

TITLE 13. CONSERVATION AND DEVELOPMENT----PARKS AND RESERVATIONS
CHAPTER 19. COASTAL AREA FACILITY REVIEW

COASTA AREA FACILITY REVIEW ACT

N.J. Stat. § 13:19-1 (2006)

§ 13:19-1. Short title

This act shall be known and may be cited as the "Coastal Area Facility Review Act."

§ 13:19-2. Findings, declarations

The Legislature finds and declares that New Jersey's bays, harbors, sounds, wetlands, inlets, the tidal portions of fresh, saline or partially saline streams and tributaries and their adjoining upland fastland drainage area nets, channels, estuaries, barrier beaches, near shore waters and intertidal areas together constitute an exceptional, unique, irreplaceable and delicately balanced physical, chemical and biologically acting and interacting natural environmental resource called the coastal area, that certain portions of the coastal area are now suffering serious adverse environmental effects resulting from existing development activity impacts that would preclude or tend to preclude those multiple uses which support diversity and are in the best long-term, social, economic, aesthetic and recreational interests of all people of the State; and that, therefore, it is in the interest of the people of the State that all of the coastal area should be dedicated to those kinds of land uses which promote the public health, safety and welfare, protect public and private property, and are reasonably consistent and compatible with the natural laws governing the physical, chemical and biological environment of the coastal area.

It is further declared that the coastal area and the State will suffer continuing and ever-accelerating serious adverse economic, social and aesthetic effects unless the State assists, in accordance with the provisions of this act, in the assessment of impacts, stemming from the future location and kinds of developments within the coastal area, on the delicately balanced environment of that area.

The Legislature further recognizes the legitimate economic aspirations of the inhabitants of the coastal area and wishes to encourage the development of compatible land uses in order to improve the overall economic position of the inhabitants of that area within the framework of a comprehensive environmental design strategy which preserves the most ecologically sensitive and fragile area from inappropriate development and provides adequate environmental safeguards for the construction of any developments in the coastal area.

§ 13:19-3. Definitions

As used in this act:

"Beach" means a gently sloping unvegetated area of sand or other unconsolidated material found on tidal shorelines, including ocean, inlet, bay and river shorelines, and that extends landward from the mean high water line to either: the vegetation line; a man-made feature generally parallel to the ocean, inlet, bay or river waters such as a retaining structure, seawall, bulkhead, road or boardwalk, except that sandy areas that extend fully under and landward of an elevated boardwalk are considered to be beach areas; or the seaward or bayward foot of dunes, whichever is closest to the ocean, inlet, bay or river waters;

"Commercial development" means a development designed, constructed or intended to accommodate commercial or office uses. "Commercial development" shall include, but need not be limited to, any establishment used for the wholesale or retail sale of food or other merchandise, or any establishment used for providing professional, financial, or other commercial services;

"Commissioner" means the Commissioner of Environmental Protection;

"Department" means the Department of Environmental Protection;

"Development" means the construction, relocation, or enlargement of any building or structure and all site preparation therefor, the grading, excavation or filling on beaches or dunes, and shall include residential development, commercial development, industrial development, and public development;

"Dune" means a wind- or wave-deposited or man-made formation of vegetated sand that lies generally parallel to and landward of the beach, and between the upland limit of the beach and the foot of the most inland slope of the dune. Dune includes the foredune, secondary and tertiary dune ridges, as well as man-made dunes, where they exist;

"Dwelling unit" means a house, townhouse, apartment, cooperative, condominium, cabana, hotel or motel room, a room in a hospital, nursing home or other residential institution, mobile home, campsite for a tent or recreational vehicle or any other habitable structure of similar size and potential environmental impact, except that dwelling unit shall not mean a vessel as defined in section 2 of P.L.1962, c.73 (C.12:7-34.37);

"Governmental agency" means the Government of the United States, the State of New Jersey, or any other state, or a political subdivision, authority, agency or instrumentality thereof, and shall include any interstate agency or authority;

"Industrial development" means a development that involves a manufacturing or industrial process, and shall include, but need not be limited to, electric power production, food and food by-product processing, paper production, agri-chemical production, chemical processes, storage facilities, metallurgical processes, mining and excavation processes, and processes utilizing mineral products;

"Person" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or governmental agency;

"Public development" means a solid waste facility, including an incinerator and landfill, wastewater treatment plant, public highway, airport, an above or underground pipeline designed to transport petroleum, natural gas, or sanitary sewage, and a public facility, and shall not mean a seasonal or temporary structure related to the tourism industry, an educational facility or power lines;

"Public highway" means a public highway as defined in section 3 of P.L.1984, c.73 (C.27:1B-3);

"Reconstruction" means the repair or replacement of a building, structure, or other part of a development;

"Residential development" means a development that provides one or more dwelling units.

§ 13:19-4. "Coastal area" defined

The "coastal area" shall consist of all that certain area lying between the line as hereinafter described and the line formed by the State's seaward (Raritan Bay and Atlantic ocean) territorial jurisdiction on the east thereof, the State's bayward (Delaware Bay) territorial jurisdiction on the south and southwest thereof, and the State's riverward (Delaware River) territorial jurisdiction on the west thereto. Beginning at the confluence of Cheesequake Creek with the Raritan Bay; thence southwesterly along the center line of Cheesequake Creek to its intersection with the Garden State Parkway; thence southeasterly along the Garden State Parkway to Exit 117 at State Highway 36; thence northeasterly along State Highway 36 to the intersection of Middle Road (County 516); thence easterly along Middle Road to the intersection of Palmer Avenue (County 7); thence northeasterly on Main Street to the intersection of State Highway 36; thence easterly on State Highway 36 to the intersection of Navesink Avenue; thence southerly on Navesink Avenue to the intersection of Monmouth Avenue at Navesink; thence westerly on Monmouth Avenue to its intersection with Browns Dock Road; thence southerly on Browns Dock Road to its intersection with Cooper Road; thence

