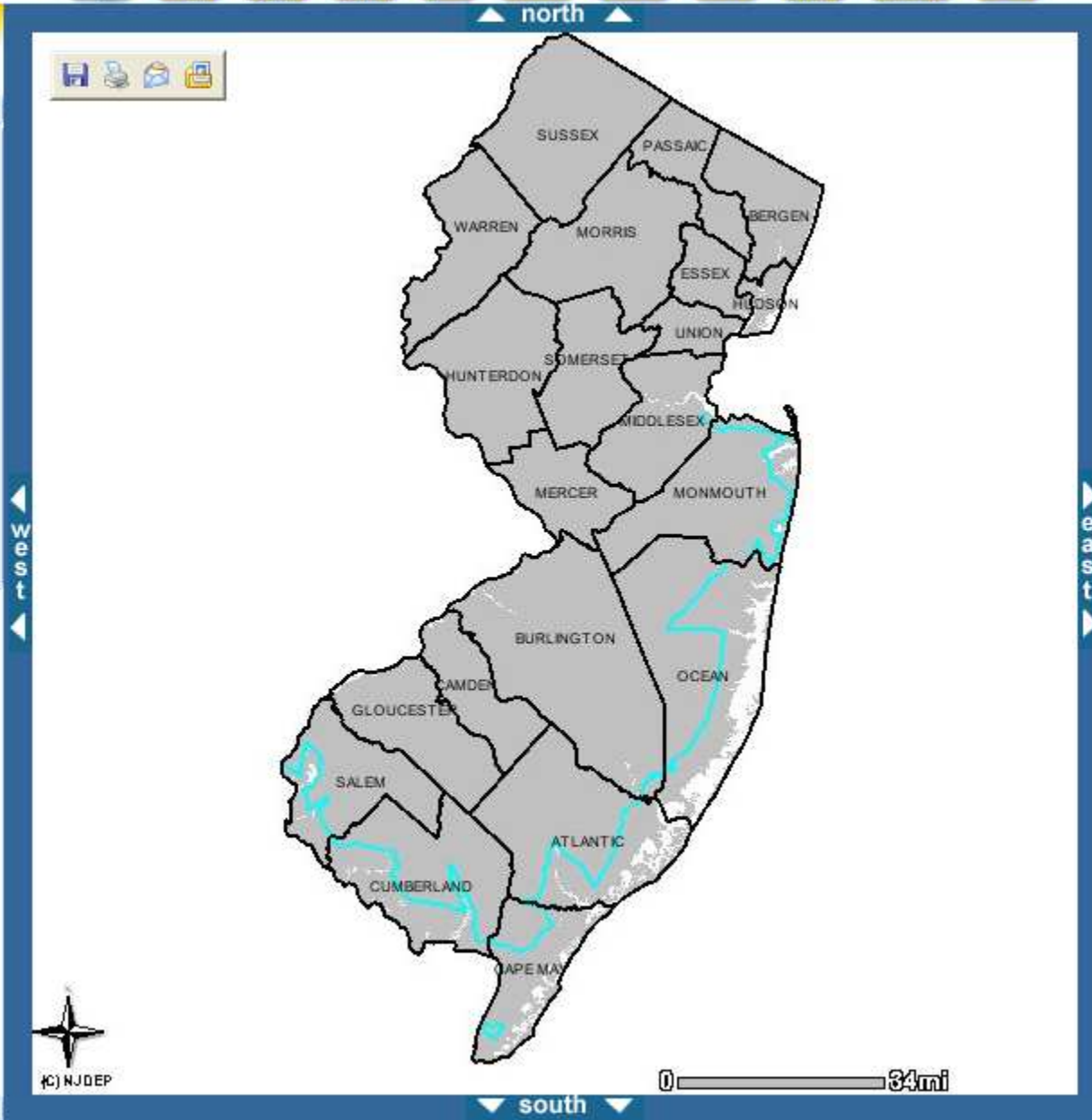
- zoom in
- zoom out
- full extent
- last extent
- pan
- identify
- measure
- select
- set origin
- clear selection
- print

Data Layers

refresh map

Active

- Known Contaminated Sites List (2001)
- Public Community Water Supply Wells
- Named Places
- Municipalities
- Counties
- Congressional Districts
- Legislative Districts
- CAFRA Boundary
- Highlands
- Pinelands Boundary
- Open Space (State)
- Roads (NJDOT)
- Roads (GDT)
- Category One Waters
- Surface Water Quality Standards
- Streams
- Water Bodies
- Landscape Project (Bald Eagle Foraging)
- Landscape Project (Beach)
- Landscape Project (Emergent Wetlands)
- Landscape Project (Forest)
- Landscape Project (Grassland)
- Landscape Project (Urban Peregrine)