southwesterly on Cooper Road to the intersection of State Highway 35; thence southerly on State Highway 35 to its intersection with State Highway 71; thence southeasterly on State Highway 71 to its crossing of the Central Railroad of New Jersey tracks, now the Consolidated Rail Corporation (Conrail) New Jersey Transit Corporation (NJ Transit); thence southerly along the Central Railroad of New Jersey tracks (now Conrail J Transit) to its intersection of 6th Avenue (County 2); thence westerly on 6th Avenue (County 2) to the intersection of State Highway 33; thence westerly along State Highway 33 to the crossing of State Highway 18; thence southerly on State Highway 18 to its intersection of Marconi Road; thence southeasterly on Marconi Road to Adrienne Road, continuing south on Adrienne Road to Belmar Boulevard; thence easterly on Belmar Boulevard and 16th Avenue to the intersection of State Highway 71; thence southerly on State Highway 71 to the intersection of State Highway 35; thence northwesterly along State Highway 35 to State Highway 34 at the Brielle Circle; thence northwesterly along State Highway 34 to the Garden State Parkway at Exit 96; thence southwesterly along the Garden State Parkway to the intersection of the Monmouth, Ocean County boundary; thence westerly along that boundary to the intersection of the Central Railroad of New Jersey tracks (now Conrail); thence southwesterly along the tracks of the Central Railroad of New Jersey (now Conrail) to its junction with the tracks of the Pennsylvania Railroad near Whiting; thence easterly along the tracks of the Pennsylvania Railroad to its intersection with the Garden State Parkway near South Toms River; thence southerly along the Garden State Parkway to its intersection with the boundary of the Bass River State Forest; thence southerly, and thence westerly, along the Bass River State Forest to its intersection with the Garden State Parkway in Bass River Township; thence southerly along the Garden State Parkway to its intersection with Alt. 559, and thence northwesterly along Alt. 559 to its intersection with County Road 559 at Gravelly Run; thence northwesterly along County Road 559 to its intersection with U.S. 40 and S.R. 50 at Mays Landing; thence westerly along combined U.S. 40 and S.R. 50 to its intersection with S.R. 40; thence westerly along S.R. 40 to its intersection with S.R. 50; thence southerly on S.R. 50 to its intersection with Buck Hill Road near Buck Hill; thence westerly along Buck Hill (River Road also Head of River Road and Aetna Drive) Road to its intersection with S.R. 49; thence southeasterly along S.R. 49 to its intersection with S.R. 50; thence southeasterly along S.R. 50 to its intersection with County Road 585 (now County Road 610); thence southwesterly along County Road 585 (now County Road 610) to its intersection with S.R. 47 at Dennisville; thence northwesterly along S.R. 47 to its intersection with State Road 49 at Millville; thence through Millville along State Road 49 to its intersection with County Road 610 (Cedar Street); thence southwesterly along County Road 610 (Cedar Street) to its intersection with County Road 555 (Race Street); thence southerly along County Road 555 (Race Street) to its intersection with County Road 27 (now County Road 627); thence southerly along County Road 27 (now County Road 627) to its intersection with County Road 70 (now County Road 670); thence southerly on County Road 70 (now County Road 670) to the Center of Mauricetown; thence through Mauricetown westerly on County Road 548 (now County Road 676) to its intersection with the tracks of the Central Railroad of New Jersey (now Conrail); thence northwesterly on the tracks of the Central Railroad of New Jersey (now Conrail) to its intersection with County Road 98 (now County Road 698); thence easterly along County Road 98 (now County Road 698) to the intersection with County Road 38 (now County Road 638); thence northerly along County Road 38 (now County Road 638) to its intersection with S.R. 49 east of Bridgeton; thence westerly along S.R. 49 through Bridgeton to its intersection with West Avenue; thence south on West Avenue to its intersection with County Road 5 (Roadstown Road) (now County Road 626); thence westerly along County Road 5 (Roadstown Road) (now County Road 626) to Roadstown; thence northwesterly along the Roadstown Road to County Road 47 (now County Road 647); thence southwesterly along County Road 47 (now County Road 647) to its intersection with County Road 19 (now County Road 623); thence along County Road 19 (now County Road 623) northwesterly to Gum Tree Corner; thence northwesterly along County Road 19 (now County Road 623) from Gum Tree Corner across Stowe Creek to its intersection with Salem County Road 59 (now County Road 623) (Hancock's Bridge Road); thence northwesterly along County Road 59 (now County Road 623) to its intersection with County Road 51 (now County Road 651) at Coopers Branch; thence northeasterly along County Road 51 (now County Road 651) to its intersection with S.R. 49 at Quinton; thence northwesterly along S.R. 49 to its intersection with County Road 50 (now County Road 650); thence southwesterly along County Road 50

(now County Road 650) to its intersection with County Road 58 (now County Road 658); thence southerly on County Road 58 (now County Road 658) to its intersection with County Road 24 (now County Road 624); thence westerly along County Road 24 (now County Road 624) to its intersection with County Road 65 (now County Road 637); thence northeasterly along County Road 65 (now County Road 637) to its intersection with County Road 665 (Walnut Street); thence northerly along County Road 65 (now County Road 665) (Walnut Street) to its intersection with County Road 4 (now County Road 633); thence westerly along County Road 4 (now County Road 633) to its intersection with County Road 627; thence northerly along County Road 627 to its intersection with County Road 661; thence easterly along County Road 661 to its intersection with State Road 49; thence northerly along State Road 49 (Front Street) to its intersection with County Road 57 (now County Road 657); thence easterly along County Road 57 (now County Road 657) to its intersection with State Road 45; thence northerly along State Road 45 to its intersection with County Road 540 at Pointers; thence northerly and northwesterly along County Road 540 (Pointers Auburn Road/Deepwater-Slapes Corner Road) to its intersection with the New Jersey Turnpike; thence westerly along the New Jersey Turnpike to its intersection with County Road 33 (now County Road 551); thence southerly along County Road 33 (now County Road 551) to its intersection with State Road 49; thence southeasterly along S.R. 49 to its intersection with County Road 26 (now County Road 632); thence northwesterly along County Road 26 (now County Road 632) to the Killcohook National Wildlife Refuge; thence northwesterly along this northeasterly boundary to the limits of the State's territorial jurisdiction on the Delaware River; provided, however, that the coastal area shall not include all that certain area in Cape May county lying within a line beginning at the intersection of S.R. 47 and County Road 54 (now County Road 654); thence westerly on County Road 54 (now County Road 654); to the intersection of County Road 3 (now County Road 603); thence southeasterly on County Road 3 (now County Road 603) through the intersection of County Road 3 (now County Road 603) with County Road 13 (now County Road 639) to the intersection with County Road 47 (now County Road 647); thence easterly and northerly along County Road 47 (now County Road 647) to its intersection with U.S. Route 9; thence northerly along U.S. Route 9 to its intersection with State Road 47; thence westerly along State Road 47 to its intersection with County Road 54 (now County Road 654).

§ 13:19-5. Development permits required

A permit issued pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) shall be required for:

- a. A development located in the coastal area on any beach or dune;
- b. A development located in the coastal area between the mean high water line of any tidal waters, or the landward limit of a beach or dune, whichever is most landward, and a point 150 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, that would result, either solely or in conjunction with a previous development, in:
 - (1) A development if there is no intervening development with an above ground structure, excluding any shore protection structure or sand fencing, that is either completed or under active construction between the proposed site of the development and the mean high water line of any tidal waters;
 - (2) A residential development having three or more dwelling units if there is an intervening development with an above ground structure, excluding any shore protection structure or sand fencing, that is either completed or under active construction between the proposed site of the dwelling units and the mean high water line of any tidal waters;
 - (3) A commercial development having five or more parking spaces if there is an intervening development with an above ground structure, excluding any shore protection structure or sand fencing, that is either completed or under active construction between the proposed site of the commercial development and the mean high water line of any tidal waters; or

(4) A public development or industrial development;

c. A development located in the coastal area between a point greater than 150 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, and a point 500 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, which is located within the boundaries of a municipality which meets the criteria of a "qualifying municipality" pursuant to section 1 of P.L.1978, c.14 (C.52:27D-178), or which is located within the boundaries of a city of the fourth class with a population of over 30,000 persons according to the latest federal decennial census, that would result, either solely or in conjunction with a previous development, in:

- (1) A residential development having 25 or more dwelling units;
- (2) A commercial development having 50 or more parking spaces; or
- (3) A public development or industrial development;

d. A development located in the coastal area at a point beyond 500 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, and which is located within the boundaries of a municipality which meets the criteria of a "qualifying municipality" pursuant to section 1 of P.L.1978, c.14 (C.52:27D-178), or which is located within the boundaries of a city of the fourth class with a population of over 30,000 persons according to the latest federal decennial census, that would result, either solely or in conjunction with a previous development, in:

- (1) A residential development having 75 or more dwelling units;
- (2) A commercial development having 150 or more parking spaces; or
- (3) A public development or industrial development; or

e. Except as otherwise provided in subsection c. and subsection d. of this section, a development in the coastal area at a point beyond 150 feet landward of the mean high water line of any tidal waters or the landward limit of a beach or dune, whichever is most landward, that would result, either solely or in conjunction with a previous development, in:

- (1) A residential development having 25 or more dwelling units;
- (2) A commercial development having 50 or more parking spaces; or
- (3) A public development or industrial development.

§ 13:19-5.1. Issuance of general permit

Notwithstanding any other provision of law, rule or regulation to the contrary, the commissioner is authorized to issue a general permit in lieu of a permit issued pursuant to section 5 of P.L.1973, c.185 (C.13:19-5). The department shall adopt rules and regulations which identify the activities subject to general permit review, and which establish the criteria for the approval or disapproval of a general permit issued pursuant to this section. The department shall approve, approve with conditions, or disapprove an application for a general permit pursuant to this section in accordance with P.L.1975, c.232 (C.13:1D-29 et al.).

§ 13:19-5.2. Permits not required, conditions

A permit shall not be required pursuant to section 5 of P.L. 1973, c. 185 (C. 13:19-5) for:

a. A development which has received preliminary site plan approval pursuant to the "Municipal Land Use Law," P.L. 1975, c. 291 (C. 40:55D-1 et seq.) or a final municipal building or construction permit on or prior to July 19, 1994, or a residential development which has received preliminary subdivision approval or

minor subdivision approval on or prior to July 19, 1994 where no subsequent site plan approval is required, provided that, in any of the cases identified above, construction begins within three years of July 19, 1994, and continues to completion with no lapses in construction activity of more than one year. This subsection shall not apply to any development that required a permit pursuant to P.L. 1973, c. 185 (C. 13:19-1 et seq.) prior to July 19, 1994;

b. The reconstruction of any development that is damaged or destroyed, in whole or in part, by fire, storm, natural hazard or act of God, provided that such reconstruction is in compliance with existing requirements or codes of municipal, State and federal law;

c. The enlargement of any development if the enlargement does not result in:

- (1) the enlargement of the footprint of the development; or
- (2) an increase in the number of dwelling units within the development;

d. The construction of a patio, deck or similar structure at a residential development;

e. Services provided, within the existing public right-of-way, by any governmental entity which involve:

(1) the routine reconstruction, substantially similar functional replacement, or maintenance or repair of public highways;

(2) public highway lane widening, intersection and shoulder improvement projects which do not increase the number of travel lanes; or

(3) public highway signing, lighting, guiderail and other nonintrusive safety projects;

f. The expansion of an existing, functional amusement pier, provided such expansion does not exceed the footprint of the existing, functional amusement pier by more than 25 percent, and provided the expansion is located in the area beyond 150 feet landward of the mean high water line, beach or dune, whichever is most landward; or

g. The enclosure of an establishment offering dining, food services and beverages that was in operation as of December 18, 2000 and is located upon a functional pier, provided the enclosure only includes an open area which was actively used in the operation of the establishment

A development subject to any exemption provided in this section shall be required to satisfy all other applicable requirements of law.

§ 13:19-5.3. Waiving of permit requirement

The commissioner may waive the permit requirement for development in the coastal area pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) for any development that involves the grading or excavation of a dune by a governmental agency if the commissioner finds that such a waiver is warranted as a result of a storm, natural disaster or similar act of God.

§ 13:19-6. Application for permit

Any person proposing to construct or cause to be constructed, or to undertake or cause to be undertaken, as the case may be, a development in the coastal area shall file an application for a permit, if so required pursuant to section 5 of P.L.1973, c.185 (C.13:19-5), with the commissioner, on forms and with any information the commissioner may prescribe. The application shall include an environmental impact statement which shall provide the information needed to evaluate the effects of a proposed development upon the environment of the coastal area. The department shall adopt rules and regulations that set forth the contents required in an environmental impact statement, and the conditions under which the commissioner may vary the content re-

quirements of an environmental impact statement or waive the requirement that an environmental impact statement be submitted.

§ 13:19-8. Declaration of completeness of application

a. Within 20 working days following receipt of an application, the commissioner shall issue a notification to the applicant in writing regarding its completeness. The commissioner may declare the application to be complete for filing or may notify the applicant of specific deficiencies. The commissioner, within 15 days following the receipt of additional information to correct deficiencies, shall issue a notification to the applicant of the completeness of the amended application. The application shall not be considered to be filed until it has been declared complete by the commissioner.

b. The commissioner, within 15 days of declaring the application complete for filing, shall set a date for either a public hearing or a public comment period. The date for the public hearing or the start of the public comment period shall be set not later than 60 days after the application is declared complete for filing.

§ 13:19-9. Hearing, comment period

a. The commissioner, or a member of the department designated by the commissioner, may hold a hearing to afford interested parties the opportunity to present, orally or in writing, their position concerning the filed application and any data they may have developed in reference to the environmental or other relevant effects of the proposed development. The department shall adopt rules and regulations which set forth the conditions under which a hearing is to be held. If no hearing is held, the department shall provide for a 30-day comment period and shall provide sufficient public notice as to the commencement of the comment period.

b. The commissioner, within 15 days after the hearing, if one is held, or 15 days after the close of the comment period if no hearing is held, may require an applicant to submit any additional information necessary for the complete review of the application.

c. The department shall approve, approve with conditions, or disapprove an application for a permit pursuant to P.L.1973, c.185 (C.13:19-1 et seq.) within 60 days after the hearing, if one is held, or within 60 days after the close of the comment period if no hearing is held. In the event the commissioner requires additional information as provided in subsection b. of this section, the department shall approve, approve with conditions, or disapprove an application within 90 days following receipt of the additional information.

§ 13:19-10. Review of applications; required findings

The commissioner shall review filed applications, including any environmental impact statement and all information presented at public hearings or during the comment period, or submitted during the application review period. A permit may be issued pursuant to this act only upon a finding that the proposed development:

a. Conforms with all applicable air, water and radiation emission and effluent standards and all applicable water quality criteria and air quality standards.

b. Prevents air emissions and water effluents in excess of the existing dilution, assimilative, and recovery capacities of the air and water environments at the site and within the surrounding region.

c. Provides for the collection and disposal of litter, recyclable material and solid waste in such a manner as to minimize adverse environmental effects and the threat to the public health, safety, and welfare.

d. Would result in minimal feasible impairment of the regenerative capacity of water aquifers or other ground or surface water supplies.

e. Would cause minimal feasible interference with the natural functioning of plant, animal, fish, and human life processes at the site and within the surrounding region.

f. Is located or constructed so as to neither endanger human life or property nor otherwise impair the public health, safety, and welfare.

g. Would result in minimal practicable degradation of unique or irreplaceable land types, historical or archeological areas, and existing public scenic attributes at the site and within the surrounding region.

§ 13:19-11. Grounds for denial of permit application; conditional permit; approval of nuclear electricity generating facility

Notwithstanding the applicant's compliance with the criteria listed in section 10 of P.L.1973, c.185 (C.13:19-10), if the commissioner finds that the proposed development would violate or tend to violate the purpose and intent of this act as specified in section 2 of P.L.1973, c.185 (C.13:19-2), or that the proposed development would materially contribute to an already serious and unacceptable level of environmental degradation or resource exhaustion, the commissioner may deny the permit application, or the commissioner may issue a permit subject to such conditions as the commissioner finds reasonably necessary to promote the public health, safety and welfare, to protect public and private property, wildlife and marine fisheries, and to preserve, protect and enhance the natural environment. The construction and operation of a nuclear electricity generating facility shall, however, not be approved by the commissioner unless the commissioner finds that the proposed method for disposal of radioactive waste material to be produced or generated by the facility will be safe, conforms to standards established by the Nuclear Regulatory Commission and will effectively remove danger to life and the environment from such waste material.