Query

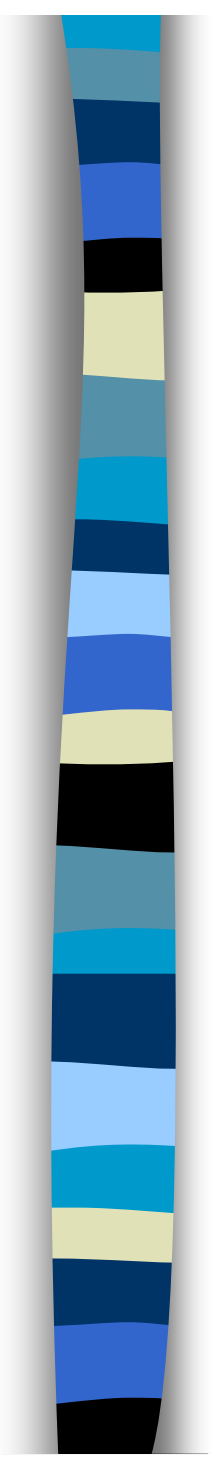
[Find location of interest](#)

Legend

- Counties
- CAFRA Boundary
- New Jersey



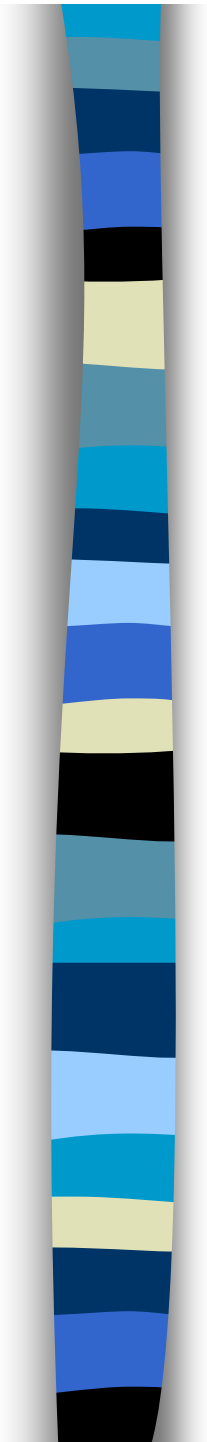
AP PHOTO

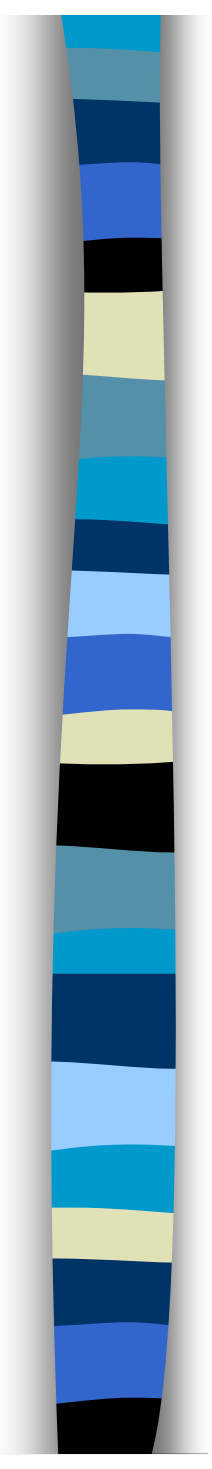




Waterfront Development Jurisdiction

- Any work below mean high water (tidal)
- Up to 500' inland of the mean high water line outside the CAFRA area
- Exempts certain activities/reconstruction





(c) Rich Galiano <http://njscuba.net>





Freshwater Wetlands Jurisdiction

- Any “Regulated Activity” requires a permit including:

In Freshwater Wetlands-dredging, filling, draining, the placement of structures, removal of vegetation, etc...

In State Open Waters-the discharge of dredged or fill materials into a SOW

- Any “Regulated Activity” in Transition Areas



Letters of Interpretation (LOI)

...are used to:

- Determine if freshwater wetlands, transition areas and/or State open waters are present.
- Determine the boundaries of freshwater wetlands, transition areas and/or State open waters.
- Establish Resource value(s) of freshwater wetlands.



Transition Areas

A strip of land surrounding “exceptional” and “intermediate” resource-value wetlands in order to:

- Buffer the wetlands from human activities
- Provide refuge for wetland wildlife during high water
- Filter stormwater flowing into wetlands, trapping sediment



Common Problems:

- Tree Cutting in a Wetlands or Transition Area
- Transition Area: “Normal Property Maintenance”





Flood Hazard Jurisdiction

Regulated Waters:

- All waters in NJ except: any man-made canal, any “Regulated” Coastal Wetland, any segment of water that has a drainage area of less than 50 acres (with qualifiers).

Regulated Areas:

- Areas surrounding each Regulated Water: “Flood Hazard Area” and “Riparian Zone.”

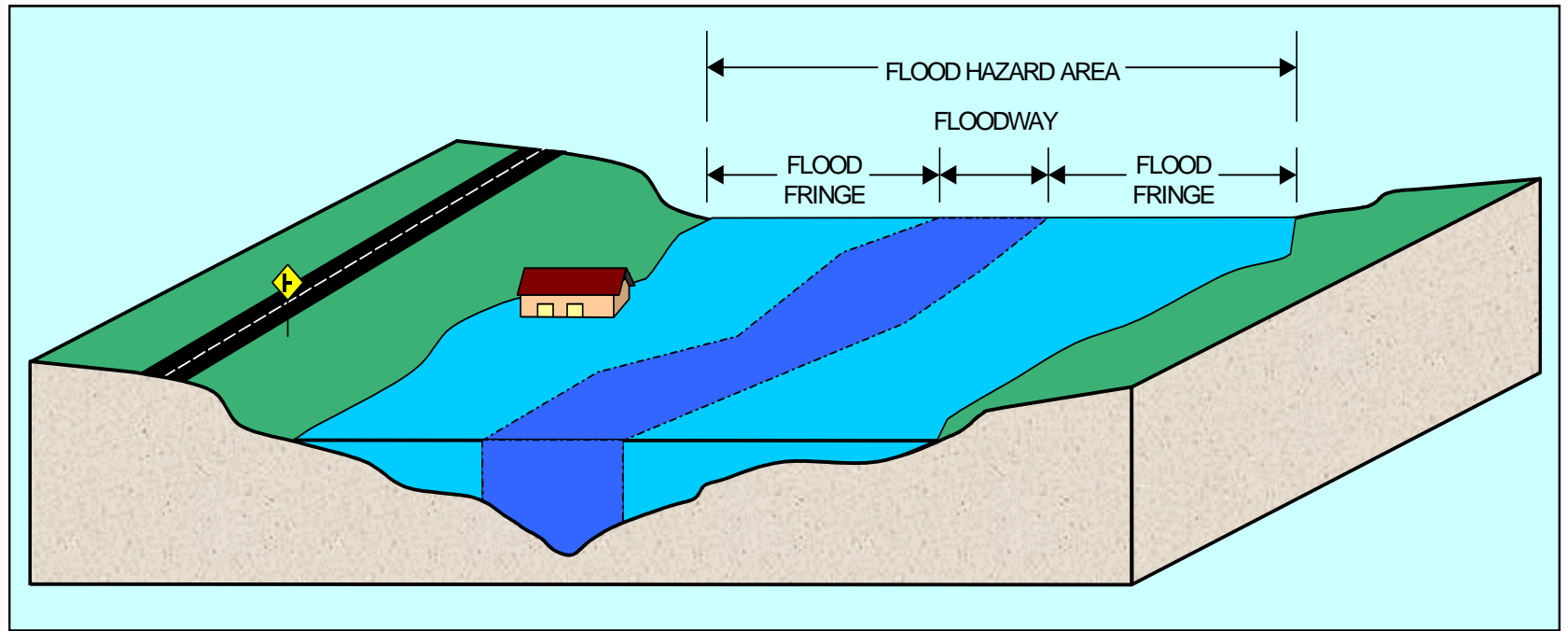
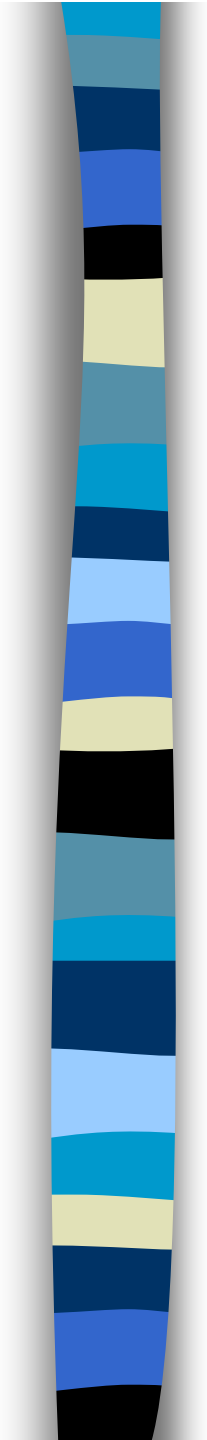
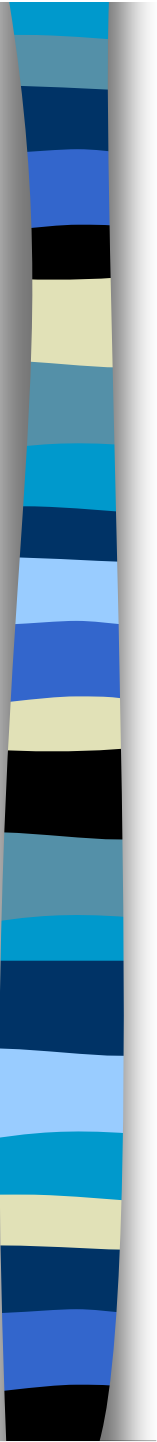
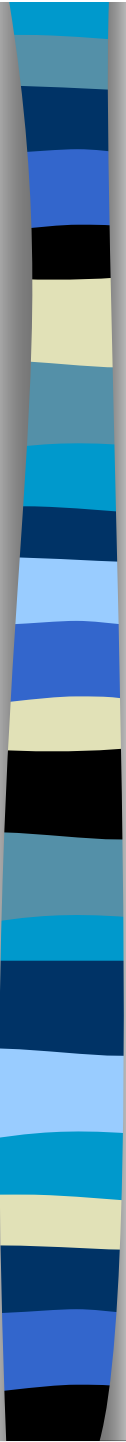