§ 13:19-11.1. Low, moderate income housing, no conditions for

Notwithstanding the provisions of any rule or regulation to the contrary, the department shall not require the provision for low and moderate income housing as a condition for approval of an application to construct or undertake a development in the coastal area pursuant to the provisions of P.L.1973, c.185 (C.13:19-1 et seq.).

§ 13:19-13. Coastal area review board; power to hear appeals

Section repealed effective upon certification by the Coastal Area Review Board that all decisions on appeal have been rendered by the board.

There is hereby created the Coastal Area Review Board, in but not of the Department of Environmental Protection, which shall consist of three voting members, who shall be the Commissioner of Environmental Protection or his designated representative, the Commissioner of Commerce and Economic Development or his designated representative and the Commissioner of Community Affairs or his designated representative. No vote on a permit request shall be taken unless all voting members are present.

The Coastal Area Review Board shall have the power to hear appeals from decisions of the commissioner pursuant to section 12 of P.L.1973, c. 185 (C. 13:19-12). The board may affirm or reverse the decision of the commissioner with respect to applicability of any provision of this act to a proposed use; it may modify any permit granted by the commissioner, grant a permit denied by him, deny a permit granted by him, or confirm his grant of a permit. The board shall review filed applications, including the environmental impact statement and all information presented at public hearings and any other information the commissioner makes available to the board, prior to the affirmation or reversal of a decision of the commissioner.

§ 13:19-13.1. Coastal Area Review Board abolished upon completion date of duties

a. The Coastal Area Review Board established pursuant to section 13 of P.L.1973, c.185 (C.13:19-13) is, upon the completion date of its duties, abolished, and all powers, functions and duties thereof shall terminate. Any appeal pending before the Coastal Area Review Board prior to the enactment date of this act may be decided by the board. Any appeal initiated on or after the enactment date of this act shall be referred to the Office of Administrative Law.

b. For the purposes of this section, "completion date," with respect to the Coastal Area Review Board, shall mean the date upon which all decisions on appeal to the board from decisions by the commissioner pursuant to P.L.1973, c.185 (C.13:19-1 et seq.), have been rendered by the board, as certified by the voting members thereof. Notice of the certification of the completion date shall be published by the board in the New Jersey Register.

§ 13:19-14. Continuance in force of issued permit

In the event of rental, lease, sale or other conveyances by an applicant to whom a permit is issued, such permit, with any conditions, shall be continued in force and shall apply to the new tenant, lessee, owner, or assignee so long as there is no change in the nature of the development set forth in the original application.

§ 13:19-15. Effect of denial on future submittal of new application

The denial of an application shall in no way adversely affect the future submittal of a new application.

§ 13:19-16.1. "Shore Protection Fund" created

a. There is created in the Department of the Treasury a special non-lapsing fund to be known as the 'Shore Protection Fund.' The monies in the fund are dedicated and shall only be used to carry out the purposes enumerated in subsection b. of this section. The fund shall be credited with all revenues collected and deposited in the fund pursuant to section 4 of P.L. 1968, c. 49 (C. 46:15-8), all interest received from the investment of monies in the fund, and any monies which, from time to time, may otherwise become available for the purposes of the fund. Pending the use thereof pursuant to the provisions of subsection b. of this section, the monies deposited in the fund shall be held in interest-bearing accounts in public depositories, as defined pursuant to section 1 of P.L. 1970, c. 236 (C. 17:9-41), and may be invested or reinvested in such securities as are approved by the State Treasurer. Interest or other income earned on monies deposited into the fund shall be credited to the fund for use as set forth in this act for other monies in the fund.

b. Monies deposited in the 'Shore Protection Fund' shall be used, in accordance with the priority list approved by the Legislature pursuant to section 1 of P.L. 1997, c. 384 (C. 13:19-16.2), for shore protection projects associated with the protection, stabilization, restoration or maintenance of the shore, including monitoring studies and land acquisition, consistent with the current New Jersey Shore Protection Master Plan prepared pursuant to section 5 of P.L. 1978, c. 157, and may include the nonfederal share of any State-federal project. The requirements of subsection c. of section 1 of P.L. 1997, c. 384 (C. 13:19-16.2) notwithstanding, the Commissioner of Environmental Protection may, pursuant to appropriations made by law, allocate monies deposited in the fund for shore protection projects of an emergency nature, in the event of storm, stress of weather or similar act of God. Two percent of the monies annually deposited in the fund shall be allocated and annually appropriated for the purposes of funding the Coastal Protection Technical Assistance Service established pursuant to section 1 of P.L. 1993, c. 176 (C. 18A:64L-1), of which amount up to \$ 100,000 annually may be utilized for funding coastal engineering research and development to be conducted by Stevens Institute of Technology in response to requests therefor made by State or local governmental entities.