FIGURE A THE FLOOD HAZARD AREA IS COMPRISED OF THE FLOODWAY AND FLOOD FRINGE









Highlands Jurisdiction

*Specified as a boundary for the Preservation Area and the Planning Area. Development is regulated in the Preservation Area, and if it's a "Major Highlands Development"

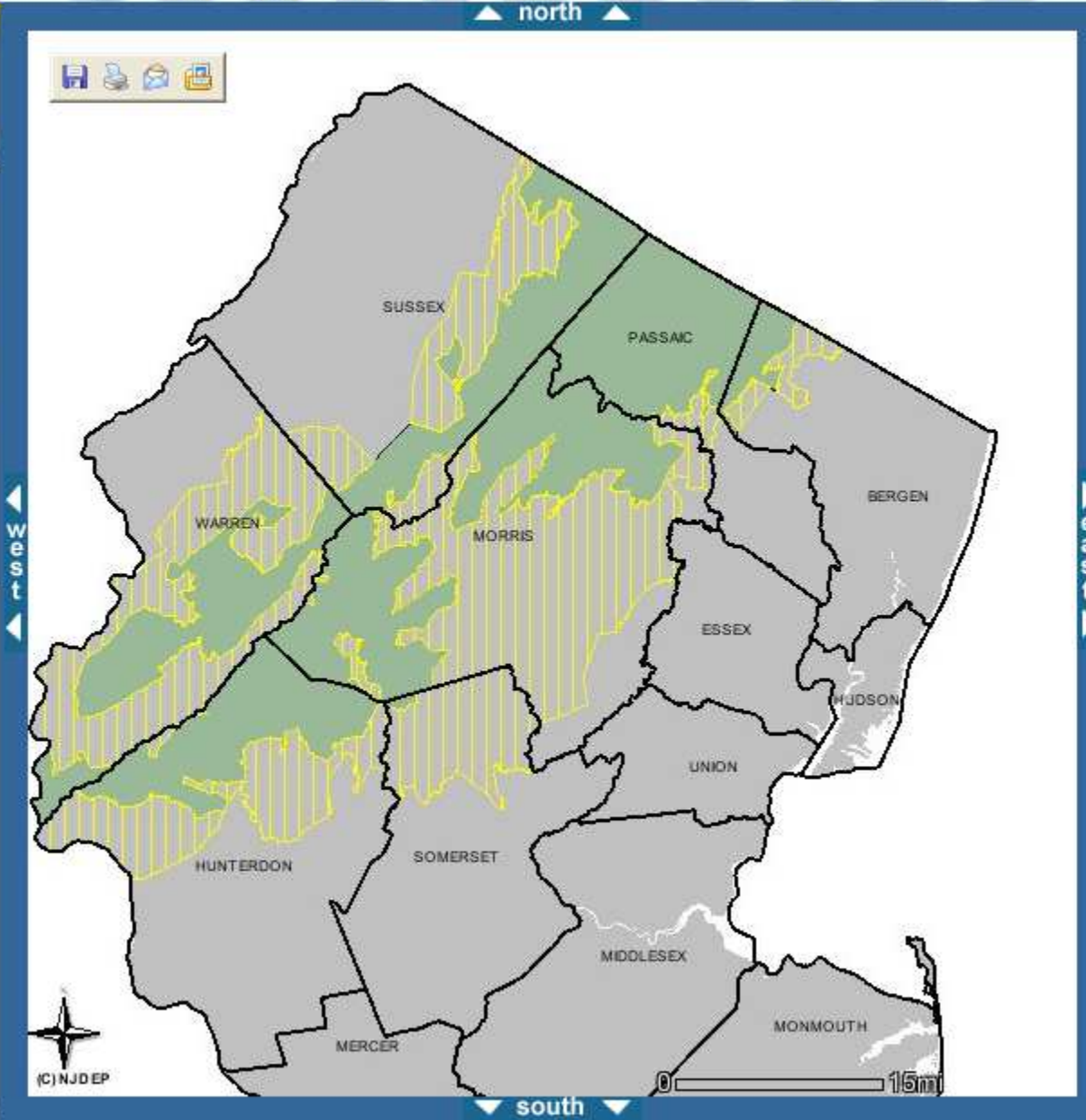
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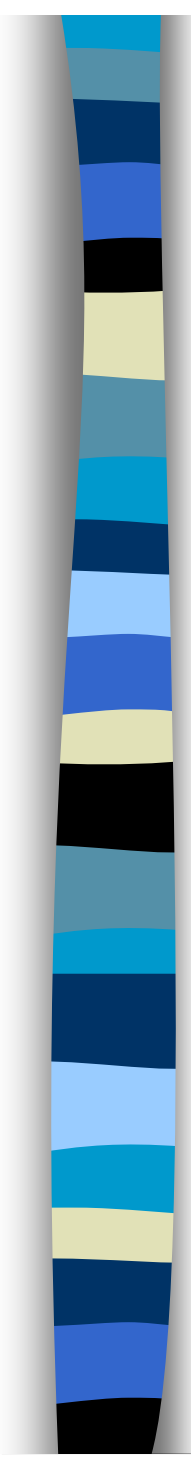
Legend

- Counties
- Highlands
- Highlands Planning Area
- Highlands Preservation Area
- New Jersey



Major Highlands Developments are:

- Any non-residential development
- Any residential development needing an environmental land use or water permit or that disturbs 1 acre or more land or cumulatively increases impervious surface by 1/4 acre or more



- Any activity that's not a development, but disturbs 1/4 acre or more of forest area or cumulatively increases impervious surface by 1/4 acre or more on a lot

- Any capital or other project by a State entity or local government unit that needs an environmental land use or water permit or that that disturbs 1 acre or more land or cumulatively increases impervious surface by 1/4 acre or more



Excludes:

- Agricultural or horticultural development in the preservation area



Many Exemptions Exist

- Applicability Determinations are available

Major Highlands Developments must be consistent with the area-wide Water Quality Management Plan

- Consistency Determinations are available



Highlands Preservation Area Approval (HPPA)

- Applications for HPPA are made to
Land Use Regulation for Major
Highlands Developments that are
Consistent with the area-wide Water
Quality Management Plan



Flood Hazard Area & Freshwater Wetlands in Highlands Preservation Area

- Major Highlands Development projects are not evaluated under FHA/FWW rules.
- If **not** Highlands regulated (Exempt or not a Major Highlands Development), Flood Hazard Area **and** Freshwater Wetlands regulations apply as they do in the rest of the State of New Jersey



Pinelands and...

- FHA-IP applications must have a Certificate of Filing, Notice of Filing, Certificate of Compliance, or Resolution. GP applications do not.
- FWW-Adding dredged or fill material to a FWW or SOW is subject to 7:7A, other activities are not
- CAFRA/WFD-Same as FHA IP



Duration

- Permits, LOIs, and exemption letters expire 5 years from issuance date
- CAFRA Individual permits remain valid as long as construction has started before the permit expires and continues, and does not stop for cumulative period of one year



Requests for Permit Extension

- Available for:
 - * Upland Waterfront Development permits
 - * Freshwater Wetlands permits
 - * Transition Area Waivers
 - * Freshwater Wetlands permits
 - * LOI Re-issuance
- All others expire, and a new permit is required to continue construction
- PEA



Permit Transfer

- Permits run with “the land”

Note: FWW permits and waivers require a permit modification to “transfer” them, if the permitted activities have not been completed.



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