§ 13:19-16.2. Priority system for ranking shore protection projects

a. The Commissioner of Environmental Protection shall develop a priority system for ranking shore protection projects and establish appropriate criteria therefore. Commencing with the fiscal year beginning on July 1, 1999, and for each fiscal year thereafter, the commissioner shall use the priority system to establish a shore protection project priority list for projects designated to receive funding pursuant to an appropriation made from the Shore Protection Fund, hereinafter referred to as the "fund," established pursuant to section 1 of P.L. 1992, c. 148 (C. 13:19-16.1). The list shall include a description of each project and its purpose, impact, estimated cost, and estimated construction schedule, and an explanation of the manner in which priorities were established. A description of the priority system and the project priority list for the ensuing fiscal year shall be submitted to the Legislature on or before January 31 of each year on a day when both Houses are meeting. The President of the Senate and the Speaker of the General Assembly shall cause the date of submission to be entered upon the Senate Journal and the Minutes of the General Assembly, respectively, and shall cause the project priority list to be introduced in each House in the form of legislative bills authorizing the expenditure of monies appropriated pursuant to section 1 of P.L. 1992, c. 148 (C. 13:19-16.1) for projects on the list, and shall refer these bills to the Senate Economic Growth, Agriculture and Tourism Committee, the Senate Budget and Appropriations Committee, the General Assembly Environment, Science and Technology Committee, and the General Assembly Appropriations Committee, or their successors, for their respective consideration.

b. Within 60 days of the referral thereof, the Senate Economic Growth, Agriculture and Tourism Committee, the Senate Budget and Appropriations Committee, the General Assembly Environment, Science and Technology Committee, and the General Assembly Appropriations Committee, or their successors, shall, either individually or jointly, consider the legislation containing the project priority list, and shall report the legislation, together with any modifications, out of committee for consideration by each House of the Legislature. On or before June 1 of each year, the Legislature shall approve the legislation containing the project priority list, including any amendatory or supplementary provisions thereto. The legislation approved by the Legislature shall authorize the expenditure of monies appropriated to the Department of Environmental Protection from the Shore Protection Fund for the specific projects, including the estimated amounts therefor, on the list.

c. No monies appropriated from the Shore Protection Fund to the Department of Environmental Protection shall be expended for any shore protection project unless the estimated expenditure is authorized pursuant to legislation approved in accordance with the provisions of subsection b. of this section or unless the shore protection project is of an emergency nature pursuant to the provisions of subsection b. of section 1 of P.L. 1992, c. 148 (C. 13:19-16.1). The department is authorized to transfer monies between authorized projects to compensate for the differences between the estimated and actual costs of a project. If the Legislature fails to approve legislation within the time frame specified pursuant to subsection b. of this section, the expenditure of monies appropriated from the Shore Protection Fund shall be authorized pursuant to the provisions of the annual appropriations act.

§ 13:19-17. Rules, regulations

a. The department shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of this act.

b. Within one year of the enactment date of P.L.1993, c.190 (C.13:19-5.1 et al.), the department, in consultation with the State Planning Commission and county and municipal governments located in the coastal area, as defined in section 4 of P.L.1973, c.185 (C.13:19-4), shall adopt new rules and regulations to implement P.L.1993, c.190 (C.13:19-5.1 et al.). Any rules or regulations adopted pursuant to this subsection shall be closely coordinated with the provisions of the State Development and Redevelopment Plan adopted pur-

suant to P.L.1985, c.398 (C.52:18A-196 et al.) and the federal "Coastal Zone Management Act of 1972," 16 U.S.C. § 1451 et seq.

§ 13:19-18. Violations, penalties; "Cooperative Coastal Monitoring Enforcement Fund"

a. Whenever the department finds that a person has violated any provision of P.L.1973, c.185 (C.13:19-1 et seq.), or any regulation, rule, permit, or order adopted or issued by the department pursuant thereto, the department may:

(1) Issue an order requiring the person found to be in violation to comply in accordance with subsection b. of this section;

(2) Bring a civil action in accordance with subsection c. of this section;

(3) Levy a civil administrative penalty in accordance with subsection d. of this section; or

(4) Bring an action for a civil penalty in accordance with subsection e. of this section.

Pursuit of any of the remedies specified under this section shall not preclude the seeking of any other remedy specified.

b. Whenever the department finds that a person has violated any provision of P.L.1973, c.185, or any regulation or rule adopted, or permit or order issued, by the department pursuant to that act, the department may issue an order specifying the provision or provisions of the act, regulation, rule, permit, or order of which the person is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the person of his right to a hearing on the matters contained in the order. The ordered party shall have 20 days from receipt of the order within which to deliver to the department a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order. If no hearing is requested, then the order shall become final after the expiration of the 20-day period. A request for hearing shall not automatically stay the effect of the order.

c. The department may institute an action or proceeding in the Superior Court for injunctive and other relief, including the appointment of a receiver, for any violation of P.L.1973, c.185, or any regulation or rule adopted, or permit or order issued, by the department pursuant to that act, and the court may proceed in the action in a summary manner.

Such relief may include, singly or in combination:

(1) A temporary or permanent injunction;

(2) Assessment of the violator for any cost incurred by the department in removing, correcting or terminating the adverse effects upon the land or upon water or air quality resulting from any violation of any provision of P.L.1973, c.185, or any regulation or rule adopted, or permit or order issued, by the department pursuant to that act, for which the action under this subsection may have been brought.

d. The department is authorized to assess, in accordance with a uniform policy adopted therefor, a civil administrative penalty of not more than \$ 25,000 for each violation. No assessment may be levied pursuant to this subsection until after the violator has been notified by certified mail, personal service or any other means authorized under the New Jersey Rules of Court. The notice shall include a reference to the section or provision of P.L.1973, c.185, the regulation, rule, permit, or order issued by the department pursuant to that act that has been violated, a concise statement of the facts alleged to constitute a violation, a statement of the amount of the civil administrative penalties to be imposed, including any interest that may accrue thereon if the penalty is not paid when due, and a statement of the party's right to a hearing. The ordered party shall have 20 calendar days from receipt of the notice within which to deliver to the department a written request for a hearing. After the hearing and upon finding that a violation has occurred, the department may issue a final order after assessing the amount of the fine specified in the notice. If no hearing is requested, the notice

shall become a final order after the expiration of the 20-day period. Payment of the assessment is due when a final order is issued or the notice becomes a final order. The department may compromise any civil administrative penalty assessed under this section in an amount the department determines appropriate. A civil administrative penalty assessed, including a portion thereof required to be paid pursuant to a payment schedule approved by the department, which is not paid within 30 days of the date that payment of the penalty is due, shall be subject to an interest charge on the amount of the penalty, or portion thereof, which shall accrue as of the date payment is due. If the penalty is contested, no additional interest charge shall accrue on the amount of the penalty until after the date on which a final order is issued.

Interest charges assessed and collectible pursuant to this subsection shall be based on the rate of interest on judgments provided in the New Jersey Rules of Court. For the purposes of this subsection, the date that a penalty is due is the date that written notice of the penalty is received by the person responsible for payment thereof, or such later date as may be specified in the notice.

e. Any person who violates the provisions of P.L.1973, c.185, any rule or regulation adopted pursuant thereto, or any permit or order issued by the department pursuant to that act, an administrative order issued pursuant to subsection b. of this section or a court order issued pursuant to subsection c. of this section, or who fails to pay a civil administrative penalty in full pursuant to subsection d. of this section, shall be subject, upon order of a court, to a civil penalty of not more than \$ 25,000 for each violation, and each day during which a violation continues shall constitute an additional, separate, and distinct offense.

Any penalty established pursuant to this subsection may be imposed and collected with costs in a summary proceeding pursuant to "the penalty enforcement law," N.J.S. 2A:58-1 et seq. The Superior Court and the municipal court shall have jurisdiction to enforce the provisions of "the penalty enforcement law" in connection with this act.

f. There is created in the department a special nonlapsing fund, to be known as the "Cooperative Coastal Monitoring Enforcement Fund." Except as otherwise provided in this section, all monies from penalties, fines, or recoveries of costs collected by the department pursuant to this section on and after the effective date of this section, shall be deposited in the fund. Interest earned on monies deposited in the fund shall be credited to the fund. Unless otherwise specifically provided by law, monies in the fund shall be utilized by the department for the cost of providing aircraft overflights for coastal monitoring, surveillance and enforcement activities conducted by the department and for the cost of administering P.L.1973, c.185 (C.13:19-1 et seq.). The department shall submit annually to the Legislature a report which provides an accounting of all monies deposited in the fund and the purposes for which monies in the fund are disbursed.

§ 13:19-19. Applicability of act

The provisions of this act shall not be regarded as to be in derogation of any powers now existing and shall be regarded as supplemental and in addition to powers conferred by other laws, including the authority of the department to regulate waterfront development pursuant to R.S. 12:5-1 et seq. and municipal zoning authority. The provisions of this act shall not apply to those portions of the coastal areas regulated pursuant to enforceable orders under P.L.1970, c.272 (C.13:9A-1 et seq.).

§ 13:19-20. Construction of act

This act shall be liberally construed to effectuate the purpose and intent thereof.

§ 13:19-21. Severability

If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

§ 13:19-22. Short title

This act shall be known, and may be cited, as the "New Jersey Adopt a Beach Act."

§ 13:19-23. Findings, determinations

The Legislature finds and determines:

- a. The presence of debris, litter, floatable waste, and other refuse in the ocean waters has an adverse impact on the quality of those waters and on sea mammals and other marine life;
- b. Programs involving public participation can be an integral part of a Statewide strategy to combat the deleterious effects of ocean pollution, and can contribute to the goal of achieving a pollution free environment with the hope that in the future, cleanups of this nature will no longer be required;
- c. "Adopt a beach" programs, which provide for citizen cleanups of beaches and shores of debris, litter, floatable waste, and other refuse, have been enthusiastically received in other states, and have proved useful in the continuing effort to remove potential pollutants from ocean waters; and
- d. It is in the public interest and in furtherance of the general welfare of the people of this State to establish an "Adopt a Beach" program in the Department of Environmental Protection.

§ 13:19-24. Definitions

As used in this act:

"Department" means the Department of Environmental Protection.

"Program volunteer" means any group, organization, business, or individual who has adopted a section of beach or shore for cleanup in accordance with this act.

§ 13:19-25. Establishment of "Adopt a Beach" program

The department shall, within 180 days of the effective date of this act, establish an "Adopt a Beach" program. The purpose of the program shall be to utilize volunteer labor in a cooperative effort with State and local government to periodically clear the public beaches and shores of the State of debris, litter, floatable waste, and other refuse.

§ 13:19-26. Duties of department

a. The department shall:

- (1) Develop a packet of information and instructions, and, within the limits of funds made available therefor, provide cleanup supplies, for use by program volunteers in cleaning up beaches and shores in accordance with this act;
- (2) Coordinate with program volunteers and appropriate local government officials in arranging for the disposal, and to the maximum extent practicable and feasible, the recycling, of debris, litter, floatable waste, and other refuse collected by program volunteers;

(3) Advertise and promote the "Adopt a Beach" program, and develop and utilize such slogans, symbols, and mascots as the department may deem expedient for such purposes;

(4) Coordinate the operation of the "Adopt a Beach" program with the responsibilities of the department and the Department of Education to prepare and distribute educational materials concerning the deleterious effects of plastics and other forms of pollution on the marine environment pursuant to the "Clean Ocean Education Act," P.L.1988, c.62 (C.58:10A-52 et seq.);

(5) Cooperate with the Department of Corrections on any program established by law or by that department that utilizes prisoners to clean up or maintain beaches or shores;

(6) Provide notice of the provisions of this act to every coastal municipality in the State; and

(7) Organize, coordinate, and designate the dates for two annual coastwide beach and shore cleanups, one in the Spring and one in the Fall, in which all program volunteers shall be asked to participate, and which shall be in addition to any other cleanup activities that program volunteers may undertake.

b. The department may:

(1) Prepare or use from existing environmental advocacy group sources, data cards to be distributed to program volunteers to record information on the amounts and types of debris, litter, floatable waste, and other refuse collected, and such other information as the department may deem useful;

(2) Utilize the information derived from data cards distributed to program volunteers to formulate recommendations to the Governor and the Legislature for administrative or legislative action to effectuate the goal of preventing ocean pollution; and

(3) Issue to each program volunteer an adoption certificate, and, within the limits of funds made available therefor, provide a sign indicating the name of the participating group, organization, business, or individual for placement, if not otherwise prohibited by law or municipal ordinance, at an appropriate point on the public road providing access to the section of beach or shore adopted by the program volunteer, or at such other point as the department may prescribe.

§ 13:19-27. Notification to department; assignment of section of beach, shore

a. Any group, organization, business, or individual interested in adopting a section of beach or shore for cleanup in accordance with this act shall notify the department. Such notification may include a request to adopt, if possible, a specified section of beach or shore. Upon receipt of a notification of interest, the department shall: (1) assign an appropriate section of beach or shore to that group, organization, business, or individual for adoption; (2) notify the group, organization, business, or individual of that assignment and provide thereto the materials required to be prepared pursuant to paragraph (1) of subsection a. of section 5 of this act.

b. Upon receipt from the department of notification of its assigned section of beach or shore, the program volunteer shall notify the clerk of the municipality within which the assigned section of beach or shore is located so that the municipality will be aware of the program volunteer's activities and may, at its discretion, provide assistance.

c. (1) An adopted section of beach or shore shall be approximately one mile in length, but other lengths may be permitted depending upon the desires and capabilities of the program volunteer, the amount of waste that may be expected to be collected, or the accessibility of the section of beach or shore.

(2) The adoption period for a section of beach or shore shall be one year, but a program volunteer may renew its participation in the program by notifying the department annually at such time as shall be specified therefor by the department.

§ 13:19-28. Other cleanup activities permitted

Nothing in this act shall be construed to prohibit any person from cleaning up any section of beach or shore, regardless of whether or not it has been adopted for cleanup in accordance with this act.

§ 13:19-29. Immunity; waiver; volunteers not considered public employees

a. No department, agency, bureau, board, commission, authority, or other entity of the State, or of any county or municipality, and no employee thereof, shall be liable to any person for any injury or damages that may be caused or sustained by a program volunteer during an "Adopt a Beach" event or activity.

As a condition of participating in the program, a prospective program volunteer shall sign a waiver releasing the department, the State, and any other appropriate governmental entity, and all employees thereof, from liability for any injury or damages that may be caused or sustained by that volunteer during an "Adopt a Beach" event or activity.

b. A program volunteer shall not be considered a "public employee" or "State employee" for purposes of the "New Jersey Tort Claims Act," N.J.S. 59:1-1 et seq., or otherwise be accorded any of the protections set forth therein.

§ 13:19-30. Donations

Any person may donate to the department, or to a county or municipality, funds, supplies, or services for use in the "Adopt a Beach" program, and the department and any county or municipality are authorized to accept such donations.

§ 13:19-31. Findings, declarations, determinations

The Legislature finds and declares that the New Jersey shore is a valuable environmental and economic resource, and that every effort should be made to ensure the continued viability of the shoreline; that periodic storms threaten to destroy portions of the shore and property located upland of the shore, especially in areas where beach and dune maintenance has been neglected; that although federal shore protection and disaster relief aid has helped to mitigate the adverse effects of subsequent storms on particular beachfronts, many beaches remain ineligible for these types of federal aid due to ignorance of the eligibility requirements; and that many shore municipalities could qualify for federal aid in the future if they implement the basic beach maintenance techniques specified in federal guidelines.

The Legislature therefore determines that it is altogether fitting and proper for the State to provide informational and educational services to shore municipalities concerning the eligibility requirements for federal shore protection and disaster relief aid.

§ 13:19-32. DEP guidance document on federal aid, availability; "coastal municipality" defined

a. The Department of Environmental Protection shall prepare a guidance document which provides information to coastal municipalities on eligibility requirements for receiving federal monies related to shore protection projects and disaster aid. The document shall provide detailed information which describes the policies, programs or other actions required of a municipality to qualify for these federal monies, and shall include a section which explains what a municipality must do to create and maintain an engineered beach.

b. Upon completion of the guidance document, the Department of Environmental Protection shall notify all coastal municipalities of the availability of the guidance document. The department shall provide copies of the guidance document to a municipality upon request.

c. As used in this act, "coastal municipality" means any municipality located within the coastal area as defined in section 4 of P.L.1973, c. 185 (C. 13:19-4).

§ 13:19-33. Transport, dumping of certain dredged materials in certain ocean sites prohibited

a. The Department of Environmental Protection shall not permit or otherwise authorize the transport in State waters of dredged material for the purpose of placing or dumping of such material into State waters of the Atlantic Ocean at a site designated for remediation if the material is found to exceed an effects level of 113 parts per billion of polychlorinated biphenyls (PCBs) in the tissue of worms tested and analyzed in accordance with the applicable federal procedures, or a level or in accordance with a procedure subsequently determined by the Commissioner of Environmental Protection to be more protective of human health and the environment.

b. The Department of Environmental Protection shall implement the provisions of subsection a. of this section through the enforceable policies of the State, including, but not limited to, any rules and regulations adopted pursuant to R.S. 12:5-3.

c. Upon the effective date of this act, the Commissioner of Environmental Protection shall submit P.L. 2003, c. 65 (C. 13:19-33) to the National Oceanic and Atmospheric Administration under the provisions of the federal "Coastal Zone Management Act of 1972", as amended, 16 U.S.C. § 1451 et seq., for incorporation into the enforceable policies of the approved State management program.